

Children of parents sentenced to death or executed

**HOW ARE THEY AFFECTED?
HOW CAN THEY BE SUPPORTED?**



How does a parental death sentence affect the children?

The arrest, sentencing and (potential) execution of a parent have devastating effects on the children but these consequences receive little attention in the criminal justice system.

Following parental incarceration in general, children often suffer change or deterioration in their living situation and conditions, in their relationships with others, and in their physical and mental health and well-being.

How children feel and how they act will depend on factors such as the individual personality and circumstances of the child, the reaction of those around them (particularly their primary carer), the stage of the criminal justice process, and the public/media response.

Some of what children of parents sentenced to death go through is similar to the experience of children of any incarcerated parent. Other issues are distinct, most obviously the trauma of the anticipation and then the actual execution and its aftermath. Moreover, these children receive little consideration and support.

I think people should understand that the death penalty is going to hurt the kids more than it'll hurt that man you executed. It's going to devastate their life.

Keith¹

Consequences of a parental death sentence and recommendations indicated in the text are based on research (see under 'Additional information') and on the direct experience of experts working with children of parents sentenced to death or executed.

Children of parents sentenced to death or executed endure a unique burden resulting from State action

Unlike any other criminal punishment, the execution of a parent severs the parent-child relationship irrevocably. The child faces first the threat, and then the reality, of losing the parent to a violent death carried out by the State.

This situation causes major physiological, emotional and other trauma for the child. The inherent anguish of knowing that a loved one is due to be executed can be exacerbated by public indifference or hostility, and by authorities who either fail to recognise or deliberately refuse to consider the emotional and material needs of these children.

While systems may exist to provide support to crime victims, generally the children and family of those who commit crime are not perceived as victims and nothing is made available to meet their needs. Even in the case of domestic killings, where they are the children of both the victim and of the offender, victim support services may be ill-equipped to assist them. The services may see no obligation to support these children, ignoring the fact that they are also victims and viewing them primarily as the children of an offender. Even when they do try to help, victim services may not adequately recognise the conflicted nature

of the children's situation and the needs arising from the many specific difficulties that they are likely to face.

Existing research has consistently connected a parent's death sentence or execution with major psychological and emotional implications for children and families. Observed reactions include:

low self-esteem; embarrassment about oneself or others; lying to oneself and others about the situation; inability to explain the situation to others; anger; loss of appetite (in some cases development of eating disorders); loss of interest in playing; loss of interest in school (and poor performance in school, potentially requiring extra help); loss of concentration; loss of sleep; dreams and nightmares (particularly about the parent); bedwetting; halt in menstruation; and psychosomatic pains.

Children of parents sentenced to death or executed are uniquely forced into a conflictual relationship with the State

Executions are by design deliberate, premeditated State killings, sanctioned by a legal process: they are different from any other death of or separation from a parent the children can experience.

Children may become disillusioned about the role of the State and might develop a harmful relationship with it. They may reject the State's authority, refuse to seek or accept State support, and become hostile towards State authorities,

especially those that decided on and carried out the death penalty.

Children of parents sentenced to death or executed can be socially isolated and ostracised

Children of parents sentenced to death are often stigmatised by association, though they themselves have committed no crime. Even long after an execution, children may continue to be identified with their executed parent or to conceal this aspect of their lives.

Trials involving the death penalty receive considerable media attention, and (alleged) offenders and sometimes, by association, their families are verbally and even physically attacked and abused.

Children of parents sentenced to death or executed are often left unprotected or do not receive adequate support and care

A State that sentences a child's parent to death has a responsibility to ensure that the child is cared for. Yet these children usually receive little or no State assistance.

In the case where a State executes one parent for killing the other parent, children are in fact orphaned.

Potential alternative carers, including other family members, may not take in the children of parents sentenced to death or executed. This can be because they are unable to do so due to the additional costs of supporting the children, lack of accommodation, or because they are unwilling due to the stigma associated with the crime, or fear of revenge by those affected by the crime.

If nobody else steps in to support the children, they will have to look after themselves. They may end up living on the street, may be more vulnerable

.....
When we walked into the courtroom, people gave us dirty looks, just because we belonged to our father. You wonder, what did we as kids do to deserve this?

Misty²

.....
If this execution is carried out, we'll have two parents murdered. Rose Syriani, whose father killed her mother³

and at a much higher risk of becoming victims of crime, including sexual violence and exploitation, or may turn to crime themselves in order to survive.

In all these situations the State should have appropriate mechanisms in place to ensure that these children are protected. Their human rights as children require no less.

Children face particular challenges with regard to access to their parent on death row

Visiting a parent on death row can mean that a child has to go through intensive security procedures and has limited or no physical contact with the parent (only seeing them through glass or a net). This is because death row prisoners are usually placed under maximum security conditions.

Children may have to travel long distances to visit a parent, as prisons with death rows are often few and far between; death row prisoners may be allowed fewer visits than the general prison population or not allowed visits at all; physical contact with the parent incarcerated on death row may be banned. Indirect forms of contact (e.g. phone calls) may be more restricted or even forbidden.

“... when someone is sentenced to die ... people think that the person is going to die the next day. And what makes it worse; such prisoners are taken miles away from their home areas, so the relatives never get to hear about them. Whenever I visit homes of death row inmates the children keep asking me whether their parents are still alive, because people in the

.....
He missed all my childhood. We did a really good job of trying to maintain contact as well as we could, given the circumstances. So it wasn't until I was about 18, and I could visit without restriction, being that I had to have a notarized form from the legal guardian prior to that, that we really were able to ... strengthen our relationship and spend as much as we needed in the visiting rooms.

Nick, son of a prisoner exonerated after 27 years on death row. Nick was four when the father went to prison⁴

village have already told them that their parent is dead.

One girl, Betty, 16 years, told me that although she was alive, she was a walking dead body, and that she resurrected when she saw her father in prison after 8 years.”

Francis Ssubi, Wells of Hope⁵

Children of parents sentenced to death or executed endure particular emotional and psychological distress

Knowing the parent’s suffering and mental anguish (resulting from the ever-present threat of execution and death row conditions, which are often worse than the rest of the prison) can cause agonising grief in the children of the prisoner.

The actual execution severs the parent-child relationship in an irreversible way that may cause intense fear, helplessness, or horror in the child. Children may develop post-traumatic stress disorder (PTSD) symptoms that persist into adulthood and throughout life.

Adult carers might also be so grief-stricken by the sentence or execution that they find it hard to look after the children.

.....
My memory and thinking were impaired by the heavy fog of unrelenting grief ... I could not sleep and had terrible nightmares ... My gut ached constantly. I cried all the time.

Katherine Norgard, whose son was on death row ⁶

“The death row phenomenon ... consists of a combination of circumstances that produce severe mental trauma and physical deterioration in prisoners under sentence of death. Those circumstances include the lengthy and anxiety-ridden wait for uncertain outcomes, isolation, drastically reduced human contact and even

the physical conditions in which some inmates are held. Death row conditions are often worse than those for the rest of the prison population, and prisoners on death row are denied many basic human necessities. Examples of current death row conditions around the world include solitary confinement for up to 23 hours a day in small, cramped, airless cells, often under extreme temperatures; inadequate nutrition and sanitation arrangements; limited or non-existent contact with family members and/or lawyers; excessive use of handcuffs or other types of shackles or restraints; physical or verbal abuse; lack of appropriate health care (physical and mental); and denial of access to books, newspapers, exercise, education, employment, or other types of prison activity.”

Juan Mendez, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment⁷

Children of parents on death row in States with moratoria

Some States are not currently executing prisoners (for example, due to a moratorium) but do still issue or not commute existing death sentences.

Not carrying out executions is a positive step and should be encouraged; children of death row prisoners may find relief in being spared the particular trauma of the execution.

But these children continue to be affected negatively. The fate of the parent remains unsettlingly uncertain since the State could resume executions at any time, and the parent remains on death row, with all that this entails.

Children are further affected by both public and secret executions

Public executions take away the privacy and dignity of the condemned person and of the person's children and other family members. The children may be further psychologically traumatised and suffer even greater shame and stigma.

On the other hand, secrecy over detention and execution exacerbates the emotional and psychological distress experienced by children. Denying access means that children cannot benefit from having a final visit where they can touch their parent and say goodbye.

Secrecy about the burial site of an executed parent can hinder and prolong the grieving process.

"Svetlana Zhuk, mother of executed prisoner Andrei Zhuk, described to Amnesty International in late 2010 her continuing grief at not knowing where her son was buried, and how Andrei's eight-year-old son often stood silently in front of his father's portrait. 'What he thinks about now, I don't know'."

Amnesty International⁸

Children require support even when the parent is exonerated or the sentence is commuted

When the parent is exonerated and released, or has a death sentence commuted to a term of imprisonment, children and their families require support as they may experience difficulties in adjusting to the new situation.

Difficulties may arise, for example, because contact may have stopped during imprisonment on death row as it was considered too emotionally difficult for the child, the imprisoned parent, or the carer to maintain it, meaning the relationship now needs to be rebuilt.

Children of parents facing the death penalty abroad

Nationals of all States, abolitionist or retentionist, may face the death penalty in other countries (e.g. when working abroad), and when they do their children will also be affected.

Children who are in the same country as the sentenced parent may need help to be repatriated to the country of origin or to stay near the parent, depending on factors such as the child's age and the availability of other suitable carers. Children in the country of origin or elsewhere may need help to stay in contact with the parent and receive information about their situation.

Where assistance to nationals on death row and to their families is provided, it varies enormously, depending on the home State concerned and even the specific consulate involved. The obligation under international law to inform prisoners of their right to consular assistance and to enable them to contact consular officials is frequently disregarded.

.....
And it becomes pretty apparent that to have a support system in place for these exonerees when they are released is imperative because ... what the state does is when they release them, they provide them zero resources, zero support, So essentially they're homeless unless family, friends or the organizations that have worked to free them provide such support. Nick, son of a prisoner exonerated after 27 years on death row. Nick was four when his father went to prison⁹

Numbers and background of children affected

Children of parents sentenced to death or executed are an invisible population. Regardless of whether the number of people who are sentenced to death or executed each year is public knowledge or not, the children are not counted.

Persons sentenced to death, and therefore also their children, often come disproportionately from poor, minority and disadvantaged backgrounds. The family's already difficult situation gets worse when a parent is sentenced to death or executed.

Conclusion

One thing that is striking in comparison to children of prisoners in general is how much bleaker the situation of children of parents sentenced to death or executed appears to be. Among children of prisoners in general, there are often examples of good practice that help to ameliorate the situation, or stories of children for whom parental imprisonment is less damaging than for others. But with children of parents sentenced to death, the picture is almost uniformly negative.

Some of the negative impacts occur because of a lack of awareness about the children and their needs. Some are a deliberate or unavoidable consequence of using capital punishment. But in all cases the child's rights are negatively affected. The children's rights to (among others) a relationship with both parents, to achieve the highest attainable standard of mental health and to have their best interests be a primary consideration in all matters concerning them, are all affected negatively by a parental death sentence and execution.

While there are things that can and must be done to support these children, it is both better and often easier to prevent harm than to remedy it. Avoiding both the imposition and the implementation of the death penalty would mean that these children would not experience the increased negative effects on their health and well-being that such a situation entails, and would not have to live their lives dealing with the cruel and final consequences of an act of the State when they themselves have committed no crime.

Recommendations

- The impact of criminal sentences (including death sentences) on the child's best interests should be considered when sentencing a parent.

- States should establish an immediate official moratorium on the use of the death penalty, with a view to abolishing it. In establishing the moratorium they should ensure that it applies to the imposition of death sentences, in addition to executions, and that they commute all existing death sentences. Where abolition is contemplated or enacted, States should make any repeal of the death penalty apply retroactively to persons already sentenced to death.

- Pending abolition, the following are minimum steps to be taken without delay:

- Conditions on death row should be improved in accordance with international standards. Children should be allowed to visit the parent and to have physical and spoken contact when visiting, unless this is not in their best interests.

- Special support should be available to children of parents sentenced to death who are in need — such as income support, travel costs, payment of medical and school fees, and funeral grants — provided either by the State directly or through other actors, for those children and their remaining care-givers. Information about its availability and how to access it should be provided. Support should also be available after the execution and in case of exoneration or commutation.

- Specific guidance should be developed for police officers, court and prison staff, schools, media and others likely to interact with or affect

the lives of children whose parent is or may be sentenced to death or executed.

- Families should be informed well enough in advance of the execution date to allow for a final visit. They should have the body returned, without costs to themselves, or be informed of and be given access to the burial site, and be given the prisoner's personal effects with advance notice.

- States should provide assistance (practical, emotional and/or financial) to the children of their nationals on death row abroad and to their nationals abroad to enable the children to benefit from such assistance. States must comply with their obligation under international law to inform prisoners of their right to consular assistance.

On 21 March 2013, the United Nations Human Rights Council decided to hold a Panel on the human rights of children of parents sentenced to the death penalty or executed. The Council acknowledged (among other things) "the negative impact of a parent's death sentence and his or her execution on his or her children, and urge[d] States to provide those children with the protection and assistance they may require". (Resolution A/HRC/RES/22/11, adopted without a vote.) Prior to that, the Council, in its omnibus resolution on the Rights of the child, called on States to (among other things) ensure access of children of parents on death row to their parents and to information concerning their parents' status (Operative paragraphs 68-69 of Resolution A/HRC/RES/19/37, adopted without a vote on 23 March 2012).

Additional information

- Oliver Robertson and Rachel Brett, 'Lightening the Load of the Parental Death Penalty on Children' (QUNO 2013)
- Helen F. Kearney, 'Children of parents sentenced to death' (QUNO 2012)
- Texas After Violence Project <http://www.texasafterviolence.org/>
- Murder Victims' Families for Human Rights' 'No Silence, No Shame' project <http://mvfhr.org/no-silence-no-shame-project>
- 'Death Sentences and Executions in 2012' (Amnesty International 2013, Ref: ACT 50/001/2013)
- Oliver Robertson, 'Collateral Convicts: Children of Incarcerated Parents – Recommendations and good practice from the UN Committee on the Rights of the Child Day of General Discussion 2011' (QUNO 2012)

Endnotes

1. Quote courtesy of Murder Victims' Families for Human Rights. Not to be reproduced without permission.
2. Ibid.
3. Susannah Sheffer, Renny Cushing and Murder Victims' Families for Human Rights, 'Creating More Victims: How Executions Hurt the Families Left Behind' (Cambridge, Massachusetts 2006), p. 10.
4. National Public Radio's transcript of 'Talk of the Nation: Life After Exoneration, For The Victims On Both Sides', available at <http://www.npr.org/2013/04/15/177341744/life-after-exoneration-for-the-victims-on-both-sides>.

5. Francis Ssubi, 'Understanding Mental Health in Children of Prisoners' <http://www.wellsofhope.org/understanding-mental-health-in-children-of-prisoners.html>.
6. Katherine Norgard, quoted in Rachel King, 'Capital Consequences: The Families of the Condemned Tell Their Stories' (New York: Rutgers University Press 2005), p. 279.
7. 'Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment' to the UN General Assembly (9 August 2012) UN doc. Ref: A/67/279, para. 42.
8. Amnesty International, 'Written submission to the Committee on the Rights of the Child's Day of General Discussion on children of incarcerated parents', available at http://www2.ohchr.org/english/bodies/crc/docs/Discussion2011_submissions/AI_2011.pdf.
9. Transcript of 'Talk of the Nation: Life After Exoneration' (n. 4).

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From the point of arrest to decades after the execution or release of a parent accused of a capital crime, the children's mental health and wellbeing, living situation, and relationships with others can all be affected, usually in a devastating manner. The inherent trauma of knowing that a loved one is going to be executed can be exacerbated by public indifference or hostility, and by authorities who either fail to recognise or deliberately refuse to consider the situation of these children.

Their particular plight requires greater attention, in order both to understand more fully the impact that sentencing a parent to death has on children, and to ensure that their rights, needs and welfare are met in a situation where a parent has been sentenced to death, executed, exonerated, or has a death sentence commuted.



child rights connect

formerly the ngo group for the crc

Working Group on Children of

Incarcerated Parents

<http://www.childrightsnet.org/>

NGOGroup/childrightsissues/

NationalCoalitions

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