

Forgotten, invisible and neglected, children in prison from the first few months of life: an act against humanity

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With wide variation between and within continents, 11 million people are held in penal institutions throughout the world.¹ Since the beginning of the millennium, the total world prison population has grown by 27%, which is slightly less than the estimated increase in the world's general population over the same period (31%). El Salvador is the country with the highest prison population rate in the world (1086 per 1 000 000 of the national population), while for Europe, it is Turkey (366 per 100 000). The estimated world prison population rate is 140 per 100 000.

Prisoners have significant health needs and experience a disproportionate burden of ill health (including high levels of long-term physical and mental illness) during their stay in prison, and this is very often an aggravation of disorders that were already present before detention. Prisoners generally receive worse healthcare than that delivered in the community.² Prisoners are a vulnerable population at great risk of stigma, discrimination and inequality in the community, but they are even more so in prison. Women and children are part of this vulnerable population. Women are a minority of the prison population (approximately 740 000 women), and the number of children born or living in prison with their mothers is unreliable.³ In Italy, in June 2024, there were 61 460 inmates in the 189 penal institutions even though the places actually available were 47 067. A total of 44 inmates have committed suicide in prison since the beginning of the year. Dilapidated prisons, overcrowding and poor living conditions for inmates and staff are the norm in Italy. These are also the living conditions for 2480 women (4.4% of the prison population), with 17 mothers detained with 19 children in tow.⁴ The situation is worse in other countries, but that is not an excuse everywhere.

All children of imprisoned parents, whether or not the children are also in prison or not, are at high risk of inadequate parenting and require special attention. Studies on the children of imprisoned parents are more extensive than studies on imprisoned children themselves.⁵ Children born in prison or who spend their first months or years of life in prison enter a world that is very different from the one experienced by most newborns. Psychological implications for these children, which are complex and multifaceted, are influenced by a range of factors including maternal attachment, environmental conditions and subsequent caregiving arrangements.^{6,7}

It has been estimated that 19 000 children live with a parent (mainly the mother) or a caregiver in prison, although the rate relative to the prison population by gender, age and restriction stay for children varies considerably between nations. No global consensus on the age to release children from prison exists, despite United Nations (UN) recommendations or the Convention on the Rights of the Child statements,^{8,9} perhaps because these are not specific enough. The age limit allowed for a child to remain in prison with his or her caregiver ranges from 3 months to 9 years. In Europe, only in Northern Ireland, Norway, Scotland and Slovakia are children not allowed to live with their imprisoned parents in penal institutions.^{3,10} Although the evidence is scarce, the life-long effects of incarceration on a child's early stay in prison can be significant, as an editorial on the topic underlined a few years ago.¹¹ To support the parenting role and reduce the conditions and effects of early child imprisonment, mother and child units have been set up in a few countries and have been systematically implemented or routinely evaluated even if not evidence based.^{3,12} The Netherlands provides mother and baby units in prisons until children turn 6–9 months, England and Wales until they turn 18 months of age, Germany until they are 3 years old. After these ages, the children move into specialised, prison-based housing for

children until the age of 4 years (The Netherlands), 5 years (Germany) and 6 years (Italy). These are different approaches, but they do not guarantee that children who reside in custodial settings have access to the same level of education, healthcare and socialisation as children living in the community.¹³ A bill (SIani Law) to prevent boys and girls from living behind bars was approved by the Italian Parliament in 2022, but the Senate did not give the final green light. Everything must, therefore, start again.¹⁴

Despite the improvements that have occurred, states and the international community still have to make a lot more effort to ensure the full protection of children deprived of liberty.⁸ Recent moves to try and minimise the imprisonment of mothers, according to Bangkok Rules,¹⁵ that urge courts to suspend prison sentences for mothers wherever possible, or to use community rulings, go in this direction. Allowing children to stay with their caregiver in prison has an impact on child development. The UN Convention (art. 9)⁷ affirms the right of every minor, where this is not in conflict with his or her best interests, to maintain and develop regular relationships with both parents and family members, with a view to a healthy and functional consolidation of affections and a balanced emotional and identity development. This is impossible to guarantee in prison in the early years of life and, perhaps, is so in part only later in institutions with attenuated custody for imprisoned mothers. The best interests of the minor are clearly to live outside of prison, so the postponement of the prison sentence should be mandatory in the case of a pregnant woman or mother of a child in the first few years of life. Judicial measures that ignore the health consequences on children and women in prison are repressive, security based and dehumanising. These are measures that deny socio health, educational and human rights to children who are innocent.

Ensuring equal rights, freedom and opportunities is crucial. It is not easy to decide what choice to make from a legislative and executive point of view, but the interest of the child is to be born and to grow up outside of a prison or a closed institution that denies his or her rights. Regardless of the crimes committed by the parents, children are innocent. Any form of imprisonment, even semifree, is, therefore, a denial of human rights and damages the growth of the victims and the communities.

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A call to action to protect children and their health against the imprisonment of children in compliance with the convention on the rights of the child everywhere in the world is necessary. The adverse effects of even earlier detention on child health must be prevented and monitored, trying to remedy it promptly also with appropriate legislative interventions.

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