



# FRAMING AND CHILD RIGHTS IN EUROPE:

*Exploring policies for children of prisoners in EU Member States*

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14 JULY 2016  
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# Abstract

Recognition of the right to family life and wellbeing of children separated from an imprisoned parent in Europe has evolved significantly since the 1989 UNCRC. Yet the transposition by EU Member States of the principles enshrined in this and other relevant treaties into concrete legal entitlements and stated policies has failed to keep pace. The crucial role of issue framing in policymaking has been well documented; the way issues are framed has impact. This study uses an analytical framework combining issue-framing and agenda-setting theories to examine framing dynamics and discursive interactions among policy entrepreneurs and political actors for children affected by parental incarceration; it also explores levels of “frame-fit” (how the issue frame “fits”, “is suitable”, “is suited to the circumstances”, with respect to elite discourse) and factors that potentially enhance or hinder “frame-fit’ and its impact on domestic policies. These include **world values**, e.g., attitudes with respect to diversity, family, and social responsibility; **penology** and the degree of emphasis on normalization and rehabilitation; **legal and child rights culture**, including norms compliance; as well as administrative capacity. This study will explore whether European and international action and human rights norms, both binding and non-binding, serve as a kind of metaframe influencing action on behalf of children affected by parental imprisonment in domestic contexts. This frame-analytical lens can enhance understanding of policymaking processes for children affected by parental incarceration, and could provide a model for a more fully integrated approach to implementing meaningful action on behalf of these children.

# POLICY LAGGING IN MOST EU MEMBER STATES

*National criminal justice policies →*

*∅ child rights perspective when parent imprisoned*

*National child welfare policies →*

*∅ rights and needs of children of prisoners*



# **POLICY GAP IN MOST EU MEMBER STATES**

**EU: ESTIMATED 800,000  
SEPARATED FROM A PARENT IN  
PRISON ON A GIVEN DAY**



**YET SOME EU MEMBER STATES ARE  
MOVING TO CLOSE THE POLICY GAP**





# EXPLORING SOME OF THE SOCIAL MECHANISMS UNDERPINNING POLICY PROCESSES

HOW POLICIES FOR CHIPS WERE  
SEEDED AND EVOLVED (1995-2013),  
FROM PROBLEM IDENTIFICATION  
TO GAINING AGENDA STATUS TO  
POLICY FORMULATION

## **WITH AN EYE TO:**

- **CRITICAL JUNCTURES, FOCUS EVENTS, FRAME EVOLUTION**
- **POLICY DEVELOPMENTS AT AGGREGATE LEVEL**
  - **INDIVIDUAL ACTORS**
- **COUNTRY-SPECIFIC FACTORS**



# EUROPEANIZATION EFFECT?

- IS 'METAFRAME' OF EUROPEAN ACTION AND NORMS INFLUENCING POLICY PROCESSES?





# Europeanization through 'framing integration' (Vink 2001)?

**BRUSSELS: MAINSTREAMING CHILD RIGHTS —  
HUMANIZING DETENTION**

**STRASBOURG: HUMAN RIGHTS — HUMAN DIGNITY—  
PRISON REFORM**

**GENEVA: BEST INTERESTS OF THE CHILD**

# WITHIN DISCURSIVE ARCHITECTURE

HOW IS ISSUE OF CHIPS BEING  
IDENTIFIED, REPRESENTED AND  
LEGITIMIZED (FRAMED)?



## WHAT ARE FRAMES?

In policy making, cognitive and normative frames construct “mental maps” and set priorities for practices, behavior and action. They are “coherent systems of normative and cognitive elements which define... ‘world views’, mechanisms of identity formation, principles of action, and methodological prescriptions and practices...” (Surel 2000).

## Research strategy:

- ✓ qualitative, inductive, comparative, frame-critical

- ✓ emphasis on policy frame analysis (PFA)

- ✓ examines:

  - how CHIPS are identified, represented, legitimized (framed) in 3 Member States (France, Netherlands, Ireland)

  - discursive action / non-action by decision-makers in response to these frames

  - level of “frame-fit” that results (mainstream elite discourse + grievance frames) –hopefully leads to policy output

  - country-specific structural factors which may be impeding or enhancing “frame-fit”

## HYPOTHESIS:

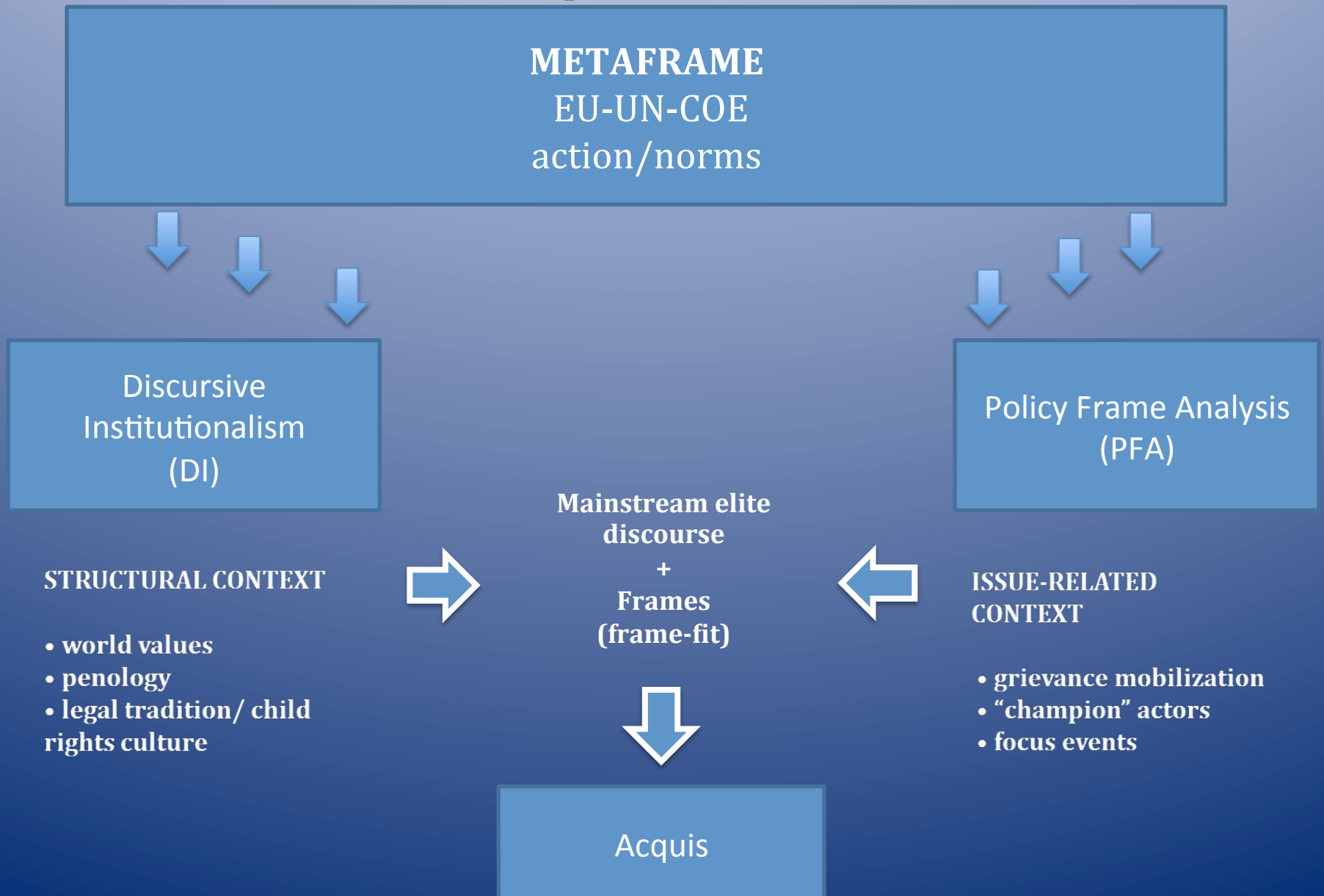
“Frame-fit” (IV) plays a role in determining levels of legal entitlements and national policies (“acquis”, DV) for CHIPS in Member States

Frame-fit =  
issue frames + mainstream elite discourse  
(discursive architecture)



STRUCTURAL CONTEXT + ISSUE CONTEXT

# An analytical approach to examining “frame-fit” and policy processes





**Discursive approaches: highlight the role of language and communication in moulding and forging the social world around us**

— *Saussure 1989*

**Structures embedded in discourse** →  
**discourse structuration (holds sway)** →  
**discourse institutionalism (coalesces) (DI)**

*Discourse lends visibility to the internal gears of social structures and helps identify what leads to change, how and why: structures to be identified and traced by analyst (Hajer).*



**Caveat:** DI does not set out to explain all change:



*“...this would be a big mistake since ‘stuff happens,’ events outside of people’s control occur all the time, material conditions do change, actions often have unintended consequences, and actors often act without prior ideas and discourse about what it is that they will do.”*

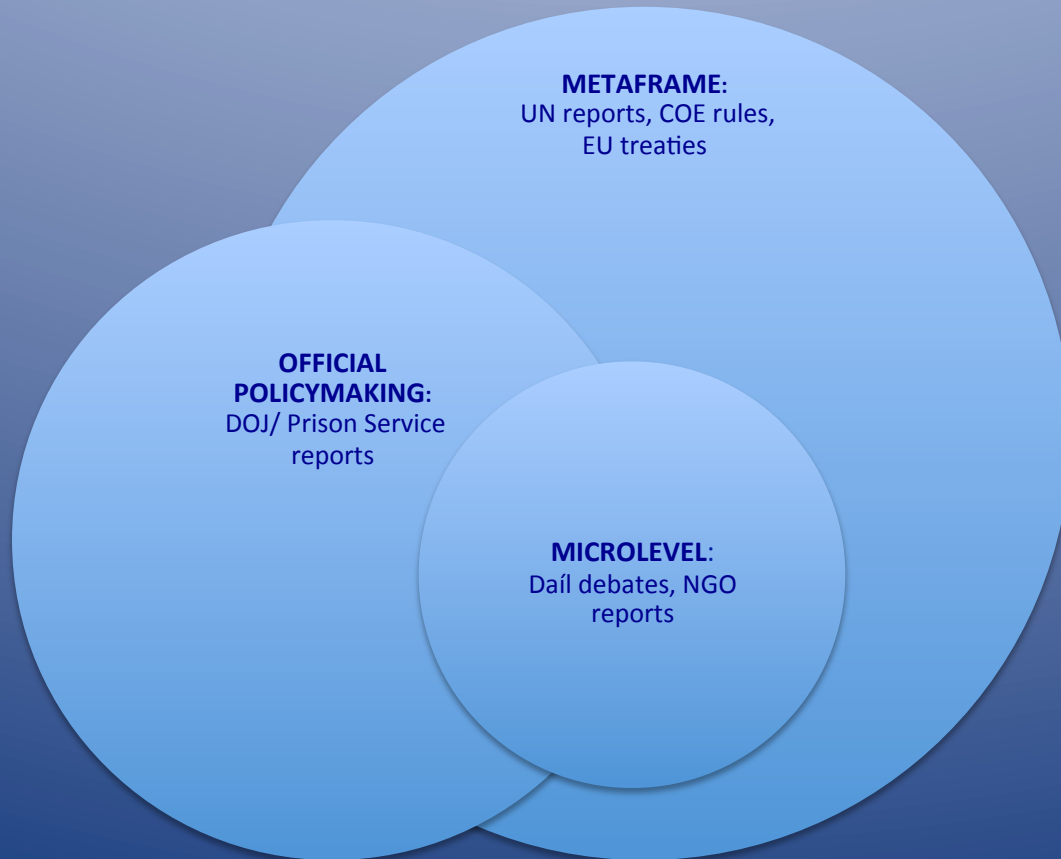
**— Schmidt 2010**

PFA is a robust, precise method applicable to virtually all situations —appropriate for analyzing policy processes for chips, which involve a range of policy areas, actors and cross-sector competencies.

PFA can contribute information on:

- which frames, or combinations of frames, produced successful outcomes and in what context

# DATASETS FOR POLICY FRAME ANALYSIS



## DATASETS FOR FRAME ANALYSIS

- **MAINSTREAM ELITE DISCOURSE.** Parliamentary (Daíl) debates related to prison estate and penal affairs from 1995-2013, and relevant Department of Justice/Prison Service reports within timeframe.
- **GRIEVANCE DISCOURSE.** Inventory NGO/ civil society reports and briefings as reflected in Daíl discourse during relevant timeframe, as well as other relevant NGO reports not captured in Daíl debates. Identify types of “grievance” frames used by SMOs to articulate issue and achieve change. Examine micro-discursive advocacy efforts to influence policy frames, frame restructuring and micro and macro policy discourse.
- **EU-UN-COE DISCOURSE.** Inventory EU, COE and UN reports, rules, treaties and decisions relevant to children of prisoners and child rights as captured in Daíl discourse, to examine possible Europeanization effect

# Policy Frame Analysis (PFA)

*Exploring which frames, or combinations of frames, produced successful outcomes (“frame-fit”) and in which context.*

**IDENTIFYING FRAMES:** what constitutes a frame/how do you define a frame? In mainstream elite discourse (e.g., Dáil), when a) *constitutive dimension* (what is the issue: definition of problem) and b) same causal narrative (what are the origins of the issue—*cognitive dimension*) are both present.

**OPERATIONALIZING “FRAME-FIT”**, or the alignment of frames (mainstream elite + NGO/civil society) in order to obtain empirical data. How?

- When both ELITE FRAME and NGO FRAME both have the same a) and b). Same constitutive dimension and same causal narrative = MATCH. Yields empirical data
- if ELITE DISCOURSE cites grievance frame (NGO source) as impetus
  - >> Dáil indicates NGO source as impetus
  - >> Paul Murphy /IPS cites Irish Prison Reform Trust (NGO) report as impetus
  - >> Politician draws on passages from NGO report resulting in identical frame elements

**TRIANGULATING DISCOURSE DATA, REPORT DATA, INTERVIEW FINDINGS**

# Exploring possible country-specific interaction effects on “frame-fit”

- *Cognitive norms and beliefs : e.g., tolerance of others' liberties (see World Values Survey), social responsibility*
  - *Penology*: Degree of punitiveness, rehabilitation
  - *Legal and child rights culture* (incl norms compliance)
- ➔ *Administrative capacity to be addressed (e.g; through World Bank Worldwide Governance Indicator)*

# CODING FRAMES

- **CREATING SUBSET:** A subset of all prison-estate topics relevant to prisoners' families and children is excerpted from general prison-estate discourse in Parliamentary debates.
- **FORMATING TEXT (see next slide)**
- **INVENTORYING KEY WORDS:** Using qualitative content analysis, the number of references to the search terms is inventoried and each reference is attributed a context. The immediate context where the reference is found is screened to determine if it contains the *constitutive* (stating the problem) and the *cognitive* dimensions (narrative about problem and its origin) of any of the expected frames from the preliminary list of policy frames. If so, then the reference could be counted as one occurrence of the respective policy frame.

*Key words: “children” or child-related terms (e.g., adolescent, young person, juvenile, youth); “family” or family-related terms (e.g., relative, loved ones, kin, home)*



## OIREACHTAS PRISON-RELATED DISCOURSE WITH FOCUS EVENTS / MILESTONES

January 1995 - December 1998

Date	Institution	Category of discourse	Speaker name	Reference cited	Context	Frame	Frequency of key word (children)	Focus event / NGO output
31 January 1995	Dáil	Private Members' Business (PMB)	Mr. O'Donoghue	Such a response is owed not just to children of this country but to children of Europe	Stop drug trafficking	Crime control and prevention	2	
1 February 1995	Dáil	PMB	Mr. Gregory	They inflict misery and cause death to young people, even children of inner	Protect children from drug suppliers	Crime control and prevention	1	
		PMB	Mr. S. Ryan	Pushers do not care about the damage they are inflicting on our children	Protect children from drug suppliers	Crime control and prevention	1	
		PMB	Mr. E. Ryan	Children have nothing to do so people who stand to make money move in to sell	Protect children from drug suppliers	Crime control and prevention	1	
8 February 1995	Dáil	Written Question (WQ)	Minister for Justice (Mrs. Owen)	So restrictive and inhumane a regime would...punish the innocent as well as the guilty, could cause irreparable harm to relationships with families, including children	Drugs-related barriers to personal contact	Accommodation (Prison Security)	2	
23 February 1995	Dáil	Joint Framework Document on Northern Ireland	Mr. Micheál Martin	Between (NGO) supporting loyalist children from Belfast, some of whom have parents in prison	Fund to assist community exchanges in Peace Process	F6 Support for healthy development	4 (1 rhetorical - "children of tomorrow")	

# CODING FRAMES

*In which prison estate context do policymakers think about children?*

**CRIME CONTROL**

juvenile offender  
sex offender victim

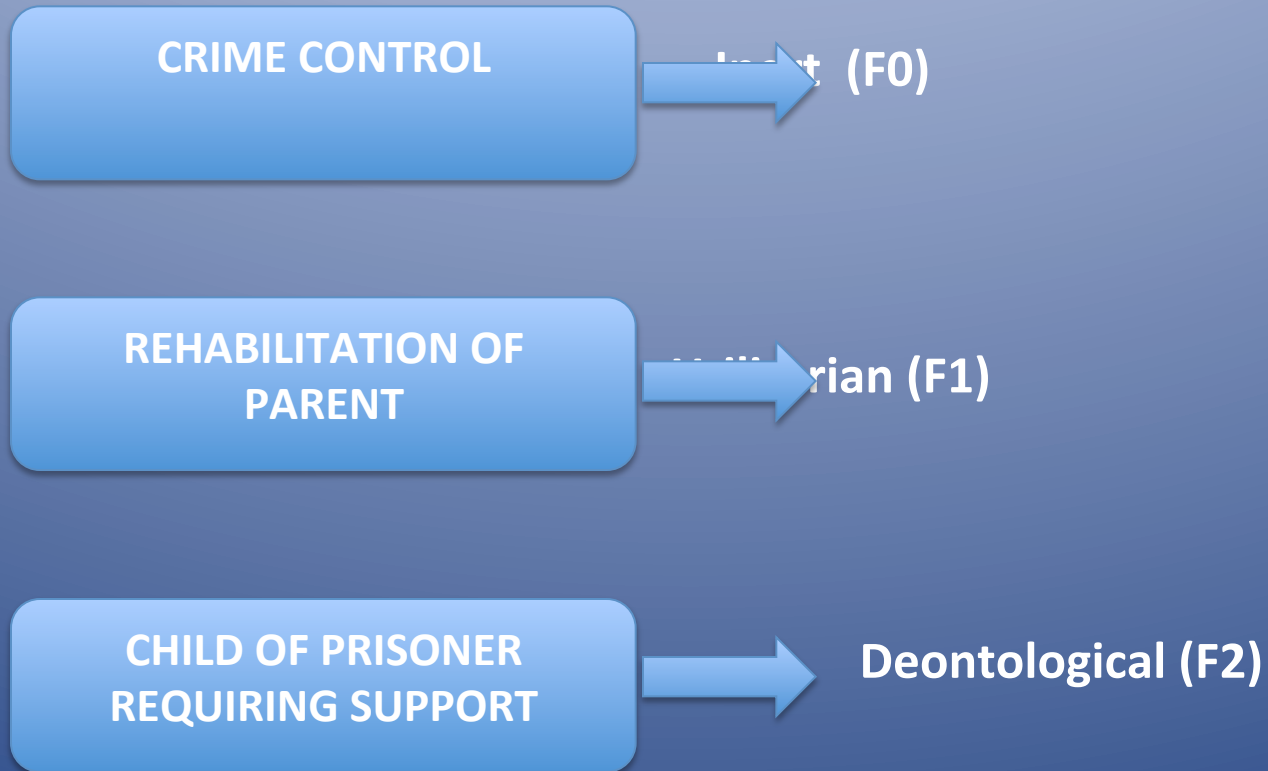
**REHABILITATION OF  
PARENT**

contact with outside world  
transfer /temporary release of prisoner

**CHILD OF PRISONER  
REQUIRING SUPPORT**

child's best interests  
individual rights bearer  
/within family unit

# CODING FRAMES: how to categorise?



## FRAME ANALYSIS: CHILDREN WITH IMPRISONED PARENTS

FRAME	VICTIM	INSTRUMENTAL	HOLISTIC
CONSTRUCTION OF CHILDREN	Vulnerable (invisible) children facing stigma, children 'at risk'.	Children at risk but also potential mediators of parent's resettlement and rehabilitation.	Children with a right to an emotional and continuing bond with their imprisoned parent. Children's rights as universal and indivisible.
VIEW OF CHILDREN	Largely as passive objects	Adjusted to fit views of different stakeholders	Largely as active subjects

- Analysis of the general framing trends provides the input data for the micro-analysis of who stood behind the observed dynamics: carried out via PFA of individual discourses, actor-based process tracing and expert interviews.
- Information on focus events (e.g., suicide of female prisoner), NGO output (e.g., seminal report), milestones (establishment of children's ombudsman), national developments (child rights amendment to the Irish constitution) logged alongside appearance of frames and frequency of references.

# IRISH PENAL POLICY AND RELEVANT CONTEXT 1995 - 2013

1 Jan 1996, Study of Irish Female Prisoners published +

17 Jul 1995, Transfer of Prisoners Act 1995 +

7 Jun 1996, Murders of Garda detective and Veronica Guerin trigger +

1 Jan 1995 - 31 Dec 2013 EVOLUTION OF IRISH PENAL POLICY WITH AN EYE TO CHILD-FRIENDLY DEVELOPMENTS

## EXPLORATORY INTERVIEWS

- **Professor Mary Rogan (Dublin, 17 September 2015):** barrister and law professor Dublin Institute of Technology. An internationally recognised and published author on prison policy, prison law and prisoners' rights. The author of the only comprehensive history of Irish prison policy (Routledge 2011). Former Chair Irish Penal Reform Trust, Board Member Irish Association for the Social Integration of Offenders.
- **John Lonergan (Dublin, 16 September 2015):** prison governor, 42 years in service, 24 of them as most senior prison officer in Ireland. Governor of Mountjoy Prison until 2010. He also served as Governor of the high security prison in Portlaoise from November 1988 until May 1992. Visionary, introduced innovative parent support groups in prison, as well as child support schemes.
- **Paul Murphy (Dublin, 15 September 2015):** head of psychology Irish Prison Service (1980 – 2015). Wrote the first working paper on maintaining family contact between children and their imprisoned parent in Ireland.

## EXPLORATORY INTERVIEWS FOCUS COUNTRIES

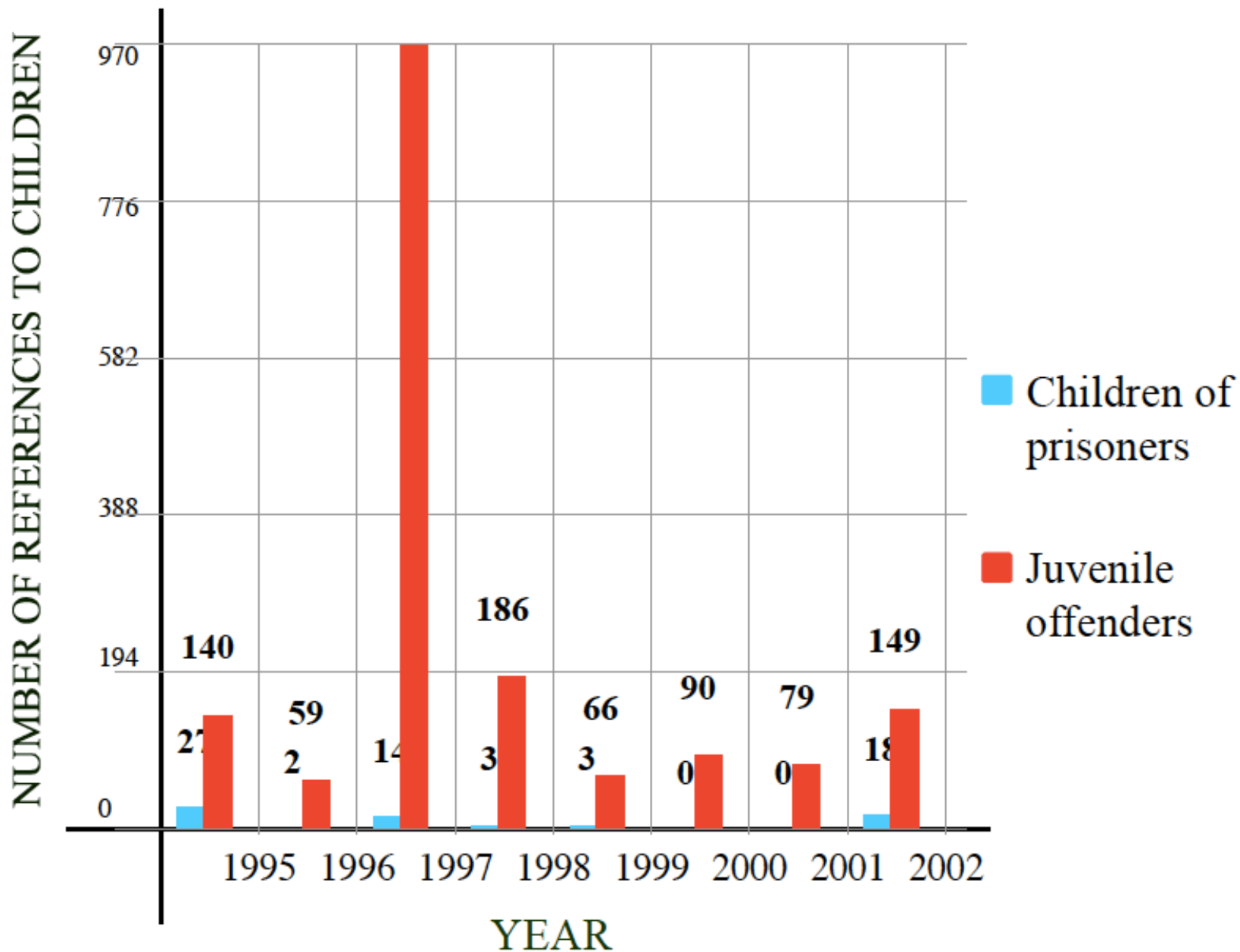
IRELAND					
	NAME	TITLE	EXPERTISE	ADDTL INFO	CONTACT
1. 17.09.15	Mary Rogan	Head of Law DIT	Prison law and policy, history of penology in Ireland		
2. 16.09.15	John Loneragan	Prison gov., 42 years in service, 24 of them as most senior prison officer in Ireland	Social justice, community, parenting		<a href="mailto:info@johnloneragan.ie">info@johnloneragan.ie</a>
3. 15.09.15	Paul Murphy	Head of psychology Irish Prison Service (1980-2015)	Child-oriented policy in Prison Service, marginalized children		pgmurphy30@gmail.com
4.	Adrian Hardiman	Supreme Court Justice, son on Mountjoy Prison Visiting Committee	Conservative but very due process oriented		
5.	Ian O'Donnell	Professor of Criminology, UCD Institute of Criminology	History of crime, penology, death penalty	<a href="http://www.ucd.ie/ucdto/day/2013/02-summer-2013/04-UCDs-Institute-of-Criminology-drives-forward-change/index.html">http://www.ucd.ie/ucdto/day/2013/02-summer-2013/04-UCDs-Institute-of-Criminology-drives-forward-change/index.html</a>	ian.odonnell@ucd.ie
6.	Eoin Carroll	Advocacy & Social Policy Research Off; Jesuit Centre for Faith and Justice	Advocacy & Social Policy Research Off; Jesuit Centre for Faith and Justice	<a href="https://www.linkedin.com/pub/eoin-carroll/14/587/822">https://www.linkedin.com/pub/eoin-carroll/14/587/822</a>	Work: <a href="mailto:ecarroll@jcf.ie">ecarroll@jcf.ie</a> Personal: <a href="mailto:eoincarrollis@gmail.com">eoincarrollis@gmail.com</a>

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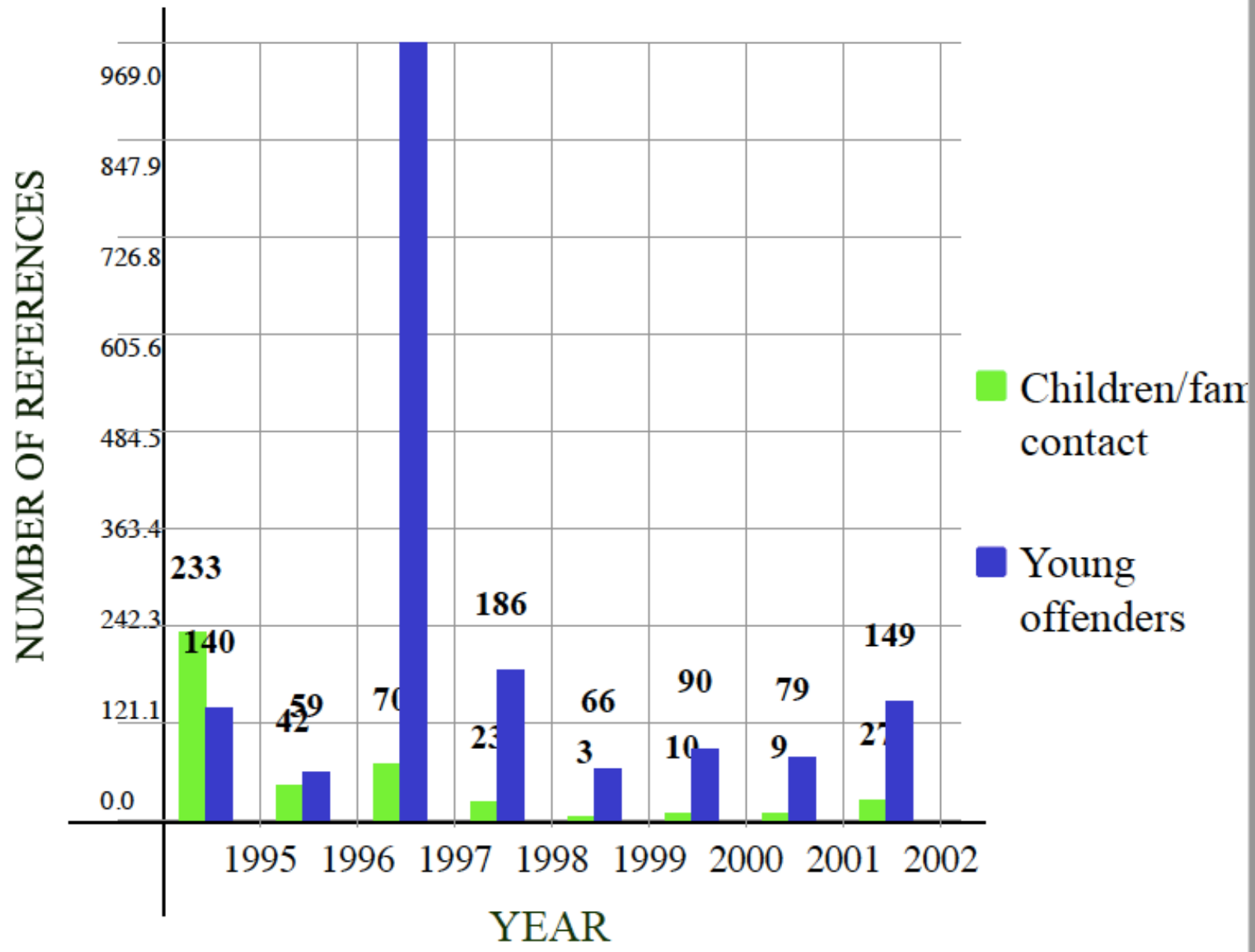
# DÁIL DISCOURSE ON PRISON ESTATE

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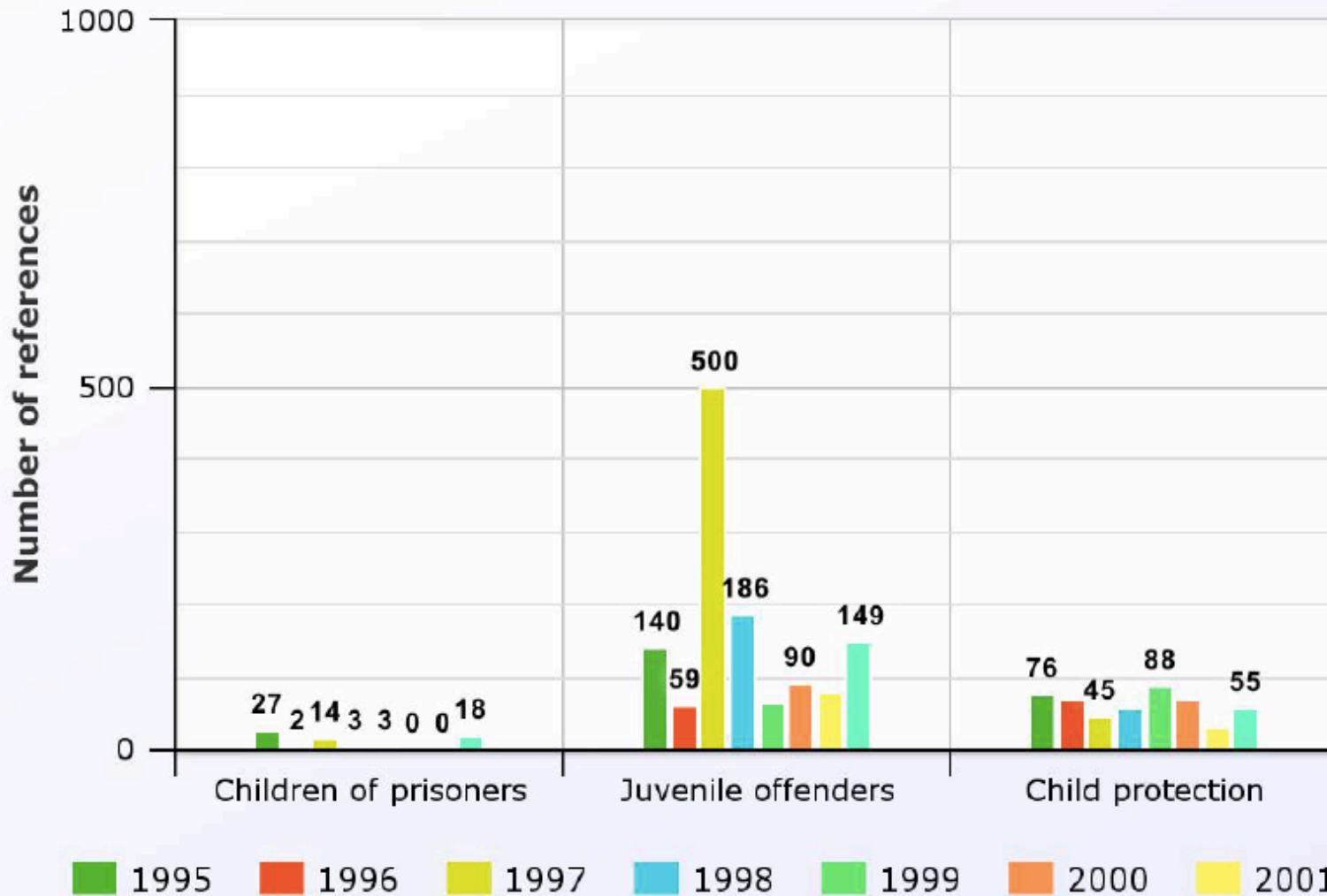
# DÁIL DISCOURSE ON PRISON ESTATE

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# References to Children in Dáil Discourse (Prison Estate)

Ayre 2016



## PROGRESS TO DATE (since Dec. 2015)

In-depth research on Ireland (case study) continues. After document-gathering and onsite exploratory interviews (n=3):

- Pre-selection of relevant prison-estate discourse in Oireachtas (Irish Parliament):

- ✓ 1995-2004 and 2008-2013 of Dáil debates completed

- Text mining pre-selected entries for key words, source documents, focus events and coding

- ✓ 1995-2002 completed

Currently completing text mining 2005 to 2007 and beginning to code according to F0, F1, F2

## **NEXT STEPS:**

- *continue inventorying, text mining and coding discourse (Dáil, Prison Service reports, NGOs)*
- *draft structured interviews--NGO, IPS (September)*
- *begin drafting chapter with section on child rights*

***COLLABORATION ON BOOK WITH UNIVERSITY COLLEGE CORK ON CHILD RIGHTS AND PARENTAL INCARCERATION, 2016: MULTIDISCIPLINARY, INTERNATIONAL – ROUTLEDGE***