

Children with Imprisoned Parents and Alternative Care

Briefing Paper
20-minute read



UN Guidelines for the Alternative Care of Children

*'States should pay special attention to ensuring that children in alternative care because of parental imprisonment ... have the opportunity to **maintain contact with their parents** and receive any necessary counselling and **support** in that regard.'*¹

Introduction

The intersecting space between children in alternative care (AC) and children who have an imprisoned parent is an under-researched topic but one of urgent concern. The imprisonment of a parent – recognised as an Adverse Childhood Experience (ACE) – can have long-lasting consequences on the physical and emotional wellbeing of children when they are not provided with adequate support. Children may be exposed to a multitude of vulnerabilities, including discrimination, stigma, social exclusion, increased poverty and disruption of the child-parent bond. Likewise, children in AC may face similar challenges; they may be negatively stereotyped, their voices may go unheard and their right to a family life denied. In cases where children are placed in AC as a direct result of their parent's imprisonment, these challenges may be heightened and multiplied. It is suggested that thousands of children enter AC as a direct consequence of their parent's imprisonment but there is a stark lack of concrete data surrounding this figure.

What is alternative care?

AC is an umbrella term that encompasses all forms of **formal** and **informal** care for children lacking adequate parental care. The Guidelines for the Alternative Care of Children adopted by the United Nations General Assembly define alternative care as:

(i) **Informal care:** any private arrangement provided in a family environment, whereby the child is looked after on an ongoing or indefinite basis by relatives or friends (informal kinship care) or by others in their individual capacity, at the initiative of the child, his/her parents or other person without this arrangement having been ordered by an administrative or judicial authority or a duly accredited body;

(ii) **Formal care:** all care provided in a family environment which has been ordered by a competent administrative body or judicial authority, and all care provided in a residential environment, including in private facilities, whether or not as a result of administrative or judicial measures.²

The term 'alternative care', therefore, encompasses a broad number of varying situations. It is essential to recognise that children in AC are not one homogenous group. Their individual needs, wishes, feelings and concerns are contingent upon

¹ UN Guidelines for the Alternative Care of Children, A/RES/64/142 of 24 February 2010, para. 82.

² UN Guidelines for the Alternative Care of Children, para. 29(b)(i) and (ii).

many variables including the reasons for their placement in AC. The imprisonment of a parent is one such unique factor that requires individualised support. Across the sector it is understood that institutions are often ill-equipped to cater to children's individual needs; children are often obliged to live together, isolated from the wider community, without control over the decisions affecting their lives and with the interests of the institution taking precedent over the interests of the individual.³ Family- or community-based care is deemed better suited to providing children with individualised care and fostering stable relationships with caring adults.

As such, there is a wider movement across the sector towards deinstitutionalisation.⁴ Not simply the closure of institutions, this process involves 'comprehensively transforming national structures for the protection of children', including 'the introduction of preventative and protective measures to ensure necessary and suitable alternative care solutions are in place for children unable to stay with their biological families'.⁵

Reflection point:

- *What are we actively doing to ensure we don't homogenise the situations of children in alternative care? Are we being precise enough when we use the term?*

How many children are in alternative care and why?

The UN Global Study on Children Deprived of Liberty suggests that every year 5.4 million children live in institutions across the globe.⁶ This figure does not include children lacking parental care who are removed from their family and live in other forms of alternative care such as foster families or kinship care. In Council of Europe (COE) countries, **1.5 million children** are in alternative care of all sorts.⁷

The removal of a child from parental care or a family environment should be regarded as **a measure of last resort**.⁸ At all times, the principle of the best interests of the child (outlined in the UNCRC Article 3-1) should be the foundation of such a decision. For the most part, children do not enter AC because they have no living parents but due to other factors such as **poverty, neglect, violence, abuse or access to education**. These factors should never be the sole reason for a child's separation from their family, rather they should be signals for the need of adequate family support. Such is the case for parental imprisonment.

When it comes to parental imprisonment, the disruption to children tends to be

³ Opening Doors for Europe's Children. (2017). Deinstitutionalisation of Europe's Children: Questions and Answers. 5. Available at <https://www.eurochild.org/uploads/2021/02/Opening-Doors-QA.pdf>

⁴ Council of Europe website <https://www.coe.int/en/web/children/alternative-care>

⁵ Opening Doors for Europe's Children. (2017).

⁶ Nowak, M. (2019) *The United Nations Global Study on Children Deprived of Liberty*, chapter 12, p. 504, available from <https://omnibook.com/view/e0623280-5656-42f8-9edf-5872f8f08562/page/2>. p. 501.

⁷ Council of Europe, Alternative Care. Accessed at: <https://www.coe.int/en/web/children/alternative-care>

⁸ UN Guidelines for the Alternative Care of Children, para. 14.

far greater when a mother is imprisoned as opposed to a father. Five per cent of children in England and Wales with a mother in prison stay in the same home that they were living in prior to her sentence,^{9 10} in comparison to the ninety per cent of children with a father in prison who remain in the family home with their mother as the primary carer.¹¹ Nine per cent of children with a mother in prison are cared for by their fathers, with twenty-five per cent believed to be cared for by a grandparent and a further fifteen per cent looked after by another female relative.¹² This suggests that the other fifty-one per cent of children with mothers in prison are likely to be in forms of AC such as foster families or institutions. On the wider European scale, there is a major lack of data surrounding children in AC who have an imprisoned parent. Filling this data gap is a key step to responding appropriately to children in AC who have experience of having a parent in prison.

Reflection point:

- *How can we mobilise our organisations to gather more concrete data on the number of children in AC who are also affected by parental incarceration?*

Alternative Care and Parental Imprisonment: what are the risk factors?

1. Denial of the right to family life

*"the child, for the full and harmonious development of his or her personality, should grow up in a **family environment**, in an **atmosphere of happiness, love and understanding**." – Preamble to the UNCRC ¹³*

A child's right to a family life is enshrined in the UNCRC under articles 5, 8-1, 9-3 and 20-1, as well as in the European Convention of Human Rights (ECHR), Article 8. For children in AC with imprisoned parents, having regular contact with a parent and/or wider family may be denied for several reasons. For those in foster care, carers may let negative associations with prison dissuade them from accompanying a child to visit their parent. Dace Beināre, a family-based care advisor for SOS Children's Villages Latvia, has noted that in some instances foster families are fearful of the imprisoned parent of the child they care for.¹⁴ Likewise, Probacja Foundation in Poland observed that some foster families fail to facilitate contact between Roma children and their parents in prison.¹⁵ In England and Wales, evidence suggests that many social workers have negative views towards imprisoned mothers, even claiming it wasn't 'worth the hassle' to support children

⁹ Caddle, D. & Crisp, D. (1997). *Imprisoned Women and Mothers*. Home Office, London.

¹⁰ Baroness Corston. (2007). *The Corston Report: A report by Baroness Jean Corston of a review of women with particular vulnerabilities in the Criminal Justice System*, Home Office, London.

¹¹ Caddle, D. & Crisp, D. (1997).

¹² Baroness Corston. (2007).

¹³ Preamble to the UNCRC. Accessed at: [https://www.unicef.org.uk/what-we-do/un-convention-child-rights/#:~:text=Read%20the%20full%20Convention%20\(pdf\)](https://www.unicef.org.uk/what-we-do/un-convention-child-rights/#:~:text=Read%20the%20full%20Convention%20(pdf))

¹⁴ Personal communication 5 December 2019 in Riga, Latvia.

¹⁵ Personal communication 1 June 2019 in Krakow, Poland.

in having ongoing contact with their mothers in prison.¹⁶ Without this third-party facilitation and support from carers, the child-parent bond will inevitably suffer.

In situations of kinship care – where a child is cared for by relatives or friends of the family – disputes or tensions between carers and the imprisoned parent may dissuade carers from facilitating prison visits. Furthermore, there may be financial barriers. Some children in kinship care may be technically under State care, therefore the carers may receive financial support from the State. Yet in situations of more informal kinship care, i.e., where grandparents step in as primary carers, whether they receive financial support from the State or not seems to be very inconsistent, creating a further strain on the likelihood of ongoing contact between the child and parent in prison.¹⁷

Regarding institutional care, it has been noted that for many children in institutions the child-parent bond is not encouraged or facilitated at all. The wider interests of the institution are often placed before those of the individual, and the child may be isolated entirely from his or her family environment.¹⁸

2. Highly individualised needs not supported

If a child does maintain contact with an imprisoned parent whilst residing in AC, this alone is not enough to support them. The confusion, anxiety, stress and sadness they may feel whilst having a parent in prison requires individualised emotional support. The Guidelines highlight the importance of training for all those providing AC on the 'specific vulnerability of children in particularly difficult situations'.¹⁹ Having a parent in prison should be considered a 'difficult situation' and carers should be provided with practical guidance on how to support children with an imprisoned parent.

3. Stigma and shame

Children living in AC may face shame, stigmatisation and negative stereotyping for not residing in the 'typical' understanding of a family household.²⁰ Likewise, children with an imprisoned parent can be vulnerable to being stereotyped and may face similar notions of shame surrounding a parent's imprisonment. Therefore, there is a risk of a 'double burden' of shame for those children in AC with an imprisoned parent.²¹ It is important to recognise that shame and

¹⁶ Lord Farmer. (2019). The Importance of Strengthening Female Offenders' Family and other Relationships to Prevent Reoffending and Reduce Intergenerational Crime. Ministry of Justice, London. p.96.

¹⁷ Raikes, B. (2016) *Unsung Heroines: Celebrating the care provided by grandmothers for children with parents in prison. Probation Journal*, 63 (3), 320-330.

¹⁸ Manfred, N. (2019), *op. cit.*, p. 532.

¹⁹ UN Guidelines for the Alternative Care of Children, para. 115

²⁰ Farmer, E., Selwyn, J., & Meakings, S. (2013). 'Other children say you're not normal because you don't live with your parents'. Children's views of living with informal kinship carers: social networks, stigma and attachment to carers. *Child & Family Social Work*, 18(1), 25-34.

²¹ Raikes, B. (2021) Report on prison and video visits in the United Kingdom. *European Journal of Parental Imprisonment*, 10, 11-15.

stigmatisation *can* occur but that this is not an inevitability; children’s resilience and ability to overcome adversity should be remembered.

4. Having their voices heard

Under Articles 12 and 13 of the UNCRC, children have a right to share their views and have them listened to and respected. This right is often not respected for children in AC with an imprisoned parent. Children deserve not merely to be listened to but to have their voices amplified in the decision-making processes that affect their lives. This was one of the predominant themes that emerged from the 2021 United Nations Day of General Discussion (UNDGD) on Children in Alternative Care:

‘Children and young people do not want transactional relationships of power or of being listened and responded to, but seek dialogue with adults. To feel heard, children and young people want adults to approach them with an open mind and heart, patience, free of judgement or assumptions about their capacity and/or lived experiences, and recognize that adults are not always right.’²²

5. Leaving alternative care

When a child leaves AC, a moment fraught with uncertainty, there is a lack of adequate support. Leaving care should be a gradual and supervised process involving careful preparation and follow-up support. Children need psychological and practical support in the form of financial assistance and/or guidance to finding a job as well as social skills that allow them to integrate into a wider community. If leaving alternative care and/or family reintegration coincides with the release of a parent from prison, increased contact between child and parent needs to be encouraged with specific measures, including contact outside of prison.

*“We need to be encouraged that everything will be well in the end.”
Girl, 11-14, Bulgaria.²³*

“They should be made well aware about the situations or people they will be facing, taught well on whom they can trust and what kind of people they should stay away from.” Young woman, 18–25, Nepal.²⁴

What can be done to support children with an imprisoned parent in alternative care?

Support for these children can take various forms. According to Article 20-1 of the UNCRC, it is the State’s responsibility to protect and provide assistance to all children who are ‘temporarily or permanently deprived of his or her family

²² International Institute for Child Rights and Development, 2021. *Make Our Voices Count*. Children and young peoples’ responses to a global survey for the Day of General Discussion 2021 on Children’s Rights and Alternative Care. 29. Available at: https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2020/DGD_Report_EN.pdf

²³ Ibid., p.33

²⁴ Ibid.

environment, or in whose own best interests cannot be allowed to remain in that environment.’ States should consider taking the following action:

1. Preventative measures

Tackling the contributing factors that result in children’s placement in AC – poverty, violence, abuse, access to education, etc. – will lower the number of children in AC on a large and long-term scale. Many children who partook in the ‘Make Our Voices Count’ survey prior to the 2021 UN DGD highlighted that had their families had access to adequate resources, they felt they would not have been placed in AC.²⁵ The reasons that children enter AC may also be contributing factors as to why parents come in conflict with the law in the first place. Identifying and tackling the underlying root problems is paramount to preventing children’s placement in AC.

2. Avoiding unnecessary family separation

States should recognise the importance of siblings, grandparents and wider family and friends, and limit the unnecessary separation between a child and environments familiar to them, when in line with the best interests of the child. Integrating the rights and needs of at-risk families into policies and reforming and strengthening child protection systems should be prioritised. Children who are in AC because of a parent’s imprisonment should be a key consideration when developing such policies. Furthermore, states should ensure that systems regularly review situations of AC, recognise that a child’s needs and wishes may change over time and give a voice to both the child and parent.

3. Data collection

To provide enhanced and informed support, children in AC with an imprisoned parent need to be systematically identified. Progress has been made regarding data collection that considers children in AC, notably through the DataCare project, an initiative launched by Eurochild and UNICEF’s Europe and Central Asia Regional Office. The initiative has mapped AC systems across the twenty-seven member states of the EU and the United Kingdom.²⁶ However, the intersection between children in AC and children with an imprisoned parent remains a blind spot in data collection.

4. Child participation

Child participation is a right of all children, including those in AC and with an imprisoned parent. For child participation to take place in a lasting and impactful way, a ‘culture of co-creation of children and adults should be installed’.²⁷ This will

²⁵ Make Our Voices Count, p. 19

²⁶ Eurochild and UNICEF. (2020). The DataCare project Logic Model. Available at https://eurochild.org/uploads/2020/11/DataCare_Logic_Model_Eurochild-UNICEF.pdf

²⁷ CP4Europe Webinar on ‘The participation of vulnerable children in decision-making processes – from theory to practice’, *Child participation in alternative care*. Raluca Verweijen-Slamnescu, accessed at: [Child participation in alternative care – Coe https://rm.coe.int > ppt-child-participation-in-alter...](https://rm.coe.int/ppt-child-participation-in-alter...)

allow not only the listening of children's voices but the *amplification* of their opinions when it comes to decision-making processes.

"Children in care have sometimes been programmed into helplessness in their families of origin or in the many letdowns of the childcare system. Participatory interactions and programs offer an opportunity to un-learn helplessness and learn an empowered sense of self where the child is no longer a passive object of the care system but an active participant in his/her own care planning and future".²⁸
- Young Woman, Finland.

"We want to be the protagonists of these processes. We have a lot to contribute, and we are willing to collaborate to advance this issue. It is time for youth participation to be formalized in the design and implementation of the policies that affect us".²⁹

5. Quality of alternative care

Improving and ensuring a consistent level in the quality of AC – in all its different iterations – is critical to ensuring children's needs and rights are met. The UNDGD raised the discussion of what constitutes high-quality AC. The pertinent aspects to consider are...

- **Relationships:** Does AC promote, provide and encourage relationships between child, family, friends, the carers and the wider community?
- **Environment:** Does AC maintain the identity of the child (e.g., language, culture, religion etc.) and encourage open channels of communication with the child?
- **Support and Opportunities:** Are minimum quality standards for health, nutrition, clothing, shelter and non-violence met?
- **Operations:** Is the AC provided temporary in nature? Does it promote family reintegration?³⁰

6. Care for the carers

Providing emotional and practical - including financial - support to kinship carers, foster families and all forms of family or community-based care will directly benefit children. Carers should be well-informed about the needs of children with an imprisoned parent. Moreover, social services accompanying children with imprisoned parents living in alternative care should receive appropriate training.

7. Pre-trial or sentencing measures

Key steps to preventing children entering AC due to a parent's imprisonment can be made by judicial authorities, who currently tend to overlook the situation – or even existence – of children at the pre-trial or sentencing stage. In a bid to avoid

²⁸ CP4Europe Webinar, Raluca Verweijen-Slamnescu,

²⁹ Committee on the Rights of the Child 2021 Day of General Discussion, *Background document: Children's Rights and Alternative Care*. p. 36. Available at:

<https://owncloud.unog.ch/s/j0qk6e5tZMjghsK?path=%2F9.%20Background%20document#pdfviewer>

³⁰ Ibid, p. 19.

depriving children of parental care, measures other than detention or imprisonment should be opted for. However, such measures on their own may be insufficient. In Argentina, for example, a mother of a disabled child or a child under 5 years old can serve her sentence under house arrest. But this option is often not applied – it is not mandatory for judges and furthermore, mothers under house arrest receive no financial support from the State, meaning very rarely is it a financially viable option. As such, the child often ends up in situations of AC – an outcome wanted by neither the child nor parent.³¹

8. Initiatives linked to the judicial branch, such as those that have emerged in Argentina. In 2020, the Inter-Institutional Prison Monitoring System³² submitted to the Argentine Supreme Court of Justice a bill on the actions to be taken by national criminal judges regarding children with imprisoned parents. The bill takes as a model a regulation issued by the Federal Court of Appeals in and for San Martín and approved by the Argentine Supreme Court (Acordada 40/1997),³³ which imposes on judges three main duties: ***the duty to find out whether the detainees have children in their exclusive care, the duty to ask them in whose care they wish their children to remain, and the duty to give subsequent cognisance to the competent child protection authorities so that they can provide the assistance needed.*** This regulation ensures that from the time of a parent's arrest onwards, children are afforded protection. It was recognised as good judicial practice during the UN Committee on the Rights of the Child Day of General Discussion 2011.³⁴

9. Systematise and organise research

The intersection between these two issues is under-researched. An open dialogue and coordinated action and research would allow for a better understanding on how many children affected by parental imprisonment are in AC and how best to support them.

³¹ See the study 'Maternar a pesar del sistema jurídico. Hija a pesar del adultocentrismo y la estigmatización' (2021), prepared by the Childhood and Adolescence Area of ACIFAD. Available at <http://acifad.org/jornadas-dimensiones-sociales-de-la-justicia-penal/>

³² The main objective of the Inter-institutional Prison Monitoring System is to encourage and develop actions aimed at ensuring that the human rights of persons deprived of their liberty are respected in practice. It is made up of national representatives of the judiciary, the Public Prosecutor's Office, the Ministry of Defense, legislative bodies responsible for monitoring human rights in prisons, and NGOs with a recognised track record in the field.

³³ Available at: <https://www.csjn.gov.ar/bgd/verMultimedia?data=4429>

³⁴ Robertson, O. (2012). 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, page 11. Quaker United Nations Office. Available at: https://quino.org/sites/default/files/resources/ENGLISH_Collateral%20Convicts_Recommendations%20and%20good%20practice.pdf



Children of Prisoners Europe (COPE) is a pan-European network of non-profit organisations working with and on behalf of children separated from an imprisoned parent. The network encourages innovative perspectives and practices to ensure that children with an imprisoned parent fully enjoy their rights under the United Nations Convention on the Rights of the Child and the Charter of Fundamental Rights of the European Union, and that action is taken to enable their well-being and development.

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