



Child Safeguarding and Children with a Parent in Prison

Introduction to safeguarding

Child safeguarding is a collective duty reflected in organisational policies and practices to protect children from harm or abuse when they are involved in an organisation's activities. It engenders an internal will to protect and promote children's rights, dignity and integrity. Child safeguarding implies unambiguous policies that not only exist within an organisation, but which are implemented and understood by all who work within the context of the organisation. It calls for a clear line of accountability within the organisation. In fact, child safeguarding is a *responsibility*: "...organisations have to make sure their staff, operations, and programmes do no harm to children, that is that they do not expose children to the risk of harm and abuse, and that any concerns the organisation has about children's safety within the communities in which they work, are reported to the appropriate authorities."¹ It is crucial, because it aims to guarantee the primacy of the best interests of the child. The United Nations Convention on the Rights of the Child (UNCRC) enshrines child safeguarding and recognises the primacy of children's interests in all situations.

Children of Prisoners Europe (COPE), by working towards the implementation of a coherent, network-wide, safeguarding policy and culture, aims to highlight and emphasise the values promoted by the UNCRC, particularly those expressed by Articles 3, 9, and 12. These Articles underscore the importance of protecting children, and lay the foundation for a child-safe culture in all State Parties:

¹ Keeping Children Safe, *The International Child Safeguarding Standards and How to Implement Them*. Accessed online: <https://www.keepingchildrensafe.global/blog/2019/02/15/implementing-child-safeguarding-standards/>

- Article 3 of the UNCRC stipulates that the State Parties shall always implement all appropriate administrative and judicial measures to safeguard the child's best interests. In that regard, Article 3 affirms that the parents' role and duty shall be taken into account by the State Parties and all institutions and services in charge of protecting children's rights. It also establishes standards to which organisations working with children shall commit. Standardised safeguarding policies, practices, and an over-arching safeguarding culture contribute to the indiscriminate respect of the rights of all children;
- Article 9 of the UNCRC underlines that if a child and his or her parent(s) had to be separated for judicial reasons, State Parties undertake to ensure a continuous relationship between them, and should support such a relationship, together with the institutions, services, and facilities responsible for the care and the protection of children. When the State is responsible for the absence of the parent, Article 9(4) states that it should be transparent concerning the whereabouts of the absent parent. Ultimately, it is specified that all persons concerned by a decision involving familial separation must have their voices heard on the issue (children included);
- Article 12 of the UNCRC highlights the right of any child to be informed on matters that affect them. Recommendation CM/Rec(2018)5 concerning children with imprisoned parents¹ aligns with Article 12 of the UNCRC: Article 14 and Article 15 of Recommendation CM/Rec(2018)5 state that children should be informed of the whereabouts of their parent, and that information concerning visits should be provided to them in a child-friendly manner, respectively. In addition, Article 46 of the Recommendation stresses that children should be "...provide[d] with guidance and information...".¹

Above and beyond the embedding of child's rights, child safeguarding procedures contribute to determining the public's trust in an organisation.² Child safeguarding procedures set the norms and define which practices are acceptable, and which are not. Organisations with a coherent, protective and implemented child safeguarding policy and set of procedures send a strong message to stakeholders, children and adults alike: In such organisations, the rights of children are considered and kept central to all work.

Children with imprisoned parents

More than a principle or a policy written on a piece of paper that remains static or on a shelf, child safeguarding is a powerful medium to enhance child's rights. In an organisation where the rights of the children are paramount, in which policies

² OSCR, "What is safeguarding?", *Safeguarding Guidance: Keeping vulnerable beneficiaries safe*, Scottish Charity Regulator, May 2018, p. 7.

and practices affirming this principle exist, and where children are regularly involved in the work of the organisation, children's rights are guaranteed to be respected and improved. Firstly, because policies reflect values: An organisation designing and implementing a safeguarding policy or procedures is in fact putting its core values into practice. As previously mentioned, child safeguarding is also about putting children at the forefront in all circumstances. Additionally, a child safeguarding policy and procedures should remain flexible: Their development and implementation is an ongoing process implicating a variety of actors. Lawyers, social workers, psychologists and children alike can contribute to the development of a child safeguarding policy and its related procedures. Participation is empowering for children: When they are aware of their rights, they are able to affirm themselves more in their rights, improving their overall safety and wellbeing. The Office of the Ombudsman for Children Croatia introduces its Young advisor's team to its internal safeguarding policy when they begin their mandate, which enshrines a child-safe environment and practices which are made to be easily complied with for children. Children involved in the organisation can even take part in designing their own rules related to peer-to-peer interactions.

It is worth mentioning that children experiencing parental imprisonment are particularly vulnerable, and thus require more protection. In fact, parental incarceration is a risk factor for children and engenders subsidiary risks, such as school adversities, mental health issues, discrimination, bullying, disruption to the child-parent bond...³ In addition, children with an imprisoned parent generally suffer from the household's loss of income that results from the imprisonment of the parent.⁴ This can imply a loss of access to extracurricular activities, or the remaining caregiver spending more time at work at the expense of the time spent with the child.⁵ Such situations can be detrimental to the child's healthy and secure development. Moreover, the fact that children experiencing parental incarceration are embedded in a sociocultural context in which imprisonment is stigmatised brings about their social stigmatisation, for example through bullying at school. Therefore, the loss of a parent due to incarceration affects children more strongly than any other form of parental separation or vulnerability.⁶ This is partly due to the ambiguous loss they endure: A long-term situation of grief that unlike death or illness, does not draw social sympathy.^{7, 8}

³ Arditti, J. A. (2012) *Parental Incarceration and the Family: Psychological and Social Effects of Imprisonment on Children, Parents, and Caregivers*, p. 18; Children of Prisoners Europe (2019) *Implementation Guidance Document*, p. 4.

⁴ Murray, J., & Farrington, D. (2008). The Effects of Parental Imprisonment on Children. *Crime and Justice*, 37(1), p. 174.

⁵ Arditti, J. A., *op. cit.*, p. 96.

⁶ *Ibid.*, p. 100.

⁷ Boss, P., (2000). *Ambiguous loss: Learning to live with unresolved grief: learning to live with unresolved grief*. Harvard University Press, p. 24.

⁸ Schoenbauer, L. J. (1986). Incarcerated parents and their children: Forgotten families. *Law and Inequality*, 4, pp. 579-601. In Arditti, J. A., *op. cit.*, p. 103.

The fragility of children experiencing parental imprisonment calls for stronger support and protection, and their situation needs to be addressed with flexibility. To reduce or balance risk factors, protective factors exist.⁹ Implemented child safeguarding measures act as such to lessen the impact of parental imprisonment: fostering open communication within a cross-sectoral approach, maintaining contact with the parent in prison, having supportive adults as anchors, and evolving in tolerant communities, are all protective factors for children. These aim to mitigate the negative impacts of parental imprisonment on children, while making them feel and be safe. By protecting them from the harmful outcomes of parental incarceration, child safeguarding empowers children. For instance, in a case where parental imprisonment causes disengagement from school, a greater level of support of the child, as well as of the remaining caregiver, by a trained and knowledgeable staff, can reduce the child's academic difficulties.¹⁰ The enhanced protection guaranteed by policies and procedures and staff training contribute to the promotion of child development, as well as mitigating stigma faced by children.

As a network working with and on behalf of children with a parent in prison, COPE promotes the implementation and integration of strong child-safeguarding policies and procedures. Children with an imprisoned parent are faced with a situation that can make them vulnerable. However, child safeguarding offers a safe environment, wherein children can seek the support of professionals and find themselves listened to and respected. COPE undertakes to ensure that its member organisations comply with network-wide child safeguarding standards. In doing so, the network reaffirms the rights of the children as independent individuals entitled to the respect of their rights, regardless of their situation.



Safeguarding measures for children with a parent in prison

COPE actively contributed to the elaboration of the Council of Europe Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents. Recommendation CM/Rec(2018)5 is

⁹ Luthar, S. S. (Ed.) (2003) *Resilience and vulnerability: Adaptation in the context of childhood adversities*. New York, NY: Cambridge University Press. In Arditti, J. A., *op. cit.*, p. 18.

¹⁰ Children of Prisoners Europe. (2018) *Reading Between the Lines: A toolkit to help schools support children with a parent in prison*, p. 6 and p. 10. Accessed online:

<https://childrenofprisoners.eu/toolkit-to-help-schools-support-children-with-a-parent-in-prison/>

a response to the urgent need to address the challenges faced by children with an imprisoned parent. It includes "...the need to preserve and help develop positive child-parent relations when the parent is in detention; the need to train staff to act in a child-friendly manner during visits and other contacts; the need to respect children's rights and interests and the need to take special care when an infant is with a parent in detention."¹¹ It provides the readers with standards, principles and guidelines, drawing on good practices across Europe, with the ultimate goal to draw the attention of the relevant stakeholders in order to initiate positive policy change concerning children with an imprisoned parent – therefore reflecting a strong safeguarding culture.

Indeed, child safeguarding underscores the necessity for a human rights-based approach to all work involving children, thus valorising them as full individuals with specific needs, yet with rights as anyone else. In that regard, Article 1 of Recommendation CM/Rec(2018)5 fosters "a human rights-based approach to discourse and policy development concerning the expansive issue of children with parents in European prisons."¹² According to the article, all children have the right to be heard, to be informed, as well as to maintain a relationship with their parent in prison. Concerning children's contribution to matters that affect them, Recommendation CM/Rec(2018)5 advises that children with an imprisoned parent be fully involved in the making of new policies and improvements, as stipulated in Article 51.

In addition, educating and training stakeholders on the specific situation of children with an imprisoned parent is crucial. The more people aware of and educated about the issue, the better the protection can be. Following the adoption of Recommendation CM/Rec(2018)5, COPE issued an *Implementation Guidance Document* (IGD) to support stakeholders in the implementation of Recommendation CM/Rec(2018)5. The IGD suggests that the implementation of Recommendation CM/Rec(2018)5 can help prisons "...mitigate the traumatising effects that children face in the context of the tense, rigid, often fearful environment of the prison."¹³ Moreover, the Recommendation improves the ability of stakeholders in positions of responsibility or with decisional power, including the media, to safeguard the rights of the children. Article 46 of Recommendation CM/Rec(2018)5 urges penitentiary administrations to have a "child-responsible person in each prison". Article 47 calls for appropriate training for prison staff who come into contact with children. It also underscores the importance that prison staff "...understand that positive treatment of children is mandatory and not a 'soft

¹¹ Council of Europe, (2018). *Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents*, p. 5. Accessed online: <https://edoc.coe.int/fr/droits-des-enfants/7802-recommandation-cmrec20185-of-the-committee-of-ministers-to-member-states-concerning-children-with-imprisoned-parents.html>

¹² Council of Europe, (2018). p. 6

¹³ Children of Prisoners Europe, (2019). *Implementation Guidance Document*, p. 56. Accessed online: <https://childrenofprisoners.eu/implementation-guidance-document-council-of-europe-recommendation-cm-rec20185/>

option”¹⁴ Positive communication about children with an imprisoned parent contributes to mitigating the stigma they are confronted with. Concerning the child’s right for privacy, Article 55 of Recommendation CM/Rec(2018)5 highlights that children must at all times be protected from the potential harm caused by the media coverage of the case involving their parent. The IGD suggests that information provided to the media must be filtered.¹⁵ Moreover, Article 35 recommends that children born in prison be provided with a neutral identity birth certificate that does not mention the mother’s imprisonment at the time of their birth, thus respecting the child’s right to privacy. The Recommendation is an inspiration for cultural change in terms of how children with an imprisoned parent are perceived and accommodated. It demonstrates that when children are in an environment surrounded by educated, sensitive people who are aware of their needs and vulnerabilities, and when their right to privacy is regarded, they can be safely supported, and stigmatisation can be reduced.

Parental incarceration can severely affect a child’s development, and regular contact between a child and their parent is essential. The continuity of the child-parent relationship is crucial because it helps the child feel emotionally safe and provides them with a feeling of normality in a situation that can be difficult. Visits also enable parents to exercise their parental role, which has positive repercussions.¹⁶ The Recommendation suggests that children be able to keep in touch with their parent in prison and that they be made to feel secure, physically and emotionally. Articles 27 and 28 of Recommendation CM/Rec(2018)5 underline that regular visits are key in supporting and maintaining a strong child-parent relationship, while Articles 17 and 18 affirm the right of children to visit their parent in prison. For a good implementation of these articles, the IGD suggests that a flexible, child-focused visiting schedule be adopted by prison administrations, so that the child’s social life is not affected by visiting a parent in prison.¹⁷ However, visiting a parent in prison can be a stressful experience for a child. In that respect, Articles 20 and 21 of Recommendation CM/Rec(2018)5 strongly encourage the creation of accessible, welcoming child-friendly spaces, “where children can feel safe, welcome and respected”.¹⁸ Finally, Article 15 specifies that children have the right to receive child-adapted information. In Italy, a child-friendly map – “Trovopapa” – of the prison was designed for children, to help them become familiar with their parent’s environment.¹⁹ Such measures

¹⁴ *Ibid.*, p. 58.

¹⁵ *Ibid.*, p. 70.

¹⁶ Council of Europe, (2018). “Explanatory Memorandum to Recommendation CM/Rec(2018)5 concerning children with imprisoned parents” p. 22-23. Accessed online: <https://edoc.coe.int/fr/droits-des-enfants/7802-recommandation-cmrec20185-of-the-committee-of-ministers-to-member-states-concerning-children-with-imprisoned-parents.html>

¹⁷ Children of Prisoners Europe, (2019). *Implementation Guidance Document*, p. 22-24. Suggests that visiting hours should not conflict with the child’s other activities, and that adjustment of the length and frequency of visits should take place depending on the child’s age and availability.

¹⁸ Council of Europe, (2018). Article 20, p. 14.

¹⁹ Children of Prisoners Europe, (2019). *Implementation Guidance Document*, p. 20.

safeguard children from the stress caused by prison visits and alleviate any potential harm due to parental separation or traumatic experiences in prison.

Ultimately, Recommendation CM/Rec(2018)5 reflects a will to adopt standardised policies and practices concerning children with an imprisoned parent across Europe, thus contributing to the overall safeguarding of these children. In order to secure their rights, the Recommendation also advocates for a strong cooperation between stakeholders. One of the most significant obstacles today is the lack of accurate, standardised data concerning children experiencing parental imprisonment. In that regard, Articles 52 and 53 suggest that data collection on children in Europe should be funded by member States. Article 49 recommends a “multi-agency and cross-sectoral approach” on the issue, calling for a cooperation between all actors “...whose work affects the child in the criminal justice system”.²⁰ Such cooperation and inter-organisational communication is essential to ensure as best a protection as possible for children and promote their rights. Similarly, Article 48 of Recommendation CM/Rec(2018)5 stipulates that a multi-agency, cross-sectoral approach encourages cross-agency training programmes, which should frequently be reviewed by each actor involved. In this way, the “efficiency and quality of the support” provided to children can be assured.²¹ At all times, the training provided should be in accordance with national and international laws, as well as with current human rights codes and procedures. The implementation of these articles and their endorsement by the relevant agencies would certainly result in a more child-safe society, where children with imprisoned parents would be just as much considered, respected, and safe as anyone else.

Conclusion

As the only pan-European network organisation working with and on behalf of children with imprisoned parents, with the aim to promote policies and practices for their well-being and healthy development, COPE maintains safeguarding the rights of the children with an imprisoned parent at the core of its work. The Child Safeguarding Enhancement Europe project, launched at the end of 2019, aspires to establish a network-wide and standardised child safeguarding strategy. The project is based on monitoring and reviewing COPE’s and its members’ existing safeguarding policies and discussing ways to support members who do not yet have a policy. To facilitate communication and peer-to-peer experience sharing across the network, COPE has organised a series of meetings, in an effort to develop a centralised child safeguarding culture.

²⁰ *Ibid.*, p. 60. This includes, but not exclusively: policy makers, prison probation services, child welfare, NGOs working with children with an imprisoned parent.

²¹ *Ibid.*, p. 59.



Children of Prisoners Europe (COPE) is a pan-European network of non-profit organisations working 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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