




A Shared Sentence: Children of Imprisoned Parents in Africa/Uganda

ACCESS TO JUSTICE FOR CHILDREN: INTERNATIONAL CHALLENGES AND GOOD PRACTICES
BINGHAM CENTRE FOR THE RULE OF LAW – 11 JULY 2016
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CHILDREN OF IMPRISONED PARENTS: A VIEW FROM UGANDA

- “Every child has his or her own dignity. If a child is to be (...) imagined as an individual with a distinctive personality, and not merely as a miniature adult waiting to reach full size, he or she cannot be treated as a mere extension of his or her parents, umbilically destined to sink or swim with them.”
- Justice Albie Sachs, Sept 2007

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Daliaus

Daliaus is 10 years old. His mother is in prison and his father is absent from his life.

He feels sad about his mother and misses her and his family who don't visit him in the home run by an NGO where he lives. This NGO is his only source of support.

He would like to have more books and toys to play with.



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Ronald

Ronald is 13 years old and lives in a home run by an NGO.

He has no contact with his parents, both of whom are in prison, although sometimes his relatives visit.

He said he wishes to study hard so that he can get his parents out of prison.



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Article 30 of ACRWC

- > Unique in international and regional human rights law
- > Highlights directly how rights of children are affected when their primary caregivers are caught up in the criminal justice system.
- > ACERWC adopted General Comment 1, Nov 2013
- > Defines States Parties' obligations to protect the rights of these overlooked children.

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General Comment No. 1

- > States should review sentencing procedure so that a non-custodial sentence is always considered when parents / primary caregivers are being sentenced.
- > If a parent / primary caregiver is imprisoned then a child must be placed in appropriate alternative care.
- > Set up alternative measures to pre-trial detention such as bail and written notices to appear at court.

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General Comment No. 1 (con't)

- > In exceptional circumstances, when non-custodial measures cannot be considered and it is in a child's best interests to live with their parent / primary caregiver in prison, special institutions should be established to house them. Their treatment must be in line with the UN Bangkok Rules.
- > Parents / primary caregivers must have regular contact with their children provided it is in a child's best interest. Judges should make efforts to place parents / primary caregivers in facilities that are easy for their children to visit.

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FHRI & PRI Research in Uganda – Summer 2015

- > **Aim:** To review implementation of Article 30 and General Comment No. 1 in Uganda.
- > **Context:** July 2015 there were 45,314 people in prison, 2,039 of whom were women (Uganda Prison Service). A very large proportion of these prisoners likely to be parents or primary caregivers to at least one child and most likely four or five.
- > 200,000 children in Uganda have a parent in prison at any one time
(NGO, Wells of Hope)

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Key Findings – 1. Stigma and discrimination

All of the children involved in the research experienced stigma and discrimination because their parents were in prison.

A 21-year old mother told us that her relatives, including her young daughter, had received threats from neighbours following her arrest. Her daughter has been bullied and the family can no longer afford to send her to school.



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2. Inadequate child protection system

The child protection system in Uganda is extensive on paper but under-resourced. Provision of alternative care for this group of children is patchy.

A single mother of five children was arrested quite suddenly. Her children are now scattered and live in different homes with different relatives, whilst one child is cared for by an NGO.



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3. Over-use of pre-trial detention

Pre-trial detention is still over-used meaning that children are left without parental care unnecessarily.

'This area is very wanting because some mothers are incarcerated while heavily pregnant. These women should be given more time on bail at least to first give birth'



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4. Weakness in implementing Sentencing Guidelines

Sentencing Guidelines adopted in 2013 are excellent but are not properly implemented so an offender's care-giving status is not always taken into account when sentencing.

'Justice should at times be fair to the mothers since the children are innocent and are not supposed to be in prison.' Prison officer

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5. Children imprisoned with mothers

Total population of children living with their mothers in prison increased from 226 - July 2014 to 239 - July 2015

Process by which children end up living in prison with their mothers is informal and depends on whether it is permitted by the police on arrest or by the prison service on arrival.

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Conditions for children living with their mothers in prison are not acceptable.

'Children in prison with their mothers miss out on early childhood and family settings - they don't grow up in a normal life since all they see is yellow uniforms.' Lawyer



6. Inadequate system of visits

The environment for contact visits between children and imprisoned parents is intimidating and needs improvement.

'I feel so sad when I go a long time without visiting my mother.'

'My mother was taken to another prison and she never communicated with me.'



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Recommendations for change

- > **Sentencing Guidelines** are an excellent first step but much more needs to be done.....
- > Urgent need to **address stigma and discrimination** and to stress that these children are innocent victims
- > Need for **comprehensive child protection system** to provide alternative care and protection
- > Need for **similar research** to be conducted in other States Parties so that General Comment No.1 will become more widely known and implemented and this group of children will become visible on the agenda of law and policy-makers.

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About the report

- > Full report – in English
- > Executive summary – in English and French.

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