

**An Assessment of the Challenges of Children in Prison with their Mothers: A Case of
Langata Women Maximum Prison**

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Abstract

Children growing up in prison with imprisoned mothers are faced with many challenges. The Kenyan laws allow toddlers to stay with their incarcerated mothers in prison up to the age of four. Definitely, the children who live in prison are not criminals and as such should not be subjected to any treatment and environment that reduces their human basic natural rights. It is against this backdrop that this paper assessed the challenges of children in prison with their mothers in Lang'ata Women's Maximum Prison. Specifically, the paper assessed the social, psychological and educational challenges. The paper was intended to influence the justice system in the best interest of the child. The study used a naturalistic design which was purely qualitative in nature to collected data. The researcher purposively sampled only women with their children in the prison. The data collected was analysed using content analysis to generate qualitative report which was presented in a continuous prose and verbatim citations. The social development challenges were mostly observed. The study found out that prisoners were subjected to severe overcrowding, insufficient food supply, mothers had to share their portion with the children, poor sanitary conditions, inadequate water supply and bedding. Police and prison guards subjected prisoners to torture and inhuman treatment such as handcuffing, punishing and shouting at the mothers in front of the children causes psychological trauma to the children. It further found that there are no enough learning materials at the centre. In conclusion, whatever is done in all actions considering children, whether undertaken by private or public social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a main consideration. Both the society and the government should operationalize this fact.

Key words: social, psychological, educational, spiritual, challenges, children.

Introduction and Background

Rights of children have been a part of the human rights since 1919 when the International Labour Organisation made a number of conventions relating to labour standards for working children (Awene, 2014). However, application of the rights for children started to gain widespread recognition after Geneva Declaration of the Rights of the Child, adopted by the League of Nations in 1924 (National Council for Children's Services, 2013). Nevertheless, despite the ideological differences between those rights and the rights recognised and championed all over the world currently, the 1924 Declaration served as a crucial base for the rights of children.

Afterwards, the rights of the child gradually evolved towards empowering the child. In particular, the 1989 Convention on the Rights of the Child (CRC) signals a clear move towards recognizing that children are active holders of rights and not only passive objects (Amnesty International, 2009). Although, CRC is the main source of children's rights, it is not the only source for children's rights in international human rights law. As was noted by The Committee on the Rights of the Child, the Convention "reflects a holistic perspective on early childhood development based on the principles of indivisibility and interdependence of all human rights".

Additionally, there are numerous instruments recognizing and securing the rights of individuals deprived of liberty, among them being the United Nations Universal Declaration of Human Rights (1948) in Article 25(2) which recognized the need of motherhood and childhood to "special protection and assistance" and the right of all children to "social protection". Other such instruments exist on International, Regional and National levels, in the form of declarations,

agreements and conventions. The preamble of the Inter-American Principles and Best Practices on the Protection of Persons Deprived of Liberty (2009) notes the precarious situation of those detained in prisons and the critical conditions endured. Principle VIII-XX provides that “Where children of parents deprived of their liberty are allowed to remain in the place of deprivation of liberty, the necessary provisions shall be made for a nursery staffed by qualified persons, and with the appropriate educational, paediatric, and nutritional services, in order to protect the best interest of the child” (Amnesty International, 2009).

Children growing up in prison with imprisoned mothers are faced with numerous challenges ranging from social, educational, economic, psychological and environmental. Such children include those that are either born to inmate mothers or those that accompany their mothers when convicted of serious crimes that they have to be incarcerated for a long time. These children are exposed to all manner of crimes and criminals at a tender age (Tomkin, 2009). The children of incarcerated mothers have long been an almost invisible population, but in recent years, they have begun to receive attention from public policymakers, traditional social service providers and academic researchers. Out of this, some are concerned about the rapidly growing correctional population of more than two million children worldwide in prison; others fear that these children are at a higher risk of being incarcerated themselves as adults, while others are motivated by a desire to better understand and promote the well-being of children living in challenging life circumstances (Shavisa, 2015).

It is also important to note that global attempts have continually been made to improve the plight of children living in prisons such as; The draft on United Nations minimum Rules for the treatment of women prisoners and non-custodial measures for women offenders (2010)

especially Rule 48 which states in part that increased attention be devoted to women in prison and their children. It also states: Pregnant or nursing women prisoners shall receive advice on their diet and appropriate food must be provided for babies, children and breast-feeding mothers, free of charge (Republic of Kenya, 2009). Although Kenya has ratified these rules, the extent to which they are applied is of great concern.

Notwithstanding the foregoing, The Kenya Prisons Act section 30(4) also states that; The infant child of a female prisoner may be received into prison with its mother and may be supplied with clothing and necessaries at public expense: Provided that such child shall only be permitted to remain in prison until it attains the age of four years or until arrangements for its proper care outside prison are concluded, whichever shall be the earlier (Republic of Kenya, 2009).

A paper presented by the Commissioner General of Prisons entitled “Towards Decarceration: A Statistical Analysis of Imprisoned Offenders” revealed that there were 2599 convicted female offenders and over 387 children accompanying their mothers in prison in Kenya in March 2016 only (Njoki & Karige, 2016). These numbers however, often fluctuate as some inmates are released when their jail term ends while others are remanded or jailed when found guilty of offences. For example, in Kenya, 4,053 and 3,348 children under the age of four spent some time in prisons in the year 2005 and 2009 respectively (Kenya Prisons Service, 2005; 2009). Although the children in prison with incarnated mothers may be bonding with their mothers, prison settings generally do not provide the best environment for children’s growth and development. Article 3 of the Convention on the Rights of the Child takes into consideration the Best Interest of the Child and as such all actions undertaken either by any institution or

legislative bodies should consider the best interest of the child as a primary consideration. However, in Kenya, almost all the children are confined in the cells with their mothers throughout the day and night as they have no day care centers for children.

On the other hand, the Government of Kenya through the prison's administration upholds Article 3 of the CRC by allowing children of imprisoned mothers to remain with them till the age of four. It also recognizes that for the positive development of a child's personality, the child should grow up in an environment of happiness, love and understanding although this may not be achievable in a prison environment. The environmental interaction in prison influences behavior and development is considered a reaction to rewards, punishments and stimulated reinforcement. Once these children are removed from prisons, they may have difficulty coping with the outside world. In another unpublished paper presented by the Commissioner General of Prisons (2015), stated that the quality of early attachment is an important predictor of children's later social and emotional functioning although at times an outcome of contact between children and incarnated parents offer mixed findings.

Children of imprisoned women can be categorized into two: those who are separated from their mothers while the mothers are imprisoned, and those who go into prison with their mothers (Alejos, 2005). Internationally it is not uncommon for a child to spend some of his or her childhood in prison during the parents' prison sentence (Poso *et al.*, 2010). This study focused on children who went into prison with their mothers and those who were born in prison at the Lang'ata Women's Maximum Prison in Kenya. The Lang'ata Women's Prison is the only maximum female security institution in Kenya. It is located on the edge of Kibra sub-County, Nairobi County approximately 8.5 Km from downtown Nairobi. It has two sections; remand and

main prison. The remand prison houses prisoners awaiting trial while the main prison houses convicted prisoners. Some serving short-term sentences and others long sentences ranging from many years to life sentence to condemned prisoners. At the time of this research there were close to 1000 inmates serving different sentences ranging from murderer on death row, to drug dealers, armed robbers and petty thieves. Out of this number, 75 were mothers serving sentences for crimes ranging from homicide, theft, kidnapping to drug trafficking.

Omukhweso (2007) posited that children in prisons ought to be considered as children under difficult circumstances in the need of assistance but they have never been classified as such by any international organization or agency. A review of the literature available on children living with incarcerated mothers showed that there were no comprehensive studies done that directly addressed the social, spiritual, psychological and educational needs of such children. Hence this modest attempt endeavored to assess the social, spiritual, educational and psychological challenges of children living in prison with their mothers.

The Lang'ata Women's Prison being the only maximum female security in Kenya institution has more inmates than any other female prison in Kenya. It also has more children living in the prison with their imprisoned mothers. Its proximity to the capital city of Kenya has attracted many sympathizers and institutions to go in and help the children to grow up and attain some development in a relatively conducive environment. One such institution is Faraja Trust Institution that has built an early child development centre inside the prison to cater for the children's needs. This study was justified because although Faraja provided the institution with the children's day care centre, the effectiveness in meeting the social, spiritual, educational and psychological challenges of the children is not known to the best knowledge of the researcher.

The general objective of the study was to assess the challenges of children living with their imprisoned mothers in Lang'ata Women's Maximum Prison. Specifically the study sought to establish the social environment of the children at the Lang'ata Women's Prison, examine the psychological challenges of children born or raised in prison in their first 4 years of life and to determine the educational challenges of children living in prison with their parents.

Reports released by various human rights lobby groups indicated that children accompanying mothers in prisons are hardly served with wholesome meals as stipulated in the *First Schedule* (Republic of Kenya, 2009). There are frequent reports of food shortage, congestion, lack of clean water, inadequate clothing, and poor sanitation across all the prisons in Kenya (Kenya Human Rights Commission, 1996). Under such circumstances, children are likely to be faced with high cases of malnutrition and morbidity compromising their growth and development (UNICEF, 1998).

Methodology

This was a case study which was purely qualitative and relied on interview and observation to collect data from 30 mothers who were purposively selected out of a total of 105 mothers who had their children within the prison. For the children, observation was generally used because the children were too small to comprehend a number of things. The qualitative data obtained from interviews was analyzed using content analysis to generate qualitative report which was presented in continuous prose and verbatim citations.

The study population was women prisoners who were admitted in at the Langata Women's Prison during the study period and the children living in prison with their mothers

aged one to four years, caregivers at Faraja Centre and prison officers. The population of the children was 75 and the mothers were 105, caregivers were 4 and prison officers were over 400. The target population was women prisoners living in prison with their children below the age of four at the Langa'ta Women Prison. Observation was also used within the prison and Faraja Day Care Center. For data collection one semi structured questionnaire was used to collect data. This was used to guide the interviews with the parents and the caregivers at Faraja Centre as well as prison officials who were considered as key informants. The study used random sampling technique. This technique was suited for this study because it ensured that a sample population which best represented the entire population was obtained.

Ethical considerations were observed while carrying out this study in that confidentiality was maintained and the information obtained that was not confidential was presented to the public in writing this paper.

Findings and Discussion

At the time of the study there were 75 children living with their mothers within the prison, most of whom were born in prison and therefore the only home known to them was the prison.

In order to determine the social challenges faced by the children, the study focused on the following areas: environment in which the child was born, play equipments and facilities, co-operation with playmates, ability to develop new skills, and behaviours and ability to observe rules. It has been noted that for children to overcome social challenges as they grow up; children need to learn to co-operate with others in work and in play, in a manner best fitted for their

associates' highest development. Children also need to be encouraged to play and to have playmates. As children grow they need to have an opportunity to explore and develop new skills and interdependence. They also need to learn that certain behaviours are unacceptable and they are responsible for their actions. Children should also be enabled to learn rules in an environment where guidance and discipline that is fair and consistent is offered in a loving environment. This is a great challenge for children growing up in prison with their incarcerated mothers as they miss out on such opportunities in life.

The study found that jailed pregnant women in Lang'ata Women's Prison had an opportunity to deliver in Kenyatta National Hospital. They also received both pre and post-natal care for their children. The study also found out that the institution had a day care centre for children where incarcerated mothers dropped their children in the morning and pick them up in the evening. They were only allowed to visit their children during short mid-day visits or while they were nursing. At all other times, the children were kept away from their mothers in a sub-standard nursery while their mothers were in their cells or doing what they had been assigned to do.

The study further found out that prisoners were subjected to severe overcrowding, and insufficient food supply as the mothers had to share their portion with the children. Poor sanitary conditions, inadequate water supply and lack of adequate beddings were also witnessed. It was also reported that police and prison guards subjected prisoners to torture and inhuman treatment. Some of these are discussed as follows;

One of the respondents said that;

“When I was sentenced, my child was one year old. He was then taken away from me to a children’s home, I missed out on the privileges of being a mother to my only son at that tender age, I appealed and he was brought back to me. All the same, I did not get enough time to mentor him. He is now three and a half years old. He keeps to himself and is never free to talk even to me his mother. Sometimes we are also scolded and beaten in front of the children by the officers’.

According to Bandura, (1968), the social environment in which a child is born has a lot to do with the future socialization of the child. Human beings are a product of social environment, and the future behaviours and actions are but a reflection of the socialization process that human beings are subject to. The social environment results revealed that there were 27 toys, 5 skipping robes, 4 balls and other outdoor playing materials like swings and other equipments. Hence, there were not enough playing tools to allow the children to just be children and to play. The day care had two full time caregivers and sometimes the mothers took turns to take care of the children.

The study considered the following indicators to test the psychological challenges experienced by the children in the prison, namely: the caregivers’ training to handle the psychological needs, treatment of the mothers such as handcuffing of the mothers, punishment and shouting at the mothers in front of the children and the relationship between the caretakers and the children. A thirty-two year old participant said *“It is not a good scenario, that they (the prison wardens) beat you, in front of your child, it really reduces the spirit of your child. It happens severally to me and my fellow mothers inmates”.*

These findings confirmed that the Children’s Act (Act No. 8 of 2001), requirement of separation of children in prison facilities is not really enforced. The researcher was informed that this has been caused in part by the failure of most judicial officers to regularly inspect prison as

ex officio visiting justices as provided by section 72 of the Prisons Act (Cap 90 Laws of Kenya) and the Chief Justice's Practice Directions 2008....” This condition has been complicated by the fact that the current prison facilities hold more than double its capacity.

The findings on social challenges further revealed that children went back to their mothers in the evenings, suggesting that their interaction with their mothers was limited. One respondent said,

“When we reunite with the children in the evenings, the children are excited to want to share what they learnt in the centre but we are not interested because of hard day's work and stress of being in prison. This killed the children's self-esteem, enthusiasm and strained relationship with the parents”.

Socially imprisoned mothers should embrace their children and try to listen to their days happy moments and the challenges encountered during the day.

On spiritual development, although this challenge was not highlighted in the objectives the researcher had indicated that the spiritual need of children has a stake in the growth and developmental behavior of the children later in life. The study findings revealed that there was no provision for Sunday school in the prison. Children joined their mothers on Saturdays or Sunday s for prayers. This helped the children spiritually to know that when asked to pray they would close their eyes and try to sing Christian songs they have heard. Lack of provision for Sunday school for children would mean that, there were no spiritual activities such as Bible storytelling and other activities that children engaged in.

Research also showed that contact between children and their inmate parents is a complex issue. A review of the research suggested that contact between children and

incarcerated parents are related to a number of factors ranging from the inmate's relationship with the children's caregivers to family economic resources and jail and prison policies.

To establish how teaching and learning facilities affected provision of education at the prison, the researcher used the observation schedule to assess the adequacy of teaching and learning materials at the prisons. In this regard, the researcher observed that classrooms and learning materials were inadequate. There were only two caregivers who doubled as teachers at the centre for 75 children, which widened the teacher-pupil ratio. Playground was observed to be small compared to the number of children in the centre. Chairs and desks in the classroom were for the children above two years. The day sleeping area and beddings were not enough, forcing children to share the few blankets available, which meant that during the cold season these children are exposed to the cold. Hence, generally the learning atmosphere was not up to standard as per the Ministry of Education's curriculum for early childhood education.

Another major challenge that the researcher established was the period of incarceration of the mother, in that some mothers were serving longer periods while others were serving shorter terms in prison. This greatly made it impossible for the children to actively participate in any meaningful educational activity. One of the caregivers suggested that, due to the age differences of the children and the difference in the jail terms of the mothers, different programmes could be organized for the different groups according to age. This was also because some of the children may have been in ECDE programmes before their mothers were convicted.

When the caregivers were asked to indicate the challenges that they faced in the education of the children in the prison, they identified shortage of caregivers and teachers and suggested the addition at least two caregivers and one trained teacher on ECDE. They also

indicated irregular and fluctuating salary payment, as well as lack of qualified teachers and teaching materials.

Other challenges that faced the education of children accompanying their mothers in prison included lack of conducive learning environment in the prisons, frequent changes in the time tables, and lack of proper follow-up of learning. The researcher further established that it was not possible to offer educational care effectively due to different times that mothers entered prisons and left. For example, one of the caregivers indicated that some mothers could come to prison in the morning after conviction while the child would enter the class the following day.

Conclusions and Recommendations

Based on the findings of this study, it was concluded that, in any situation the best interest of child must take precedence. The prison system as is currently constituted does not factor in the best interest of the child. In the first place, children who did not commit crime are subjected to conditions that violate their basic rights thereby exposing them to social psychological and educational challenges which pre-expose them and potentially expose them to crime. The early years of a child's life presents a unique opportunity to lay a foundation for a healthy development. Negative early in life experiences could impair children's mental health and affect their cognitive, behavioral, social and psychological development.

Recommendations highlighted for policy considerations for improving the frequency and quality of contact between inmates and their children include the following.

1. Mothers of young children should be treated with dignity in the presence of their children even though they may be criminals.

2. That prisons departments should recruit and hire qualified and permanent teachers/caregivers who are able to teach children accompanying their mothers in prisons. Those already employed should be sponsored to do relevant courses in relation to child development and counseling.

3. The prisons authorities should provide appropriate teaching and learning facilities at the day care centre by increasing children's play materials such as skipping robes, balls, toys, swings, sea-saws and the play area should be safe and conducive. Books relevant to the age groups of the children attending the day care center should be provided so that teaching and learning could be conducted effectively.

4. Brutal punishment on inmates should not be carried out in front of the children as this causes low self-esteem, anxiety and psychological torture on the children.

5. Prison authorities should set aside more money for good and balanced diet for the children and the mothers in prison. Currently, the children share food with their mothers which is sometimes little and not balanced in terms of nutrition. This may cause other problems such as malnutrition for the children.

6. Kenya Prison Services should make provision for Sunday school with teachers to teach the children the word of God. Proverbs 22:6 mothers and the church to train up a child in the way he or she should grow and when he or she is grown, he or she will not depart from it.

7. There is need for further research in the field of social development and the challenges that face children of imprisoned mothers.

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