

## **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 a myriad of challenges. The Kenyan laws allow toddlers to stay with their incarcerated mothers in prison up to the age of four years. 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 taking in Lang'ata women prison. Specifically, the paper assessed the social, psychological/emotional and educational challenges. The paper is 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 from Langata women's prison. 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.

**KEY WORDS: Social, Psychological, Educational and Spiritual Challenges of the Child.**

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## 1.1 Background of the Study

Children growing up in prison with imprisoned mothers are faced with a myriad of challenges ranging from social, education/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. 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. Some, concerned about the rapidly growing correctional population of more than two million people, fear that these children are at a higher risk to become incarcerated themselves as adults. Others are motivated by a desire to better understand and promote the well-being of children living in challenging life circumstances. (Shavisa, 2015).

Global attempts have been made to improve the plight of children living in prisons for example; The draft on United Nations minimum rules for the treatment of women prisoners and non-custodial measures for women offenders (2009) Rule 48 states: *Pregnant or nursing women prisoners shall receive advice on their diet under a programme to be drawn up and monitored by a qualified health practitioner. Appropriate food must be provided for babies, children and breast-feeding mothers, free of charge* (Republic of Kenya, 2009). The extent to which this rule applies in Kenya is of concern.

In Kenya female prison population has increased by 100% compared to 24% male prison population. The vast majority of detained and imprisoned women are mothers, and often the sole or main caretaker of minor children (Bastick, 2005). Children of imprisoned women can be categorized into two: those who are separated from their mothers while she is 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 parent's prison sentence (Poso *et al.*, 2010). In Kenya, 4,053 and 3,348 children under the age of 4 years spent some time in prisons in the year 2005 and 2009 respectively (Kenya Prisons Service, 2005; 2009).

The Kenya Prisons Act section 30(4) states; *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). This act does not give any special treatment to nursing mothers or any considerations regarding child feeding subjecting both the mother and child to various forms of malnutrition (Republic of Kenya, 2009).

### **1.2 Statement of the problem**

Generally incarceration of a parent is a challenging and potentially traumatic event for children more so if it is of a mother. The mere arrest and removal of a mother from a child's life forces that child to confront emotional, social and economic consequences that may trigger behavior problems, poor outcomes in school. These challenges are compounded if the child were to live with the mother in prison.

Children who accompany their mothers to prison have committed no crime and therefore should not suffer as if they had. Facilities in prison should always include good nutrition, decent playing areas and, where appropriate, kindergarten facilities. The best interests of the children should be the primary consideration at all times (Robertson, 2008). Although some child development theories support incarcerated mothers living with their infants and babies up to the age of four years, research is needed to better understand the challenges of these children. Therefore this paper assessed the challenges faced by children in prison with their mothers in lang'ata women prison.

### **1.3 Purpose of the Study**

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.

### **1.4 Objectives of the Study**

The specific objectives were to:

- i) Establish the children's social environment at the Lang'ata women's prison.

- ii) Examine the psychological/emotional challenges of children born or raised in prison in their first 4 years of life.
- iii) Determine the educational challenges of children living in prison with their parents

### **1.5 Significance of the Study**

The findings of this study brought out aspects of children's social developmental needs that may influence prison authorities to reevaluate the welfare of children living with their incarcerated mothers on the best interest of the child. The findings of this study may provide background information that would assist policy makers in making better decisions on matters affecting children accompanying their mothers in prison.

## **REVIEW OF RELATED LITERATURE**

### **2.1 The Social Environment of Children Living with their Mothers in Prison**

It is often recommended, internationally, that a pregnant woman be able to deliver her baby in a hospital outside the prison (without handcuffs!). The place of birth will be a regular hospital. Afterwards there should be good facilities for a longer stay of a baby in prison with its mother as long as it needs the physical care of its mother. These facilities differ in various countries. Sometimes the mother and child department looks like a kind of hospital, where for example, the warders are wearing white uniforms (Awene, 2014). In other situations the mothers try to make a little home for themselves and their children (they often have to share cells), where they even cook some small meals. In other more 'progressive' prisons, the children stay with their mothers during the evening and the night, while they go to a nursery in or outside the prison during daytime, while the mother is working. (Tomkin, 2009)

In the 10th General Report the Committee for the Prevention of Torture (CPT) made general recommendations on the ante- and post-natal care:

Every effort should be made to meet the specific dietary needs of pregnant women prisoners, who should be offered a high protein diet, rich in fresh fruit and vegetables.

It is axiomatic that babies should not be born in prison, and the usual practice in Council of Europe member States seems to be, at an appropriate moment, to transfer pregnant women prisoners to outside hospitals. Nevertheless from time to time, the CPT encounters examples of pregnant women being shackled or otherwise restrained to beds or other items of furniture during gynaecological examinations and/or delivery. Such an approach is completely unacceptable, and could certainly be qualified as inhuman and degrading treatment. Other means of meeting security needs can and should be found. (National Council for Children's Services, 2013).

Many women in prison are primary care givers for children or others, whose welfare may be adversely affected by their imprisonment. One particularly problematic issue in this context is whether – and if so, for how long – it should be possible for babies and young children to remain in prison with their mothers. This is a difficult question to answer given that, on the one hand, prisons clearly do not provide an appropriate environment for babies and young children, while on the other hand, the forcible separation of mothers and infants is highly undesirable.

In the view of the CPT, the governing principle in all cases must be the welfare of the child. This implies in particular that any ante- and post-natal care provided in custody should be equivalent to that available in the outside community. Where babies and young children are held in custodial settings, their treatment should be supervised by specialists in social work and child development. (Amnesty International, 2009). The goal should be to produce a child-centred environment, free from the visible trappings of incarceration, such as uniforms and jangling keys. Arrangements should also be made to ensure that the movement and cognitive skills of babies held in prison develop normally. In particular, they should have adequate play and exercise facilities within the prison and, wherever possible, the opportunity to leave the establishment and experience ordinary life outside its walls. Facilitating child-minding by family members outside the establishment can also help to ensure that the burden of child-rearing is shared (for example by the child's father). The length of the stay sometimes depends on the care facilities outside the prison. The stay is also often linked with a normal period of breast-feeding, which also differs from culture to culture. (Tomkin, 2009).

According to a study by the African Commission on Human and Peoples Rights (2000), the conditions of prisons and prisoners in many African countries are afflicted by server inadequacies including high congestion, poor physical health, and sanitary conditions; inadequate recreational, vocational and rehabilitation programmes restricted contact with the outside world, and large percentages of persons awaiting trial, among others. The same report also found that Prisons do not provide an appropriate environment for babies and young children, often causing long term developmental retardation. Yet, if babies and children are forcibly separated from their mothers they suffer permanent emotional and social damage. Most European prison systems provide some places for babies to stay with mothers but many hundreds of babies are nevertheless separated from their imprisoned mothers. This report argues that a new approach is needed for those few mothers of young children who commit serious offences and who represent a danger to the community, and that the overwhelming majority of female offenders with young children should be managed in the community.

## **2.2 Psychological/Emotional Challenges of Children Born or Raised in Prison**

Kenyan law allows infant children of female prisoners to stay with their mothers in certain circumstances. The law specifically states that the infant child of a female prisoner may be received into prison with its mother and may be supplied with clothing and necessities 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.

Recalling the declaration on the rights and welfare of the African child adopted by the assembly of heads of state and government of the organization of African unity, at its sixteenth ordinary session in Monrovia, Liberia. From 17 to 20 July 1979, recognized the need to take appropriate measures to promote and protect the rights and welfare of the African child,

Noting with concern that the situation of most African children, remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child's physical and mental immaturity he/she needs special safeguards and care,

Recognizing that the child occupies a unique and privileged position in the African society and that for the full and harmonious development of his personality. The child should grow up in a family environment in an atmosphere of happiness, love and understanding,

Recognizing that the child, due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security. It is practical that the prison environment may not provide the best psycho-emotional environment for the growth and development of the children living with their incarcerated mothers.

. The challenges experienced in regard to these children by the warders include; suitable housing, cloths, beddings and other facilities appropriate for children. The day care established at the Lang'ata Women's Maximum Prison is a step in the right direction. However, there seems to be a lack of adequately trained staff dealing with early education development of these children. Additionally, not all prisons are equipped with these daycares and early childhood development centers. Article 3 of the Convention on the Rights of the Child takes into consideration the Best Interest of the Child. It provides that 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 primary consideration.

The government of Kenya has greatly infringed upon these rights and indeed freedoms of these children. Granted there are inmate mothers who insist on taking care of their children and those that have no alternative, but at what costs? According to the Presentation done by the Commissioner General of Prisons titled the relationship between parent and child is important. Studies find that the quality of early attachment is an important predictor of children's later social and emotional functioning. Studies that examined these relationships as an outcome of contact between children and incarcerated parents offer mixed findings, but suggest the quality of the contact is influential in determining outcomes. Studies report mixed findings about the relationship between children's contact with incarcerated parents and their behavior toward care givers, caregivers, peers, and others.

In a study of 58 adolescent children of incarcerated mothers, researchers reported that fewer instances of school drop-out and suspensions were associated with more mother-child contact, which included phone calls, visits, and letters. However, another study found more attention problems among children when they visited an incarcerated parent more often. Care givers interviewed reported that students often had trouble concentrating in school following weekend visits with their incarcerated parents. Care givers tended to have made more positive comments about the effects of mail contact between students and their incarcerated parents. Researchers have also found that children may present behavioral and emotional difficulties when visiting a parent in jail or prison, which can worsen an already stressful prison-visiting environment and erode the quality of the interaction between child and parent.

### **2.3 The Educational Challenges of Children Living in Prison with their Incarcerated Parents**

The Universal Declaration of Human Rights, adopted by the United Nations in 1948, proclaims that motherhood and childhood are entitled to special care and assistance and proclaims the right of everyone to a standard of living adequate for their health and wellbeing. <sup>1</sup> It also states that all human beings are born free, recognizing the right to life, to liberty and security of persons, as well as the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment. These basic human rights are recognized in legally binding international human rights conventions.

The right of children to special measures of protection due to their status as children is also recognized in article 24 of the ICCPR. The HRC has noted that States should assess and determine the measures to be adopted to ensure that children can fully enjoy the rights contained in the Covenant without discrimination (General Comment 17 (1989)). It has also emphasized the main role and responsibility of the family, society and the State to guarantee the necessary protection to children, as well as the role of the State to ensure special protection to children who are deprived of their family environment. In the interpretation of International Covenant on Civil and Political Rights (ICCPR) articles 3, 7, 10, 23 and 24, the Human Rights Campaign (HRC) has also clearly recognized the rights and special protection needs of persons deprived of their liberty - specifically women, imprisoned pregnant women and imprisoned mothers.



### **2.3.1 Rational for early childhood education**

History of ECE trends record struggle of many great educators, philosophers and psychologists who were keen in improving quality of life for young children (Driscoll & Nagel, 2002). Before 1700 childhood was not valued and children were meant to substitute for labor. The contribution of Rousseau (1712), Pestalozzi (1746-1827), Frobel (1852), Dewey and Jean Peaget among others improved the quality of life of the children (Driscoll & Nagel, 2002). Pestalozzi established orphanages to cater for destitute children while Fredric Frobel advocated play activities as a source of learning. Maria Montessori emphasized on use of senses for learning and holistic development of a child. She was the first to develop the curriculum of ECD program. Prior to Dewey, black American.

Children were considered part of workforce. They were rushed to grow in order to provide labor. He fought hard against child labor and discrimination (Discoll & Nagel, 2002). Recent years have seen a global endeavor to prioritize early childhood care and education as a foundation for later learning and development. This is evidenced by Guidelines for Early Childhood Education and Care in the 21st Century (Association for Childhood Education International AWorld Organization for Early Childhood, 1999). Such efforts are a response to a variety of complex social issues and economic trends. These forces include, societal changes due to industrialization, the increased number of women with young children entering the labor force. Families with two working parents, a rise in the number of single parents, and the demise of traditional systems of child care and extended family support systems (Boocock, 1995).

The greatest influence on early-childhood education in Canada today has been the philosophy and practice of the British infant and primary schools frequently referred to as "informal" or "open" education. This approach is viewed by many as the embodiment of the "child centered" philosophy. Attempts to implement "informal" education in Canada and the US have been directed, in particular, to kindergarten and primary-grade programs. Compensatory education for preschool children developed principally in the US with extensive government funding which was intended to meet the needs of economically disadvantaged children.

### **2.3.2 Early Childhood Care in Kenya**

Kenyans perceive education as a key to success in life, facilitating social mobility and personal development (Nkinyangi, 1982). A number of theoretical perspectives focus on education's pivotal role in human growth and development (Mbugua, 1997). The modernization theorists contend that education transforms individual values, beliefs, and behaviors, which leads to development. As a result, Kenya has seen a clamoring for and expansion of education at all levels (Mutero, 2001; Mwiria, 1990), including nursery schools, child care centers, kindergartens, and preschools. This has created a need for expansion of pre school education in Kenya.

The first recorded school for young children in Kenya was founded at Rabai (a coastal province) in 1886 by the Church Missionary Societies (Bogonko, 1992; Eshiwani, 1989). The first early care centers can be traced in the 1940s, when British 'Colonists established centers to serve both European and Asian children. During the same period, the colonial government established early childhood care

centers for Kenyan children living on the tea, coffee, and sugar plantations. Kenya's system of early childhood care and education reflected a separate and stratified society, with Europeans receiving educational resources superior to that received by people from Asian and Arab cultures; Africans came last. The colonial government argued that the different races needed the kind of education that was deemed "appropriate" for their respective positions in colonial life (Bogonko, 1992).

### **2.3.2 Education of children in prisons**

In India for example, children as old as 15 years have reportedly remained in prison with their parents, because nobody is willing to stay with them at home them. Other countries like Norway however, do not allow children of any age to live in prison. The environmental interaction influences behaviour, and that development is considered a reaction to rewards, punishments, stimuli and reinforcement. Once these children are removed from prisons, they may have difficulty coping with the outside world.

The Faraja Trust handed over to Lang'ata Women's Prison an early childhood development centre to cater for these children. The resource centre, estimated to have cost Sh3 million, is meant to fill the gap that has been identified on the special needs of the offenders, especially those with children. The children will not spend time with their mothers during the day, but will instead be taught at the centre and join their parents in the evening. There are no adequate resources to

Allocate additional food for children, meaning that parents have to share their meals with their children. For the children to grow psychologically and emotionally, their lives should be as similar as possible to how it would be outside, and they should not be subject to the restrictions on their freedom that other residents of the prison are.

However, in the Kenyan prisons, the children cannot access education and do not interact with others, and this can affect their chances of successfully re-integrating into society at the end of a sentence. Facilities in some countries, like the Aranjuez Prison in Spain, allow couples who are both imprisoned to stay in the same prison unit with their children under the age of three to live in specially- furnished family cells, and have access to a prison playground. The parents are also taught parenting skills and allowed to interact with their children in a more hospitable and less threatening environment than standard prison cells.

## **METHODOLOGY OF THE STUDY**

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 have their children in within the prison. The Qualitative data obtained from the interviews was analysed using content analysis to generate qualitative report which was presented in a continuous prose and verbatim citations.

## **THE FINDINGS OF THE STUDY**

According the chief prison warder, Lang'ata women prison has a total 105 children living with their mothers within prison; most of these children were born in prison and therefore the only

home know is the prison. This study looked at the social, psycho-emotional and educational challenges that these children face while with their children in prison.

#### **4.1 Social Challenges**

In order to determine the social challenges, the study focused on the following areas: place of birth, living conditions of the infants, the infant's meals, sleeping areas, adequate play and play equipments. The study found that the mothers had an opportunity to deliver in Kenyatta national hospital from where they received both pre and post natal cares for their children. The study also found that women prisoners were only allowed to visit their children during short mid-day visits or while they are nursing. All other times, the children are kept from their mothers in a nursery while their mothers are in their cells.

The study also found the prison conditions were harsh and life threatening and especially for the younger children. Prisoners were subjected to severe overcrowding, deficient health care, and unsanitary conditions, and received inadequate water, and bedding. Police and prison guards subjected prisoners to torture and inhuman treatment.

One of the study participant 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. She explains’.*

The social environment in which a child is born has a lot to do with the future socialization of the child. (Bandura, 1968). We are a product of our social environment, our future behaviours and actions are but a reflection of the socialization process that we were subject to.

The study also found out that there was lack of adequate playing equipments for the children, most of the day care had care givers but did not have enough playing tools to allow children to just be children and to play.

#### **4.2 Psycho-Emotional challenges**

The study considered the following indicators to test the psycho-emotional challenges experienced by the children in the prisons, namely: the caregivers training to handle the emotional needs, treatment of the mothers like handcuffing of the mothers, punishment of the mothers and the relationship between the caretakers and the children. A thirty two year old participant said that *“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”*.

This findings confirms that the Children’s Act (Act No. 8 of 2001), which requires separation of children in prisons 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 prisons 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 their capacity.

Research also shows that contact between children and their inmate parents is a complex issue. A review of the research suggests that contact between children and incarcerated parents are related to a number of factors ranging from the inmate’s relationship with the child’s caregiver to family economic resources and jail and prison policies. And the key factor determining the outcomes of visits between children and incarcerated parents is the quality of those visits.

#### **4.3 Educational Challenges of Children living with their mothers in prison**

To establish how teaching and learning facilities affected provision of education at the prisons, the researcher used the observation schedule to assess the adequacy of teaching and learning materials at the prisons, the researcher observed that classrooms and learning materials were inadequate. Care givers who were the teachers were few, only there against a population of children of 105, this therefore widened the teacher pupil ratio. Playing ground was observed to be inadequate compared to the number of children in the centre. Chair and desk were inadequate and the general learning atmosphere was not conducive for learning.

Another major challenge that the researcher established was the period of incarceration of the mother, some mothers were serving longer periods while others were serving shorter terms in prison. This greatly made it impossible to actively participate in any meaningful educational activity. One of the care givers 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 the age. This was also due to the reason that some of children may have been in ECDE programmes before their mothers were convicted.

In an interview with the care givers, they were asked to indicate the challenges that they faced in the education of the children in the prison. Data shows that there was lack of adequate caregivers who were trained, their salaries were not stable and fluctuated each month, care givers were not willing to be employed in the centers due to low salaries, and there was lack of care givers who had academic and professional qualification and there was unavailability of teaching and learning materials. Other challenges that faced the education of children accompanying their mothers in prisons included lack of conducive learning environment in the prisons, disruption from frequency of changes in the time tables, lack of proper follow-up of such learning. The researcher further established that it was not possible offer educational care effectively due to different times that mothers entered prisons and left. For example one of the care givers indicated that some mothers could come to prison in the morning after conviction and hence the child could enter in the class the following day.

## **RECOMMENDATIONS**

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

1. A child's early months and years are critical to developing secure attachments. Jail and prison interventions that address this issue include a judicial program that allows mothers to live with their infant during the child's first year, which has shown positive outcomes in terms of building secure attachments.
2. That prisons departments should recruit and hire qualified and permanent teachers/caregivers who are able to teach children accompanying their mothers in prisons.

3. The prisons should ensure that there are appropriate teaching and learning facilities at the prisons so that teaching and learning could be conducted effectively.

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