

LIFE SENTENCES FOR CHILDREN

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I was once a Commissioner for Equal Opportunity. Once, I had to investigate complaints about women prisoners' treatment. They had been moved to a maximum-security prison designed for men, because the women's jail was full. They complained that because of this they were locked up 'for their own protection' and much more restricted than the men. They couldn't use the prison facilities, and they weren't getting to even see their children.

I found that women prisoners in mixed jails were indeed worse off than the men. Before we had sorted it out, the government of the day decided to float the idea of closing down all women-only prisons and putting women in men's jails to save money. I asked for an order to preserve the status quo: three months later my position was abolished and the laws were changed. The issues of women minorities in men's jails and of incarcerated mothers and their children's rights were never sorted out.

Around the world, more women are going to jail for non-violent crime. Half of this increase is due to drug-related crime, including women conned into being 'mules' by drug runners. A lot of them have dependent children.

Jailing a parent punishes their children. Nobody wants children growing up in the rough, male-designed environments that women spend their sentences in, but we know what happens when we don't let babies bond (I was shocked when, more than fifteen years ago, prison officials swept Lindy Chamberlain's last baby from her arms in the delivery room.)

Many governments let babies and toddlers stay with their mothers, but there is no consistency or philosophical standard on when, how, and for how long.

The UK's new Human Rights Act requires laws and regulations to be interpreted in a way that is inconsistent with the European Convention on

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Human Rights. One of these is everyone's right to 'family life,' under Article 8. Early in 2001 two women prisoners argued that their rights to 'family life' had been denied by a prison policy that their babies should be removed at 18 months.

The court was unsympathetic. The women's sentences and deprivation of liberty had impaired their right to family life: they had to be rehabilitated (I've never known anyone rehabilitated because they were jailed). Promoting prisoner's children's welfare was prison service's discretion, and a prison was entitled to have rules that suited its efficiency. A 'cut off point' of 18 months seemed quite reasonable. Anyway, the Chief Justice remarked, it's important to send a message to the criminals who use women as drug couriers that their dupes' parental status would not result in more lenient sentences when they were caught (no druggie thinks they are going to get caught). There was no mention of the children's rights to 'family life', nor their rights under the UN Convention on the Rights of the Child, not to be separated from their parents without their consent. As usual, the child's voice was not heard.

The law could be a lot better if lawyers and judges behaved like 'officers of the court' and thought about the rights of dependent, inarticulate victims of adult crimes and institutions. Prisoners lose their rights, but their children shouldn't. Someone should have argued that children had 'family life' rights under Article 8 of the ECHR and explored the effect of our government signing the UN Convention on the Rights of the Child. Maybe we would find better was of punishing foolish addicts and helping their children. Maybe we could 'rehabilitate' so children had families, not cages.