

Supporting the rights of infants whose mothers interact with the justice system

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The United Nations Convention on the Rights of the Child





'State parties recognize the right of the child to the enjoyment of the highest attainable standard of health'

Obtaining the highest standard of health requires children to be fed nothing but breastmilk for the first six months of life and continue to be breastfed for up to two years or more

Global Strategy for Infant and Young Child Feeding



The UNCRC also exhorts member states to *'combat disease and malnutrition'*

'Ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding'

Formula feeding is associated with an increased risk of infectious diseases, non-infectious diseases, impaired cognitive development and increased mortality due to SIDS and accidents

Formula feeding may increase rates of obesity

Formula fed infants are at risk of food insecurity and under nutrition

Breastfeeding assists mothers to provide their best possible care

Hormones released in response to breastfeeding act on the CNS to promote maternal behaviour, maintain maternal proximity and reduce women's response to physical and emotional stress

Mothers who are not breastfeeding exhibit dampened responses in brain regions associated with maternal sensitivity as compared to breastfeeding women

Mothers who are not breastfeeding are (as a group) less responsive and sensitive to their babies than women who are breastfeeding

Absence of breastfeeding may hamper mother–child attachment, responsiveness and reduce quality of care-giving in vulnerable dyads, to the point of neglect or abuse

- Hospital practices known to impede breastfeeding increase infant abandonment
- Australian research found children who were not breastfed were 3.8 times more likely to be neglected by their mothers than children breastfed for 4+mo
- It is possible that impaired maternal attachment and decreased mother–child supervision could explain the greater rates of death of formula fed infants due to accidents in infancy

Women who interact with the justice system are vulnerable

Socially disadvantaged population (young, low education, low income, indigenous, experience of sexual assault/domestic violence/childhood trauma)

Often single mothers

Medical risk factors (premature/surgical birth, smoking, drug and alcohol abuse)

Additional risk factors from justice system (mother-child separation, maternal mental health, fish bowl, autonomy, health care and parenting/lactation support access)

How many infants and young children are impacted by maternal imprisonment in Australia?

No national statistics- in 2007 estimated that 145 000 children had had a parent imprisoned

2014 WA audit children born 1985-2011

Average 1500 children/year had their mother in prison (total 9352)

2/3 children indigenous

19% of all indigenous children experienced maternal incarceration

Half of all children under 4 years at the time of maternal imprisonment

192 children born while mother imprisoned

Perhaps 600 children 0-2 years with their mothers imprisoned

Many more are arrested and have other interactions with the justice system

"The child is innocent and is not a prisoner, this the fulfilment of his/her rights, in particular the right to survival and development, the right to health and the right to adequate food should not be compromised" IBFAN-GIFA

Children of women interacting with the justice system are not counted and do not count and so are not protected

Four-month-old Indigenous baby dies while mother in custody in Northern Territory

NT children's commissioner to probe death of baby girl whose mother had been arrested in Katherine



▲ NT police confirmed the 21-year-old mother had been taken into custody before the Indigenous baby's death was reported. Photograph: Jonny Weeks/The Guardian

Recognised that maternal
incarceration should be avoided
where ever possible

Mother-baby programs

Allow babies and young children to live with their mothers in prison

Provide a safe environment for the child

Should provide individualised parenting support, including support for breastfeeding (increased rates reported where included in programs)

Outcomes measured include: Improved mental health for children, reduced recidivism, and increased likelihood of child remaining in the care of the mother



Byrne MW, Goshin LS, Joestl SS: **Intergenerational transmission of attachment for infants raised in a prison nursery.** *Attachment and Human Development* 2010, **12**(4):375-393.

- Prison mother-baby program providing individualised parenting support and guidance
- Infants measured high rates of secure attachment (60%) despite high rates of insecure internal attachment representation in mothers
- High rates of positive discordancy resulted in infants having secure attachments at rates comparable to low-risk community samples
- Rates of secure attachment were greater where mothers were incarcerated for longer

Issues with mother-child programs

Prisons are largely set up and managed by men for men

Application processes can be problematic

Exclusion and inclusion requirements

Age of child permitted in mother-child units

Limited places in units

Decisions made very later

Unavailability of units in some prisons
Lack of transparency in inclusion and exclusion criteria

Unavailability to women on remand

Variable access to lactation and mothering support

May be less available to indigenous women

No Australian prison has an attachment-focused mothers support program

Other problems

In hospital, prison guards have power over whether mothers can see their infants in the special care nursery

On maternal return to prison, infants are left without emotional care (sometimes while in drug withdrawal) in special care nurseries

Provision of equipment for milk expression and storage may not be made, time and a place to express milk not provided, refrigeration of milk not made in a timely manner, milk not transported to infants

No mechanism to ensure infants can be brought to visit their mothers

No privacy for breastfeeding during visits

Case study

Mother became pregnant after arrest

Time of sentencing, baby 3 months old and exclusively breastfed

Prison mother-baby program only allowed women to apply to be in the program from prison

Expert report written for sentencing on the impact of maternal incarceration on the infant

"It is my opinion that should Baby S be separated from her mother while her she is incarcerated that this will be detrimental to Baby S's health and development. Separation from her mother will be experienced as a severe trauma for Baby S. It may also have an impact of Baby S's mental health and make it more difficult for Ms M to provide care for Baby S when she is released from prison"

"Against my better judgement, I have decided that having a baby who is currently been breastfed does at least or is capable of constituting the sort of exceptional circumstances that would enable me not to sentence the offender to a term of at least 28 days' actual imprisonment. Had it not been for that, it would have been my view that the offender ought to serve at least six months of the term of imprisonment that I am going to impose."



Supporting breastfeeding has beneficial outcomes

- Improved infant mental and physical health
- Breaking the trauma cycle
- Reduced recidivism



Conclusion

Rights of the child demands that the needs of infants and young children be considered in policies and practices in the justice system

- Start counting children of those interacting with the justice system
- Avoid separation of mother and infant
- Ensure proper breastfeeding and mothering support
- Ensure appropriate access to health care, parenting and breastfeeding/lactation support
- Implement maternity protection policies in prison



Mums in prison or whose babies are in care need breastfeeding support too

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Gribble K.D. & Gallagher M. (2014) Rights of children in relation to breastfeeding in child protection cases. *British Journal of Social Work* **44**, 434-450.



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Support for Children of Imprisoned Parents in New South Wales

This inquiry has been established to look into the possible impact on children of imprisoned parents and the adequacy of policies and services to assist the children of imprisoned parents in New South Wales. In particular, it will examine what services are available, how effective they are, and whether improvements could be made.