

*“Children in the prison nursery”*: Global progress in adopting the Convention on the Rights of the Child in alignment with United Nations minimum standards of care in prisons.

## Abstract

**Background:** Out of the 11 million detained in prisons globally, the female prison population of 740,000 has increased by 50% since 2000. 410,000 children are in detention. 19,000 live in prison with their mother.

**Objective:** To conduct a socio legal assessment of global progress in adopting the Convention on the Rights of the Child since 2010, and alignment with United Nations (UN) normative standards of care in prisons.

**Participants and Setting:** Children detained with their mothers at the global level.

**Methods** A comprehensive search of all published Concluding Observation reports of the UN Committees on the Rights of the Child (CRC), Elimination of Discrimination Against Women (CEDAW), Against Torture (CAT) and Human Rights (CCPR) since 2010 (n=905). 316 CRC, 246 CEDAW, 173 CAT and 170 CCPR reports were scrutinised to examine the situation of children living with detained mothers against UN normative standards of care.

**Results** 51 reports (24 CRC, 13 CEDAW, 12 CAT, 2 CCPR) representing 43 countries (majority in Africa) contained direct violations of the best interests of the child. These include the treatment of children as prisoners, difficulties in securing identity documents, poor detention conditions, exposure to violence, lack of access to child-appropriate healthcare, and lack of transparent data. Countries differed in durations of time permitting children to stay in prison (6 months to 8 years, with Eritrea observing no limit).

**Conclusions** Achieving a balance between protection of the child and punishment of the mother is inconsistent globally, and exacerbates the multiple vulnerabilities of the child.

## Key Words

Prison; children; best interests principle; detained mothers; soft law; Mandela Rules; Bangkok Rules

## Background

Over 11 million people are detained in prisons globally, with many prisons operating over capacity in 119 countries (Penal Reform International, 2021). 740,000 are women, with recent data indicating an increase of over 100,000 in this minority prison population in the past ten years (Penal Reform International, 2021). The female prison population has increased by about 50% since 2000, in comparison to the 18% rise in male prisoners (Walmsley, 2017). Extant data indicates that at least 410,000 children are in closed settings annually (Penal Reform International, 2021). This figure is primarily based on juveniles in conflict with the law, as the minimum age of criminal responsibility globally ranges from 7 to 16 years, most commonly 14 years across United Nations (UN) member states (Penal Reform International, 2022a). An estimated 19,000 children live in prison with their mother (Penal Reform International, 2022b). In 2020, 10,000 children were in detention with their mothers in Europe (World Health Organization, 2020).

Whilst ninety-seven jurisdictions globally permit children to reside with their incarcerated parent (in almost all cases the mother) in prison, there is a lack of uniformity in legislative provisions with the imposed age limit generally correlating “*with the degree to which the prison world deviates from the world outside*” (Bauer, 2018). Countries adopt a variety of rules regarding whether children are permitted to stay with their mother in prison, the length of time and type of accommodation provided for them by the prison service. This can range from complete separation of mother and child on committal; provision of mother and baby units/prison nurseries for the duration of the breastfeeding period; or for the duration of parent's sentence (Bauer, 2018; Paurus, 2019; Van Hout and Mhlanga-Gunda, 2018:2019; Carlson, 2018; Logar and Leese, 2021). Four countries routinely separate incarcerated mothers from their new-borns (Liberia, Suriname, Bahamas, United States) (Nair et al., 2021). Whilst application of non-custodial measures to pregnant women or those with caregiving responsibilities remains a priority for many countries, it is unclear as to what extent such alternative sentences are implemented (Ogrizek et al., 2020a).

Achieving a balance between protection of the child and punishment of the mother is problematic and inconsistent worldwide (Law Library of Congress (U.S.). Global Legal Research Directorate, 2014), as by virtue of conflation, the state sanction of the mother punishes the child and

there are inherent problems in separating the rights and best interests of mothers and children (Ogrizek et al., 2020a; Walker et al., 2021). The UN Children’s Fund (UNICEF, 2007) however advises that infants should not be separated from their mothers due to custodial sentencing, based on the premise of the best interests of the child and their respective rights to family life. There is extensive literature on the negative impact of mother and child premature separation as justified by the State imperative to protect the child from the prison environment (Ogrizek et al., 2020a;b). The bulk of academic and policy level attention is devoted to the unique and substantial vulnerabilities of children living in the community with an incarcerated parent, and on mothers in prison.

Very little is known about children in the *“prison nursery”* context. For instance in the sub-Saharan African region, these children are often described as *“hidden victims”*, with *“their reality and circumstances related to incarceration seldom recognised”* (Schoeman and Basson, 2009). Children living in detention are a significantly high-risk population, experiencing multiple health and social vulnerabilities and adverse impacts on child development (Wakeman and Wildeman, 2018; Ogrizek et al., 2021). The closed environment has a substantial impact on their basic needs (for example healthcare, nutrition, clothing, hygiene); the extent to which they experience safe spaces, education and spaces for play; their quality of their relationship and time spent with their mother; their ability to have contact and relationships with visiting family members; and the extent to which the prison system considers and assesses their best interests (Penal Reform International, 2013; Metzler et al., 2017; Bauer, 2018; Cheruiyot, 2019; Easterling et al., 2019; Friedman et al., 2020; Miamingi, 2020; Ogrizek et al., 2021b; Penal Reform International, 2022a). Discrimination and substantial prison environment challenges navigated by mother and child are significant, often with life changing and life ending consequences, including with reintegration difficulties post release (Gobena et al., 2019; Cheruiyot, 2019; Van Hout and Mhlanga-Gunda, 2018:2019; Nowak, 2019; Zhao et al., 2021).

### **Treaties and Guidelines that guarantee children’s rights : Best Interests of the Child**

The rights of children living in detention are protected by a range of positive obligations under a range of international treaties to uphold the human and health rights of people deprived of their liberty, with binding obligations to not ill-treat those in detention. Table 1 presents all relevant international

treaties and guidelines that guarantee children's rights in detention settings. The rights of detained women and children are additionally provided for in the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (UN, 1979) and the Convention on the Rights of the Child (CRC) (UN, 1989). When considering rights of children in the "*prison nursery*", the CRC (UN, 1989) states that: "*in all actions concerning children..., the **best interests of the child** shall be a primary consideration*" (Article 3). Article 9 (1-4) draws distinction between compulsory separation of a child from his/her parents, deemed necessary in his/her best interests, and the separation of a parent from their child due to detention, incarceration, deportation, exile or death. General Comment 10 of the Committee on the Rights of the Child supports that best interests of the child supersedes punishment, correction or prevention (UN CRC, 2007). It is further supported by the UN Guidelines for the Alternative Care of Children (UN, 2010a) which mandate that: "*best efforts should be made to ensure that children remaining in custody with their parent benefit from **adequate care and protection**, while guaranteeing their own status as free individuals and access to activities in the community.*" Two countries have not ratified the CRC (The United States and Somalia).

Of note is that the African Charter on the Rights and Welfare of the Child (ACRWC) (Organization of African Unity OAU, 1999) is widely applauded as the first set of international guidelines which explicitly provide for the children of detained parents, and mandate that non-custodial measures must always be considered first (Penal Reform international, 2022b). It affirms the principle of the best interests of the child, with Article 19 stating that: "*the child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the **right to reside with his or her parents**. No child shall be separated from his parents against his will, except when a judicial authority determines in accordance with the appropriate law that such separation is in the **best interest of the child***" (OAU, 1999). General Comment 1 of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) (ACERWC, 2013) supports states parties in the effective implementation of Article 30. Whilst Article 30(d) states that '*a mother shall not be imprisoned with her child*' (spanning pre-trial detention and custodial sentence), General Comment 1 stipulates the requirement to consider a broad range of factors (child's age, gender, maturity, relationship with mother, availability of alternative caregiving in the community) when deciding

whether to permit the child's accommodation with their mother in prison, and to provide for the best interests of the child (Mimianga, 2020).

In terms of soft law, the humane treatment of children of detained women is provided for in a range of non-binding UN normative standards in prisons. Of greatest applicability to the situation and care of these children is the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules) and the UN Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules) (UN, 2016). The Bangkok Rules recommend that *“[d]ecisions to allow children to stay with their mothers in prison ... be based on the **best interests of the children**, and if permitted, the children should **never be treated as prisoners**.”* and that the prison environment *“be as close as possible to that of a child outside prison.”* It provides additional safeguards relating to the application of non-custodial measures if the parent is a sole caregiver, and above all that children must be considered throughout all stages of the parent's contact with the criminal justice system (Penal Reform International, 2022b). Rules 49 to 52 are especially pertinent with regard to the special provisions for women and children in the *“prison nursery”* context. It also outlines a process based on individual assessment when deciding to end the period of time of the child in detention: *“in **the best interest of the child** within the scope of relevant national laws”* and provides that *“the removal of a child from prison shall be undertaken with **sensitivity**, [and] only when **alternative care arrangements** for the child have been identified.”*

Insert **Table 1 Relevant international treaties and normative guidance** about here

### **Rationale**

Hence we focus here on the human rights and situation of babies born in prison and infants detained with their mothers, largely invisible in prison systems and extremely vulnerable, not least due to the observed rise in the female prison population globally. Despite these international and regional human and child rights assurances, there is observed discrepancy in the prison system resourcing of children's paediatric and developmental needs in the prison setting, particularly in low and middle-income countries (LMICs) (Van Hout and Mhlanga-Gunda, 2019). In order to examine global progress in protecting and upholding the rights of children living with detained mothers since the

adoption of the 2010 UN Bangkok Rules, we conducted a socio-legal assessment (Leiter 2015) of all UN Committee treaty body reports (also known as Concluding Observations) promulgated from the relevant CRC, CEDAW, CAT and ICCPR Committees (2010-2022). These reports refer to the positive aspects of a State's implementation of a treaty and areas where the treaty body recommends that further action needs to be taken by the State. We assessed them against the UN normative minimum standards of care in prisons applicable to children with detained mothers.

## Methodology

A comprehensive global search was conducted on the UN Human Rights treaty data base of all published treaty body (Concluding Observations) reports, confined to the Committees of the CRC, CEDAW, CAT and ICCPR since 2010. The search yielded 905 (316 CRC, 246 CEDAW, 173 CAT and 170 CCPR) reports promulgated since 2010-mid 2022, and were subsequently carefully screened using a range of search terms as illustrated in Table 2.

Insert **Table 2 UN Committee Concluding Observations (2010-2022)** about here

Each Committee report was then examined, by focusing on scrutinising the report and extant reference to standards of detention, particularly focused on the situation of children detained with their mothers in that country. We focused on the requirement to prioritise non-custodial measures for women with children, and the explicit rights of “*living or born*” children in detention and normative standards of care, beyond the best interest of the child principle. We excluded references to pregnant women and the unborn child, juvenile detainees in conflict with the law and the children of prisoners living outside of prison. The final data set consisted of 51 reports (24 CRC, 13 CEDAW, 12 CAT, 2 CCPR) (Table 2) which contained relevant reference to children living in detention with their mothers. Excerpts were collated and tabularised. Each were subsequently benchmarked against the pertinent normative rules applicable to children living in detention settings as contained in the UN Mandela Rules (28,29,44) and Bangkok Rules (2,3,9,21,28,33,48,49,51-53,60,64,68-70). [Supplemental file of Rules uploaded]. Table 3 presents the identified country, the maximum age to which a child is permitted to stay in prison with their mother, and the direct citation of the excerpt

from the UN treaty committee *Concluding Observation* report. We present the assessment in a series of themes with illustrative quotes from Committee reports.

Insert **Table 3 UN CAT, UN CEDAW, CRC and CCPR Concluding Observations since 2010**

about here

## Results

The final data set of 51 UN Committee reports documented direct violations of the *Mandela* and *Bangkok Rules* in 43 countries, each with a diverse range of durations of time permitting children to stay with incarcerated mothers (6 months to 8 years, with Eritrea observing no limit). A broad range of countries are represented, the majority of which are located in Africa (Benin, Burkina Faso, Burundi, Eritrea, Ethiopia, Kenya, Lesotho, Mali, Mauritius, Mozambique, Nigeria, Rwanda, South Sudan, Zimbabwe). The remainder are six countries in the Middle East (Bahrain, Iran, Iraq, Qatar, United Arab Emirates, Yemen); six in Asia (Bangladesh, India, Kyrgyzstan, Myanmar, Thailand, Cambodia); two in Oceania (Samoa, Tonga), three in Central America (Guatemala, Honduras, Panama), six in South America (Bolivia, Brazil, Dominican Republic, Peru, Paraguay, Uruguay), one in North America (Mexico), and three in the Council of Europe region (Italy, Moldova, Switzerland). Belarus and the Russian Federation are also included. All with exception of one refer to prison settings, with one report mentioning Committee concern around the situation of children with mothers in immigration detention (CEDAW, 2019; Qatar).

Insert **Table 4 Identified violations of the Nelson Mandela Rules and the Bangkok Rules explicit**

**to children detained with their mothers in prison** about here

## Due process and prioritisation of “Best interest of the Child”

Table 4 reveals a broad range of failures of states parties to prioritise the best interests of the child, and in their obligation to protect and uphold the basic human rights of children detained with their mothers in the 43 countries. 16 countries are in breach of the prioritisation of the “*best interests of the child*” principle when deciding whether the child can stay with their mother in detention, the provision of child care facilities and appropriate paediatric care, and that these children shall never be

treated as prisoners (Tonga, Lesotho, Samoa, Bangladesh, Iran, United Arab Emirates, Brazil, Iraq, Myanmar, Cambodia, South Sudan, Yemen, Honduras, Russian Federation, Panama and India) (contra Mandela Rule 29). Examples include the following. The 2014 CRC Committee reports on India and Mauritius in 2015 both expressed concern that *“the best interests of the child are not always taken into account, including when sentencing parents.”* (CRC, 2014a; CRC, 2015a). In 2018 the CRC Committee documented *“that the best interests of children are not taken into consideration during the sentencing of caregivers”* (CRC, 2018) in Lesotho.” Several countries are in direct violation of the *Bangkok Rules* 64 to prioritise non-custodial measures when taking into consideration of the *“best interests of the child”* (Lesotho, Uruguay, Mauritius, India, Mexico and Bolivia). For example in Mexico both the CRC (2015) and the CCPR (2019) Committees are concerned about the length of time the child remains in prison, and the lack of alternatives to detention (*“the excessive length of time that children spend in prison with their mothers and the lack of guidelines regulating this area (arts. 6, 7, 9 and 10).”*) (CRC, 2015b; CCPR 2019). Lengthy pre-trial detention of mothers with infants was mentioned in several, with the 2013 CEDAW Committee report on Benin *“expresses serious concern about the [ ]length of pretrial detention and the lack of measures aimed at facilitating women’s access to justice.”* (CEDAW, 2013).

### **Safe accommodation of children in detention**

Many countries were observed by the UN Committees to fail in providing safe and adequate accommodation for children living with their mothers in prison and protecting them from exposure to trauma, neglect and abuse. Iraq (*“concerned about cases of children staying in prison for several weeks after the execution of their mothers”*) (CRC, 2015c) and South Sudan (*“subjected to neglect, ill-treatment and abuse, and lack adequate access to medical care, including for their young children”*) (CEDAW, 2021a) were documented as severely breaching the fundamental rights of children (contra *Bangkok Rule* 49). The 2011 CAT Report on Paraguay refers to *“the measures taken to prohibit corporal punishment of children living with their mothers in places of detention or in shelters [...]”* (CAT, 2011). Many reports however observed the exposure of women and their children to official and interpersonal violence, and indicated concern for the lack of segregation from male inmates and predominance of male prison staff. For example in Zimbabwe in 2020, the CEDAW



Committee was “concerned about reports of the detention of women with young children and of sexual harassment and abuse against women in detention” (CEDAW, 2020). Similar was recorded in 2016 in Uruguay also by the CEDAW Committee; “concerned about women being incarcerated in facilities designed for men where the majority of penitentiary officials are also men” (CEDAW, 2016a). The lack of segregation of male and female detainees and the heightened risk of physical and sexual abuse of children was also explicit in the Cambodian CRC report of 2011 (“The Committee is further seriously concerned about cases of children being physically abused by prison guards and other prisoners”) (CRC, 2011) and referred to in 2016 CEDAW Committee report on Mali (CEDAW, 2016b), and 2021 CEDAW Committee report on South Sudan (CEDAW, 2021b). The 2017 CAT Committee report on Italy is concerned around the lack of ability for those affected to report and disclose prior ill-treatment, including at initial medical screening on entry “notes that prison medical personnel have an obligation to document and report any evidence of maltreatment observed during the initial medical examination of detainees. It regrets, however, that the State party did not indicate the number of cases reported by prison medical personnel as potential cases of torture or ill-treatment, during the period under review [...]” (CAT, 2017a).

### **Prison congestion and poor detention conditions conducive to ill-health**

Congested and unhygienic prison conditions ill-suited to the needs of babies and children is evident in many Committee reports. In 2013, in Bolivia, where children can stay up to 6 years with mothers in prison, the CCPR Committee was “concerned about the large number of children now living in prison with their families”(CCPR, 2013). Similar concerns were documented in 2016 by the CEDAW Committee in Burundi; “concerned at the number of women detained with infants and young children” (CEDAW, 2016c). In 2018, severe lack of space was documented by the CAT Committee in Belarus; “at least 4 m<sup>2</sup> (for pregnant women and women with children) fall short of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and other international standards [...]” (CAT, 2018a). The 2017 CEDAW Committee reported on Thailand and; “expresses concern that the State party has one of the highest rates of women in detention in the world. It is also concerned that, owing to the limited number of female prisons, women are often incarcerated far from their families and in overcrowded prisons with conditions that

*fail to meet international standards, in particular with regard to pregnant women and women detained with their children” (CEDAW, 2017a).*

14 countries violated Bangkok Rule 48 with regard to provision of adequate food, hygiene and sanitation, access to exercise and a general healthy environment for breastfeeding mothers and children (Bangladesh, Brazil, Iran, Iraq, Uruguay, Myanmar, Cambodia, Eritrea, Zimbabwe, Yemen, Guatemala, Honduras, Burkina Faso and Russian Federation). For example in Iraq, the 2015 CRC Committee observed; *“most prisons for women lack a nursery, although many children live with their mothers in prison, and about the various cases of sickness affecting those children because of deficient sanitation and general care”* (CRC, 2015c). Both the CRC (2011) and the CEDAW (2019) Committees expressed substantial concern around the conditions where children were housed (insufficient food, safe drinking water, mothers sharing rations with children, physical abuse, lack of protection against communicable disease, insufficient ventilation and extreme heat) in Cambodia (CRC, 2011; CEDAW, 2019). The 2015 CRC Committee report on Eritrea indicated that; *“The Committee is concerned that: (a) The living conditions for young children in detention facilities with their mothers are poor; (b) Lactating mothers are having difficulties in providing proper nutrition for their infants owing to the poor quality of food provided in the detention facilities”* (CRC, 2015e). In 2015, the CRC Committee documented its concern that Brazilian legislation governing minimum assistance to incarcerated mothers with children was not implemented sufficiently and observed; *“is seriously concerned about overcrowding and poor sanitation facilities in prisons ... for incarcerated mothers and their children”* (CRC, 2015f). Similarly the 2015 CRC Committee documented in Bangladesh; *“its concern about the situation of children in prison with their mothers, including with respect to the lack of childcare services and deficiencies in sanitation”* (CRC, 2015g). In Zimbabwe the CRC Committee (2016) observed; *“The Committee is seriously concerned about reports of a serious lack of nutrition and poor sanitary conditions for infants and children sharing prison cells with their mothers who are awaiting trial or serving sentences for committing various offences”* (CRC, 2016a).

### **Access to child-appropriate healthcare equivalent to that in the community**

Many countries were also neglectful of the developmental needs of children, and fail to uphold their right to child-appropriate health care in detention (Tonga, Cambodia, Samoa, Bangladesh, Iran, Brazil, Dominican Republic, Myanmar, Cambodia, South Sudan, Yemen, Honduras, Russian Federation and Panama) (contra Bangkok Rule 51). The 2016 CRC report on Iran illustrated the link between prison conditions and development of ill health: *“The Committee is concerned that children, in particular Baha’i children, living with their mothers in prison have reportedly developed medical problems due to poor living conditions that they are subjected to in prisons”* (CRC, 2016b). 10 countries were documented to violate Bangkok Rule 9 (paediatric health screening and equivalence of children’s health care to that in the community) (Tonga, Samoa, Iran, Brazil, Myanmar, Cambodia, South Sudan, Yemen, Honduras, Russian Federation and Panama). In 2018, the CAT Committee reported on the Russian Federation; *“The Committee is concerned at reports of the equally poor conditions of detention for children who were born in prisons and the lack of access to adequate medical care and educational programmes for those children and mothers [...]”* (CAT, 2018b). In 2021 conditions had not improved with the CEDAW Committee reporting on Yemen; *“concern that women detainees are deprived of their basic needs, including access to health care, food and hygiene, including for their accompanying children, and are subjected to overcrowding, ill-treatment and torture”* (CEDAW, 2021c) and the CAT Committee reporting on Kyrgyzstan; *“concerned at the appalling conditions at women’s detention facilities and the lack of adequate medical care for women detainees, including those who are pregnant and mothers with children”* (CAT, 2021a).

### **Transparency of data on children in prison**

Several Committee reports expressed concern around the lack of routine health surveillance and lack of data availability, needs assessment and evidence informed policy on the situation of children with a mother in contact with the criminal justice system, which were deemed insufficient in the Dominican Republic; Switzerland; Thailand; Qatar, Italy and Mexico (Bangkok Rule 68 and 70). Two CRC Committee reports also mention difficulties in securing child identity documents. For example in 2019 in Bahrain; *“Reports of barriers faced by children of mothers in detention in obtaining a birth certificate or national identity card’ are mentioned* (CRC, 2019a) and in 2016 in Kenya reported;

*“children with mothers in custody face difficulty in obtaining birth registration”*(CRC, 2016c) (contra *Bangkok Rule 3* and *Mandela Rule 28*).

Lastly, and on a more positive note, we found no Committee concerns which would indicate a violation of the Bangkok Rules 2 (admission procedures), 21 (prison staff competence, professionalism, and sensitivity toward children in prison with their mother), 28 (visitation experiences), 33 (provision of staff awareness-raising on child development and basic training on the health care of children), 53 (deportation of foreign national children) and 69 (evaluation and reinsertion supports) and Mandela Rule 44 (solitary confinement of children).

## Discussion

This global socio legal assessment of States parties progress in upholding the rights of the child since adoption of the Bangkok Rules reveals continued difficulties for some countries to fully uphold the rights of the child, when detained with their mother. Whilst it is encouraging to see that out of 905 UN Committee Reports only 51 showed evidence of clear Committee concern and violation of the rights of the children since 2010, we suspect that further investigation by independent inspections by civil society, UN treaty body committees and national preventive mechanisms are warranted. Limitations of our results centre not on the stringent approach taken by our team to carefully scrutinise these UN reports, nor on the quality of the Concluding Observations by respective Treaty Bodies themselves. The continued invisible nature of women, babies and infants in prisons in many countries, particularly those in LMICS however contribute to a realistic likelihood of under estimation or under evaluation of the respective violations of the Mandela and Bangkok Rules. We report on the relative lack of attention toward assessing the situation of women in prison elsewhere (Van Hout Fleißner and Stöver, 2021). Great variance was observed in the 43 countries in terms of the duration of time that children are permitted to live with their mother, ranging from 6 months to 8 years, and with Eritrea observing no limit. Many UN Committee reports expressed concern around the number of children living in the *‘prison nursery’* context, and the lack of due process observed in decision-making around application of non-custodial measures; and in the care of children within the prison setting itself.

We found violations of the rights of the child in 43 countries, as documented in the extant UN Committee reports, in that they fail in their obligation to uphold the best interests of the child principles as provided for in Article 3 of the CRC (UN 1989) and in General Comment 10 by advocating that ‘*best interests of the child*’ supersedes punishment, correction or prevention (UN CRC, 2007). In many UN Committee reports it is clear to see the lack of attention devoted to protection of the child from a broad range of physical and psychological harms, and in many, the evidence that children are living with mothers in prison environments (and not *as close as possible to that of a child outside prison*), and that they are treated as ‘*de facto*’ prisoner, in direct violation of the Bangkok Rules stating that “*children should never be treated as prisoners*” (UN, 2010b). Difficulties in securing child identity documents are observed in Bahrain and Kenya. Many violations in the care of children centred on not providing sufficient space, safety from abuse and violence, adequate food and clean water, sanitation and hygiene and access to exercise, and access to child-health care and are in clear breach of the UN normative standards of care in prisons (Mandela and Bangkok Rules) and the UN Guidelines for the Alternative Care of Children (UN General Assembly, 2010a) mandating adequate care and protection. Global and regional reviews have maintained concerns remain around exposure of detained women to interpersonal custodial violence (Van Hout Fleißner and Stöver, 2021).

There is a wealth of research which underscores concern around the complex health and support needs of pregnant women in prison (Stewart et al., 2020; Alirezaei and Roudsari, 2022; Kirubarajan et al., 2022) and the lack of sufficient access to health care for children in prison (Van den Bergh, 2011; Van Hout and Mhlanga-Gunda, 2018:2019). General Comment No. 14 of the UN Committee on Economic, Social and Cultural Rights (CESCR) (UN CESCR 2000) clearly provides States are (at the very least) required to meet a threshold of a “*core minimum*” of social and economic rights, including the right to health, and that prisoners are entitled to the same “*core minimum*” health rights as other citizens. The UN CCPR (2018) in its General Comment No 36 on the Right to Life has stated that; “*States parties may not rely on lack of financial resources or other logistical problems to reduce this responsibility.*” Some reports were cognisant of the exposure of children to communicable disease and other health hazards related to sanitation and poor nutrition in prison. In May 2017, the

UN Commission on Crime Prevention and Criminal Justice (CCPCJ), adopted a resolution (UNODC, 2017) requesting Member States in close cooperation with the United Nations Office on Drugs and Crime (UNODC) and other UN agencies and stakeholders, to increase their capacity to eliminate mother-to-child transmission of HIV in prisons.

Despite hailing the progressive ACRWC, the majority of countries represented are in Africa. Indeed, scholars argue that the generalised formulation of Article 30(d) of the ACRWC warrants amendment to further include the flexible and individualised dimensions regarding decision making around children in prison with mothers as outlined in the General Comment No 1 (Miamingi, 2020). Rights obligations of people in detention are contained in the African Charter on Human and Peoples' Rights (ACHPR) (OAU 1981), particularly in Article 16 regarding State obligation to assume responsibility for the care of those in its custody, Article 5 regarding prisoner's right to dignity and freedom from cruel, inhumane or degrading treatment, and in the soft law Robben Island Guidelines (ACoHPR, 2008) and the Kampala declaration on prison conditions. Challenges navigated by ill-resources prison systems in Africa are evident and reflected in our assessment. The Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa has documented the immense difficulties in achieving minimum standards of care in its prisons (ACoHPR, 2012). The Committee for the Prevention of Torture in Africa has also indicated concern with regard to the state of prisons in Africa. Hence the majority representation of African member states is unsurprising given the deplorable conditions, lack of prison resourcing allocated to children in African prisons and reliance on backfilling by faith based and non-governmental organisations to provide basic supplies of soap, clothing, paediatric medicines and baby milk (Van Hout and Mhlanga-Gunda, 2018; 2019).

Countries in the Middle East (Bahrain, Iran, Iraq, Qatar, United Arab Emirates, Yemen), Asia (Bangladesh, India, Kyrgyzstan, Myanmar, Thailand, Cambodia); Oceania (Samoa, Tonga), Central America (Guatemala, Honduras, Panama), South America (Bolivia, Brazil, Dominican Republic, Peru, Paraguay, Uruguay), North America (Mexico), the Russian Federation and Moldova however all illustrate similar violations in the best interests of the child (access to justice of the mother, lengthy pre-trial detention, overcrowded and unsanitary prison conditions, male prison staff, lack of sex-segregation, lack of access to healthcare). Of interest is that European member states (Italy, Moldova

and Switzerland) show evidence for violations of the rights of the child in prison in terms of conditions of housing, lack of disclosure and of reporting, despite the European parliament mandating that “*deprivation of liberty should be regarded as a **sanction of last resort** for mothers*”(Council of Europe, 2001) and that the Charter of Fundamental Rights of the European Union (EU) (EU, 2012) explicitly refers to the rights of the child under Articles 3 and 24(1)(3).

The lack of available data on children’s situation in prison is concerning, including the lack of transparent prison system monitoring and surveillance, and disclosure information. The United Nations Office on Drugs and Crime (UNODC) strategies addressing the global prison crisis also do not refer to these children, instead only referring to juveniles in conflict with the law. It is a completely neglected field. UN Treaty Committees are encouraged to include an explicit focus on children when inspecting and monitoring state prisons, and to encourage differentiation between adults and children in the national preventive mechanisms (for example under OP CAT) (Penal Reform International, 2011). The UN CRC General Comment No.10 provides that; “*Independent and qualified inspectors should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative; they should place special emphasis on holding conversations with children in the facilities in a confidential setting.*”

Lastly, we are cognisant that our global assessment included UN Committee reports promulgated during COVID-19 timeframes originating from South Sudan, Yemen, Kyrgyzstan and Nigeria in 2021, and Zimbabwe in 2020. Conditions for children as documented in these reports are deplorable. Despite UN agencies call for the release of vulnerable prisoners, including children during those years (Alliance for Child Protection in Humanitarian Action, 2020), only a quarter of COVID-19 prison release mechanisms included women in their release criteria those who were pregnant, breastfeeding or with infants, with implementation less effective and in many cases not transparent in many countries (DLA Piper, 2021). There is little information worldwide to what extent children benefited from the COVID-19 prison releases and amnesty schemes (Van Hout, 2020; Penal Reform International, 2021). Extant available data from UNICEF in December 2020, has however reported that in excess of 11,600 children were released from 17 countries via employment of non-custodial measures and suspension of new committals (UNICEF, 2021).

## Conclusion

People in prison and other closed settings remain invisible in the Sustainable Development Goals (SDGs) (Ismail et al., 2021). Children, often new-borns and infants living with their mother during a custodial sentence are largely ignored in the policy. The debate around children living in '*gentler, kinder cages*' (Crewe, 2020) is not illuminated in our socio-legal assessment. Despite the plethora of human rights frameworks promising to protect and uphold the rights of children in prison settings, there is no consensus around age limits of children living in prisons with their mothers, nor is there consistency in prison system treatment of this very vulnerable often invisible group of children (Crewe, 2020). Our global assessment underscores the need for continued debate and re-thinking around the custodial sentencing of mothers in many countries, and the imperatives for continued advocacy to support the fullest possible adoption of the Mandela and Bangkok Rules by duty bearers to protect the rights of women and address the needs of children detained with their mothers. Access to prisons by national preventive mechanisms, researchers and child development specialists are to be encouraged, along with the capacity building of prison systems to conduct routine health and child development surveillance and interventions. Continued academic interest in this area of children's rights, and prison health is to be encouraged. We recognise the access to prisons by researchers, particularly in LMICs is fraught with difficulties (Mhanga-Gunda et al., 2020). Let us however commit to the mantra '*leave no-one behind*' when considering the best interests of the child whose mother is in conflict with the law.



## References

African Commission on Human and Peoples' Rights (ACoHPR). (2008). The Robbin Island Guidelines Resolution On Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment In Africa. The Gambia: African Commission on Human and Peoples' Rights.

African Commission on Human and Peoples' Rights (ACoHPR). (2012). Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa. The Gambia: African Commission on Human and Peoples' Rights.

African Committee of Experts on the Rights and Welfare of the Child (ACERWC) (2013). General Comment No. 1 on Article 30 of the ACRWC: "Children of Incarcerated and Imprisoned Parents and Primary Caregivers", 8 November 2013. Available at <https://www.refworld.org/docid/545b49844.html> (Accessed 18 April 2022)]

Alirezai, S., & Latifnejad Roudsari, R. (2022). The Needs of Incarcerated Pregnant Women: A Systematic Review of Literature. *International Journal of Community based Nursing and Midwifery*,10(1), 2–17. <https://doi.org/10.30476/IJCBNM.2021.89508.1613>

Alliance for Child Protection in Humanitarian Action (2020). Technical Note: Protection of Children during the Coronavirus Pandemic .UNODC, WHO, UNAIDS and OHCHR joint statement on COVID-19 in prisons and other closed settings', WHO, 13 May 2020. Available at [www.who.int/news/item/13-05-2020-unodc-who-unaid-andohchr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings](http://www.who.int/news/item/13-05-2020-unodc-who-unaid-andohchr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings) (Accessed 17 April 2022).

Bauer, E., (2018). Infant Inmates: An Analysis of International Policy on Children Accompanying Parents to Prison, *Michigan State International Law Review*, 27, 1, 95-127.

Carlson, J.R. (2018). Prison Nurseries: A Way to Reduce Recidivism. *The Prison Journal*, 98, 6, 760-775.

Cheruiyot, J.K. (2019). An Assessment of the Challenges of Children in Prison with their Mothers: A Case of Langata Women Maximum Prison. Daystar University (School of Human & Social Sciences) and African Institute of Children Studies. Available at <http://repository.daystar.ac.ke/xmlui/handle/123456789/3013> (Accessed 17 April 2022)

Council of Europe (2001). Mothers and babies in prison—Parliamentary Assembly Recommendation 1469 (2000) Draft reply—Council of Europe—Committee of Ministers’, Ministers’ Deputies—Decisions 740/10.2 (7 February 2001). Available at <https://rm.coe.int/09000016804e4abe>. (Accessed 21 Apr 2020).

Crewe, H (2020). The Usefulness of Therapeutic Jurisprudence for Re-thinking Babies in Prison Available at SSRN: <https://ssrn.com/abstract=3748405> or <http://dx.doi.org/10.2139/ssrn.3748405> (Accessed 17 April 2022).

DLA Piper (2021). A global analysis of prisoner releases in response to COVID-19, March 2021, p. 27. Available at <https://www.dlapiper.com/~media/files/insights/publications/2021/03/dla-piper-prison-population-during-covid-19.pdf?la=en&hash=F5C1EBBA0D3D86BDDA58FAC87DB9EF3CAE3815DF#:~:text=The%20study%20concluded%20that%20at,between%20March%20and%20July%202020>. (Accessed 17 April 2022).

Easterling, B.A., Feldmeyer, B., & Presser, L (2019). Narrating Mother Identities From Prison. *Feminist Criminology*, 14, 5, 519–539.

European Union (2012). Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02. Available at: <https://www.refworld.org/docid/3ae6b3b70.html> (Accessed 19 April 2022)

Friedman, S.H., Kaempf, A., & Kauffman, S (2020). The Realities of Pregnancy and Mothering While Incarcerated. *Journal of the American Academy of Psychiatry and the Law*, 48, 3, 365-375.

Gobena, E.B., Hean, D., Patriai, SC (2019). The Experience of Incarcerated Mothers Living in a Correctional Institution with their Children in Ethiopia. *Journal of Comparative Social Work*, 14, 2, 30-54.

Ismail N, Lazaris A, O'Moore É, et al. (2021). Leaving no one behind in prison: improving the health of people in prison as a key contributor to meeting the Sustainable Development Goals 2030. *BMJ Global Health* , 6, e004252. 2

Kirubarajan, A., Tsang, J., Dong, S., Hui, J., Sreeram, P., Mohmand, Z., leung, S., Ceccacci, A., & Sobel, M (2022). Pregnancy and childbirth during incarceration: A qualitative systematic review of

lived experiences. *BJOG International Journal of Obstetrics and Gynaecology*. [Epub ahead of print].

<https://doi.org/10.1111/1471-0528.17137>

Law Library of Congress (U.S.). Global Legal Research Directorate (2014). Laws on children residing with parents in prison. Available at <https://www.loc.gov/law/help/children-residing-withparents-in-prison/foreign.php>. (Accessed 18 April 2022).

Leiter, B. (2015). Legal Realism and Legal Doctrine. *University of Pennsylvania Law Review* 163, 1975-1984.

Logar, S., & Leese, M (2021). Childhood detention during COVID-19 in Italy: building momentum for a comprehensive child protection agenda. *International Health*, 13, 1, 1–2. <https://doi.org/10.1093/inthealth/ihaa050>

Metzler, M., Merrick, M.T., Klevens, J., Ports, K.A., & Ford, D.C. (2017). Adverse childhood experiences and life opportunities: shifting the narrative. *Children and Youth Services Review*, 72, 141–149.

Mhlanga-Gunda, R., Motsomi-Moshoeshe, N., Plugge, E. & Van Hout, M.C. (2020). Challenges in ensuring robust and ethical health research and the reporting of health outcomes and standards in sub-Saharan African prisons. *Lancet Global Health* 8.1, e25-26.

Miamingi, A (2020). The applicability of the best interests principle to children of imprisoned mothers in contemporary Africa: Between hard and soft law. *African Human Rights Law Journal*, 20, 2, 713-735.

Nair, S., McGreevy, J.E., Hutchinson-Colas, J., Turock, H., Chervenak, F., Bachmann, G., & NJ on Women's Reentry-Health Subcommittee (2021) Pregnancy in incarcerated women: need for national legislation to standardize care. *Journal of Perinatal Medicine*, 49, 7, 830–836.

Nowak, M (2019). United Nations Global Study on Children Deprived of Liberty, 2019. Available at [UN Global Study on Children Deprived of Liberty - Global Campus of Human Rights \(gchumanrights.org\)](https://www.unhcr.org/refugees-and-migrants/2019/11/un-global-study-on-children-deprived-of-liberty-global-campus-of-human-rights-gchumanrights.org) (Accessed 17 April 2022).

Ogrizek, A., Moro, M.R., & Lachal, J (2021a). Mother–child attachment challenged by prison. *European Child & Adolescent Psychiatry*, 30, 1315–1316.

Ogrizek, A., Moro, M.R., & Lachal, J (2021b). Incarcerated mothers' views of their children's experience: A qualitative study in French nurseries. *Child: Care Health and Development*, 47, 851–858.

Organization of African Unity (OAU) (1981). African Charter on Human and Peoples' Rights ("Banjul Charter"), 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) Available at <https://www.refworld.org/docid/3ae6b3630.html> (Accessed 4 April 2022)

Organization of African Unity (OAU) (1999). African Charter on the Rights and Welfare of the Child, 29 Nov 1999, CAB/LEG/24.9/49.

Paurus M. (2017). International report on the conditions of children of incarcerated parents. A Survey of Prison Nurseries: University of Minnesota; 2017. Available at <https://cicmn.org/wp-content/uploads/2017/03/Melanie-Report-Edited.pdf> (Accessed 18 April 2022).

Penal Reform International (2011). Safeguarding children in detention: Independent Monitoring Mechanisms for Children in Detention in MENA. Available at [www.cdn.penalreform.org/wp-content/uploads/2013/05/Safeguarding-Children.pdf](http://www.cdn.penalreform.org/wp-content/uploads/2013/05/Safeguarding-Children.pdf) (Accessed 21 April 2022)

Penal Reform International (2013). Guidance document on the Bangkok Rules. Available at <https://cdn.penalreform.org/wp-content/uploads/2013/10/PRI-TIJ-Guidance-Document-on-Bangkok-Rules-October-2013.pdf>(Accessed 21 April 2022).

Penal Reform International (2021). Global Prison Trends 2021. Available at [www.penalreform.org/global-prison-trends-2021/](http://www.penalreform.org/global-prison-trends-2021/) (Accessed 17 April 2022).

Penal Reform International (2022a). Children. Available at [www.penalreform.org/issues/children/](http://www.penalreform.org/issues/children/) (Accessed 17 April 2022).

Penal Reform International (2022b). Children of Incarcerated Parents. Available at [www.penalreform.org/issues/children/what-were-doing/children-incarcerated-parents/](http://www.penalreform.org/issues/children/what-were-doing/children-incarcerated-parents/) (Accessed 17 April 2022).

Schoeman, M., & Basson, M. (2009). The influence of imprisonment on infants and young children incarcerated with their mothers. NICRO Cape Town.

Stewart, C., Bourke, S.L., Green, J.A., Johnson, E., Anish, L., Muduwa, M., & Jones, L.K. (2020). Healthcare challenges of incarcerated women in Australia: An integrative review, *International*

Journal of Healthcare, [Epub ahead of print]. DOI: 10.5430/ijh.v7n1p10  
<https://doi.org/10.5430/ijh.v7n1p10>

UN Committee on Economic, Social and Cultural Rights (UN CESCR). 2000. General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)(11 August 2000)E/C.12/2000/4. Geneva, Switzerland: United Nations Committee on Economic, Social and Cultural Rights.

UN Committee on the Rights of the Child (CRC) (2007). General Comment No. 10: Children's Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10

UN Human Rights Committee (CCPR). (2018). General Comment No 36 (2018) on the Right to Life, on article 6 of the International Covenant on Civil and Political Rights, on the right to life. CCPR/C/GC/36 Available at:  
[https://internet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/CCPR\\_C\\_GC\\_36\\_8785\\_E.pdf](https://internet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf)  
(Accessed 16 January 2022)

UNICEF (2007). Implementation handbook for the convention on the rights of the child. 2007. Available at: [https://www.unicef.org/publications/files/implementation\\_handbook\\_for\\_the\\_convention\\_on\\_the\\_rights\\_of\\_the\\_child\\_part\\_1\\_of\\_3.pdf](https://www.unicef.org/publications/files/implementation_handbook_for_the_convention_on_the_rights_of_the_child_part_1_of_3.pdf). (Accessed April 14, 2022)

UNICEF (2021). Access to Justice COVID-19. Available at [www.unicef.org/media/92251/file/Access-to-Justice-COVID-19-Field-Notes-2021.pdf](https://www.unicef.org/media/92251/file/Access-to-Justice-COVID-19-Field-Notes-2021.pdf) (Accessed 17 April 2022).

United Nations (UN). (1947). Entry into force of the constitution of the World Health Organization(17 November 1947)A/RES/131. New York, US: United Nations General Assembly.

United Nations (UN). (1948). Universal Declaration of Human Rights(10 December 1948)217A(III),Article 25. New York, US: United Nations General Assembly.

United Nations (UN). (1966a). International Covenant on Economic, Social and Cultural Rights (ICESCR)(16 December 1966)United Nations, Treaty Series, 993:3. New York, US: United Nations General Assembly.

United Nations (UN). (1966b). International Covenant on Civil and Political Rights (ICCPR)(16 December 1966) United Nations, Treaty Series, 999. New York, US: United Nations General Assembly.

United Nations (UN).(1979). Convention on the Elimination of All Forms of Discrimination against Women (18 December 1979) A/RES/34/180. New York, US: United Nations General Assembly.

United Nations (UN) (1984). Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. United Nations, Treaty Series, 1465 (85). New York, US: United Nations General Assembly.

United Nations (UN). General Assembly (1989). The Convention on the Rights of the Child. Treaty series, Vol. 1577 Resolution 44/25 of 20 November 1989. United Nations, New York.

United Nations (UN) (1990). Standard Minimum Rules for Noncustodial Measures (The Tokyo Rules). United Nations, New York.

United Nations (UN) (2003).Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, 9 January 2003, A/RES/57/199 Available at <https://www.refworld.org/docid/3de6490b9.html> (Accessed 4 April 2022)

United Nations (UN) (2010a). Guidelines for the Alternative Care of Children : resolution / adopted by the General Assembly UN. (64th sess.: 2009-2010). United Nations, New York 2010..

United Nations (UN) (2010b). United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) A/C.3/65/L.5. United Nations, New York.

United Nations (UN) Committee on the Rights of the Child (CRC) (2007). General Comment No. 10: Children's Rights in Juvenile Justice, 25 April 2007, CRC/C/GC/10

United Nations (UN) (2016). United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules): resolution / adopted by the General Assembly. United Nations, New York. 2016.

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2011) (45th sess.: 2011): Consideration of reports submitted by States parties

under article 19 of the Convention. Concluding observations of the Committee against Torture. Ethiopia (Report No. CAT/C/ETH/CO/1). New York, UN, January 20, 2011

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2011) (47th sess.: 2011): Consideration of reports submitted by States parties under article 19 of the Convention. Concluding observations of the Committee against Torture. Paraguay (Report No. CAT/C/PRY/CO/4-6). New York, UN, December 14, 2011

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2012) (48th sess.: 2012): Consideration of reports submitted by States parties under article 19 of the Convention. Concluding observations of the Committee against Torture. Rwanda (Report No. CAT/C/RWA/CO/1). New York, UN, June 26, 2012

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2013): Concluding observations on the second periodic report of Kenya, adopted by the Committee at its fiftieth session (6 to 31 May 2013). Committee against Torture (Report No. CAT/C/KEN/CO/2). New York, UN, June 19, 2013

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2017) Concluding observations on the fourth periodic report of Panama. Committee against Torture (Report No. CAT/C/PAN/CO/4). New York, UN, August 28, 2017

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2017a): Concluding observations on the combined fifth and sixth periodic reports of Italy. Committee against Torture (Report No. CAT/C/ITA/CO/5-6). New York, UN, December 18, 2017.

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2018): Concluding observations on the seventh periodic report of Peru. Committee against Torture (Report No. CAT/C/PER/CO/7). New York, UN, December 18, 2018

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2018): Concluding observations on the sixth periodic report of the Russian Federation. Committee against Torture (Report No. CAT/C/RUS/CO/6). New York, UN, August 28, 2018

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2018a): Concluding observations on the fifth periodic report of Belarus. Committee against Torture (Report No. CAT/C/BLR/CO/5). New York, UN, June 07, 2018.

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2018b): Concluding observations on the sixth periodic report of the Russian Federation. Committee against Torture (Report No. CAT/C/RUS/CO/6). New York, UN, August 28, 2018.

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2019): Concluding observations on the second periodic report of Burkina Faso. Committee against Torture (Report No. CAT/C/BFA/CO/2). New York, UN, December 18, 2019

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2021): Concluding observations in the absence of the initial report of Nigeria. Committee against Torture (Report No. CAT/C/NGA/COAR/1). New York, UN, December 21, 2021

United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (2021a): Concluding observations on the third periodic report of Kyrgyzstan. Committee against Torture (Report No. CAT/C/KGZ/CO/3). New York, UN, December 21, 2021.

United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (2013): Concluding observations on the fourth periodic report of Benin. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/BEN/CO/4). New York, UN, October 28, 2013.

United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (2016): Concluding observations on the combined seventh and eighth periodic reports of Honduras. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/HND/CO/7-8). New York, UN, November 25, 2016

United Nations Convention on the Elimination of All Forms of Discrimination against Women (2016a): Concluding observations on the combined eighth and ninth periodic reports of Uruguay. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/URY/CO/8-9). New York, UN, July 25, 2016.



United Nations Convention on the Elimination of All Forms of Discrimination against Women (2016b): Concluding observations on the combined sixth and seventh periodic reports of Mali. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/MLI/CO/6-7). New York, UN, July 25, 2016.

United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (2016c): Concluding observations on the combined fifth and sixth periodic reports of Burundi. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/BDI/CO/5-6). New York, UN, November 25, 2016.

United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (2017): Concluding observations on the combined eighth and ninth periodic reports of Guatemala. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/GTM/CO/8-9). New York, UN, November 22, 2017

United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (2017a): Concluding observations on the combined sixth and seventh periodic reports of Thailand. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/THA/CO/6-7). New York, UN, July 24, 2017.

United Nations Convention on the Elimination of All Forms of Discrimination against Women (2019): Concluding observations on the combined third to fifth periodic reports of Mozambique. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/MOZ/CO/3-5). New York, UN, July 30, 2019

United Nations Convention on the Elimination of All Forms of Discrimination against Women (2019): Concluding observations on the second periodic report of Qatar. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/QAT/CO/2). New York, UN, July 30, 2019

United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (2019): Concluding observations on the sixth periodic report of Cambodia. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/KHM/CO/6). New York, UN, November 12, 2019.

United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (2020): Concluding observations on the sixth periodic report of Zimbabwe. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/ZWE/CO/6). New York, UN, March 10, 2020.

United Nations Convention on the Elimination of All Forms of Discrimination against Women (2021a): Concluding observations on the initial report of South Sudan. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/SSD/CO/1). New York, UN, November 23, 2021.

United Nations Convention on the Elimination of All Forms of Discrimination against Women (2021b): Concluding observations on the initial report of South Sudan. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/SSD/CO/1). New York, UN, November 23, 2021.

United Nations Convention on the Elimination of All Forms of Discrimination against Women (2021c): Concluding observations on the combined seventh and eighth periodic reports of Yemen. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/YEM/CO/7-8). New York, UN, November 24, 2021.

United Nations Convention on the Rights of the Child (CRC) (2011) (59th sess.: 2011): Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Italy. Committee on the Rights of the Child (Report No. CRC/C/ITA/CO/3-4). New York, UN, October 31, 2011

United Nations Convention on the Rights of the Child (CRC) (2012) (59th sess.: 2012): Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Myanmar. Committee on the Rights of the Child (Report No. CRC/C/MMR/CO/3-4). New York, UN, March 14, 2012

United Nations Convention on the Rights of the Child (CRC) (2012) (59th sess.: 2012): Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Thailand. Committee on the Rights of the Child (Report No. CRC/C/THA/CO/3-4). New York, UN, February 17, 2012

United Nations Convention on the Rights of the Child (2014): Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation. Committee on the Rights of the Child (Report No. CRC/C/RUS/CO/4-5). New York, UN, February 25, 2014

United Nations Convention on the Rights of the Child (CRC) (2014a): Concluding observations on the combined third and fourth periodic reports of India. Committee on the Rights of the Child (Report No. CRC/C/IND/CO/3-4). New York, UN, July 07, 2014.

United Nations Convention on the Rights of the Child (CRC) (2015): Concluding observations on the combined second to fourth periodic reports of Switzerland. Committee on the Rights of the Child (Report No. CRC/C/CHE/CO/2-4). New York, UN, February 26, 2015

United Nations Convention on the Rights of the Child(CRC) (2015): Concluding observations on the second periodic report of the United Arab Emirates. Committee on the Rights of the Child (Report No. CRC/C/ARE/CO/2). New York, UN, October 30, 2015

United Nations Convention on the Rights of the Child (CRC) (2015): Concluding observations on the combined third to fifth periodic reports of Uruguay. Committee on the Rights of the Child (Report No. CRC/C/URY/CO/3-5). New York, UN, March 05, 2015

United Nations Convention on the Rights of the Child (CRC) (2015): Concluding observations on the combined third to fifth periodic reports of the Dominican Republic. Committee on the Rights of the Child (Report No. CRC/C/DOM/CO/3-5). New York, UN, March 06, 2015

United Nations Convention on the Rights of the Child (CRC) (2015a): Concluding observations on the combined third to fifth periodic reports of Mauritius. Committee on the Rights of the Child (Report No. CRC/C/MUS/CO/3-5). New York, UN, February 27, 2015.

United Nations Convention on the Rights of the Child (CRC) (2015b): Concluding observations on the combined fourth and fifth periodic reports of Mexico. Committee on the Rights of the Child (Report No. CRC/C/MEX/CO/4-5). New York, UN, July 03, 2015.

United Nations Convention on the Rights of the Child (CRC) (2015c): Concluding observations on the combined second to fourth periodic reports of Iraq. Committee on the Rights of the Child (Report No. CRC/C/IRQ/CO/2-4). New York, UN, March 03, 2015.

United Nations Convention on the Rights of the Child (CRC) (2015e): Concluding observations on the fourth periodic report of Eritrea. Committee on the Rights of the Child (Report No. CRC/C/ERI/CO/4). New York, UN, July 02, 2015.

United Nations Convention on the Rights of the Child (CRC) (2015f): Concluding observations on the combined second to fourth periodic reports of Brazil. Committee on the Rights of the Child (Report No. CRC/C/BRA/CO/2-4). New York, UN, October 30, 2015.

United Nations Convention on the Rights of the Child (CRC) (2015g): Concluding observations on the fifth periodic report of Bangladesh. Committee on the Rights of the Child (Report No. CRC/C/BGD/CO/5). New York, UN, October 30, 2015.

United Nations Convention on the Rights of the Child (CRC) (2016): Concluding observations on the combined second to fourth periodic reports of Samoa. Committee on the Rights of the Child (Report No. CRC/C/WSM/CO/2-4). New York, UN, July 12, 2016

United Nations Convention on the Rights of the Child (CRC) (2016a): Concluding observations on the second periodic report of Zimbabwe. Committee on the Rights of the Child (Report No. CRC/C/ZWE/CO/2). New York, UN, March 07, 2016.

United Nations Convention on the Rights of the Child (CRC) (2016b): Concluding observations on the combined third and fourth periodic reports of the Islamic Republic of Iran. Committee on the Rights of the Child (Report No. CRC/C/IRN/CO/3-4). New York, UN, March 14, 2016.

United Nations Convention on the Rights of the Child (CRC) (2016c): Concluding observations on the combined third to fifth periodic reports of Kenya. Committee on the Rights of the Child (Report No. CRC/C/KEN/CO/3-5). New York, UN, March 21, 2016.

United Nations Convention on the Rights of the Child (CRC) (2017): Concluding observations on the combined fourth and fifth periodic reports of the Republic of Moldova. Committee on the Rights of the Child (Report No. CRC/C/MDA/CO/4-5). New York, UN, October 20, 2017

United Nations Convention on the Rights of the Child (CRC) (2018): Concluding observations on the second periodic report of Lesotho. Committee on the Rights of the Child (Report No. CRC/C/LSO/CO/2). New York, UN, June 28, 2018.

United Nations Convention on the Rights of the Child (CRC) (2019): Concluding observations on the initial report of Tonga. Committee on the Rights of the Child (Report No. CRC/C/TON/CO/1). New York, UN, July 02, 2019

United Nations Convention on the Rights of the Child (CRC) (2019a): Concluding observations on the combined fourth to sixth periodic reports of Bahrain. Committee on the Rights of the Child (Report No. CRC/C/BHR/CO/4-6). New York, UN, February 27, 2019.

United Nations Convention on the Rights of the Child (CRC) (2011) (59th sess.)(2011a): Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Cambodia. Committee on the Rights of the Child (Report No. CRC/C/KHM/CO/2-3). New York, UN, August 03, 2011.

United Nations International Covenant on Civil and Political Rights (CCPR) (2013): Concluding observations on the third periodic report of the Plurinational State of Bolivia. Human Rights Committee (Report No. CCPR/C/BOL/CO/3). New York, UN, December 06, 2013.

United Nations International Covenant on Civil and Political Rights (CCPR) (2019): Concluding observations on the sixth periodic report of Mexico. Human Rights Committee (Report No. CCPR/C/MEX/CO/6). New York, UN, December 04, 2019.

United Nations Office on Drugs and Crime (2017). Resolutions 26 of the CCPCJ. UNODC, Vienna, 2017. Available at [www.unodc.org/unodc/en/commissions/CCPCJ/session/26\\_Session\\_2017/resolutions-26-of-the-ccpcj.html](http://www.unodc.org/unodc/en/commissions/CCPCJ/session/26_Session_2017/resolutions-26-of-the-ccpcj.html) (Accessed 24 May 2018)

Van den Bergh, B.J., Gatherer, A., Fraser, A., & Moller, L. (2011). Imprisonment and women's health: concerns about gender sensitivity, human rights and public health. *Bulletin of the World Health Organization*, 89,689–94.

Van Hout, MC (2020). Leaving no one behind': The human tragedy of children in African prisons during COVID-19. *Health and Human Rights Journal*. Online. Available at <https://www.hhrjournal.org/2020/05/leaving-no-one-behind-the-human-tragedy-of-children-in-african-prisons-during-covid-19/>(Accessed 17 April 2022).

- Van Hout, M.C., & Mhlanga-Gunda, R (2018). Contemporary women prisoners health experiences, unique prison health care needs and health care outcomes in Sub Saharan Africa: A scoping review of extant literature. *BMC International Health and Human Rights*, 18,1, p31.
- Van Hout, M.C., & Mhlanga-Gunda, R (2019). ‘Mankind owes to the child the best that it has to give’: Prison conditions and the health situation and rights of circumstantial children incarcerated in Sub Saharan African prisons. *BMC International Health and Human Rights*, 19, 1, 13.
- Van Hout, M.C., Fleißner, S., Stöver, H (2021). “# Me Too”: Global progress in tackling continued custodial violence against women. The 10 year anniversary of the Bangkok Rules. *Trauma, Violence, & Abuse: A Review Journal* [Epub ahead of print]. <https://doi.org/10.1177/15248380211036067>
- Wakefield, S., & Wildeman, C (2018). How Parental Incarceration Harms Children and What to Do About It. *National Council of Family Relations*, 3, 1, 1-6. Available at [www.ncfr.org/sites/default/files/2018-01/How%20Parental%20Incarceration%20Harms%20Children%20NCFR%20Policy\\_Full%20Brief\\_Jan.%202018\\_0.pdf](http://www.ncfr.org/sites/default/files/2018-01/How%20Parental%20Incarceration%20Harms%20Children%20NCFR%20Policy_Full%20Brief_Jan.%202018_0.pdf) (Accessed 18 April 2022).
- Walker, J., & Sullivan, E.A. (2021). Residential programmes for mothers and children in prison: Key themes and concepts. *Criminology & Criminal Justice*, 21, 1, 21–39.
- Walmsley R (2017). World Female Imprisonment list (fourth edition). *World Prison Brief 2017*. Available at [www.prisonstudies.org/news/world-female-imprisonment-list-fourth-edition](http://www.prisonstudies.org/news/world-female-imprisonment-list-fourth-edition) (Accessed 17 April 2022).
- World Health Organization (2020). Europe—data and statistics. Available at [www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/data-and-statistics](http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/data-and-statistics) (Accessed 17 April 2022).
- Zhao, Q., Cepeda, A., Chouc, C.P., & Valdez, A (2021) Maternal incarceration trajectories and the intergenerational transmission of imprisonment: A nationwide study. *Children and Youth Services Review*, 122, 105942.

**Table 1 Relevant international treaties and normative guidance**

<b>International Human Rights Treaties and Committee General Comments</b>
<p>The World Health Organization (WHO) Constitution Article 2 (UN 1947)            Universal Declaration of Human Rights (UDHR) Article 25 (UN, 1948)            International Covenant on Economic, Social and Cultural Rights (ICESR) Article 12(1)(2) (UN, 1966a)            International Covenant on Civil and Political Rights (ICCPR) (UN 1966b)            Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT) (UN 1984)            CAT-Optional Protocol (UN, 2003)            Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (UN, 1979)            Convention on the Rights of the Child (CRC) Articles 3, 9 (UN, 1989).            General Comment 10 of the Committee on the Rights of the Child (UN CRC, 2007).</p>
<b>Exemplar African Guidelines and Committee Comments</b>
<p>African Charter on the Rights and Welfare of the Child (ACRWC) Articles 19, 30 (Organization of African Unity OAU, 1999)            General Comment 1 on ‘Children of incarcerated and imprisoned parents and primary caregivers’ of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) (ACERWC, 2013)</p>
<b>Normative United Nations Standards</b>
<p>United Nations Guidelines for the Alternative Care of Children (UN, 2010a)            United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (The Bangkok Rules) Rules 2,3,9,21,28,33,48,49,51-53,60,64,68-70 (UN, 2010b)            United Nations Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules) Rules 28-29,44 (UN, 2016)            United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) (UN, 1990).</p>

**Table 2 UN Committee Concluding Observations (2010-2022)**

<b>UN Committee</b>	<b>Total Number of UN Committee Concluding Observations 2010-2022</b>	<b>Search Terms</b>	<b>Number containing violation(s)</b>
CRC	316	<i>prison, detention, incar. (incarcerated, incarceration), jail, custod... (custody, custodial), restraint, arrest, mother, prosecu....(prosecution, prosecuted), parent... (parents, parental), infant.</i>	24
CEDAW	246	<i>prison, detention, incar (incarcerated, incarceration...), prosec (prosecution, prosecutions, prosecutors, prosecuted), detain...(detained), arrest...(arrested), mother, parent...(parental, parents), young.</i>	13
CAT	173	<i>prison, detention, detain...(detained), child, mother, women</i>	12
CCPR	170	<i>child, mother, detention, prison condition</i>	2



**Table 3 UN CAT, UN CEDAW, CRC and CCPR Concluding Observations since 2010**

Country	Max. age of Children in detention	CAT, CEDAW, CRC, CCPR statement (direct excerpt cited)	Year	Reference
Bahrain	2 years	<i>21. (c): Reports of barriers faced by children of mothers in detention in obtaining a birth certificate or national identity card.</i>	2019	United Nations Convention on the Rights of the Child (2019): Concluding observations on the combined fourth to sixth periodic reports of Bahrain. Committee on the Rights of the Child (Report No. CRC/C/BHR/CO/4-6). New York, UN, February 27, 2019.
Bangladesh	4 years, with permission 6 years	<i>50. The Committee is concerned about the situation of children in prison with their mothers, including with respect to the lack of childcare services and deficiencies in sanitation.</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the fifth periodic report of Bangladesh. Committee on the Rights of the Child (Report No. CRC/C/BGD/CO/5). New York, UN, October 30, 2015
Belarus	3 years	<i>21. [...] While noting the measures to reduce juvenile confinement and close Vitebsk No. 1 re-educational camp, renovate pretrial units and prisons and improve the medical treatment of HIV/AIDS and tuberculosis patients, the Committee remains deeply concerned at the continuing reports of the deplorable conditions of places of deprivation of liberty. These include IVS (police isolators for temporary detention), notwithstanding the State party's measures to close the temporary police detention centres in Zelva, Novogrudok and Svisloch. Cells measuring 2 m<sup>2</sup> (in prison and penal colonies), 2.5 m<sup>2</sup> (in temporary detention facilities), 3.5 m<sup>2</sup> (in re-education camps) and at least 4 m<sup>2</sup> (for pregnant women and women with children) fall short of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and other international standards. [...]</i>	2018	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2018): Concluding observations on the fifth periodic report of Belarus. Committee against Torture (Report No. CAT/C/BLR/CO/5). New York, UN, June 07, 2018
Benin	5 years	<i>36. The Committee expresses serious concern about the conditions of detention of women detainees, including pregnant women and women detained with their children, in particular the length of pretrial detention and the lack of measures aimed at facilitating women's access to justice and the fact that women detainees are not systematically separated from men detainees.</i>	2013	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2013): Concluding observations on the fourth periodic report of Benin. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/BEN/CO/4). New York, UN, October 28, 2013
Bolivia	6 years	<i>20. [...] The Committee is also concerned about the large number of children now living in prison with their families</i>	2013	United Nations International Covenant on Civil and Political Rights (2013): Concluding observations on the third periodic report of the Plurinational State of Bolivia. Human Rights Committee (Report

				No. CCPR/C/BOL/CO/3). New York, UN, December 06, 2013
Brazil	7 years	<i>49. The Committee takes note of Act No. 11.942 of 2009 governing minimum assistance services for incarcerated mothers and their children. However, it is concerned that this legislation has not been implemented effectively. The Committee is seriously concerned about overcrowding and poor sanitation facilities in prisons, as well as about limited access to health services, education and recreational activities for incarcerated mothers and their children.</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the combined second to fourth periodic reports of Brazil. Committee on the Rights of the Child (Report No. CRC/C/BRA/CO/2-4). New York, UN, October 30, 2015
Burkina Faso	2 years	<i>21. [...] It is also concerned about the conditions of detention of women who are accompanied by infants and young children and are held at the Ouagadougou short-stay prison and correctional facility. [...]</i>	2019	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2019): Concluding observations on the second periodic report of Burkina Faso. Committee against Torture (Report No. CAT/C/BFA/CO/2). New York, UN, December 18, 2019
Burundi	2 years	<i>48 Committee is also concerned at the number of women detained with infants and young children, as well as the lack of any social care and protection measures for the children of detained women who are separated from their mothers.</i>	2016	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2016): Concluding observations on the combined fifth and sixth periodic reports of Burundi. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/BDI/CO/5-6). New York, UN, November 25, 2016
Cambodia	3 years	<i>63. The Committee expresses serious concern about the situation of children Phnom Penh, as well as in the prisons of Takmao, Kompong Cham and Kompong Chhnang, in conditions which are detrimental to their physical, mental and emotional wellbeing. The Committee is particularly concerned that children are not provided with food and safe drinking water, mothers are being expected to share their own ration with their children, they are often placed in cells without appropriate ventilation, in conditions of extreme heat and not always separated from persons with contagious diseases, such as tuberculosis. The Committee is also concerned that children incarcerated with their mothers have limited access to health services and almost no access to any form of education and recreational activities. The Committee is further seriously concerned about cases of children being physically abused by prison guards and other prisoners</i>	2011	United Nations Convention on the Rights of the Child (59th sess.: 2011): Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Cambodia. Committee on the Rights of the Child (Report No. CRC/C/KHM/CO/2-3). New York, UN, August 03, 2011
		<i>44. (a) Reports of insufficient consideration given by the courts to the specific situations of women when making decisions about detention, leading to unnecessary detention of women, including pregnant women and mothers, which has a devastating impact on children, as they are left without their primary caregivers or are detained with their mothers in inadequate conditions; (c)The detention of women and children in overcrowded prisons that fail to meet international standards, including access to essential health-care services, especially for pregnant women.</i>	2019	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2019): Concluding observations on the sixth periodic report of Cambodia. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/KHM/CO/6). New York, UN,

				November 12, 2019
Dominican Republic	In the 22 “New Model Female Prisons” children are allowed to stay with their mothers until the age of 1.	<i>45. The Committee welcomes the measures taken to promote early childhood development. It is concerned, however, about the insufficient implementation of the Comprehensive Early Childhood Protection and Care Plan and regrets the lack of information on how the needs of children in vulnerable and marginalized situations, such as those living in prison with their mothers, are being addressed.</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the combined third to fifth periodic reports of the Dominican Republic. Committee on the Rights of the Child (Report No. CRC/C/DOM/CO/3-5). New York, UN, March 06, 2015
Eritrea	No limit	<i>51. The Committee is concerned that: (a) The living conditions for young children in detention facilities with their mothers are poor; (b) Lactating mothers are having difficulties in providing proper nutrition for their infants owing to the poor quality of food provided in the detention facilities</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the fourth periodic report of Eritrea. Committee on the Rights of the Child (Report No. CRC/C/ERI/CO/4). New York, UN, July 02, 2015
Ethiopia	18 months	<i>26. However, the Committee remains seriously concerned about consistent reports of overcrowding, poor hygienic and sanitary conditions, lack of sleeping space, food and water, the absence of adequate health care, including for pregnant women and HIV/AIDS and tuberculosis patients, the absence of specialized facilities for prisoners and detainees with disabilities, co-detention of juveniles with adults, inadequate protection of juvenile prisoners and children detained with their mothers from violence in prisons and places of detention in the State party (arts. 11 and 16).</i>	2011	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (45th sess.: 2011): Consideration of reports submitted by States parties under article 19 of the Convention. Concluding observations of the Committee against Torture. Ethiopia (Report No. CAT/C/ETH/CO/1). New York, UN, January 20, 2011
Guatemala	4 years	<i>44. The Committee is concerned, however, that 50 per cent of the women being held in custody are in pretrial preventive detention. It notes with concern the overcrowded and deplorable conditions in places of detention for women, as well as reported cases of gender-based violence, the depriving of lesbian and transgender women of partner visits and the use of isolation as punishment. It also notes with concern the inadequate accommodation of pregnant women and women in detention with their children.</i>	2017	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2017): Concluding observations on the combined eighth and ninth periodic reports of Guatemala. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/GTM/CO/8-9). New York, UN, November 22, 2017
Honduras	2 years	<i>46. The Committee is concerned about the large number of women in pretrial detention and the lack of measures to guarantee that women have access to justice. It is also concerned about the insufficient health and sanitary conditions of women in detention, including pregnant women and women detained with their children.</i>	2016	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2016): Concluding observations on the combined seventh and eighth periodic reports of Honduras. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/HND/CO/7-8). New York, UN, November 25, 2016

India	6 months	<i>59. The Committee notes that children under the age of 6 years can live with their mothers in prison and that the State party has recently introduced a scheme to provide financial help to children of prisoners. However, it is concerned that the best interests of the child are not always taken into account, including when sentencing parents.</i>	2014	United Nations Convention on the Rights of the Child (2014): Concluding observations on the combined third and fourth periodic reports of India. Committee on the Rights of the Child (Report No. CRC/C/IND/CO/3-4). New York, UN, July 07, 2014
Iran	3 years	<i>65. The Committee is concerned that children, in particular Baha'i children, living with their mothers in prison have reportedly developed medical problems due to poor living conditions that they are subjected to in prisons.</i>	2016	United Nations Convention on the Rights of the Child (2016): Concluding observations on the combined third and fourth periodic reports of the Islamic Republic of Iran. Committee on the Rights of the Child (Report No. CRC/C/IRN/CO/3-4). New York, UN, March 14, 2016
Iraq	4 years	<i>56. The Committee is concerned that most prisons for women lack a nursery, although many children live with their mothers in prison, and about the various cases of sickness affecting those children because of deficient sanitation and general care. The Committee is also concerned about cases of children staying in prison for several weeks after the execution of their mothers.</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the combined second to fourth periodic reports of Iraq. Committee on the Rights of the Child (Report No. CRC/C/IRQ/CO/2-4). New York, UN, March 03, 2015
Italy	3 years	<i>55. While the Committee welcomes the adoption of Act No. 62/2011 on the protection of the relationship between mothers in prison and their minor children, it is concerned at the high number of children separated from one or both parents who are imprisoned, the situation of babies who are living in prisons with their mothers, and cases where children risk being separated from their mothers if the mother does not meet the requirement for house arrest</i>	2011	United Nations Convention on the Rights of the Child (59th sess.: 2011): Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Italy. Committee on the Rights of the Child (Report No. CRC/C/ITA/CO/3-4). New York, UN, October 31, 2011
		<i>32. [...] The Committee also notes the existence of special units reserved for female detainees with children, and the establishment of specialized health-care units within existing penitentiary institutions. Furthermore, it notes that prison medical personnel have an obligation to document and report any evidence of maltreatment observed during the initial medical examination of detainees. It regrets, however, that the State party did not indicate the number of cases reported by prison medical personnel as potential cases of torture or ill-treatment, during the period under review [...]</i>	2017	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2017): Concluding observations on the combined fifth and sixth periodic reports of Italy. Committee against Torture (Report No. CAT/C/ITA/CO/5-6). New York, UN, December 18, 2017
Kenya	4 years	<i>29. (c): Some groups of children, such as refugee children, children of Nubian descent, Makonde children, indigenous Somali children in Kenya, children with mothers in custody and intersex children, face difficulty in obtaining birth registration.</i>	2013	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2013): Concluding observations on the second periodic report of Kenya, adopted by the Committee at its fiftieth session (6 to 31 May 2013). Committee against Torture (Report No. CAT/C/KEN/CO/2). New York, UN, June 19, 2013

		<i>12. While acknowledging the steps taken by the State party to improve conditions in all places of detention, including the enactment of the Power of Mercy Act (2011), allocation of additional financial resources and measures taken to reduce overcrowding, the Committee remains deeply concerned about detention conditions, in particular the persistent levels of overcrowding, lack of appropriate health services, prevalence of prison violence, including inter-prisoner violence and sexual abuse, and the practice of detaining children under the age of 4 with their mothers (arts. 2, 11 and 16).</i>	2016	United Nations Convention on the Rights of the Child (2016): Concluding observations on the combined third to fifth periodic reports of Kenya. Committee on the Rights of the Child (Report No. CRC/C/KEN/CO/3-5). New York, UN, March 21, 2016
Kyrgyzstan	3 years	<i>22. [...] The Committee is also concerned at the appalling conditions at women's detention facilities and the lack of adequate medical care for women detainees, including those who are pregnant and mothers with children. The Committee is further concerned at reports of very poor conditions that prevail in psychiatric hospitals, social care homes and residential institutions for children (arts. 11 and 16).</i>	2021	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2021): Concluding observations on the third periodic report of Kyrgyzstan. Committee against Torture (Report No. CAT/C/KGZ/CO/3). New York, UN, December 21, 2021
Lesotho	2 years	<i>39. The Committee is concerned that the best interests of children are not taken into consideration during the sentencing of caregivers, and that prisons lack appropriate facilities for nursing mothers.</i>	2018	United Nations Convention on the Rights of the Child (2018): Concluding observations on the second periodic report of Lesotho. Committee on the Rights of the Child (Report No. CRC/C/LSO/CO/2). New York, UN, June 28, 2018
Mali	4 years	<i>41. The Committee notes with concern the conditions of women in detention, including a lack of systematic separation from male detainees, abuse perpetrated by police and prison authorities and inappropriate treatment for pregnant women in detention and those accompanied by their children.</i>	2016	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2016): Concluding observations on the combined sixth and seventh periodic reports of Mali. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/MLI/CO/6-7). New York, UN, July 25, 2016
Mauritius	5 years	<i>47. The Committee notes that children under the age of 6 can live with their imprisoned mothers. However, it is concerned that the best interests of the child are not always taken into account, including when sentencing parents, that incarcerated parents are not guaranteed systematic contact with their children and the Child Development Unit, and that there is insufficient psychological treatment or social support to children of incarcerated parents who do not reside in institutional care.</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the combined third to fifth periodic reports of Mauritius. Committee on the Rights of the Child (Report No. CRC/C/MUS/CO/3-5). New York, UN, February 27, 2015
Mexico	6 years	<i>43. The Committee notes that children up to 6 years of age can remain with their mothers in prison and that the State party is currently reviewing the guidelines related to children living with their mothers so as to safeguard their rights. It is concerned, however, about those guidelines being adopted in a timely manner and about the insufficient alternatives to detention for mothers.</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the combined fourth and fifth periodic reports of Mexico. Committee on the Rights of the Child (Report No. CRC/C/MEX/CO/4-5). New York, UN, July 03, 2015
		<i>36. [...] The Committee also notes with concern the excessive length of time that children spend</i>	2019	United Nations International Covenant on

		<i>in prison with their mothers and the lack of guidelines regulating this area (arts. 6, 7, 9 and 10).</i>		Civil and Political Rights (2019): Concluding observations on the sixth periodic report of Mexico. Human Rights Committee (Report No. CCPR/C/MEX/CO/6). New York, UN, December 04, 2019
Moldova	3 years	<i>26. it is concerned, however, about (d) Children in prison with their mothers</i>	2017	United Nations Convention on the Rights of the Child (2017): Concluding observations on the combined fourth and fifth periodic reports of the Republic of Moldova. Committee on the Rights of the Child (Report No. CRC/C/MDA/CO/4-5). New York, UN, October 20, 2017
Mozambique	2 years	<i>41. (c) The reports of detention of women with young children and of sexual harassment and abuse against women in detention, including lesbian, bisexual and transgender women and intersex persons.</i>	2019	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2019): Concluding observations on the combined third to fifth periodic reports of Mozambique. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/MOZ/CO/3-5). New York, UN, July 30, 2019
Myanmar	4 years	<i>71. The Committee is deeply concerned that children detained in jails and prisons with their mothers are denied adequate health care and nutritious food, and their mothers are often denied assistance during childbirth. The Committee is also concerned about the absence, for these children, of everyday stimuli and educational material, which hampers their social and emotional development. The Committee is further concerned about numerous cases of lack of contact between detainees and their families, including their children.</i>	2012	United Nations Convention on the Rights of the Child (59th sess.: 2012): Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Myanmar. Committee on the Rights of the Child (Report No. CRC/C/MMR/CO/3-4). New York, UN, March 14, 2012
Nigeria	18 months	<i>19. [...] It is also concerned at reports of a lack of separation of juvenile inmates from adults and of convicted persons from remanded detainees, in addition to the detention of pregnant and breastfeeding women and persons with disabilities in general custodial facilities and without access to appropriate health services. [...]</i>	2021	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2021): Concluding observations in the absence of the initial report of Nigeria. Committee against Torture (Report No. CAT/C/NGA/COAR/1). New York, UN, December 21, 2021
Panama	House arrest as an alternative to (part of) a prison sentence for pregnant	<i>[...] The Committee is also concerned at reports that the prison administration does not sufficiently consider the special needs of persons with disabilities and women prisoners in areas such as medical care, accessibility, the maintenance of family ties, and services and facilities for pregnant women and women with children. [...]</i>	2017	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2017): Concluding observations on the fourth periodic report of Panama. Committee against Torture (Report No. CAT/C/PAN/CO/4). New York, UN, August 28, 2017

	women and mothers until their children are 1 year old			
Paraguay	2 years	<i>26. The Committee takes note of the measures taken to prohibit corporal punishment of children living with their mothers in places of detention or in shelters [...]</i>	2011	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (47th sess.: 2011): Consideration of reports submitted by States parties under article 19 of the Convention. Concluding observations of the Committee against Torture. Paraguay (Report No. CAT/C/PRY/CO/4-6). New York, UN, December 14, 2011
Peru	3 years	<i>24. [...] The Committee takes note of the establishment in 2015 of a standing commission on gender mainstreaming in prison policies, but remains concerned by reports that the prison authorities do not give sufficient consideration to the special needs of women deprived of their liberty, especially in the case of pregnant women and women with children under the age of 3. [...]</i>	2018	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2018): Concluding observations on the seventh periodic report of Peru. Committee against Torture (Report No. CAT/C/PER/CO/7). New York, UN, December 18, 2018
Qatar	2 years	<i>45. (c) The lack of information on the situation of migrant women, including pregnant women and women with children, who are detained in the Doha deportation detention centre; the number of complaints about violence, including sexual violence, brought by women migrant workers during the reporting period; and the number of investigations and prosecutions and the sentences imposed on perpetrators</i>	2019	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2019): Concluding observations on the second periodic report of Qatar. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/QAT/CO/2). New York, UN, July 30, 2019
Russian Federation	No children allowed in prison, but placed in baby homes on prison grounds.	<i>47. The Committee notes that children under the age of 4 who are placed in baby homes in the grounds of prisons can be visited by their mothers outside working hours, but it is concerned that no measures have been taken to adapt special wings in prisons where those children can live with their mothers. The Committee regrets that no information was provided by the State party as to whether the judiciary or prison services consider the placement of parents in institutions where children can assume their visiting rights or whether children are financially or otherwise assisted in that regard.</i>	2014	United Nations Convention on the Rights of the Child (2014): Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation. Committee on the Rights of the Child (Report No. CRC/C/RUS/CO/4-5). New York, UN, February 25, 2014
		<i>38. [...] The Committee is concerned at reports of the equally poor conditions of detention for children who were born in prisons and the lack of access to adequate medical care and educational programmes for those children and mothers [...]</i>	2018	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2018): Concluding observations on the sixth periodic report of the Russian Federation. Committee against Torture (Report No. CAT/C/RUS/CO/6). New

				York, UN, August 28, 2018
Rwanda	5 years	<i>19. [...] The Committee also expresses concern at reports that a high number of mothers are detained with their babies in extremely difficult conditions (arts. 2, 11 and 16).</i>	2012	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (48th sess.: 2012): Consideration of reports submitted by States parties under article 19 of the Convention. Concluding observations of the Committee against Torture. Rwanda (Report No. CAT/C/RWA/CO/1). New York, UN, June 26, 2012
Samoa	1 year	<i>38. The Committee is concerned that detention facilities are insufficiently equipped for the needs of incarcerated mothers with babies.</i>	2016	United Nations Convention on the Rights of the Child (2016): Concluding observations on the combined second to fourth periodic reports of Samoa. Committee on the Rights of the Child (Report No. CRC/C/WSM/CO/2-4). New York, UN, July 12, 2016
South Sudan	2 years	<i>48. The Committee is alarmed that women and children continue to be sentenced to death, including by customary courts and in the absence of fair trial guarantees, in contravention of the 2013 moratorium on the death penalty. It is further concerned about reports that many women and girls in detention are not systematically separated from male detainees, are subjected to neglect, ill-treatment and abuse, and lack adequate access to medical care, including for their young children.</i>	2021	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2021): Concluding observations on the initial report of South Sudan. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/SSD/CO/1). New York, UN, November 23, 2021
Switzerland	3 years	<i>52. While welcoming the establishment in the canton of Zurich of units where an incarcerated mother and her child can be accommodated together, the Committee is concerned about the lack of data on the number and situation of children who have a parent in prison, or of information on whether the continued relationship of a child with his or her imprisoned parent is sufficiently supported.</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the combined second to fourth periodic reports of Switzerland. Committee on the Rights of the Child (Report No. CRC/C/CHE/CO/2-4). New York, UN, February 26, 2015
Thailand	3 years	<i>8. The Committee urges the State party to take all necessary measures to address those recommendations contained in the concluding observations on the second periodic report that have not yet been, or not sufficiently, implemented, including on such issues as data collection, non-discrimination, nationality, protection of privacy, corporal punishment in the home, alternative care, children in prison with their mothers, adolescent health, refugee and asylum-seeking children, children of migrant workers, child labour and juvenile justice. The Committee also urges the State party to provide adequate follow-up to the recommendations contained in the present concluding observations.</i>	2012	United Nations Convention on the Rights of the Child (59th sess.: 2012): Consideration of reports submitted by States parties under article 44 of the Convention. Concluding observations: Thailand. Committee on the Rights of the Child (Report No. CRC/C/THA/CO/3-4). New York, UN, February 17, 2012
		<i>44. The Committee expresses concern that the State party has one of the highest rates of women in detention in the world. It is also concerned that, owing to the limited number of female prisons, women are often incarcerated far from their families and in overcrowded prisons with</i>	2017	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2017): Concluding observations on the combined



		<i>conditions that fail to meet international standards, in particular with regard to pregnant women and women detained with their children.</i>		sixth and seventh periodic reports of Thailand. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/THA/CO/6-7). New York, UN, July 24, 2017
Tonga	If female prisoner gives birth during imprisonment or is breast feeding	<i>43. The Committee is concerned about the situation of children of imprisoned parents or of mothers facing imprisonment, including with respect to the lack of childcare services.</i>	2019	United Nations Convention on the Rights of the Child (2019): Concluding observations on the initial report of Tonga. Committee on the Rights of the Child (Report No. CRC/C/TON/CO/1). New York, UN, July 02, 2019
United Arab Emirates	3 years	<i>51. The Committee notes the provisions related to children living with their mothers in detention facilities, as well as the measures taken with regard to children whose parents are imprisoned or executed. The Committee is concerned, however, about: (a) The impact on children when the death penalty is imposed on their parents and the lack of attention paid to providing psychological support for such children; (b) Instances in which parents are sentenced to prison for failing to pay a debt; (c) The lack of human resources and other support necessary for children living in prison with their mothers.</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the second periodic report of the United Arab Emirates. Committee on the Rights of the Child (Report No. CRC/C/ARE/CO/2). New York, UN, October 30, 2015
Uruguay	4 years, max. can be extended to 8 years	<i>41. The Committee is concerned about the inadequacy of prison facilities for children living in prisons with their mothers and about the non-application of article 8 of Act 17.897 on probation, which allows for women who would otherwise be in detention to be placed under house arrest during the last trimester of pregnancy and the first three months of breastfeeding.</i>	2015	United Nations Convention on the Rights of the Child (2015): Concluding observations on the combined third to fifth periodic reports of Uruguay. Committee on the Rights of the Child (Report No. CRC/C/URY/CO/3-5). New York, UN, March 05, 2015
		<i>43. The Committee is concerned about the inadequate conditions for women detained with their children and the process of relocation of detained mothers to “Unit 5” of the National Rehabilitation Institute in the city of Montevideo, resulting in that group of women facing vulnerable conditions. It is also concerned about reports of women being incarcerated in facilities designed for men where the majority of penitentiary officials are also men.</i>	2016	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2016): Concluding observations on the combined eighth and ninth periodic reports of Uruguay. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/URY/CO/8-9). New York, UN, July 25, 2016
Yemen	2 years	<i>45. The Committee is concerned that women detainees are deprived of their basic needs, including access to health care, food and hygiene, including for their accompanying children, and are subjected to overcrowding, ill-treatment and torture</i>	2021	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2021): Concluding observations on the combined seventh and eighth periodic reports of Yemen. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/YEM/CO/7-8). New York, UN, November 24, 2021
Zimbabwe	2 years	<i>54. The Committee is seriously concerned about reports of a serious lack of nutrition and poor</i>	2016	United Nations Convention on the Rights

		<i>sanitary conditions for infants and children sharing prison cells with their mothers who are awaiting trial or serving sentences for committing various offences</i>		of the Child (2016): Concluding observations on the second periodic report of Zimbabwe. Committee on the Rights of the Child (Report No. CRC/C/ZWE/CO/2). New York, UN, March 07, 2016
		<i>45. It is further concerned about reports of the detention of women with young children and of sexual harassment and abuse against women in detention.</i>	2020	United Nations Convention on the Elimination of All Forms of Discrimination against Women (2020): Concluding observations on the sixth periodic report of Zimbabwe. Committee on the Elimination of Discrimination against Women (Report No. CEDAW/C/ZWE/CO/6). New York, UN, March 10, 2020

**Table 4 Identified violations of the Nelson Mandela Rules and the Bangkok Rules explicit to children detained with their mothers in prison.**

<b>Nelson Mandela Rules</b>	<b>Violated by</b>
<b>Rule 28</b> <i>In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.</i>	Bahrain, Kenya
<b>Rule 29:</b> (1) <i>A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for: (a) Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent; (b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists. (2) Children in prison with a parent shall never be treated as prisoners.</i>	Tonga; Lesotho; Samoa; Bangladesh; Iran; United Arab Emirate; Brazil; Iraq; Myanmar; Cambodia; South Sudan; Yemen; Honduras; Russian Federation; Panama, India
<b>Rule 44 2.</b> <i>The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice, 28 continues to apply</i>	-
<b>Bangkok Rule</b>	<b>Violated by</b>
<b>Rule 2 1.</b> <i>Adequate attention shall be paid to the admission procedures for women and children, due to their particular vulnerability at this time. Newly arrived women prisoners shall be provided with facilities to contact their relatives; access to legal advice; information about prison rules and regulations, the prison regime and where to seek help when in need in a language that they understand; and, in the case of foreign nationals, access to consular representatives as well.</i>	-
<b>Rule 3 1.</b> <i>The number and personal details of the children of a woman being admitted to prison shall be recorded at the time of admission. The records shall include, without prejudicing the rights of the mother, at least the names of the children, their ages and, if not accompanying the mother, their location and custody or guardianship status. 2. All information relating to the children's identity shall be kept confidential, and the use of such information shall always comply with the requirement to take into account the best interests of the children.</i>	Bahrain; Kenya
<b>Rule 9</b> <i>If the woman prisoner is accompanied by a child, that child shall also undergo health screening, preferably by a child health specialist, to determine any treatment and medical needs. Suitable health care, at least equivalent to that in the community, shall be provided.</i>	Tonga; Samoa; Iran; Brazil; Myanmar; Cambodia; South Sudan; Yemen; Honduras; Russia; Panama
<b>Rule 21</b> <i>Prison staff shall demonstrate competence, professionalism and sensitivity and shall preserve respect and dignity when searching both children in prison with their mother and children visiting prisoners</i>	-
<b>Rule 28</b> <i>Visits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible.</i>	-
<b>Rule 33 3.</b> <i>Where children are allowed to stay with their mothers in prison, awareness-raising on child development and basic training on the health care of children shall also be provided to prison staff, in order for them to respond appropriately in times of need and emergencies.</i>	-
<b>Rule 48 1.</b> <i>Pregnant or breastfeeding women prisoners shall receive advice on their health and diet under a programme</i>	Bangladesh; Brazil; Iran; Iraq; Uruguay;

<i>to be drawn up and monitored by a qualified health practitioner. Adequate and timely food, a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, babies, children and breastfeeding mothers.</i>	Myanmar; Cambodia; Eritrea; Zimbabwe; Yemen; Guatemala; Honduras; Burkina Faso; Russian Federation
<b>Rule 49</b> <i>Decisions to allow children to stay with their mothers in prison shall be based on the best interests of the children. Children in prison with their mothers shall never be treated as prisoners.</i>	Iraq; South Sudan
<b>Rule 51</b> <i>1. Children living with their mothers in prison shall be provided with ongoing health-care services and their development shall be monitored by specialists, in collaboration with community health services. 2. The environment provided for such children's upbringing shall be as close as possible to that of a child outside prison.</i>	Tonga; Cambodia; Samoa; Bangladesh; Iran; Brazil; Dominican Republic; Myanmar; Cambodia; South Sudan; Yemen; Honduras; Russian Federation; Panama
<b>Rule 52</b> <i>1. Decisions as to when a child is to be separated from its mother shall be based on individual assessments and the best interests of the child within the scope of relevant national laws. 2. The removal of the child from prison shall be undertaken with sensitivity, only when alternative care arrangements for the child have been identified and, in the case of foreign-national prisoners, in consultation with consular officials.</i>	Russian Federation; Italy; Burundi
<b>Rule 53</b> <i>2. Where a child living with a non-resident foreign-national woman prisoner is to be removed from prison, consideration should be given to relocation of the child to its home country, taking into account the best interests of the child and in consultation with the mother.</i>	Qatar
<b>Rule 60</b> <i>Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women's contact with the criminal justice system. These may include therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. Such programmes shall take account of the need to provide care for children and women-only services.</i>	Lesotho; United Arab Emirate; Uruguay; Mauritius; India; Mexico; Bolivia
<b>Rule 64</b> <i>Non-custodial sentences for pregnant women and women with dependent children shall be preferred where possible and appropriate, with custodial sentences being considered when the offence is serious or violent or the woman represents a continuing danger, and after taking into account the best interests of the child or children, while ensuring that appropriate provision has been made for the care of such children.</i>	Lesotho; Uruguay; Mauritius; India, Mexico; Bolivia
<b>Rule 68</b> <i>Efforts shall be made to organize and promote research on the number of children affected by their mothers' confrontation with the criminal justice system, and imprisonment in particular, and the impact of this on the children, in order to contribute to policy formulation and programme development, taking into account the best interests of the children.</i>	Dominican Republic; Switzerland; Thailand; Qatar; Italy
<b>Rule 69</b> <i>Efforts shall be made to review, evaluate and make public periodically the trends, problems and factors associated with offending behaviour in women and the effectiveness in responding to the social reintegration needs of women offenders, as well as their children, in order to reduce the stigmatization and negative impact of those women's confrontation with the criminal justice system on them.</i>	-
<b>Rule 70</b> <i>Publication and dissemination of research and good practice examples shall form comprehensive elements of policies that aim to improve the outcomes and the fairness to women and their children of criminal justice responses to women offenders</i>	Mexico

## Supplemental File

### Pertinent Bangkok and Mandela Rules applicable to children in detention with mothers in the context of the prison nursery.

#### Standard Minimum Rules for the Treatment of Prisoners (*Mandela Rules*)

**Rule 28:** In women's prisons, there shall be special accommodation for all necessary prenatal and *postnatal care* and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a *child is born in prison*, this fact shall not be mentioned in the birth certificate.

**Rule 29:** (1) A decision to allow a *child to stay with his or her parent in prison* shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for: (a) Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent; (b) Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialists. (2) Children in prison with a parent shall never be treated as prisoners.

**Rule 44:** (2) The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving *women and children*, as referred to in other United Nations standards and norms in crime prevention and criminal justice, continues to apply.

#### Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (*Bangkok Rules*)

**Rule 2:** (1) Adequate attention shall be paid to the admission procedures for women and *children*, due to their particular vulnerability at this time. Newly arrived women prisoners shall be provided with facilities to contact their relatives; access to legal advice; information about prison rules and regulations, the prison regime and where to seek help when in need in a language that they understand; and, in the case of foreign nationals, access to consular representatives as well.

**Rule 3:** (1) The number and personal details of the *children of a woman being admitted to prison* shall be recorded at the time of admission. The records shall include, without prejudicing the rights of the mother, at least the names of the children, their ages and, if not accompanying the mother, their location and custody or guardianship status. (2) All information relating to the children's identity shall be kept confidential, and the use of such information shall always comply with the requirement to take into account the best interests of the children.

**Rule 9:** If the *woman prisoner is accompanied by a child*, that child shall also undergo health screening, preferably by a child health specialist, to determine any treatment and medical needs. Suitable health care, at least equivalent to that in the community, shall be provided.

**Rule 21:** Prison staff shall demonstrate competence, professionalism and sensitivity and shall preserve respect and dignity when searching both *children in prison with their mother* and children visiting prisoners.

**Rule 28:** Visits involving children shall take place in an environment that is conducive to a positive visiting experience, including with regard to staff attitudes, and shall allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible.\*

**Rule 33:** (3) Where *children are allowed to stay with their mothers in prison*, awareness-raising on child development and basic training on the health care of children shall also be provided to prison staff, in order for them to respond appropriately in times of need and emergencies.

**Rule 48:** (1) Pregnant or *breastfeeding women prisoners* shall receive advice on their health and diet under a programme to be drawn up and monitored by a qualified health practitioner. Adequate and timely food, a healthy environment and regular exercise opportunities shall be provided free of charge for pregnant women, *babies, children* and breastfeeding mothers.

**Rule 49:** Decisions to allow *children to stay with their mothers in prison* shall be based on the best interests of the children. Children in prison with their mothers shall never be treated as prisoners.

**Rule 51:** (1) *Children living with their mothers in prison* shall be provided with ongoing health-care services and their development shall be monitored by specialists, in collaboration with community health services. (2) The environment provided for such children's upbringing shall be as close as possible to that of a child outside prison.

**Rule 52:** (1) Decisions as to when a *child is to be separated from its mother* shall be based on individual assessments and the best interests of the child within the scope of relevant national laws. (2) The removal of the child from prison shall be undertaken with sensitivity, only when alternative care arrangements for the child have been identified and, in the case of foreign-national prisoners, in consultation with consular officials.

**Rule 53:** (2) Where a *child living with a non-resident foreign-national woman prisoner* is to be removed from prison, consideration should be given to relocation of the child to its home country, taking into account the best interests of the child and in consultation with the mother.

**Rule 60:** Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine *non-custodial measures* with interventions to address the most common problems leading to women's contact with the criminal justice system. These may include therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. Such programmes shall take account of the need to provide *care for children* and women-only services.

**Rule 64:** Non-custodial sentences for pregnant women and *women with dependent children* shall be preferred where possible and appropriate, with custodial sentences being considered when the offence is serious or violent or the woman represents a continuing danger, and after taking into account the best interests of the child or children, while ensuring that appropriate provision has been made for the care of such children.

**Rule 68:** Efforts shall be made to organize and promote research on the number of *children affected by their mothers' confrontation with the criminal justice system*, and imprisonment in particular, and the impact of this on the children, in order to contribute to policy formulation and programme development, taking into account the best interests of the children.

**Rule 69:** Efforts shall be made to review, evaluate and make public periodically the trends, problems and factors associated with offending behaviour in women and the effectiveness in responding to the *social reintegration needs of women offenders, as well as their children*, in order to reduce the stigmatization and negative impact of those women's confrontation with the criminal justice system on them.

**Rule 70:** Publication and dissemination of research and good practice examples shall form comprehensive elements of policies that aim to improve the outcomes and the fairness to *women and their children* of criminal justice responses to women offenders

\* included with regard to siblings or other family members (children) visiting the infant in prison.

