

Trends & Policies in Criminal Justice

No. 008 November 2020

Dr. Soojin Kwon

Research Fellow at Korean Institute of
Criminology (soojin@kic.re.kr)

Dr. Yeunhee Shin

Professor at Sungkyul University

Improving Correctional Treatment to Support Inmate's Child Rearing

Introduction

In correctional facilities, there are not only inmates serving their terms but also women who are pregnant or who are parents with babies under 18 months. Though the newborn babies and children of the inmates are not guilty, they have no choice but to live in prison due to their parent's sentence.

Also, children of incarcerated parents are often isolated from the mainstream society and left to live in rather poor conditions.

The main purpose of this study is to understand the current circumstances and conditions of these inmates' children in order to attribute to improving correctional treatment to provide the children with proper support and assistance to grow up without being marginalized by the mainstream society.

For this purpose, this study examined legislations, policies, current situation and foreign cases on correctional treatment for confined pregnant women, and those who raise their children under 18 months old in prison or have under 12 years old children left to live in the society. Then the study suggests measures to deal with current problems regarding correctional treatment for them.

Research Methods

Literature review

- The study reviewed and analyzed domestic and overseas literature and research, policy data, news, etc. The study also examined related cases and court decisions and rulings.

Current status review

- This study searched through Korean domestic legislations and foreign legislations on correctional treatment for incarcerated parents, correctional statistics of the Republic of Korea, White Paper on Crime, and other published data, statistics and unpublished data on correctional policy developed by Correctional Service of Ministry of Justice and the National Police Agency.

Survey and in-depth interview

- A survey and in-depth interviews were conducted on imprisoned pregnant women and inmates rearing children under 18 months old in correctional facilities, and those who left their children under 12 years of age to live in the society.
- Researchers also interviewed officials of correctional services and employees in related fields.

Comparative legal study

- For comparative legal study, this study examined the current status of correctional treatments and supports for incarcerated parents and their children in the United States, the United Kingdom, Germany, Japan and Taiwan.
- The study carried out literature review, online searching, and collecting and analyzing meaningful data acquired through experts workshops and consultation meetings.
- Researchers of this study physically visited four correctional facilities in Japan (for women) and related facilities to collect data of a foreign country.

Experts workshops and consultation meetings

- To collect and examine relevant data, workshops and consultation meetings were held with employees of Korea Correctional Service, researcher who have conducted studies and research on this issue, and civic organizations (Duroo, Seum, the Catholic Human Rights Community, etc).

Results

Relevant statistics

- Number of pregnant women incarcerated

Correctional Institutions	Suwon Detention Center	Incheon Detention Center	Hwaseong Job Training Prison	Uijeongbu Correctional Facility	Total
Number	1	2	1	1	10
Correctional Institutions	Busan Detention Center	Dagae Detention Center	Sangju Correctional Institution	Jeonju Correctional Institution	
Number	1	2	1	1	

Source: Internal Data of Korea Correctional Service, as of June 30, 2019

- Number of children under 18 months old living in correctional facilities

Correctional Institutions	Cheongju Women's Correctional Institution	Gunsan Correctional Institution	Total
Number	4	1	5

Source: Internal Data of Korea Correctional Service, as of June 30, 2019

- Statistics on incarcerated parents with underage children

Incarcerated parents with underage children								
Classification	(Sentenced to) less than 1 year imprisonment	Less than 3 years imprisonment	Less than 5 years imprisonment	Less than 10 years imprisonment	Less than 20 years imprisonment	Over 20 years imprisonment	Life imprisonment or the capital punishment	Total
Incarcerated Parents with minor children	485 (9.1%)	1,891 (35.4%)	1,250 (23.4%)	1,116 (20.9%)	444 (8.3%)	84 (1.6%)	79 (1.5%)	5,349 (100%)
Total number of inmates	6,082 (16.8%)	13,236 (36.6%)	6,740 (18.6%)	5,029 (13.9%)	3,071 (8.5%)	594 (1.6%)	1,415 (3.9%)	36,167 (100%)

Source: Data from consultation meeting of Korea Correctional Service (held on June 17, 2019), as of May 21, 2019

Statistics on minor children of incarcerated parents						(unit: person)
Age of children	0-6years old	7-12years old	13-15years old	16-18years old	Total	
Number	2,748	4,408	2,254	2,693	12,103	

Source: Correctional information system (Boramin System) of the Ministry of Justice, as of June 30, 2019

Statistics on caregivers for children with incarcerated parents								(unit: person)
Caregivers	Parent	Grandparent	Siblings of parents	foster care	living alone	living with non relatives	others	
Number	8,135	1,062	259	253	84	107	2,204	

The number 'Others' includes those who did not answered about their caregivers or replied 'don't know'.

Source: Correctional Information System (Boramin System) of the Ministry of Justice, as of June 30, 2019

Relevant legislation in Korea and in foreign countries

- Legislation in Korea

- Administration and Treatment of Correctional Institution Inmates Act

- : Treatment for pregnant women in prison (Article 52), Rearing children (under 18 months old) (Article 53), Assistance in protection of incarcerated parents' minor children (Article 53-2), Visit (Article 41)

- Enforcement Decree of Administration and Treatment of Correctional Institution Inmates Act

- : Visit (Article 58), Exceptions to visit (Article 59), Scope of birth (Article 78), Rearing of children (under 18 months old) (Article 79), Transferring children (under 18 months old) (Article 80)

- Enforcement Regulation of Administration and Treatment of Correctional Institution Inmates Act

- : Exceptional Provisions on Pregnant Female in Prison (Article 42), Place for Visit (Article 88 and 89)

- Amended Administration and Treatment of Correctional Institution Inmates Act (effective on October 2019)

- : With amendment, the provision of assistance in protection of incarcerated parent's minor children (Article 53-2) was newly inserted. The provision requires a warden to inform new inmates that they can request protective measures for rearing their children pursuant to Article 15 of the Child Welfare Act.

- : According to amended provision on visit, children can be allowed to visit a place where no partitions are (Article 41, paragraph (2) and (3))

- Directives on Supporting Imprisoned Persons to Return to Society

- : Designated place for a visit by family members (Article 24 and more), clothe (Article 9) and so on.

- : Support persons in prison to recover family ties (Day of Family Union, House for Family Union, Designated Place for Visit by Family Members, Family and Love Camp, etc)

- Set up and operate 'Children-friendly Family Visit Room' which looks like an ordinary daily care center for young children.
- International convention and rules
 - UN Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)
 - UN Rules for the Treatment of Women Prisoners and Non-Custodial Sanctions for Women Offenders (The Bangkok Rules)
 - Council of The Bangkok Rules Europe Recommendation CM/Rec (2018) 5 of the Committee of Ministers to Member States to Concerning Children with Imprisoned Parents
 - UN Convention on the Rights of the Child
 - : It ensures that each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's status. (Article 2)
 - : In all actions concerning children, the best interests of the child shall be a primary consideration (Article 3)
 - : The child who is separated from one or both parents has the right to maintain personal relations and direct contact with both parents on a regular basis (Article 9)
- Recommendation of National Human Rights Commission of Korea
 - National Rights Commission of Korea, stating "the human rights of children of imprisoned parents shall be protected in any point of criminal proceedings from arrest, trial, to execution of sentence of their parents", recommended Chief of the National Police Agency, Chief Justice of the Supreme Court, Minister of Justice and relevant authorities should improve criminal justice systems for them (March 2019).
- Large number of caregivers of those children are a single parent. Meanwhile, the number of children raised by grandparents showed an upward trend. Unfortunately, some children were placed into foster care and others were left with their siblings at home.
- Majority number of families with incarcerated parents lived in poverty and around 20 percent of them were in the lowest income bracket and received state support.
- Most of the young children of incarcerated parents resided with their parents before their parents' incarceration. Even some children were present at the moment of their parents' arrest.
- More than 70 percent of those children did not perceive the fact that their parents were in prison, and those parents also did not want their children to know about their imprisonment.

Supporting children of incarcerated parents in foreign countries

- United States
 - The United States has set up data on pregnant women in prison.
 - Related laws were legislated to support those pregnant women in correctional facilities, for example, a ban on the use of restraints.
 - Special areas for pregnant women were built and used in correctional institutions.
 - 'Doula Birth Support' for Incarcerated Pregnant Women is provided to help their delivery and baby caring.
 - Depending on each state's program, incarcerated female could rear their babies in correctional facilities for 30 days to maximum of 36 months.
 - There are separate places in correctional facilities specifically for incarcerated mother and her children across the United States.
 - Support for children rearing is provided to imprisoned mothers by numerous authorities, such as the police, the Ministry of Welfare, the court, correctional services and the government.

Survey on inmate's child rearing

- The majority of the inmates' children are in an unstable environment where caregiver presence or stability is poor.
- Half of the inmate's children were raised in families where their parents were not legally married.

- United Kingdom
 - In the United Kingdom, a civic organization called 'Birth Companions' provides support to pregnant inmates and their babies.
 - Woman inmates could rear their children under 18 months old.
 - 'Birth Companions' also has set up and operated 'Mother and Baby Units' in the correctional facilities.
 - The correctional services and relevant authorities have built a cooperation network with civic organizations. They also operate visitors centers, support programs, and a hotline program.
- Germany
 - In pursuant to Criminal Administration Act of the federal government and each state government, the support for pregnant women inside the correctional institutions shall be as equally furnished as those outside prison walls.
 - To support imprisoned pregnant women, 'Mutter-Kind-Heim', which is a special facility installed in correctional institutions for mother and her children, has been established and operated.
 - Under the federal criminal administration act, female inmates may raise their children up to three years of age in correctional facilities.
 - Correctional institutions employ nursing teachers who take care of children of incarcerated women and do what those mothers are not able to do, such as, going outside with those children, helping the children to attend preschool outside of the correctional institution or hospitals).
 - Caritas Association, a non-statutory welfare association, operates a website for children of inmates.
- Japan
 - There are total number of 11 correctional facilities exclusive for women inmates (6 correctional institutions, 4 detention centers, and 1 rehabilitation center).
 - In these special facilities, incarcerated mothers could rear their children until those children reach 12 months old (the rearing period could be extended for 6 additional months).
- Those institutions and centers provide medical treatment for pregnant inmates to help their labor and delivery as well as child rearing.
- After 2000, correctional facilities were faced with the issue of overcrowding. Since then, children of incarcerated mothers have been sent to foster care system run by a local government.
- Taiwan
 - There are 3 women's correctional institutions
 - Inmates are allowed to rear their children under 3 years old (the rearing period could be extended for 6 additional months)
 - Those correctional institutions have separated facilities for incarcerated mother and their children, such as a designated complex including infant shelters, nursing rooms, outdoor playground, and etc.
 - Nursery teachers take charge of rearing children with the assistance of female inmates.
 - In particular, when those children become 2 years old, they are allowed to attend pre-schools outside of the correctional facility.
 - With thoroughly established child rearing support programs for incarcerated mothers, the mothers can attend occupation training or other forms of works.

Policy Recommendations

Improve conditions and correctional treatment for pregnant inmates

- It is recommended to supply pregnant inmates with sufficient nutrition.
- It is necessary to allow the pregnant inmates to reside in rooms with properly working heating and cooling, along with capacity to take hot water baths.
- It is necessary to improve living conditions of correctional facilities.
- It is necessary to provide educational programs for pregnancy and delivery would be helpful as well.
- Relevant governing rules or regulations should also be established.

Improve conditions for rearing children in correctional facilities

- More correctional institutions for women and their children should be established.
- Conditions of child rearing areas should be improved, such as providing children with comfortable room temperature and humidity with well-functioning ventilation system.
- More products can be accessible for rearing children by stages of development.
- Correctional institutions themselves should provide and operate their own child rearing programs.

Support children of incarcerated parents who are marginalized in society

- It needs to be developed measures to help children to alleviate the psychological shock and emotional trauma after their parents' arrests or detainment. (Rules on Criminal Investigation of the National Police Agency).
- It is necessary to collect as much information as possible on these children, in order to provide them with appropriate support programs.
- Utilizing advanced telecommunication technology such as 'Smart Visit' could help the children to keep close connection with their incarcerated parents.
- More opportunities for family visits should be permitted to restore their family relationship.

Alternative criminal policy to support children of imprisoned parents

- Inmates with children could be placed in correctional facilities that are geographically more accessible to their families.
- Temporary leave for child care or child rearing can be introduced.

Minimizing detention of pregnant women or persons with young children

- The accused with young children needs to be tried without physical detention.
- An alternative criminal policy, such as weekend detention, weekday detention, or home detention may be considered.

Expected Effects of the Policies

Improvement of correctional treatment

- Correctional Treatment for pregnant inmates and inmates with young children would be improved along with conditions in correctional institutions for children rearing.
- Welfare of young children living in correctional institutions would be enhanced with their best interests in consideration.
- Furthermore, the inmates' children living outside correctional facilities would receive more practical and proper supports that they truly need.

Effective use of this study

- The study could be used as a reference for improving correctional treatment for pregnant inmates and inmates with young children.
- Based on findings of this study, it is possible to take into consideration more practical ways to enhance confinement environment of pregnant inmates and inmates with young children.
- The study might contribute to improve child rearing environment for the children under 18 months old living in prison and enhance their welfare.
- The study will provide a reference to develop improvement in correctional treatment for the inmates with young children.
- Examples of foreign countries used this study, such as support for children rearing and separate complex for mother and children in correctional facilities, would be a great reference when establishing related policies.

Major Keywords

Children of incarcerated parents, Rearing children, Pregnant women in prison, Women inmates, Women's correctional institutions





Change

Human Behaviors
Community Response
Social System