

The Rights of Family Members and Persons with Affective Ties of Persons Deprived of Liberty

RESOLUTION No. 2/25





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(Approved July 24, 2025)

I. INTRODUCTION

The Inter-American Commission on Human Rights (IACHR) has highlighted, on several occasions, that the deprivation of liberty subjects persons deprived of their liberty to the risk of suffering multiple violations of their rights that not only affect the imprisoned person, but also extend to their families¹.

This situation is particularly worrying considering the high rates of incarceration and overcrowding, especially due to the excessive and non-exceptional use of pretrial detention, which constitutes one of the most serious problems in most States in the region. Persons in pretrial detention suffer serious emotional and psychological effects as a result of forced separation from their family and community, as well as the deprivation of their liberty without having been convicted². In addition, the abusive use of this measure stigmatizes detainees and destroys life projects, extending its negative impacts to their families, also affecting their bond with the community.

In this regard, it has been highlighted that the breakdown of protection ties caused by imprisonment and the obstacles to maintaining adequate contact, cause people under the care of those detained to be exposed to situations of poverty, marginalization and abandonment. These conditions, in turn, can have long-term consequences for family members, such as involvement in criminal organizations or even institutionalization³.

This situation generates great concern considering that, according to estimates by civil society organizations, each arrest directly affects five people in the immediate environment of the person deprived of liberty⁴. Most of these people are children, adolescents and women, who disproportionately face the social, economic and emotional impacts of incarceration⁵.

In the same way, elderly people or people with disabilities – whose care was originally in charge of a detained family member – suffer a differential impact because they are deprived of such care and, sometimes, because of the impossibility of visiting them in prison due to the lack of adequacy of the spaces. In this regard, the IACHR has recognized the difficulties for elderly family members to travel and visit distant detention centers⁶. Similar complexity can be faced by people with disabilities.

In turn, in their daily lives, the relatives of persons deprived of liberty face discriminatory practices and situations of social stigmatization that violate their fundamental rights. In particular, in the context of visits to detention centers, they are subjected to various forms of ill-treatment and intrusive searches by prison staff. These situations have a profound

impact on their physical, mental, and emotional health, seriously affecting their overall well-being⁷. Additionally, considering that on many occasions they assume the role of human rights defenders, families and persons with affective ties of persons deprived of liberty can be subject to threats, harassment and surveillance and even face reprisals for defending the rights of their imprisoned relatives⁸.

The Commission has remarked that the lack of policies or programs focused on the well-being of the children of incarcerated people are factors that can cause serious violations of their rights. Specifically, they suffer stigmatization and discrimination, have fewer opportunities to comprehensive development, and, as a result, if they do not receive the necessary support, they themselves may commit crimes or become involved with crime. In addition, they would face a lower life expectancy than other children, and more likely to lose their freedom. They may also experience a variety of mental health problems including depression, hyperactivity, aggressive behavior, worsening psychosocial disabilities, sleep and eating problems, as well as flight, truancy, and poor school grades⁹.

In addition, specialized studies on the subject indicate that children with adult referents deprived of liberty face other situations that may interfere with their integral development and quality of life. Among the main difficulties identified is the tendency to hide from children and adolescents the incarceration of their family member, which makes it difficult to understand their reality and negatively affects the construction of their emotional bonds and personal autonomy. Likewise, they face a high emotional toll from visits to detention centers, intrusive searches and treatment, which contributes to the formation of negative perceptions of the authorities. In some cases, this is compounded by the normalization of illicit activities in their environment, which can impact their overall development and their vision of legality and social coexistence¹⁰.

In addition, given that most of the unpaid care work falls on women and that they are the ones who most often visit their detained relatives, women relatives of people deprived of liberty face a significant increase in their care burden. This overload includes both support for incarcerated people – through procedures related to judicial processes and administrative procedures – and the care of those people who previously depended partially or entirely on those who are now detained. They must also assume the economic impact derived from the loss of income generated by detention, as well as the additional expenses associated with visits and the provision of basic supplies for persons deprived of liberty, despite the fact that the latter responsibility corresponds to the States¹¹. In many cases, older women assume the care of their grandchildren or other children and adolescents with adult referents deprived of liberty, which generates serious economic difficulties for them considering their arrival at old age already impoverished¹².

In the context in which the person detained is a woman, the Commission has recognized the severe consequences for the people in her care, such as her children, people with disabilities, and the elderly. The lack of data collection on the composition of the family group of incarcerated women prevents the adoption of prison policies that include proposals for the maintenance of family ties, which, moreover, is an essential component during the process of social reintegration of persons deprived of liberty¹³.

Considering that most women involved in the commission of crimes are in charge of single-parent households and are the only caregivers of their children¹⁴, when they are incarcerated the care of their children is usually in charge of the closest relative. Sometimes, the intervention of social services is even required to support their well-being¹⁵. This is

especially worrying considering that 87% of women deprived of liberty are mothers¹⁶.

Similarly, this situation can lead to the institutionalization of their children in protection centers. In extreme cases, in some countries of the region, the prison sentence can lead to the loss of parental responsibility of people with respect to their minor children, which can also imply that they are declared for adoption¹⁷. These situations violate the best interests of children and, in particular, their right to live in a family and to be cared for and raised by their mothers or fathers within the family¹⁸.

Based on the foregoing, the Inter-American Commission on Human Rights, in the exercise of its mandate to promote the observance and defense of human rights in the hemisphere, adopts this resolution to recognize the violations of their rights faced by family members and persons with affective ties of persons deprived of liberty and urge the States of the region to adopt measures to remedy it.

II. DEFINITIONS

For the purposes of this resolution, the IACHR takes into account the following definitions:

PERSON DEPRIVED OF LIBERTY: Any person subject to any form of deprivation of liberty, detention, imprisonment, or custody for reasons related to crimes or infractions and breaches of the law, whose detention has been ordered by or under the control of a competent authority in a public or private institution in which he or she cannot have his or her freedom of movement. This category is applicable to all persons under the above-mentioned circumstances, regardless of their procedural or legal status¹⁹.

FAMILY MEMBER AND PERSON WITH AFFECTIVE TIES OF PERSONS DEPRIVED OF LIBERTY: Any person who maintains a kinship bond that makes him or her relative to the person deprived of liberty, whether by blood, legal, by affinity or by choice, including whom has an affective bond derived from frequent contact and trust, without time limits and without any form of discrimination²⁰.

ADULT REFERENT DEPRIVED OF LIBERTY: Any adult person deprived of liberty who is responsible for the care of a child or adolescent, which includes fathers, mothers, or legal guardians²¹.

III. CONSIDERATION

The Inter-American Commission on Human Rights,

CONSIDERING the value of human dignity and of the fundamental rights and freedoms recognized by the Inter-American System and by the other systems of international protection of human rights;

BEARING IN MIND the right of persons deprived of liberty and family members to maintain their ties, as well as the principle of the non-transcendence of the penalty;

EMPHASIZING that the family is the natural and fundamental unit of society, and that the separation of persons deprived of liberty from their families in an unjustified, arbitrary, or contrary to applicable legislation implies an affectation of Article 17(1) of the American Convention on Human Rights and Article VI of the American Declaration of the Rights and Duties of Man;

TAKING INTO ACCOUNT the best interests of the child as a primary consideration that the competent authorities must prioritize in all actions or decisions adopted that affect or refer to children and adolescents in all spheres of life, as well as the right of children to live with their families;

REAFFIRMING that the principle of equality and non-discrimination prohibits arbitrary differences in treatment and requires the creation of conditions of real equality vis-à-vis groups that have historically been excluded or are at greater risk of being discriminated against;

RECOGNIZING that imprisonment impacts the lives of the relatives of persons deprived of liberty, especially children and adolescents, women, persons with disabilities, and the elderly, whose suffering may constitute an autonomous violation of their right to integrity;

EMPHASIZING the work of family members, especially those who assume care, affective responsibilities, and the provision of basic elements to their incarcerated family members, as well as in their role as defenders of the rights of their incarcerated family members;

EMPHASIZING the importance of the production of information as a fundamental element for the visibility and recognition of the families of persons deprived of liberty in government agendas, and the importance of organization of family members as a mechanism itself for the prevention and reporting of violations of the human rights of persons deprived of liberty;

RECOGNIZING the need for state policies to incorporate the situation faced by family members, with intersectional and intercultural perspectives;

TAKING INTO ACCOUNT the principles and provisions contained in the following international instruments: American Convention on Human Rights; Inter-American Convention to Prevent and Punish Torture; Inter-American Convention on Forced Disappearance of Persons; Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women; Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities; Inter-American Convention on the Protection of the Human Rights of Older Persons; American Declaration of the Rights and Duties of Man; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas; Convention on the Rights of the Child; Basic Principles for the Treatment of Prisoners; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Standard Minimum Rules for the Treatment of Prisoners; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders; United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and other international human rights instruments applicable in the Americas;

REAFFIRMING the decisions and jurisprudence of the Inter-American Human Rights System;

NOTING WITH CONCERN the absence of public policies that recognize the effects of deprivation of liberty on the lives of the entire family group, especially on children and adolescents with an incarcerated adult referent, on adults and on persons with disabilities; as well as the absence of measures to protect the families of persons deprived of liberty.

IV. OPERATIVE PART

In the exercise of the functions conferred on it by Article 106 of the Charter of the Organization of American States (OAS) and in application of Article 41(b) of the American Convention on Human Rights ("Pact of San José, Costa Rica" or "American Convention") and Article 18(b) of its Statute, the IACHR adopts this Resolution on the Rights of Family Members and Persons with Affective Ties of Persons Deprived of Liberty addressed to the Governments of the Member States:

SECTION I

General principles

A. Equality and non-discrimination

1. States must ensure the unrestricted application of the principle of equality and non-discrimination in all measures adopted to guarantee the rights of persons deprived of liberty and their families. Within the framework of this obligation, they should prevent and combat any action that promotes discrimination and stigmatization of the relatives of persons deprived of liberty, especially those motivated by disability, advanced age, or any other factor of vulnerability.
2. States must apply the principle of the best interests of the child, in conjunction with the principle of equality and non-discrimination, to consider their specific situation and the disproportionate effects on children and adolescents with an adult referent deprived of liberty.

B. Protection of the family bond

3. States have the obligation to adopt measures aimed at strengthening the family and protecting the family bond between persons deprived of liberty and their families.
4. States must promote as widely as possible the development and strengthening of the nuclear family as a measure for the protection of children, which includes families made up of persons deprived of liberty.

C. Differentiated, intercultural and intersectional approaches

5. States should incorporate differentiated, intercultural, and intersectional approaches to protection in all laws and practices adopted in order to guarantee the rights of family members of persons deprived of liberty. Such measures must consider impacts on their rights, including for socioeconomic reasons, and the possible obstacles that some groups of people at particular risk may face, with emphasis on children and adolescents, people with disabilities and the elderly.

SECTION II

State duties to guarantee the rights of families of persons deprived of liberty

6. In their legislation, regulations and practices in prison and penal enforcement matters, States should recognize that family support and social networks of support are fundamental elements for the social reintegration of persons deprived of liberty and, therefore, to guarantee one of the purposes of the custodial sentence.

7. In the framework of the development, implementation, and evaluation of prison policies and programs, States should incorporate the perspectives and opinions of the families of persons deprived of liberty in order to strengthen social reintegration, which includes the participation of children and adolescents according to their age, maturity and degree of development. To this end, it is essential that States recognize and promote processes of family participation in life within prisons, without discrimination on the basis of advanced age, disability or any other ground.

8. States should ensure that prison information systems include indicators on the family composition of persons at the time of their arrest in order to collect data on the family group of persons deprived of liberty and to make families visible. This, with special emphasis on the identification of those who have minor children outside prison or are responsible for the care of other people, especially the elderly or people with disabilities. Such data would be compiled from the information voluntarily provided by the detainees.

9. States must create and adopt effective prison policies that privilege the maintenance of family ties as an essential element for social reintegration, as well as to improve coexistence in detention. This obligation includes strengthening the family relationships and support networks of incarcerated persons through the facilitation of visits or any other means of contact, and the inclusion of families and trusted persons in the process of progressive return to life in society. The measures adopted in this regard should include reasonable accommodations to facilitate the participation of elderly or disabled family members, taking into account their possibilities of travelling.

10. In particular, such policies aimed at maintaining family ties should focus on: (i) respecting the right to maintain family ties against arbitrary interference; (ii) ensure that persons are accommodated in detention sites close to the homes of their family members and other persons in their care; (iii) facilitating visits; (iv) to ensure appropriate conditions for visits by allocating suitable spaces for that purpose, which are universally accessible and suitable for persons of all ages; and (v) to ensure that visits are carried out at least with the periodicity, modality and duration indicated in prison regulations.

11. Specifically, States should recognize in their legislation and regulations the right of incarcerated persons to be deprived of liberty in spaces close to their families as a right that belongs to both them and their families. Guaranteeing this right in its dual conception is essential for the maintenance of family ties as an essential element for social reintegration, as well as for protecting this bond by preventing families from having to face large displacements and economic costs to maintain contact with their detained relative.

12. In order to guarantee the right of incarcerated persons to be deprived of liberty in spaces close to their families, it is essential that the competent authorities carry out an evaluation of the most appropriate place taking into consideration the rights of family members, with emphasis on the development of private and family life, and the best interests of the child. This examination must also be applied when deciding on subsequent transfers to other places of deprivation of liberty, in respect of which, if they have not been requested by the person in custody, he or she should, as far as possible, be consulted on each transfer. In all cases, the authorities should justify the criteria on which a decision is based and how the interests of detainees and their families have been weighed against other considerations.

13. In the context of visits, States should prohibit with no exceptions intrusive vaginal and anal searches of visitors, which should not admit exceptions. In this line, alternative means of recording and non-invasive technological equipment based on full respect for human rights must be used, as well as training the civil service for its use.

14. In the particular case of visits between detainees and their children, States should also allow direct contact between detainees and ensure that prisons have appropriate facilities for gathering that include child-friendly spaces.

15. States should implement actions to ensure that family members of persons deprived of liberty have access to information regarding the situation in detention of their family member, especially with regard to the place of accommodation, transfers, state of health, requirements and conditions for visits, and condition of incommunicado detention. The information must be provided in a language understandable to the family, and reasonably adjusted to the cognitive, visual or auditory needs of the family members. In addition, this duty includes immediately reporting the death of a detained family member, its causes and investigations initiated.

16. States have the obligation to prevent, eradicate, investigate, and punish all forms of violence and discrimination faced by family members in their interaction with prison systems. This duty includes protecting family members against all types of reprisals in the face of complaints made.

Notas

[1] In this regard, IACHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 86; and IACHR, [Report on Measures to Reduce the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163 Doc. 105, July 3, 2017, para. 231.

[2] IACHR, [Report on Measures to Reduce the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163 Doc. 105, 3 July 2017, paras. 20-21; also, see: IACHR, [Report on the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II. Doc. 46/13, December 30, 2013.

[3] In this regard, IACHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, paras. 86 and 245; and IACHR, [Report on Measures to Reduce the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163 Doc. 105, July 3, 2017, para. 231.

[4] International Network of Women Relatives of Persons Deprived of Liberty, [The impact of prison on women relatives and the effects on their human rights](#), 2022, p. 4.

[5] IACHR, Public Hearing "Differentiated Impact on the Lives of Women Family Members of Persons Deprived of Liberty in the Americas", 187th Regular Period of Sessions, July 12, 2023.

[6] IACHR, [Human Rights of Older Persons and National Protection Systems in the Americas](#), OEA/Ser.L/V/II. Doc. 397/22, December 31, 2022, para. 172.

[7] In this regard, IACHR, Public Hearing "Differentiated Impact on the Lives of Women Family Members of Persons Deprived of Liberty in the Americas", 187th Regular Period of Sessions, July 12, 2023. Also, see: IACHR, Press Release No. 167/23, [IACHR Concludes 187th Period of Sessions - Annex Press Release 167/23 187 Period of Sessions](#), July 24, 2023; and International Network of Women Relatives of Persons Deprived of Liberty, [The impact of prison on women relatives and the effects on their human rights](#), 2022. Also, see: International Network of Women Relatives of Persons Deprived of Liberty, [Principles and Good Practices on the Protection of the Rights of Women Family Members of Persons Deprived of Liberty \("Bogotá Principles"\)](#), adopted on 20 October 2022, General Provision.

[8] In this regard, see: IACHR, [Resolution 44/2025, PM 440/25 - Andreina Baduel](#), Venezuela, June 12, 2025; [Resolution 38/2025, PM 320/25 - Aurora Carolina Silva Uzcátegui and her two daughters](#), Venezuela, May 4, 2025; [Resolution 37/2025, MC 137/23 - Identified members of the Municipal Committee for the Defense of Common and Public Goods of Tocoa and the Justice for the Peoples Law Firm with respect to Honduras \(Follow-up, Expansion and Survey\)](#), Honduras, May 1, 2025; [Resolution 35/2025, PM 1426/24 - Sairam Gabriela Rivas Moreno \(Extension\)](#), Venezuela, April 24, 2025; and [Resolution 87/2024, MC 409/23 - Franklin Alfredo Caldera Cordero, Franklin Caldera Martínez and Yuraima Martínez \(Monitoring, Modification and Extension\)](#), Venezuela, November 25, 2024.

[9] In this regard, see: IACHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 98.

[10] In this sense, see: Church World Service and United Guards, [Invisibles: until when?](#), December 2013; and Church World Service, [Children Count](#), February 2019.

[11] In this regard, IACHR, Public Hearing "Differentiated Impact on the Lives of Women Family Members of Persons Deprived of Liberty in the Americas", 187th Regular Period of Sessions, July 12, 2023. Also, see: IACHR, Press Release No. 167/23, [IACHR Concludes 187th Period of Sessions - Annex Press Release 167/23 187 Period of Sessions](#), July 24, 2023; and International Network of Women Relatives of Persons Deprived of Liberty, [The impact of prison on women relatives and the effects on their human rights](#), 2022, pp. 18-24; also, see: International Network of Women Relatives of Persons Deprived of Liberty, [Principles and Good Practices on the Protection of the Rights of Women Family Members of Persons Deprived of Liberty \("Bogotá Principles"\)](#), adopted on 20 October 2022, General Provision.

[12] IACHR, [Human Rights of Older Persons and National Protection Systems in the Americas](#), OEA/Ser.L/V/II. Doc. 397/22, December 31, 2022, paras. 157-163.

[13] IACHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 86; also, see: IACHR, [Report on Measures to Reduce the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163 Doc. 105, July 3, 2017, paras. 201 and 231.

[14] Quaker United Nations Office, [Pre-trial Detention of Women and its Impact on their Children](#), February 2007, p. 5.

[15] In this regard, IACHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 86; also, see: IACHR, [Report on Measures to Reduce the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163 Doc. 105, July 3, 2017, para. 201.

[16] Inter-American Development Bank (IDB), [Women in Contexts of Confinement in Latin America: Characteristics and Risk Factors Associated with Certain Criminal Behaviors- Technical Note No. IDB-TN- 1409](#), April 2018, p. 17.

[17] IACHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, paras. 95 and 99.

[18] In this regard, see: IACHR, [Right of the Child to the Family. Alternative care. Ending institutionalization in the Americas](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, paras. 11, 54, and 317.

[19] In a similar vein, see: IACHR, [Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas](#), adopted by the IACHR on March 13, 2008, General Provision.

[20] In this regard, see: Royal Spanish Academy, [Dictionary of the Spanish Language – Family](#), 2023; and International Network of Women Relatives of Persons Deprived of Liberty, [Principles and Good Practices on the Protection of the Rights of Women Relatives of Persons Deprived of Liberty \("Bogotá Principles"\)](#), adopted on October 20, 2022, General Provision.

[21] In this regard, see: Office of the Special Representative of the United Nations Secretary-General on Violence against Children, [Gurises Unidos and NNAPES Platform. The Voices of Children and Adolescents with a Parent or Guardian Deprived of Liberty](#), December 2018.

