



## Mexico: Prison Conditions Call for State Accountability with Dr. Elena Azaola

---

In this episode, Barbara Frey speaks with Doctor Elena Azaola, an anthropologist and psychoanalyst who specializes in Mexico's politics of security. Her research focuses on youth impacted by Mexico's criminal legal system, children and adolescents affected by widespread violence, and women deprived of liberty. Through these lenses, Dr. Azaola explains the considerations that should be taken into account when advocating for the best interests of children accompanying a parent into the prison system. She discusses the issues faced by Mexico's prisons—such as overcrowding, lack of resources, and ineffective separation of incarcerated men and women—and weighs these conditions against the act of separating a young child from an incarcerated parent. By evaluating these circumstances while respecting the familial bonds between parent and child, Dr. Azaola sheds valuable light on parental incarceration in Mexico.

---

Transcript:

[00:02] Dr. Elena Azaola: ... There is no reason ever to imprison a child. No reason to have a child deprived of liberty, deprived of contact with the outside world.

[00:21] Barbara Frey: Hello and welcome to the International Prison Nursery Podcast. My name is Barbara Frey and I am a board member of Children of Incarcerated Caregivers, which is an organization that works to decrease the negative impacts of parental incarceration on children by influencing relevant policies and programs. I am also the former director of the Human Rights Program at the University of Minnesota.

Today on our podcast, we're going to talk about prison nurseries, with a focus on the country of Mexico. As America's incarcerated population grows, so does the number of children who have parents behind bars. We know that the separation of parents, and especially mothers, from their children because of imprisonment has a traumatic and long-term effect—this affects the mothers, fathers, and the children. One of the questions we're exploring as an organization is the use of

prison nurseries, or the practice of allowing parents, usually mothers, to keep their infants and children with them while they're in prison. According to the United Nations, in most countries mothers can keep their babies with them in prison up to a certain age, that age differs from country to country, typically ranging from one to six, and sometimes even longer. This means that worldwide, large numbers of children spend some of their most formative years in prison, with lifelong psychological consequences.

[02:04] Barbara Frey: Joining us today is Dr. Elena Azaola. Dr. Azaola is an anthropologist and psychoanalyst who works on the politics of security in Mexico. She is a professor at the Center for Research in Social Anthropology in Mexico City. Dr. Azaola's research has a special focus on children and adolescents who are impacted by the widespread violence and by the criminal justice system in Mexico, as well as the women who are deprived of their liberty.

[02:43] Barbara Frey: Welcome Dr. Azaola.

[02:45] Dr. Elena Azaola: Good morning. It's a pleasure for me to be here. My English is not very good, but I will try to do my best.

[02:54] Barbara Frey: We are so grateful for your willingness. I am often in your shoes of having to present in Spanish, and it's a difficult proposition, and I'll tell you, your English is way better than my Spanish. [Dr. Azaola laughs] So, I wonder if you could start us off today by just telling us a little bit about your work as it relates to women and children and adolescents who are caught up in the criminal justice system in Mexico.

[03:23] Dr. Elena Azaola: Yes sure, as you mentioned, I am a social anthropologist and a psychoanalyst. So it means that I like to do research directly with the people, and fortunately, in Mexico, we do not have as many regulations that you have in the States so, I have been able to conduct several projects during the last 30 years in Mexican prisons, and many of them about women, children, and also doing some work with the juvenile justice system. So, these projects try to understand the circumstances of people that live in prison, and of course, the circumstances that took them to commit crimes. I am also committed not only to do[ing] research but always delivering the results of the research and talking to authorities trying to make them understand the changes that are needed. That's a general description of my work during these years.

[04:45] Barbara Frey: That's so interesting and I know that Mexico has some serious problems with its prisons overall—as does every country. But today, let's focus on the situation of children whose mothers or fathers are incarcerated; can you give us a sense of how many children might be affected by this in Mexico, and whether the presence of children in a person's home is a consideration in criminal sentencing of their parents.



[05:20] Dr. Elena Azaola: Well, it is a great topic, but unfortunately, not one that is generally considered in our policies, or either in our justice system. Our justice system never takes into account the consideration of the women, especially do they have children or not, in order to take them to prison. They really do not take it into account. We know that around—it's just an approximate number—of 320,000 children in Mexico have either a father or a mother in prison. It's a huge amount and in Latin American countries recently, there has been a movement that has also impacted Mexico—but very little—and this is a movement in which the children and teenagers that have their parents in prison, have been creating an organization to be vocal about how deeply it affects their lives. And I think it's a great movement but unfortunately has a very little impact in Mexico. Just a few children's organizations or academics are conscious and are worried about this problem and are trying to do something.

But the majority of people, they really do not take this issue into account. And one way to make an example of this is yesterday (July 19th, 2021) they just released the statistics for prisons in Mexico, and they cover all kinds of issues you can imagine, about the crime, about the characteristics of the prisoners, everything, everything, but they never mention, if they have children, if they don't, and if there are children living in prisons with their mother. And we do know that, in fact, in the total country almost 13,000 women are incarcerated in Mexico; only around 450 children live with them in prison. And the issue is that this is the, I could say, main dilemma. When women [are] incarcerated, even when the law in Mexico allows them to have one [child] with them in prison, [it] is generally a big dilemma because the prison conditions are so poor, so bad, so inhumane, that it is very difficult to think that it's a good environment for children to grow in such conditions.

So the dilemma is because if you would think that the [children] being far from their mother are gonna have a better situation is not always the case, so you always have to make this balance in between allowing the children to stay with the mother in very poor, and very bad conditions or not allowing and knowing that the [child] is gonna go to some family member generally because there [are] no organizations, no foster care, so the situation is that children mainly stay with their grandmothers and the conditions vary a lot. In prisons—there are about ten prisons that would have some kind of nurseries, but always very poorly equipped.

Even when our law allows the children to stay—that is crazy that they allow the children to stay—but at the same time, they don't have a special budget to feed them, to secure the facilities. The children are even in prisons, I have seen them, I have seen them, with their mothers in the same bed, like for instance in a room, which there are ten, twelve women prisoners, and the mother has a child with her in their own bed and that prison [doesn't] even have water, for instance, they have to fight for some water. There are no proper conditions for children. But maybe I got too enthusiastic and you have questions in the middle of this general description. [Dr. Azaola laughs]



[10:57] Barbara Frey: [Barbara laughs] No, that's just a great summary of the kind of tensions that we're talking about when it comes to prison nurseries. Right, so there's the psychological consequences that affect children who are separated from their parents, but then there are also, as you're explaining, if their conditions are not right then there's terrible consequences for the children who [are] staying in substandard conditions and not given the kind of development that they need. Let's drill down a little bit on some of those questions. So my understanding is that most women who are in prison in Mexico are not even in women's prisons, that they are in men's prisons with a small section, is that right?

[11:53] Dr. Elena Azaola: That's right and they are exposed to all kinds of violence, because so many times the men do not respect the separation, and they go to women's section, either for good things, for asking them to prepare some meals or washing some clothes that could be good for them to have a little money, but also for prostitution, and sometimes that is forced prostitution. So can you imagine if the women have children with them in such conditions, they are exposed to everything, to everything. And that's the majority of their situations because only 35 percent of women are in female prisons and 65 [percent] are inside of male prisons, sometimes better protected than others, situations vary.

But the issue is that the women have to get good advice; either it is better for the children to stay with them, or it is better for the children not to stay there, but there is not always that functionary that can alert the women, and try to balance which will be better for the children. Sometimes the woman would like to [make] the decision only based on their desire to have the children with them, and we can understand that. But it's not the only thing that has to be considered, it's not the only thing. And sometimes even functionaries tend to accuse women because they say, 'Oh yes, they want to have the children with them because they want to have some privileges, like, a little better area, a bed just for themselves—that's a selfish situation.' That's the mentality of the functionaries. So my point is, almost nobody [is] thinking in the better interests, and the superior interests of the children. There are so many other variables that make the decisions to be taken, but not the superior interests of the children.

[14:38] Barbara Frey: Right, right, so are there even some children that are allowed to stay with their mothers even though they're not in an all-women's prison, but they're just a part of the men's prison? Have you seen that?

[14:51] Dr. Elena Azaola: Yes, of course, yes of course I have seen that. In very difficult conditions in which also, men can make a protest or revolt inside of the prison, and that could affect the women's section. And can you imagine even exposing children to those conditions—I have seen that—but sometimes the women claim they don't have family members to leave the children [with]. And the situations vary, because sometimes when they have some family



members that could provide her with the special food, diapers, things that the baby needs, but sometimes they don't even have those conditions. So the women have to share their own food, share their own bed, share everything with the children because the prison has no provisions, no special resources for children, and you can listen to so many prison directors saying, 'My position is to be this, safe for these prisoners, but my work is not about the children. It is not. I am not capable to provide them with health, with a doctor, I am not. So if they bring children here it is by their own responsibility, it's not my responsibility,' some of the directors could say that.

[16:43] Barbara Frey: So is the decision about whether to keep the child in prison simply the decision of the mother, does she get to decide whether or not, or is there any judge or arbitrator who gets to look at the best interests of the child?

[17:02] Dr. Elena Azaola: Judges do not have any capacity to intervene about these issues. The decision is only taken by the combination of the women and the particular authorities of each prison. Of course, I have always defended that the mother has to have an opinion, has to defend the right to have the children if their children do not have better conditions living outside. The women could also—we now have a figure of execution judges, that's the name they receive—that those would be the ones that the women could ask them to make the law be applied in such cases, but these judges are not working totally properly. They are not in all places, they are weak. They do not have [enough power] to enforce the law, even though when on paper, they could have the right to have an opinion about such situations.

[18:22] Barbara Frey: Right, so let's talk, you've raised the question of the law and the role of the authorities and the judges. Tell us what Mexican law says and is Mexican law, has it been influenced by international standards regarding the treatment of children of prisoners?

[18:41] Dr. Elena Azaola: Yes, the standards have supposedly been taken into account, and the authorities say they respect those standards and those treatments like the Bangkok Rules that apply particularly for the situation of women in prison. But then when you go to certain prisons that have difficult situations, the laws really are not totally applied, they go case by case situations.

For instance, Mexico City has the best nursery, they really have a nursery for children. It is the best one, or maybe the only one—there are two or three more states that could have very good nurseries because it's a female prison. But for instance, even in Mexico City, that nursery mainly serves the correctional officers' children. The women correctional officers take their own children to that facility because they have teachers, they have a school space, so they leave their own children in that space while very few women prisoners are allowed to have their own children there. There is even a contradiction in some laws, because the law about children, they



say the children can stay there [until] six years old, but the national law for executing the penalties—something like that—Ley Nacional de Ejecución Penal, they say only until three years old.

So at the end, it's again discretionary by the director of the prison if they see that the children have better conditions to stay there or not. And some others could say, 'No, I don't want any children to be here,' so the laws are not totally enforced, that is the situation. There is a contradiction in between the two laws, but no law makes them have all resources and provisions to secure that the children's rights are fulfilled. No law has that capacity to really secure all children's rights in prisons. It's not that situation.

[21:41] Barbara Frey: And what you're describing is not unusual in the gap between the law and the actual execution of the law in different states and I imagine that what's missing is a group of advocates on behalf of these children and the mothers in particular. Are there any advocates who are working to hold the state accountable under this law, and if not, why not?

[22:09] Dr. Elena Azaola: Well, there are a few organizations that really try to fight, even to supervise, but all of these type[s] of organizations have difficulties because, again, it's discretionary for the prison authorities to let them do their job, their supervision, their advocat[ing]. It would be great [if] we could have more organizations advocating for this cause, but we just have a few, two or three [of] these organizations. But so many times, the directors of the prisons do not allow them to get inside the prisons to talk with the women, to know about the conditions of the children. It's difficult, even though the Ley Nacional de Ejecución Penal states that these organizations should try to make a balance and supervise these conditions, an overview of the services of the prison, but not always, they are not allowed to get inside always.

[23:25] Barbara Frey: Yeah, that's, that's probably a big reason why the violations continue to exist and also the manipulation of the system that you've explained, of why the actual employees of the prison system who bring their own children to the prison nurseries instead of the children of prisoners. So, given these difficulties that you've documented and you've seen in Mexico, Elena, do you have a sense of globally what recommendations you would have on the use of such prison nurseries? Do you think in general, it's a good alternative, but that it just needs to be enforced? Do you have any experience with the systems that are run well?

[24:16] Dr. Elena Azaola: No, I haven't seen any of them that totally means good respect of children's rights. There are better situations than others and I think a good idea that I heard sometime—that was proposed by UNICEF and I think it's a great idea—would be to have those nurseries not inside of the women's prison or, even in men's prison, but *next* to the prison. [A] facility for children like a residential school next to [the] prison, that allows children to be part of the time with their father or the mother who is in prison, certain hours a day, but at the same time



that they have the opportunity to stay in contact with the community, going out of school, seeing other [family members]. That could be a great idea, not to have the nurseries inside the prison, because at least in Mexico they are exposed to horrible, horrible experiences—people getting drugs.

We allow a lot of conjugal visitors, so sometimes the mother does not have [anyone] with whom to leave the child when she goes to her visitor, so the [child] stays with somebody else that at the same time could abuse—and it's happened a lot—who could abuse that child. So that could be my proposal. Well, in fact, it was UNICEF but I think it's a great idea. So that way you will have that they do not lose contact with their father and mother, but that contact could be just for certain hours in which they will have activities and proper spaces and everything. But at the same time, they remain in contact with the outside world because there is no reason ever to imprison a child, no reason to have a child deprived of liberty, deprived of contact with the outside world, [there] is no reason for that.

[27:00] Barbara Frey: Right, they—children shouldn't be prisoners themselves. I guess you've set out these parameters that are extremely helpful for us to consider moving ahead. I think that the key has to be some sort of outside monitoring to make sure that the state is providing the kinds of resources and oversight to protect the child's well-being and to look after the best interests of the child. So it's probably a good thing that organizations like ours are beginning to look at this issue in the United States, where we have so many people in prison, and so many children are affected and, and there's a need for an independent voice to recognize this population of children as having its own unique needs and need for protection. So, in closing, Elena, we'd love to hear if you have advice for us as an organization as we continue to look at these possibilities of how to protect the rights of children whose parents are incarcerated.

[28:12] Dr. Elena Azaola: Well I think it's a great focus you have in your organization, and I think it is really crucial. In another study I made on juveniles, I realized that 40% of them have had a family member in prison. So, it is amazing how great an impact it had on them, having those family members in prisons, and their stories are kind of repeating and repeating because nobody cares about those children. And I think that telling the stories by the own children that have been in prison staying with the mothers would also be great. Maybe contacting them years after they have had their experience to let society know those children are not, not to be blamed for the crimes their parents committed. So they have to have rights, they have to have better conditions in all kinds of things, so to be sure that their stories are not reproduced once and again, once and again, because nobody cares about the situation of those children. So I congratulate your organization for taking this particular issue because it is a crucial one.

[29:55] Barbara Frey: Well Dr. Elena Azaola, I'm so grateful to you for your time and your expertise. You've really helped us understand how this prison nursery system plays out in idea



but also on the ground in the prisons in Mexico, and you've helped us to bring that knowledge into our own discussion, so we look forward to continuing this conversation with you as we work on this issue in the future. Thank you.

[30:24] Dr. Elena Azaola: Thank you very much too. Thank you, it was a pleasure to talk to you.

---

[30:35] Barbara Frey: Thank you for listening to the Children of Incarcerated Caregivers International Prison Nursery Podcast. We're your hosts, Barbara Frey and Paul Dosh, advisory board members of Children of Incarcerated Caregivers. To learn more about our organization and view additional materials, documents, and research from this episode, please visit our website at [cicmn.org](http://cicmn.org).

This episode was recorded in July 2021 in collaboration with the University of Minnesota's Human Rights Program. This podcast was created with research from our student collaborators McKenna Haas, Olivia Hudson, Jessy Rehmann, and legal researcher Claire Stobb. Episodes contain original music by David Smith and production by Brian Carnell. Don't forget to tune into the next episode! We hope to see you there.

[END]

