Childhood detention during COVID-19 in Italy: building momentum for a comprehensive child protection agenda

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Childhood detention represents an integral part of the public health response to the COVID-19 emergency. Prison conditions in Italy put detained minors at grave risk of contracting sudden acute respiratory syndrome coronavirus 2 (SARS-CoV-2) infection. To date (29 April 2020), the Italian penitentiary system is housing 161 minors (147 males), most of them in pre-trial custody, as well as 50 children <3 y of age residing with their mothers in detention. Furthermore, the government reported 5265 unaccompanied minor migrants, mainly from Gambia and Egypt. The fundamental approach to be followed in childhood detention during COVID-19 is prevention of the introduction of infectious agents into detention facilities, limiting the spread within the prison and reducing the possibility of spread from the prison to the outside community. This appears challenging in countries like Italy with intense SARS-CoV-2 transmission. The current COVID-19 pandemic shows the need to provide a comprehensive childhood protection agenda, as the provision of healthcare for people in prisons and other places of detention is a state responsibility.

On 13 April 2020, the United Nations Children’s Fund (UNICEF) released its statement on detainee conditions around the world posing a grave risk to children of contracting COVID-19. The group has called for the urgent release of minors held in the juvenile justice system (including pre-trial custody), in immigration detention and confined in relation to armed conflict. Indeed, all detainees, including children, are more vulnerable to sudden acute respiratory syndrome coronavirus 2 (SARS-CoV-2) infection than the general population because of their underlying burden of disease. Since the risk of rapidly increasing coronavirus 2019 (COVID-19) transmission within the penitentiary system is likely to have an amplifying effect on the epidemic, childhood detention should be an integral part of the Italian public health response to the emergency.

The Italian corrections system is currently housing 161 minors (147 males), with the vast majority (72%) in pre-trial custody. The government released two decrees (000443 and 000534) establishing urgent measures to adopt across the prison system to prevent COVID-19 transmission. These include, among others, restrictions on family and lawyer visits, indications for testing and isolation of inmates and the supplying of personal protective equipment (PPE). However, the decrees do not mandate any temporary release scheme for minor prisoners (<18 y of age).

According to Italian Penitentiary Law 354/1975, inmate mothers on high security status can keep their children until they reach 3 y of age. To date (2 May 2020), 50 children <3 y of age are residing with their mothers in detention.

These women cannot benefit from settlement in protected family houses (Istituti a Custodia Attenuata per Madri) nor are they eligible for other temporary non-custodial measures established by the government due to the COVID-19 emergency. The mother-and-child prison units can accommodate up to three women with their children, with barred windows, uniformed female security staff and the sharing of some facilities (such as courtyards and sports rooms) with other female inmates.

Severe COVID-19 in children is rare, but data suggest that young children, particularly infants, are more vulnerable to COVID-19 than other age groups. Although all the detainees are at high risk of contracting SARS-CoV-2 infection compared with the general population, there is also clear evidence that children are asymptomatic or pauci-symptomatic for SARS-CoV-2 infection. This raises the possibility that children in prison could be facilitators of viral transmission. The very fact that these women and their children live in close proximity with others implies a heightened risk of person-to-person and droplet transmission of pathogens.

Furthermore, as of March 2020, the Italian Ministry of the Interior reported 5265 unaccompanied minor migrants (<18 y of age), mainly from Gambia and Egypt. These separated refugees are living in reception centres, held in close proximity to each other and disrespecting social distancing rules. More than 25% of young offenders detained in Italian reception centres are affected by chronic respiratory conditions, mainly due to tobacco smoke. Recent findings revealed an increased risk of COVID-19
in active smokers and SARS-CoV-2-related exacerbations in patients with respiratory illnesses. Unaccompanied minor migrants would benefit from placement in foster care. Indeed, Italian Law 47/2017, for the first time in Europe, establishes mandatory admission of unaccompanied minors and identifies two forms of child protection procedures: foster care and voluntary guardianship. So far, due to the heavy bureaucracy, only 3% of unaccompanied minors have been authorized to live with foster families. 

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Since the virus can be introduced and circulated in closed places through the work staff, new entrants or family members, all external visitors have been suspended, further undermining the children’s health and social, emotional and cognitive development. Indeed, minors in prisons and other places of detention are already deprived of their liberty and may react differently to supplemental restrictive measures imposed upon them.

The current COVID-19 pandemic calls for a comprehensive childhood protection plan for the prison and detention system, as this is a state responsibility. Adequate measures should be put in place to ensure non-custodial discharge for low-risk children and adolescents at all stages of the administration of criminal justice; speeding up of foster care procedures for unaccompanied minor migrants; refined procedures for high-risk minors, like immediate isolation in case of suspected/confirmed COVID-19 cases and systematic fever and lower respiratory tract symptoms screening on admission as well as the introduction of regular testing for SARS-CoV-2.

Finally, as prisons and other places of detention can be more vulnerable to human rights violations, adherence to all fundamental safeguards incorporated in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) must be respected in the response to COVID-19.

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