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Rights of the Child, Mothers and Sentencing Alice Macharia,2021-02-22 This book draws international attention to the autonomy of the child accompanying incarcerated mothers and those they leave behind in the community despite being dependent on the convicted caregiver Adopting a child rights perspective the study explores how courts could go about sentencing mothers of young children for the commission of criminal offences whilst protecting the rights of the child as envisaged under the United Nations Convention on the Rights of the Child UNCRC Drawing on the author s experience as a sentencer in the Kenyan court and with reference to domestic regional and international law the book argues that children s rights are presently left in abeyance when their mothers are sentenced to imprisonment and that greater efforts should be made to recognize and give effect to the child s existence as an autonomous equal holder of human rights despite being dependent on the convicted caregiver It explores the application of precedence as well as the court s discretion in view of the dependent child and concludes that policy reform in this respect calls for change in attitude and approach on women and children s issues Observing that internationally most women imprisoned with their children fall beneath the custodial threshold set by law the research examines how current sentencing practices could be reformed and suggests harnessing the Power of Mercy Committee the Sentencing Guidelines and progressive practices from developed countries in protecting the child s rights by imposing non custodial sentences for the offending mothers It is concluded that in all jurisdictions strict accountability for the dependent child should be situated with the judiciary and that the same should be pronounced as a mandatory legal requirement The book will be a valuable resource for academic researchers and policy makers working in the area of international children s rights law and criminal law

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