



## Economic and Social Council

Distr.: General  
9 December 2013  
English  
Original: Spanish

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### Commission on the Status of Women

#### Fifty-eighth session

10-21 March 2014

**Follow-up to the Fourth World Conference on Women and to the special session of the General Assembly entitled “Women 2000: gender equality, development and peace for the twenty-first century”: implementation of strategic objectives and action in critical areas of concern and further actions and initiatives**

### **Statement submitted by *Asamblea Permanente por los Derechos Humanos*, a non-governmental organization in consultative status with the Economic and Social Council**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.



## Statement

### Female prison inmates and their rights

The *Asamblea Permanente por los Derechos Humanos* [Permanent Assembly for Human Rights], together with the *Procuración Penitenciaria* [Prison Ombudsman's Office], expresses its concern over the violation of the rights of women confined to prison, and the consequences that their situation implies for their children.

Women confined to prison experience profound violation of their rights, essentially because prisons have been created from a masculine viewpoint, without a gender perspective that takes into account the specific situation confronting female inmates.

By way of background, in recent years the female prison population has grown, mainly because of the toughening of penalties imposed under the Narcotics Act. The war on drugs has been marked by an increase in repression, to the detriment of prevention policies. According to information from the Ombudsman's Office itself, 7 out of 10 women were arrested for drug-related offences such as selling and transporting narcotics; 16.2 per cent were arrested for crimes against property, and 14.2 per cent for crimes against persons. In the case of foreign females arrested in the country, the figure rises to 9 out of 10.

The transnational narcotics trade is organized into complex networks and power hierarchies that impose especially harsh punishment on women in socially vulnerable situations. These are poor women from sectors that are socially excluded. They have little education and a great many of them are foreigners who resort to such crimes as their last chance of earning a livelihood. They are generally tempted and destined to "work" by transporting small quantities, and are thus more exposed to penal reforms that have stiffened the penalties for possession, trafficking and marketing.

We also note with concern that more than half (55.4 per cent) of female inmates are being held in prison without a confirmed conviction. We therefore call upon the State to comply effectively with the observations made in light of the Minimum Rules for the treatment of prisoners, in particular those relating to the presumption of innocence and the special regime for untried prisoners, as well separation into different institutions for women serving a sentence and those awaiting trial.

The concern over women in preventive detention is all the greater in light of the 2012 annual report of the *Procuración Penitenciaria*, according to which "9 out of 10 female prisoners are mothers, the great majority of them single parents, responsible on average for 2 or 3 children under the age of 18 years". That fact underlines the role of women in sustaining the family, and the socio-economic consequences, especially for the children, of breaking up the family unit. To counter these effects, the *Procuración Penitenciaria* prepared a draft bill, which became Law 26.472, expanding the possibilities for house arrest for pregnant women and mothers of children under 5 years of age.

In this context, it is also essential to pay attention to the condition of children under 4 years of age who are living with their mother in prison. There can be no doubt that prison is an absolutely inadequate environment for raising children, and one that has severe effects on their physical, mental and emotional development.

Penal institutions are completely inappropriate places of residence for children and babies. Moreover, health-care services in prison do not cover the particular needs of these women/mothers, in terms of pregnancy, breastfeeding and the care that a small child demands.

It is imperative, then, that the State should safeguard the physical and psychological integrity of pregnant mothers and their children, within the meaning of Bangkok Rules 48, 49, 50, 51 and 52.

It is essential as well for the State to guarantee that the penitentiary system fulfil its social purpose of reintegrating female prisoners. In our view, the system falls short in this regard, and the provisions of Law 24,660 on serving prison sentences [*Ley de Ejecución*] calling for gradual improvement in the conditions of detention are not being observed. Only 7.4 per cent of women reach the final stage of conditional release, and more than half are held under preventive detention and are not covered by the system for progressive elimination of the sentence.

Social reintegration relies on two broad pillars: education and work. Article 106 of Law 24,660 stipulates that work “is one of the bases of treatment and has a positive impact on [prisoners’] training”. The *Procuración Penitenciaria* has called attention to the labour activities performed by women, showing that 45.2 per cent work in sewing or garment-making workshops and 54.8 per cent in occupational therapy tasks. This approach tends to reproduce gender stereotypes and is inconsistent with article 107 of Law 24,660: which requires that prison labour shall be programmed “taking into account the aptitudes and psycho-physical conditions of inmates, the technologies used in the outside world, and the demands of the labour market”.

We note that the low wages paid to female prisoners by the Federal Penitentiary Service have an impact on the lives not only of female prisoners but of their family units as well. We recall that the majority of female prisoners come from single-parent households in which they play an essential role as the principal breadwinner. In this respect, it is important to cover basic needs by paying the minimum wage [*Salario Mínimo, Vital y Móvil*] and to fulfil all the social security requirements of Law 24,660 and its regulations.

With respect to the other pillar of social reintegration, we note that the right to education must be guaranteed in accordance with the *Ley de Ejecución*, which recognizes prisoners’ right to learn, and stipulates that measures must be taken “to maintain, foster and improve their education and instruction”. The above-mentioned research on female prisoners found that only 35.1 per cent were receiving formal education, and that work was the principal impediment. In prison, moreover, women must work to support their families and they must meet the personal needs that the Federal Penitentiary Service does not cover adequately. This is of even greater concern when it is recognized that 63.5 per cent have not completed secondary school, which is compulsory by virtue of the Education Act, Law 26,206.

When it comes to access to health services, the *Procuración Penitenciaria* team discovered the alarming fact that 43.2 per cent of women have not received the Pap smear test, and that 61 per cent of women over 35 years of age have not undergone mammogram screening. On the other hand, 62 per cent of women who received such checkups were not informed of the results. Another important finding is that 35 per cent of women who requested some type of contraceptive method were denied. Given these health service shortcomings, the *Procuración Penitenciaria* and

the Permanent Assembly for Human Rights reaffirm the principle that the health care provided in prisons must be equivalent to that stipulated in Government health policies. We also insist that the State must guarantee access to health services for female prisoners under the terms of paragraphs 22, 23, 24 and 25 of the Minimum Rules for the Treatment of Prisoners, and we stress the need to ensure that health personnel are administratively independent of the Federal Penitentiary Service.

In light of the foregoing, the *Procuración Penitenciaria* and the Permanent Assembly for Human Rights urge the State to take immediate action to guarantee the effective observance of the human rights of female prisoners, by adopting penitentiary policies that will take into account a gender perspective consistent with the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders.

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