
PARTICIPANTS' PAPERS

TREATMENT OF FEMALE OFFENDERS

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I. FEMALE OFFENDERS IN THE CORRECTIONAL SYSTEM

The treatment of female offenders in the correctional system has not received much attention because of their small population in comparison with male offenders. However, the population of female offenders is on the rise in many countries recently, especially in Brazil, which has increased the need for effective policies of treatment of women prisoners.

Due to their biological and psychological differences, female offenders require special consideration and different treatment while inmates in the correctional system. The United Nations is aware of such demand and issued, in December 2010, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

A. The Brazilian Correctional System

The Brazilian prison system has a total population of 549,577 inmates, of which 513,538 are men and 36,039 are women. The population is divided into 1,420 penitentiary units nationwide. Each state is responsible for the maintenance of its units, and only 4 units are under the control of the federal government, and that only accepts male prisoners.

B. Women Offender Status in Brazil

Brazil currently has 36,039 women prisoners in state units located in 27 states of Brazil. These women are in prisons, agricultural and industrial colonies, public chains, custody hospitals for psychiatric treatment and sheltered houses, varying according to the prison sentence.

The regime and the place of imprisonment vary according to the numbers below:

- State Penitentiary System (Public Chains) — Preventive custody: 12,986 women offenders.
- State Penitentiary System (Prisons) — Closed regime: 16,229 women offenders.
- State Penitentiary System (Agricultural and Industrial Colonies) — Semi-open regime: 4,716 women offenders.
- State Penitentiary System (Sheltered Houses) — Open Regime: 1,605 women offenders.
- Custody Hospitals for Psychiatric Treatment: 503 women offenders.

It is necessary to emphasize that in the Brazilian prison system there are only 21,936 vacancies available to women. Given the current population of 36,039 women inmates, we conclude that there is a deficit of 14,103 places, creating a picture of overcrowding in prisons.

According to the Penitentiary Information System (INFOPEN), female inmates are divided according to the following characteristics:

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1. Age:

- 18 to 24 years old: 10,030
- 25 to 29 years old: 8,382
- 30 to 34 years old: 7,295
- 35 to 45 years old: 6,742
- 46 to 60 years old: 2,728
- +60 years old: 294
- Not reported: 568

2. Skin color / Ethnicity:

- White: 13,113
- Black/Mixed: 21,600
- Asian: 105
- Indigenous: 55
- Other: 1,166

3. Schooling:

- Illiterate: 2,382
- Literate: 4,486
- Elementary School Incomplete: 16,584
- Elementary Complete: 3,294
- High School Incomplete: 4,433
- High School Complete: 3,312
- Higher Education Incomplete: 496
- Higher Education Complete: 212
- Post Graduation: 20
- Not reported: 820

4. Type of crime:

- Crimes against persons: 3,792
- Crimes against property: 9,697
- Sex crimes: 261

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- Crimes against public peace: 372
- Narcotics: 20,178
- Firearms: 466
- Other: 1,273

Based on the data above, we can see that in Brazil the majority of women prisoners are young, between the ages 18 and 29 years old, are black/mixed, have incomplete elementary school, and committed the crime of drug trafficking, which leads to the conclusion that social exclusion and the entry into criminal practice are associated factors.

It is necessary to highlight that according to studies conducted by the Ministry of Justice, most women became involved in drug trafficking due to their companions (husbands or boyfriends) or as “mules” for transport.

II. WOMEN INCARCERATION POLICY

The President, Dilma Rousseff, has shown particular concern for female incarceration, both in terms of prison overcrowding and the quality of the treatment, given the specificities of women. Accordingly, to address the deficit in Brazilian prison capacity, the Federal Executive created the National Program of Prison System Support, which was regulated by Ordinance No. 522, November 22, 2011. The programme has the following goals: eliminating the deficit in prison capacity in female prisons and reducing the number of prisoners in police stations and transferring them to prisons with skilled physical structures (including correctional personnel) for the faithful compliance of relevant laws. Consequently, the programme will generate jobs by constructing and staffing new prison units to house female offenders. To meet the programme's goals, there was an authorization of financial support in the order of R\$ 1.1 billion *reais* by the year 2014.

Therefore, with the implementation of the programme, the projection is to eliminate the deficit in prison capacity in female prisons and significantly minimize the ratio of prisoners per vacancy by the end of 2014, resulting in an increase of over 48,000 (forty-eight thousand) new jobs in the State prison systems and in the Federal District.

In addition to the actions of the National Plan of Prison System Support, which will have federal resources and state counterparts, the Master Plan of the Penitentiary System also will induce an increase in the number of jobs, strictly following the plans and schedules established by the states.

These new jobs will follow the specifications of Resolution nº 09/2011 of the National Council of Criminal and Penitentiary Policy (*CNPCP — Conselho Nacional de Política Criminal e Penitenciária*), which provides for nursery units designed to attend to arrested and imprisoned pregnant women and their sons and daughters, considering the specific needs of the public in this condition. The structure for children up to two years old includes nursery spaces for children between two and seven years old and spaces that enable early childhood education, called *creches*. In penal units with a capacity of up to 500 inmates, these spaces should be provided for a minimum of 20 children and, in the case of units with more than 500 vacancies, should provide 5% of total vacancies. This module will have quick access to the Health Module. Another specific provision is the Beauty Module, located in the Multipurpose Module, and the dimensioning of toilets in greater proportion, considering the needs of women. Both male and female units are planned with Education Modules, Health Modules, Service Modules, and other necessary assistance to the prisoners and their visitors.

Still, the National Health Program for the Penitentiary System (*PNSSP — Programa Nacional de Saúde no Sistema Penitenciário*) provides health care for mothers and children, and the referred units for pregnant women, nursing mothers and their children to be covered by health care activities. Accordingly, the units currently enabled, with 260 teams registered, have the ability to attend to a maximum of 7,500 (seven thousand five hundred) women under custody and to provide guidance in

primary care for first time mothers, including those in the official care network. The Ministry of Justice has been working on two strategies:

- equipping units for maternity and child care, ensuring 100% coverage by 2012 in all states
- effective inclusion of this population in the *Stork Program Network (Programa Cegonha)*, from the Ministry of Health, ensuring access to 100% of pregnant women, nursing mothers and children up to 2 years of age

The question about female gender is one of the primary goals of the Master Plan of the Penitentiary System. Furthermore, in 2011 the National Penitentiary Department (*DEPEN*) released the Effective Rights Project for Women in the Penitentiary System, which aims to develop policies especially for females, including pregnant women's specific needs.

In 2009, by virtue of Law No. 11,942, there was a change in the Brazilian Penal Execution Law, improving the focus on the particularities of the arrested women. In this case it is important to understand that several aspects were omitted by the previous law, especially in relation to child protection, like: spaces for medical monitoring of women, especially during pregnancy and post-partum and newborn care; nurseries where imprisoned mothers could take care of their children, even breast-feed them for at least six (6) months; a section for pregnant and labouring women and for providing daycare to children older than six (6) months and less than seven (7) years, in order to assist helpless children whose guardians are arrested, with special care by qualified personnel in accordance with guidelines adopted by educational laws.

During the same period, Resolution 04/2009 *CNPCP (Conselho Nacional de Política Criminal e Penitenciária)* was issued, which provides rules for the custody and care of the children of incarcerated women, considering the environment of human development, providing enough adequate space to allow healthy child development and a quality relationship between mother and child; continuity of the maternal bond, which should be considered as a priority in all situations; breastfeeding, understood as an act of psychological and physical impact, should be treated as a priority, because it depends on the health of the mother's body and the mental health of the child.

Most state prisons have no physical structure suitable to child care. In many cases the children stay in the cell next to their mother during the execution of the sentence. Although some states have spaces for nurseries/mother and child care, there is no national regulation of such structures. This reality will be modified after the implementation of Resolution nº 04/2009 *CNPCP* and nº 09/2011, which obliges the installation of nurseries and child care units in all female state prisons.

Another initiative in regard to the issues of female incarceration was the creation of a Special Commission, linked to the Penitentiary Politics Office of the National Penitentiary, which is tasked to develop proposals and actions to the Strategic Project of the Ministry of Justice: Enforcement of Women's Rights in the Penitentiary System. In conjunction with the Interministerial Group (Ministries of Justice, Health and Social Development) formed for the development of integrated policies aimed at incarcerated women, the agenda will work specially with child care as a priority.

A. State Government Policies

Implementation of public policies and presentation of projects recommended for the funding bids available. The Federal Government provides funds to the states through the National Penitentiary Fund (FUNPEN), by signing agreements, and states are responsible for the construction of the units and the implementation of policies targeting female offenders.

B. Challenges

Expanding coverage of assistance and health modules to 100% of the female incarcerated population and integrating with the *Stork Program Network*, *SUS* (Public Health System) and their regional health care networks.

C. Possible Solutions

Investment in seventeen (17) States not yet covered by maternal and infant modules (solution to be effective in 2012 and 2013); integration of local care networks into the Stork Program Network through an agreement between the Ministry of Justice and Ministry of Health, to take effect between 2012 and 2013.