**RAPPORTEURSHIP ON THE RIGHTS OF PERSONS DEPRIVED OF LIBERTY**

**CONSULTATION QUESTIONNAIRE ON WOMEN DEPRIVED OF LIBERTY**

Over the course of this year, the Rapporteurship on the Rights of Persons Deprived of Liberty will prepare a report on women deprived of liberty in the Americas, with the aim of conducting an in-depth analysis of the special situation of risk faced by incarcerated women in the Americas, the reasons behind their involvement in the criminal justice system, and the disproportionate impact of their imprisonment on their dependents.

In general terms, the situation of women deprived of liberty is characterized, among other aspects, by an alarming increase in their prison population[[1]](#footnote-1) that principally stems from: (i) the lack of gender perspective in the criminal justice system, in incarceration, and in the drug policy approach; (ii) gender-based violence, poverty, and women’s responsibilities as caregivers as determining factors in their involvement with the criminal justice system; (iii) the vulnerability and risk women face in connection with their deprivation of liberty; and (iv) the disproportionate impact of their imprisonment on their dependents.

In its report on [Measures to Reduce Pretrial Detention (2017)](http://www.oas.org/es/cidh/informes/pdfs/PrisionPreventiva.pdf), the Commission analyzed the adverse impacts of drug crime policies on imprisonment, and specifically, on women. Significantly, these statements have created space for the Commission to establish relevant guidelines, and in this context, the Commission will expand upon its approach to drug policies with a human-rights focus and gender perspective.

The relevance of this report is mainly based on the following factors: (i) the visibility of the distinct adverse impacts and special situation of risk that women face when they are deprived of liberty; (ii) the need to address the reasons why women are incarcerated, and in particular, why they get involved in drug-related crimes; (iii) the need to establish pertinent standards and recommendations; and (iv) the urgency of undertaking the implementation of alternative measures as one of the principal solutions for ensuring women’s rights.

Specifically, the **objective of this questionnaire** is to gather information from the States, civil society organizations, academia, and specialists for consideration in the preparation of the aforementioned report. The Commission requests that you respond to the questions, and where applicable, attach copies of the respective regulatory frameworks, policies, and practices.

The requested information should be submitted by email to: [cidhdenuncias@oas.org](mailto:cidhdenuncias@oas.org), by April 10, 2021. The subject of the email should read: **Questionnaire – Women Deprived of Liberty in the Americas.**

For questions or clarifications, please contact specialist Romina Otera at the following email address: [ROtero@oas.org](mailto:ROtero@oas.org).

1. **General statistical information**
2. Current number and percentage of women deprived of liberty (including trans women)
3. Number and percentages of women and men in pretrial detention
4. Approximate duration of pretrial detention for men and women
5. Growth in the incarceration of women and men, from 2000 to date
6. The top five crimes (including percentages) that are the primary causes of incarceration, for men and women
7. Socioeconomic information on the women deprived of liberty
8. **Regulatory framework for drugs**
9. Number and percentages of men and women deprived of liberty due to drug-related crimes. Specify the type of crime.
10. Criminal behaviors resulting in the automatic application (de jure or de facto) of pretrial detention. Specifically, indicate if any of these behaviors are associated with drug-related crimes.
11. Types of crimes for which pre-release or release benefits may not be applied. Specifically, indicate if any of these crimes are drug related.
12. Differences in the treatment of drug-related crimes, depending on factors like: (i) the seriousness of the offense; (ii) whether it was a violent or nonviolent crime; (iii) the degree of participation; and (iv) the type of drugs involved
13. For drug-related offenses, indicate the percentages that are violent and nonviolent. Provide these statistics for both men and women.
14. Existence of social programs—like food coupons or cash assistance—that exclude individuals with a record of drug-related crimes
15. **Detention conditions**
16. Considering the special risks faced by incarcerated women, indicate the measures adopted by the State to ensure their safety with an intersectional, gender perspective (trans women, indigenous women, women with disabilities, etc.).
17. For trans women, report the criteria for determining their placement.
18. Gender-based healthcare services, including specific care for trans women
19. Specific services offered to pregnant and postpartum women
20. Factors that are more prevalent among women in prison, like the problematic use of drugs, a history of violence, and mental health issues
21. Number of women with drug-abuse problems
22. Access to treatment and harm-reduction services in prison for women with drug-abuse problems
23. **Impact of the imprisonment on other persons**
24. Number of women deprived of liberty who are mothers. In particular, specify:
25. Number of mothers whose children live with them in prison (note if they are sons or daughters)
26. Number of mothers whose children live outside the prison

2. Number of mothers deprived of liberty who were responsible for older persons or persons with disabilities

3. Actions being taken by the State in the following cases:

* 1. when the children of the women deprived of liberty cannot live with them in prison and do not have other family members to care for them, and
  2. when the persons in special situations of risk for whom the women deprived of liberty were responsible (such as older persons or persons with disabilities) do not have other family members who can care for them

4. Cases in which a woman detainee could lose custody of her children

1. **Children who live with their mothers in prison**

1. Number of children who live with their mothers in prison. Include ages.

1. Aspects taken into account for deciding whether the children will stay with their incarcerated mothers. Include legal basis.
2. Measures adopted to guarantee the rights of the children living in prison, with regard to health, education, community integration, and safety, etc.
3. **Alternative measures**
4. Number of women and men who are currently subject to alternative measures rather than the deprivation of liberty
5. Principal alternative measures applied to women, and the respective criteria for benefiting from them
6. Number of women for whom the application of alternative measures was requested, from 2019 to date
   * 1. Of the total number of requests, number of women who received the alternative measures
     2. Principal reasons why the use of these alternative measures was denied
7. Principal challenges in the application of alternative measures
8. Mechanisms for monitoring implementation of the alternative measures, and incorporation of a gender perspective
9. Where applicable, type and level of civil society participation in designing and monitoring the application of these measures
10. How the effectiveness of the social reinsertion programs is evaluated
11. Describe good practices (legislative, judicial, and administrative) in the application of alternative measures, with regard to convicted women and women in pretrial detention.
12. **Social reinsertion**
13. Number (including percentages) of men and women participating in social reinsertion programs
14. Main challenges for women’s participation in these programs
15. Types of reinsertion programs aimed at women and men
16. Specific programs targeting women with issues that could complicate their reinsertion into society, such as problematic drug use or a history of gender-based violence
17. Measures being taken to ensure these programs guarantee reinsertion into society. Specifically, indicate how their effectiveness is evaluated.
18. Existing support programs for women when they leave prison, to ensure their livelihood during the period following their release
19. Number (percentage) of women who live with their children in prison and participate in the social reinsertion programs

1. Specifically, from 2002 to 2017, the female prison population in the region increased 51.6%. Institute for Criminal Policy Research at Birkbeck [*World Prison Brief: World Female Imprisonment List*](http://www.prisonstudies.org/news/world-female-imprisonment-list-fourth-edition)*,* 2017. [↑](#footnote-ref-1)