

PROMOTING GENDER-SENSITIVE DRUG POLICIES IN BOLIVIA

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REPORT



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EXECUTIVE SUMMARY

In the Plurinational State of Bolivia, women account for 8 percent of the country's more than 17,000 people behind bars. In only three other Latin American countries (Guatemala, El Salvador and Chile) do women comprise a larger share of the overall incarcerated population.¹ Almost 40 percent of the women behind bars in Bolivia are held for low-level drug offenses, often as a result of structural socioeconomic conditions, such as poverty and the pressures of single parenting. These women are typically poor, have limited education, and do not have access to stable jobs with decent pay; a startling percentage have been victims of domestic and sexual violence. They are often driven into the drug trade out of economic necessity. High rates of pretrial detention have also contributed to severe prison overcrowding. Indeed, Bolivian prisons are ranked as the eighth most congested in the world.²

In response to extreme prison overcrowding, between 2012 and 2018 the government of President Evo Morales enacted six prison pardon, sentence reduction, and amnesty initiatives, leading to the release of almost a third of Bolivia's total incarcerated population. Specific gender-sensitive clauses benefited mothers and caregivers. These pardon, sentence reduction, and amnesty initiatives with a gender focus, paired with poverty reduction and increased state support for mothers, contributed to an 84 percent decrease between 2012 and 2017 in the number of women incarcerated for drug offenses, going against the trend of increasing female incarceration for drug-related offenses in most Latin American countries.^{3,4,5}

But Bolivia's considerable progress in reducing the incarceration of women for drug offenses risks reversal without the enactment and implementation of broader judicial reform efforts. Bolivia's 1988 drug law, Law 1008, includes harsh provisions that fail to distinguish between small, medium, and large-scale trafficking, with disproportionately high sentences for all offenses ranging from 10 to 25

years. Law 1008 initially mandated pretrial detention for anyone accused of a drug offense and blocked those individuals from benefitting from alternatives to incarceration.

Upon assuming office in January 2006, the Morales Administration promised to reform Law 1008 and to propose separate legislation for coca cultivation. More than 10 years later, in 2017, the Bolivian legislature finally passed new laws on coca and on controlled substances. A new penal code approved later that year would have reduced sentences for drug offenses and could have significantly reduced the number of incarcerated women. However, in the face of widespread protests, the legislature subsequently revoked it, meaning that the extremely high sentences for drug offenses provided under Law 1008 remain in effect.

International attention is increasingly focused on the disproportionate impact of prohibitionist drug policies on women and girls, and the need to implement gender-sensitive drug policies. In Bolivia, the United Nations Office on Drugs and Crime (UNODC) in collaboration with the Bolivian Prison Administration, public agencies and NGOs, has brought attention to the issue, through workshops, publications and press releases. UNODC has also provided logistical and technical support for prison reform.⁶ However, more concrete reforms are needed to significantly advance the implementation of gender-sensitive drug policies in Bolivia. These include:

- Avoid use of pretrial detention for non-violent drug offenses. Of particular concern, pregnant women or women with dependents, including minor children, children with disabilities, and elderly parents, should not be placed in pretrial detention.
- Reform sentencing requirements to ensure proportionality, distinguishing between low, mid and high-level drug offenses; rank in the criminal

organization; and non-violent versus violent crimes.

- Remove the legislative and practical obstacles preventing those who have committed drug offenses from benefitting from alternatives to incarceration, and guarantee that women who are first-time offenders of low-level, drug-related offenses can enter programs outside the criminal justice system.
- Accompany these measures with the development of a social and community support network that includes education, work, housing, health services, and other programs so as to address the socioeconomic factors that lead women to become involved in drug markets in the first place.
- Ensure that these women have access to effective and affordable legal council, and that judicial officials incorporate a gender perspective in order to allow for the possibility of a reduced sentence and alternatives to incarceration. Toward that end, the following factors should be taken

into account: poverty and social exclusion, motherhood and caregiver status in relation to other dependent persons, status as head of household, illiteracy, level of education, lack of job training, immigration status, gender violence, or physical or mental disabilities that may have contributed to the involvement in criminal conduct.

- Implement the necessary training, institutional restructuring, funding streams and oversight mechanisms to ensure effective implementation of these justice sector reforms.
- Design and carry out strategies for raising community awareness of the need to promote drug policy reforms with a gender perspective.

Finally, the voices of women impacted by drug policies must be included in the debate, in order to develop and implement more effective, humane and inclusive initiatives, grounded in public health and human rights.



A woman incarcerated in the San Sebastian Prison in Cochabamba, Bolivia.

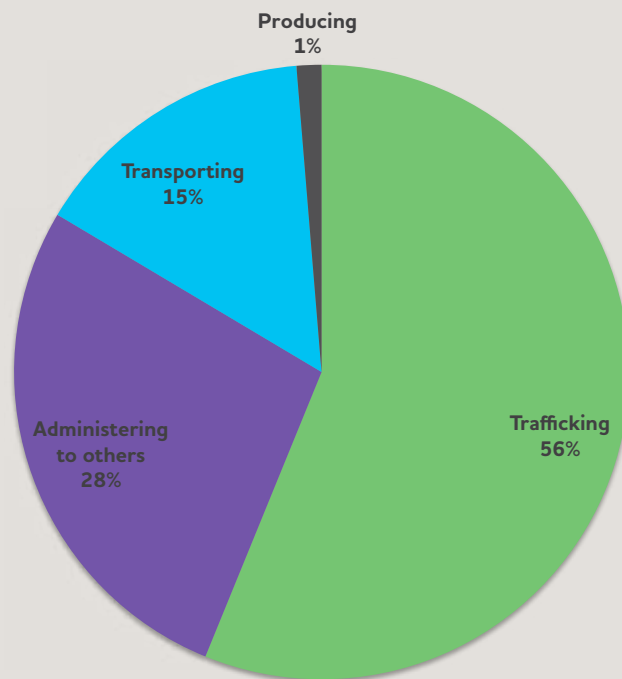
INCARCERATED WOMEN IN NUMBERS

Bolivia has one of the lowest overall incarceration rates in the region, but women account for 8 percent of the country's more than 17,000 people behind bars.⁷ In only three other Latin American countries (Guatemala, El Salvador, and Chile) do women comprise a larger share of the overall incarcerated population.⁸ In Bolivia, moreover, drug-related offenses account for 38

percent of incarcerated women,⁹ compared to 18 percent of men.¹⁰ According to the categories established in Law 1008, 56 percent of these women were arrested for trafficking controlled substances, 27.3 percent for administering controlled substances to other people, 15.1 percent for transporting controlled substances, and 1.3 percent for production.¹¹

GRAPH 1

BREAKDOWN OF DRUG OFFENSES FOR INCARCERATED WOMEN IN BOLIVIA



Source: López, Jorge. "Synthesis of the Current Situation of People Imprisoned under Law 1008." Penitentiary Regime of the Bolivian Government. July 2016.

Bolivia's Human Rights Ombudsman highlights that "women arrested for drug trafficking are really involved in small-scale trafficking as they are accused of carrying just grams of a drug." Many also "transported small quantities," on or within their bodies.¹² The majority of female prisoners (33 percent) are in the Santa Cruz department bordering Brazil, the second largest

cocaine-consuming country after the United States.¹³ Nearly half of incarcerated women live in four facilities: San Sebastian Women's Prison (Cochabamba), Trinidad Women's Prison (Beni), Obrajes Women's Training Center (La Paz), and Miraflores Female Penitentiary Center (La Paz). The rest live in joint facilities with men, where women are especially vulnerable.

SOCIAL AND ECONOMIC MARGINALIZATION

Most incarcerated women live in poverty at the time of their arrest, with limited access to higher education and employment opportunities. According to a landmark survey published in 2017 by Fundación Construir, 57 percent of the 157 incarcerated women surveyed did not finish high school,¹⁴ and only 11 percent had a professional degree.¹⁵ The majority of incarcerated women lacked stable employment prior to their arrest: 38 percent worked as merchants, 17 percent as domestic workers, and only 10 percent had a salaried job.¹⁶ Moreover, 48 percent reported income below the minimum wage, which is roughly equivalent to US\$265 a month.¹⁷ As has been documented in other Latin American countries, poverty and economic necessity lead some women, particularly single mothers, to become involved in the drug trade.

Former UNODC Representative for Bolivia, Antonino de Leo, points out that: “The majority of women detained for minor drug crimes are poor, with little education, and have suffered family abandonment and domestic violence.”¹⁸ In 2016, 75 percent of Bolivian women over the age of 15 and in relationships reported suffering from domestic violence, and 81 percent of single women endured domestic violence of some form from their ex-partners.¹⁹

According to a 2012 report by the Human Rights Ombudsman’s Office, incarcerated women identify coercion from partners and drug dependency as reasons for engagement in illicit activity. Many mentioned sustained physical, psychological, or sexual violence at the hands of a partner or family member.²⁰ With regard to drug use, Bolivia has one of the lowest rates of consumption of illegal drugs in the Americas.

Excluding alcohol and cannabis, less than half of 1 percent of the national population is reported to use drugs.²¹ Nonetheless, drug use—and carrying drugs for personal use—makes women susceptible to police harassment. Moreover, under Law 1008 some women detained with small amounts of drugs have been convicted for selling or trafficking.²²

It is important to note, however, that under the Morales administration, which took office in January 2006, the economic situation of women has steadily improved—likely an important factor behind the significant decrease in the female incarceration rate described in greater detail below. Distributive economic policies, state voucher or subsidy programs, an increase in the minimum wage, and other policies implemented by the Morales government have reduced poverty levels and had a particularly notable impact on women.²³ Between 2004 and 2015, extreme poverty declined from 45 to 14 percent of the population, and overall poverty fell from 63 percent to 39 percent. Life expectancy and other social indicators improved dramatically.²⁴ Between 2007 and 2011, monthly incomes for women with zero to six years of formal education increased by 38 percent.²⁵ Moreover, the female unemployment rate fell by 43 percent between 2007 and 2017.²⁶ Between 2005 and 2015, average salaries for female domestic workers increased 128.5 percent, while the length of their workweek decreased.²⁷ However, economic improvements alone are not enough to reduce the high rate of women incarcerated for drug offenses in Bolivia; they must be accompanied by meaningful judicial reforms.

JUDICIAL INEQUITIES

Unfortunately, an inefficient and often unjust judicial system compounds the underlying social and economic marginalization leading to women's incarceration. As of July 2017, 69 percent of Bolivia's total incarcerated population (and 51 percent of incarcerated women) had not been sentenced, with many waiting up to several years in pretrial detention. Those with fewer economic resources are more likely to be placed in pretrial detention due to their inability to provide proof of permanent residence, employment, and family support.²⁸ This represents an important decrease from 2010, when 77 percent of all incarcerated people had yet to be sentenced; nonetheless, Bolivia still has one of the highest rates of pretrial detention in the Americas.²⁹

Another issue is excessive criminalization. According to Cochabamba Department Prison Director Tatiana Aguilar, "In Bolivia, nearly 90 percent of all crimes are punishable with prison sentences, which illustrates the failure to explore alternatives to incarceration for low-level and non-violent offenses. Prison time should be limited to serious offenses. If this were the case, overcrowding would be closer to being resolved as many of the accused would face a criminal

proceeding and even benefit from sentencing alternatives that do not necessarily lead to incarceration."³⁰

Effective legal counsel is prohibitively expensive and in short supply, especially for those accused of drug offenses. Stigma persists against those accused of or involved in drug trafficking. In fact, Bolivian law forbids private defense lawyers specializing in drug trafficking cases from running for high-level judicial offices when one or more of their clients have been convicted.³¹ Of the women in pretrial detention, 42 percent stated that they used public defenders.³² However, currently, there are only 102 public defenders nationally, for a total population of almost 11 million people. Costa Rica, with half the population, has four times more public defenders than Bolivia.³³ Uruguay, with only a third of the population of Bolivia, has almost twice the number of public defenders.³⁴ In the Cochabamba department, women often go into debt to hire private attorneys because of public defenders' impossibly high caseloads and severely limited resources.³⁵ Eighty-seven percent of the women interviewed by Fundación Construir said they would prefer private counsel if they could afford it.³⁶

THE MULTIPLIER EFFECT: FEMALE HEADS OF HOUSEHOLDS AND MOTHERS IN PRISON

Women head approximately 35 percent of all Bolivian families.³⁷ For mothers, caretakers, or heads of household, incarceration has a multiplier effect. Impoverished women caring for children, elderly, or other dependents may resort to drug-related activity in order to support their families in difficult economic times. Their arrest and incarceration further strains families and makes it even more difficult to provide basic resources

to their dependents, who in turn may become susceptible to engaging in illegal activity. Of the women surveyed by Fundación Construir, 85 percent of incarcerated women had children who relied solely on them. Of these, 10 percent had children living with them in prison, while the remaining women have dependent children outside of prison.³⁸ These single mothers have the added burden of caring for their dependents

from within prison confines. National Prison Director Jorge López emphasizes, “When we incarcerate mothers, we punish entire families.”³⁹ Many mothers in prison maintain frequent contact with their children, and 51 percent of women that participated in a 2012 Human Rights Ombudsman survey indicated that their children regularly visit them. Nonetheless, the report notes that many women interviewed identified that their biggest concern was “growing apart from their children.”⁴⁰

The 2014 Children and Adolescents Code allows children under the age of six to reside with their incarcerated mother or father and to attend nursery schools and day care centers near women’s prisons. In December 2017, the Bolivian Prison Administration reported that 550 children lived in Bolivian prisons with either their mother or father.⁴¹ In March 2018, in response to denunciations of abuse in the Palmasola prison in the department of Santa Cruz, an inter-institutional dialogue led to the adoption of clearer regulations for children, including the prohibition of children spending the night in men’s facilities and a system of foster families for incarcerated people’s children over the age of six.⁴²

Children living with their parents in prison is a hotly contested issue in Latin America. On one hand, no child should spend time behind bars; on the other, often these children have no better option, particularly when the mother is incarcerated. Some women prefer to have their children with them, rather than in a precarious public facility. Due to a strong sense of family unity, scarce resources, and inadequate child services, many women believe that their children will be better off in prison where they can keep an eye on them and ensure that their basic needs are met. As noted above, of the 85 percent of

incarcerated women who were single mothers, 10 percent lived with at least one of their children. According to Fundación Construir, of the women whose children reside outside the prison system, only 5 percent lived with their father or mother’s partner, and 42 percent lived with their older siblings or fended for themselves.⁴³



“Nayeli” and her son in the San Sebastian Prison in Cochabamba, Bolivia.

Rene Estensorro, a psychologist, points out that, “Children live in worse conditions [in orphanages] than in the prisons—and without their moms and dads.”⁴⁴ An incarcerated individual in the San Pedro prison in La Paz explains, “In the beginning I was afraid. I thought that anything could happen here, but the days went by...everything depends on the parents, how we organize to protect and take care of the children.” Staying with their children also helps parents cope with incarceration. Jorge López, National Prison Director, says, “We’ve seen that this is best for mother or father, and child.”⁴⁵

LAW 1008: A DRIVING FORCE BEHIND HIGH INCARCERATION RATES

The disproportionately high sentences required by Bolivia's Law 1008 are the principal reason for the high percentage of women incarcerated for drug offenses in Bolivia. As of July 2017, 1,362 women were incarcerated in Bolivia. Thirty-eight percent of them were charged with drug offenses under Law 1008.⁴⁶ Passed in 1988 under strong pressure from the U.S. government, Law 1008's harsh provisions failed to distinguish between low, medium, and large-scale trafficking, with disproportionately high sentences for all offenses, ranging from 10 to 25 years.⁴⁷ Transporting drugs was punishable with 8 to 12 years in prison.⁴⁸ Referring to Law 1008, Criminologist Gabriela Reyes points out that drug offenders are punished with the same severity regardless of the quantity of drugs they are found with: "This means that a person carrying 100 grams of marihuana receives the same punishment as someone found with 10 kilos of marihuana."⁴⁹ The law, and U.S. pressure for meeting high arrest quotas, caused a dramatic surge in the prison population, without making a dent in the drug trade. The law also created special drug courts that violated the basic human rights of defendants, as documented by WOLA and AIN; these courts were discontinued in 1999.

The law mandated pretrial detention for all of those accused of drug offenses, which further contributed to prison overcrowding and challenged the basic concept of "innocent until proven guilty."⁵⁰ Moreover, the law limited eligibility for alternatives to incarceration, which were only made available for low-level, non-drug related infractions. Although the 1999 criminal

procedures code eliminated special drug courts, strong state and societal pressure on judges to convict drug offenders persists. Similarly while pretrial detention is no longer mandated by law as a result of the 1999 reform, in practice it continues to be the norm for drug offenses.

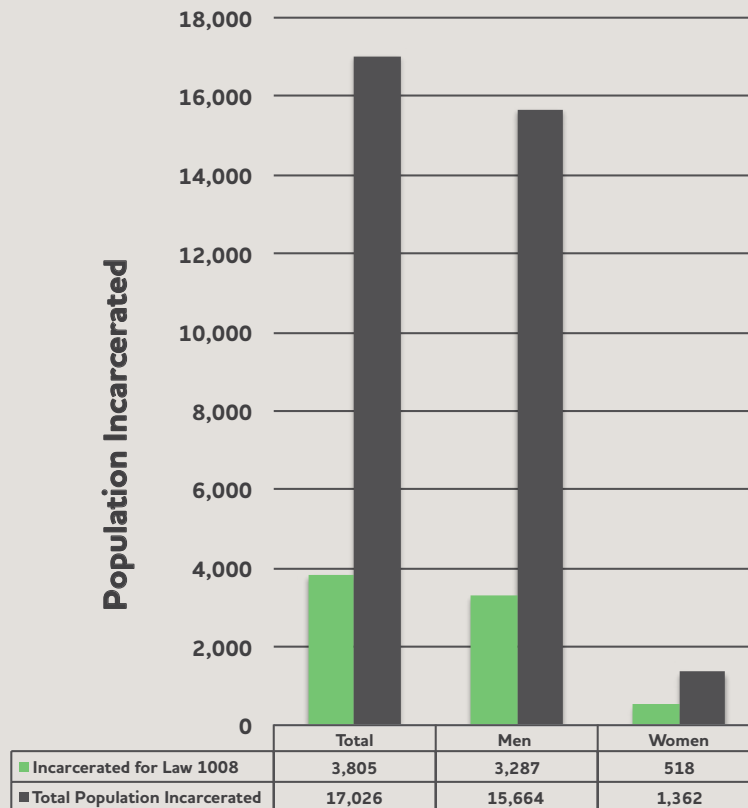


Clothes drying in the courtyard of the San Sebastian women's prison in Cochabamba, Bolivia.

Upon assuming office in January 2006, the Morales Administration promised to reform Law 1008 and to propose separate legislation for coca cultivation. More than 10 years later, in 2017, new laws were promulgated on coca and on controlled substances. However, a new penal code passed at the end of 2017 was then quickly revoked by the legislature, so the sentencing guidelines in Law 1008 remain in effect.

GRAPH 3

BOLIVIANS INCARCERATED FOR DRUG OFFENSES



Source: Intervention of Jorge López at the “Acceso a justicia de mujeres privadas de libertad” panel held in La Paz, Bolivia on July 27, 2017. López, Jorge. “Synthesis of the Current Situation of People Imprisoned under Law 1008.” Penitentiary Regime of the Bolivian Government. July 2016.

GENDER-FOCUSED PARDONS AND AMNESTIES DRAMATICALLY REDUCE FEMALE PRISON POPULATION

Between 2012 and 2017, the number of women incarcerated in Bolivia for drug-related offenses decreased by 84 percent. This stands in stark contrast to regional trends: Between 2000 and 2015, the number of incarcerated women in Latin America increased by 51.6 percent, largely

due to punitive and disproportionate drug laws.⁵¹ In Bolivia, six pardon, sentence reduction, and amnesty initiatives between 2012 and 2018, with clauses specifically benefitting women, contributed to this decline. The first, issued in December of 2012, led to the release of 234

prisoners, of whom 62 were women. The second, in September of 2013, led to the release of 1,733 more prisoners, of whom 512 were women. In October 2014, 1,698 prisoners regained their freedom, including 398 women. In July 2015, 1,288 people were released, of which 279 were women. Out of a total 5,473 recipients of these

pardons and amnesties, 1,251 were women, or approximately 23 percent.⁵² A final initiative from December 2016 through January 2018 led to the release of an additional 520 incarcerated individuals (as of the time of this writing, statistics were not available on the number of women who benefitted).⁵³

TABLE 1

PARDONS AND AMNESTIES BY GENDER, 2012-2016

Amnesty Law	Men Released	Women Released	Total Released
Presidential Amnesty Decree #1445 December 19, 2012	172	62	234
Presidential Amnesty Decree # 1723 September 18, 2013	1,221	512	1,733
Presidential Amnesty Decree #2131 October 1, 2014	1,300	398	1,698
Presidential Amnesty Decree #2437 July 1, 2015	1,009	279	1,288
Presidential Amnesty Decree #3030 December 24, 2016	--	--	520
Total	3,702	1,251	5,473

Source for 2012-2015: López, Jorge. "Synthesis of the Current Situation of People Imprisoned under Law 1008." *Penitentiary Regime of the Bolivian Government. July 2016*. Source for 2016: "El indulto penitenciario benefició a 5,841 reos." *Página Siete*. February 22, 2018.

Furthermore, these decrees placed particular emphasis on releasing those accused of drug-related crimes. The 2014 decree benefitted people convicted of low-level crimes, including drug offenses, and pregnant women,⁵⁴ while the 2015 decree, extended in 2016, applied to people who were convicted under Law 1008, had received more than the minimum sentence for a drug trafficking crime, had completed a fourth of their sentence, and were first-time offenders.⁵⁵ These measures gave priority to pregnant women, women heads of household, people with disabilities or illnesses, individuals who had completed a significant portion of their sentence, and young people, among others.⁵⁶

On April 16, 2018, the Bolivian legislature approved a new presidential decree intended to reduce overcrowding in the nation's prisons. It includes a combination of sentence reductions, amnesties and pardons that target incarcerated individuals under the age of 28 and men older than 58 and women older than 55 with a 10 year sentence or less and who have served one-quarter of their sentence. Women who are more than 20 weeks pregnant and mothers and fathers with children under 6 in their care or who are terminally ill will also benefit. Repeat offenders will not qualify for this amnesty. The

government estimates the decree will benefit over 2,000 incarcerated individuals, however the number of beneficiaries will be determined by its implementation.⁵⁷

The use of pardons, sentence reductions, and amnesties has had a notable impact on reducing female incarceration in Bolivia. These measures have demonstrated their important role in achieving quick reductions in the size of the incarcerated population. They can have an immediate impact on prison conditions and benefit incarcerated individuals. Applying pardons and amnesties with a gender focus can be particularly beneficial for women who are mothers of minors or responsible for other dependents, such as elderly parents, and their families. However, such initiatives must be accompanied by broader reforms that will lead to fewer people being held in pretrial detention, alternatives to incarceration for low-level, non-violent crimes, and sentences that are proportionate to the gravity of the crime committed. Without such reforms, reductions in prison populations are likely to be only temporary, and rise again to previous levels. In the case of Bolivia, these broader reforms, including more just sentences for drug offenses, have yet to be implemented.

THE SHORT-LIVED 2017 PENAL CODE REFORM

Bolivia's new penal code would have addressed many of these concerns. After a two-year period of consultation with international experts and some civil society organizations, the Bolivian congress approved a new penal code in December 2017. A full review of the new penal code is beyond the scope of this report, but it is important to point out that the penal code reduced some sentences, limited the application of pretrial detention, allowed prosecutors to opt out of prosecution for non-violent offenses, and provided for alternatives to incarceration.

Upon its enactment, the penal code was swept up into broader political dynamics and provoked protests from different sectors. Its passage came on the heels of a Constitutional Court decision allowing President Evo Morales to run for a fourth term in office. The significant opposition to the court's decision fueled protests against the penal code. Doctors and transportation workers took to the streets protesting the negative impact the new penal code would have on their professions. An ongoing medical strike was taking its toll, while the threat of a

general strike loomed. Opposition politicians also critiqued reductions in sentences for low-level drug trafficking offenses and objected to limitations on pretrial detention, while others critiqued the new penal code for not going far enough in reforming Law 1008. In response to the political turmoil, the Bolivian legislature revoked the code in January 2018, and it now appears to be in indefinite political limbo.

The short-lived penal code included important language with regard to gender and those in situations of socioeconomic vulnerability. It required judges to take into account the gender, economic condition, culture, age, and condition of the accused, as well as the consequences that the sanction under deliberation would have on the accused and their family. Pregnant women or mothers of children with special needs were offered alternatives to incarceration, such as serving their sentences from home. (However, it is important to point out that restrictive applications of house arrest can also

be detrimental to individuals and families, if women are not able to work and carry out their responsibilities in caring for their dependents.) The new penal code also acknowledged the exploitation of women who transport controlled substances within their bodies. Sentences for first-time offenders who transport controlled substances would have been reduced. For small-scale trafficking, sentences would have been reduced to 1 to 3 years, allowing for the use of alternatives to incarceration. In contrast, a person charged with drug trafficking who was found to have coerced another person to transport a controlled substance in their body would have had their sentence increased by one-third.

Susana Saavedra, Director of Fundación Construir, believes that the penal code could have significantly reduced pretrial detention and overcrowding, and estimates that its retroactive implementation could have led to the release of almost half of incarcerated women in Bolivia.⁵⁸



"Nayeli" working in the sewing room in the San Sebastian women's prison in Cochabamba, Bolivia.

CONCLUSIONS AND RECOMMENDATIONS

Draconian drug laws have filled prisons in Latin America with low-level, non-violent offenders, while those reaping the illicit profits from the drug trade largely operate with impunity.⁵⁹ Increasingly, international attention has focused on the disproportionate impact of prohibitionist policies on women and girls, and the need to implement gender-sensitive drug policies. In March 2016, the UN Commission on Narcotic Drugs (CND)—the drug policy-making body within the UN system—adopted a resolution, “Mainstreaming a gender-perspective into drug-related policies and programs.” The recommendations outlined in the resolution were underscored the following month in the Outcome Document of the UN General Assembly Special Session (UNGASS) on Drugs, which calls for gender-sensitive drug policies, ensuring “the involvement of women in all stages of the development, implementation, monitoring and evaluation of drug policies and programs,” and the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, as well as the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).⁶⁰ UN member states are now obligated to implement gender-sensitive drug policies.

Almost 40 percent of incarcerated women in Bolivia are behind bars for low-level drug offenses. These women are primarily poor, have limited education and hence limited opportunities for gainful employment. They are driven into the drug trade out of economic necessity. Many have been victims of domestic and sexual violence and may be coerced by intimate partners to sell or transport drugs. In Bolivia, the United Nations Office on Drugs

and Crime (UNODC) in collaboration with the Bolivian Prison Administration, public agencies and NGOs, has brought attention to this issue, through workshops, publications and press releases. UNODC has also provided logistical and technical support for prison reform.⁶¹

The Morales administration has made important gains in lifting people out of poverty and providing economic opportunities for those in situations of vulnerability, including women. These advances likely helped to reduce the number of women selling or transporting drugs out of economic desperation. In addition, the pardons, sentence reductions, and amnesties implemented by the Morales government coincided with a remarkable 84 percent decrease in the number of women incarcerated for drug offenses between 2012 and 2017. But the use of these measures, however important, provides only a short-term fix; broader legal reforms are necessary if Bolivia is to achieve sustained reductions in its prison population. Bolivia’s short-lived penal code reform could have represented a significant advance in promoting gender-sensitive drug policies.

Urgent drug policy reforms rooted in respect for human rights and public health are indispensable. According to the Director of Fundación Acción Semilla, Patricia Chulver, “It is important to analyze the drug issue from a public health perspective.” She points out that prevention, treatment, investment in public health programs, and alternatives to incarceration are far more effective solutions to most drug crimes than imprisonment.⁶² In addition, the following justice sector reforms would significantly advance the implementation of gender-sensitive drug policies in Bolivia:

- Avoid use of pretrial detention for non-violent drug offenses. Of particular concern, pregnant women or women with dependents, including minor children, children with disabilities, and elderly parents, should not be placed in pretrial detention.
- Reform sentencing requirements to ensure proportionality, distinguishing between low, mid and high-level drug offenses; rank in the criminal organization; and non-violent versus violent crimes.
- Remove the legislative and practical obstacles preventing those who have committed drug offenses from benefitting from alternatives to incarceration, and guarantee that women who are first-time offenders of low-level, drug-related offenses can enter programs outside the criminal justice system.
- Accompany these measures with the development of a social and community support network that includes education, work, housing, health services, and other programs so as to address the socioeconomic factors that lead women to become involved in drug markets in the first place.
- Ensure that these women have access to effective and affordable legal council, and that judicial officials incorporate a gender perspective in order to allow for the possibility of a reduced sentence and alternatives to incarceration. Toward that end, the following factors should be taken into account: poverty and social exclusion, motherhood and caregiver status in relation to other dependent persons, status as head of household, illiteracy, level of education, lack of job training, immigration status, gender violence, or physical or mental disabilities that may have contributed to the involvement in criminal conduct.
- Implement the necessary training, institutional restructuring, funding streams and oversight mechanisms to ensure effective implementation of these justice sector reforms.
- Design and carry out strategies for raising community awareness of the need to promote drug policy reforms with a gender perspective.

Finally, as called for in the UNGASS Outcome Document, women affected by current drug policies must be given a voice in the debate and the search for more effective alternatives. These include incarcerated and formerly incarcerated women; the partners, spouses and relatives of men incarcerated for drug offenses; women who use drugs; and those living in communities where problematic drug use and the impact of punitive drug policies are most strongly felt. Amplifying their voices is not only the right thing to do—it is crucial for developing and implementing more effective, humane and inclusive drug policies that are grounded in public health and human rights.

NOTES

1. In 2016, Bolivia ranked, along with 3 other countries at 27th highest female prison population internationally and fifth highest in the Americas at 8.2 percent of the prison population. See: "World Prison Brief Data: Highest to Lowest." World Prison Brief. April 10, 2018. http://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All.
2. Ibid.
3. "Delitos Relacionados con Drogas." Tabla: "Bolivia: Número de personas detenidas por actividades penadas por la Ley 1008, según departamento y sexo, desde 2004 hasta 2012." Instituto Nacional de Estadística de Bolivia (INE). 2004. <http://www.ine.gob.bo/index.php/seguridad-ciudadana/introduccion-6>.
4. Lopez, Jorge. "Synthesis of the Current Situation of People Imprisoned under Law 1008." Penitentiary Regime of the Bolivian Government. July 2016. 7.
5. Intervention by Jorge López at forum, "Acceso a justicia de mujeres privadas de libertad" held in La Paz, Bolivia on July 27, 2017.
6. "La UNODC promueve en Bolivia los estándares internacionales sobre infraestructura penitenciaria." United Nations Office on Drugs and Crime: Bolivia. March 9, 2016. <https://www.unodc.org/bolivia/es/La-UNODC-promueve-en-bolivia-los-estandares-internacionales-sobre-infraestructura-penitenciaria.html>.
7. Lopez, Jorge. "Synthesis of the Current Situation of People Imprisoned under Law 1008." Penitentiary Regime of the Bolivian Government. July 2016. 7.
8. In 2016, Bolivia had, along with 3 other countries, the 25th highest female prison population internationally and fifth highest in the Americas at 8.2 percent of the total prison population. See: "World Prison Brief Data: Highest to Lowest." World Prison Brief. April 4, 2018. http://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All.
9. "Las Naciones Unidas piden mayor atención a la situación de las mujeres privadas de libertad." United Nations Office on Drugs and Crime: Bolivia. July 25, 2017. <https://www.unodc.org/bolivia/es/Las-Naciones-Unidas-piden-mayor-atencion-a-la-situacion-de-las-mujeres-privadas-de-libertad.html>.
10. "Bolivia debe reducir las condenas penales por drogas a mujeres, según la ONU." La Razón. November 11, 2016. http://www.la-razon.com/nacional/seguridad_nacional/Bolivia-reducir-condenas-penales-ONU_0_2598940132.html
11. López, Jorge. "Synthesis of the Current Situation of People Imprisoned under Law 1008." Penitentiary Regime of the Bolivian Government. July 2016. 13.
12. "Mujeres Privadas de Libertad." Defensoría del Pueblo: Estado Plurinacional de Bolivia. 2012. 45. http://www.defensoria.gob.bo/archivos/MUJERES_PRIVADA_DE_LIBERTAD.pdf.
13. Lopez, Jorge. "Synthesis of the Current Situation of People Imprisoned under Law 1008." Penitentiary Regime of the Bolivian Government. July 2016. 9.
14. *Mapa Socio-jurídico Mujeres Privadas de Libertad: Centros Penitenciarios La Paz, Cochabamba, Santa Cruz.* La Paz: Fundación Construir. 2017. 54.
15. Ibid, 54.
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17. Ibid, 59.
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ABOUT WOLA

WOLA is a leading research and advocacy organization advancing human rights in the Americas. We envision a future where public policies in the Americas protect human rights, recognize human dignity, and where justice overcomes violence.

ABOUT AIN

The Andean Information Network (AIN) promotes human rights and socioeconomic justice in Bolivia and more humane and effective illicit drug control policies. Working closely with civil society organizations in Latin America and in the United States, AIN promotes policy dialogue and the development of pragmatic alternatives that address the underlying economic, social, political and cultural needs of Bolivia.

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