

WOMEN IN PRISON

REGIONAL REPORT: ARGENTINA, BOLIVIA, CHILE, PARAGUAY, URUGUAY



CEJIL



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REGIONAL REPORT

Capítulo Boliviano de
Derechos Humanos
Democracia y Desarrollo
CEJIL
CLADEM
CODEHUPY
Coordinación de Mujeres
del Paraguay
INECIP Argentina
INECIP Paraguay
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The photographs on this edition are courtesy of the argentinian photographer Adriana Lestido, from her work "Women in prison 1991-1993"

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PROLOGUE

With tremendous satisfaction, the Center for Justice and International Law (CEJIL) presents this publication, the product of a group effort, with the hope of exposing the situation of women deprived of their liberty in the countries of the southern cone.

The document published today is a version that, with slight modifications, corresponds with the report presented to the Inter-American Commission on Human Rights during its 126th session in October of 2006 under the title, *Mujeres Privadas de Libertad*. Informe Regional: Argentina, Bolivia, Chile, Paraguay y Uruguay in which the following organizations participated: Capítulo Boliviano de Derechos Humanos, Democracia y Desarrollo, CLADEM (from its offices in Argentina, Chile, Paraguay and Uruguay), the Coordinadora de Derechos Humanos del Paraguay, the Coordinación de Mujeres del Paraguay, INECIP Argentina, INECIP Paraguay, SERPAJ Uruguay, and the Universidad Diego Portales de Chile.

For many years, CEJIL has been dedicated to advancing the protection of women's rights through the use of the Inter-American System for the Protection of Human Rights. By litigating precedent-setting cases, CEJIL has contributed to the development of innovative jurisprudence that furthers the protection of women's human rights. At the same time, CEJIL has carried out training and awareness-building activities that deal with the protection of women's rights, intended for non-governmental organizations, government actors, and international organisms. The present initiative falls within this line of work. In





this regard, we would like to take this opportunity to give special thanks to the Moriah Fund, whose generous support has allowed us to develop sustained action in favor of the defense of women's rights. Furthermore, I would like to emphasize the initiative and creativity of Liliana Tojo, Program Director of CEJIL for the southern cone, who led this effort, and of Julieta Di Corleto, the CEJIL lawyer primarily responsible for the document.

Mujeres Privadas de Libertad highlights the commonalities in the treatment of women in the prisons of Argentina, Bolivia, Chile, Paraguay and Uruguay, and brings to light the inadequacy of penitentiaries and social politics. It also addresses the general failure to comply with international standards regarding the protection of the human rights of persons deprived of their liberty, including the absence of a gender perspective in both the formulation and implementation of relevant politics.

We hope that this publication will contribute to the promotion and development of new studies at the national level that can further the creation of politics that are sensitive to gender; a goal that is essential to the advancement of the protection women's human rights.

Viviana Krsticevic
Executive Director

INDEX

PARTICIPANT ORGANIZATIONS IN THE PROJECT	
PRESENTATION	6
SITUATION OF WOMEN DEPRIVED OF THEIR LIBERTIES IN THE SOUTHERN HEMISPHERE	9
I. PRINCIPAL ASPECTS OF GENDER IN PENITENTIARY REGULATIONS IN ARGENTINA, BOLIVIA, CHILE, PARAGUAY, AND URUGUAY	11
II. OVERCROWDING IN THE PRISONS OF ARGENTINA, BOLIVIA, CHILE, PARAGUAY, AND URUGUAY	13
III. DISCRIMINATION IN WOMEN'S PRISONS OF ARGENTINA, BOLIVIA, CHILE, PARAGUAY, AND URUGUAY	17
A. Geographic distribution of detention centers and penitentiary personnel	23
B. Family and conjugal visits	25
C. Medical attention	27
D. Recreational, educational, formative, and labor activities & rehabilitation programs	31
E. Incarceration of women with children	37
F. Disciplinary treatment	42
G. Violence against women in prisons	44
IV. CONCLUSIONS AND RECOMMENDATIONS	49
APPENDIX I	55
APPENDIX II	59
DRAFT DECLARATION OF PRINCIPLES ON THE PROTECTION OF PERSONS DEPRIVED OF THEIR LIBERTY IN THE AMERICAS	65
NOTES	85



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PRESENTATION

This report responds to an initiative of the Center For Justice and International Law (CEJIL), and to which the following non-governmental organizations and regional institutions have contributed: *Capítulo Boliviano de Derechos Humanos, Democracia y Desarrollo, Cladem, Codehupy, Coordinación de Mujeres del Paraguay, Inecip Argentina, Inecip Paraguay, Serpaj Uruguay, and the Universidad Diego Portales*. Its objective is to present information to the Inter-American Commission on Human Rights about the situation of women deprived of their liberty in Argentina, Bolivia, Chile, Paraguay, and Uruguay. We believe that this information will reveal the specific problems of women deprived of their liberty and will contribute to the necessary elaboration of appropriate mechanisms of protection.

Additionally, this report aims to contribute to the consultation process initiated by the Inter-American Commission – and promoted by the Special Rapporteur on the Rights of Persons Deprived of their Liberty, Commissioner Florentín Meléndez – aimed at drafting a Declaration of Principles on the Protection of Persons Deprived of their Liberty. In this setting, we hope to evidence the distinct effect that custodial punishment has on women, a point that the Declaration of Principles must take into consideration.

In general, the information presented was compiled in penitentiary centers, except for a few exceptions, such as women imprisoned in police stations. This report has not taken into account women who have been placed under safety measures. Additionally, it is significant to point out that some of the data did not come from official reports and thus,



due to distinct methodologies of investigation, does not necessarily constitute representative findings of what occurs in all prisons of the region. Even with these limitations, however, we believe that this report reflects the life conditions of a significant number of women deprived of their liberty in the countries being analyzed.

The production of this report has not only benefited from the support of the abovementioned organizations, but also the collaboration of other institutions and individuals without whose participation this initiative could not have been carried out. Among these, we would first like to mention the *Defensoría General de la Nación de la República Argentina* (Public Defender's Office of the Argentine Republic), whose authorities (under the terms of an institutional agreement with CEJIL) created mechanisms for specialized personnel of the Public Ministry of Defense to compile, with maximum methodological rigor, interviews in Units 3 and 31 of the Federal Penitentiary Service. The material that was gathered during the work developed in September of 2006 was incorporated in this report.

With regard to individuals who have participated in this initiative, we would like to emphasize the work of Yeny Villalba and Gladys Fariña, who conducted personal interviews in August and September of 2006 with detained women in the Buen Pastor prison in Paraguay. Additionally, we would like to highlight the work of Jennifer Easterday, Lindsay Jenkins, Alicia Kunstek Salinas and Viviana Judit Podjarny- all volunteers in the CEJIL office in Buenos Aires- whose energetic and quality contributions made this report possible.

SITUATION OF WOMEN DEPRIVED OF THEIR LIBERTY IN THE SOUTHERN CONE REGION

The situation of women deprived of their liberty in Argentina, Bolivia, Chile, Paraguay, and Uruguay should be analyzed in the context of the penitentiary system in general. In the Inter-American Human Rights System there are clear signs of the grave challenges that the penitentiary system of the region faces. The provisional measures dictated by the Inter-American Court of Human Rights regarding the penitentiaries of Mendoza¹ or in the *Urso Branco*² prison illustrate the violence to which persons deprived of their liberty, and in some cases even the agents of the State, are exposed. These decisions, among others, attest to the urgency of the situation and are motivation for us to communicate possible solutions for an exceedingly complicated subject.

The cases presented before the Inter-American System are only one representation of the overall penitentiary situation. The penitentiary system crisis is not exclusive to male reclusion centers, but rather also affects women drastically. Just as the Inter-American Court upheld in the *Penal Miguel Castro Castro v. Perú* case, conditions of confinement for imprisoned women acquire their own dimension³. In this report we will attempt to reveal these distinctions.

Within the framework of a discussion on the Declaration of Principles on Persons Deprived of their Liberty, the objective of this presentation is to bring to light the distinct impact that confinement has on women. In addition to the fact that custodial punishment



is, in itself, violent, women are placed in a particularly discriminatory and oppressive environment. This is evident in the inequality of penitentiary treatment, which is based on stereotypes about law-breaking women and, moreover, designed by males, thus lacking consideration for issues specific to women. A synthetic and condensed investigation of the situation for imprisoned women will begin our analysis of the sexism connected to the current practices in women's prisons of the region.

The order of our exposition will be as follows: In section I there will be a brief mention of the current laws of the countries being evaluated. Apart from the individual data that will be presented, we hope to reveal in general terms that the penitentiary laws take women into account solely in terms of their reproductive function, that is, with regard to maternity.

Next, in section II, we will highlight the gravity of the situation of the penitentiary system in the southern cone. The information will be based on the penitentiary centers of Argentina, Bolivia, Chile, Paraguay, and Uruguay, for men as well as women, and we will illustrate how overcrowding in prisons is a problem that affects men and women alike. To begin to contextualize our presentation, in this section we will put emphasis on the evolution of the female penitentiary population in the last few years and we will attempt to present a detailed summary of the state of women's prisons.

Section III of this report constitutes the presentation's central point. We will demonstrate the distinct impact imprisonment has on women, given the reality in which imprisoned women find themselves. First, we will concentrate on the distribution of detention centers in different countries and the challenges that this presents. Next, we will analyze the system in place for family and conjugal visits, and explain how this system worsens the situation for imprisoned women. Third, we will present information about health deficiencies and show that the infrastructure of prisons was not designed with specialized attention to the problems that are unique to females. Next, we will argue that recreational, educational, formative, and labor activities tend to reinforce the traditional roles of women in society, and rehabilitation programs are inadequate as well as insufficient. Subsequently, we will discuss the notion of children residing in prison with their mothers

and show how this affects detention conditions for women. We will conclude section III by discussing disciplinary treatment and gender violence in women's prisons.

Finally, in section IV we will present our conclusions and recommendations to the Inter-American Commission.

I. Principal gender aspects of penitentiary regulations in Argentina, Bolivia, Chile, Paraguay, and Uruguay

The objective of this section is not to produce an exhaustive analysis of all of the current legislation in every country, but rather to emphasize some of the principal characteristics, in particular those that either directly or indirectly affect women deprived of their liberty.

In the countries being studied, specialized laws regulate the penitentiary system. In general, it is evident that the legislation employs language that is far from inclusive, as it appears to refer exclusively to the treatment of males. Under the facade of "universal" language, the laws completely lack neutrality and unfairly impact women. In more specific terms, an examination of current regulations informs us that there is a lack of foresight regarding necessities unique to women. As seen in all of the legislation, any reference to women explicitly places emphasis on reproduction, hence limiting the focus solely to circumstances of maternity⁴.

This is seen, for example, in **Argentina**, where the law 24.660, known as the *Ley de Ejecución*, only dedicates seven articles to the regulation of penitentiary treatment for women, two of which refer to the need for establishments to be organized separately for men and women⁵ and for female personnel be exclusively in charge of women⁶. The remaining articles only mention women in their reproductive sense⁷ and lack any consideration for the obligation to provide feminine hygiene products, offer medical attention tailored to women's physical and biological differences, or attend to necessities associated

with sexual and reproductive matters⁸. Article 495 of the Criminal Procedure Code of the Argentine Republic allows for the suspension of custodial punishment when a woman is pregnant or has a child who is younger than six months at the time of the sentence.

A similar phenomenon is seen in Chile's legislation, in the *Reglamento de Establecimientos Penitenciarios*⁹ (Penitentiary Establishment Regulations). In this body of regulations, there are only two specific references to so-called female penitentiary activities. The first refers to the need to create penitentiary establishments that separate men and women¹⁰, and the second refers to women only in their reproductive sense. Identical to the case in Argentina, laws in Chile do not include the obligation to provide feminine hygiene products for women nor to offer specialized medical attention¹². An idiosyncrasy that should be emphasized is that the law itself states that it must be applied in an impartial manner; that is, without differential treatment based on nationality, race, political opinion, religious belief, social condition or "any other circumstances". It is particularly noteworthy that this law does not specifically mention gender as a category used to determine possible discriminatory practices¹³.

The applicable law in **Paraguay** is law 210/70. It foresaw in its articles the need for separation of prisons by gender¹⁴, as well as the need for female personnel to be in charge of detained women¹⁵. Nevertheless, once again we see a legal norm that only distinguishes women in terms of their roles as "pregnant," "nursing" their child, and being a "mother"¹⁵. Additionally, the law only foresaw that "the regulations will be applied without using discriminating or differential treatment among the inmates"¹⁷, without indicating the possible grounds for said discrimination, such as gender. With regard to conjugal visits, these are permitted under the law, as long as they involve persons of the "opposite sex" and are in accordance with internal regulations¹⁸. This does not allow homosexual persons to exercise their right to conjugal visits, and furthermore, it gives discretion to the authorities. Apart from law 210/70, article 238 of the Paraguayan Criminal Procedure Code establishes limitations for the imposition of preventive detention during a woman's last months of pregnancy and for mothers who are breastfeeding their children. The Penal Code of Paraguay has a similar provision, but in regard to those convicted. According

to article 43, "the serving of a sentence in prison might be delayed when the convicted person is a pregnant woman, the mother of a child under one year old [...]".

The Uruguayan legislation is not an exception in terms of how the penitentiary treatment of women is regulated. In **Uruguay**, administrative order 14.470, known as the *Ley Penitenciaria* (Penitentiary Law) refers to a prisoner's term and for the most part, is directed toward male prisoners. The exception, however, is when talking about the treatment of pregnant prisoners, which implies a focus on the maternal figure¹⁹. This can be observed in the articles that discuss pregnant women, mothers who are exempt from working during the 45 days before and after giving birth, and who have the possibility of exemption from any unsuitable activity while caring for their children²⁰. Additionally, prisoners with children under four years old can have their children with them at the establishment. In special cases, previous rulings from technical experts, psychologists or psychiatrists of the Children's Council or the Institute of Criminology, together with a report from prison authorities, can extend the age to eight years old²¹. The disciplinary plan prohibits correction measures that, in the opinion of a doctor, could affect the health of a woman who is pregnant or breastfeeding²². As in the other countries mentioned, the laws in Uruguay completely lack any mention of the obligation to provide women with feminine hygiene products, offer specialized medical attention that is sensitive to a woman's physical and biological differences, and that can attend to sexual and reproductive matters²³. It is worth noting that in the laws concerning the treatment of prisoners, the administrative order prescribes that "[...] a strict impartiality will be observed, without distinguishing prisoners on account of color, race, religion, political affiliation, language, origin, social and economic position or other similar conditions," without any mention of gender as a determinant category. Finally, it is important to emphasize article 326 of Uruguay's Code of Criminal Procedure, which permits in exceptional cases the postponement of custodial punishment or safety measures with regard to a pregnant woman or a woman who has a child younger than two years old²⁴, and article 8 of law 17.897 about Libertad Provisional y Anticipada (Provisional and Anticipated Release), which allows the judge to authorize house arrest for women in their last three months of pregnancy and first three months of breastfeeding²⁵.

It is fitting to close this section by mentioning **Bolivia**, whose legislation is the most advanced in terms of incorporating a gender perspective and international standards for the protection of persons deprived of their liberty. Law 2.298, passed in 2001, establishes that mothers or fathers deprived of their liberty can be the guardian for a child under 6 years old and can live with their child in the penitentiary establishment²⁶. The mother has priority only while she is breastfeeding. According to the law, medical attention services must, among other things, “offer specialized medical assistance, attending to the particularities of gender and age,” and “offer classes about sexual education and reproductive health²⁷.” At the same time, the chapter that refers to disciplinary problems classifies sexual harassment as “very serious”²⁸ and indicates that pregnant women or mothers with children who are breastfeeding can never be ordered to solitary confinement²⁹. Additionally, the law allows for women who are six or more months pregnant to serve their sentence under house arrest until 90 days after birth³⁰.

The fact that current penitentiary legislation only mentions women in the context of maternity denotes a number of negative consequences in penitentiary practices. As will be seen more specifically in section III, this manner of regulating penitentiary treatment has differential effects on imprisoned women.

After contextualizing the problems of female imprisonment, in the next section we will discuss the very serious situation of the penitentiary system in general, with a special emphasis on conditions of overcrowding in women’s prisons.

II. Overcrowding in prisons of Argentina, Bolivia, Chile, Paraguay, and Uruguay

The penitentiaries of the southern cone region bear similar characteristics. Reports from human rights organizations and cases brought before the Inter-American System concerning Argentina, Bolivia, Chile, Paraguay, and Uruguay convey the similarity of the problems³¹. For example, there is an emphasis on overcrowding in prisons and a constant increase in tension among inmates, which results from insufficient and inadequate space for a person's development³², and makes it very difficult to avoid the transmission of diseases and to guarantee proper nourishment and sanitary conditions. These realities are not exclusive to the penitentiary conditions for men, as women deprived of their liberty face a similar situation.

In **Argentina**, on December 31, 2002, the total prison population in the Federal Penitentiary Service and the Provincial Penitentiary Service was 56,313³³, of which only 5.3% were women³⁴. Due to the overall growing prison population, in September of 2005 several prison units of the Federal Penitentiary System were overpopulated, while the remaining units were practically at their maximum capacity³⁵. In this context, the female prison population grew at a firm and constant rate. In the federal system, from 1990 to 2001, the female prison population grew 205%³⁶. According to the Federal Penitentiary Service, the number of imprisoned women at the end of 2001 was 876³⁷.

A report from the year 2004 shows that in the Correctional Institute for Women, known as Unit 3 of Ezeiza, there were 626 prisoners, despite the fact that the maximum capacity is 374. This one piece of data shows that the available accommodations were exceeded by 67.4%³⁸. According to data contributed by the *Subsecretaría de Asuntos Penitenciarios dependiente del Ministerio de Justicia y Derechos Humanos de la Nación* (Undersecretary of Penitentiary Matters of the Ministry of Justice and Human Rights), this unit currently houses 740 women, indicating that the center's capacity is exceeded by 100%³⁹. The living conditions of women deprived of their liberty in Jujuy, a province of **Argentina**, also warrants our attention. In September of 2005, it was verified that women were living in a trailer that

measured 2 meters (6.56 feet) wide by 10 meters (32.81 feet) long, measurements similar to those used to transport cattle. Living in these conditions were twenty-five women, a 16-year-old adolescent, two 4-year-old children and one 5-year-old⁴⁰. Additionally, in the Alcaidía Federal in the same city, an establishment that houses men as well as women, it was confirmed that twelve women, together with a 28-day-old girl, lived in a cell measuring 16m², in which there were eleven beds⁴¹.

The following chart shows the evolution of the female penitentiary population in the federal jails of Argentina and its relation to the growth of the penitentiary population in the federal system.

Year	Women deprived of their liberty in federal prisons	Population deprived of their liberty in federal prisons	Women deprived of their liberty (% in relation to the total population in federal prisons)
1995	562	5.928	9,48 %
1996	659	6.112	10,78 %
1997	679	6.177	10,99 %
1998	766	6.385	11,99 %
1999	739	6.767	10,92 %
2000	780	7.146	10,91 %
2001	876	8.472	10,34 %

Source: Alcira Daroqui, Daniel Fridman, Nicolás Maggio, Karina Mouzo, Victoria Rangugni, Claudia Anguillesi, Claudia Cesaroni, Voces del encierro *Mujeres y jóvenes encarceladas en la Argentina. Una investigación socio-jurídica*, Editorial Omar Favale, Buenos Aires, 2006, p. 47 and 49.

The penitentiary system in **Bolivia** exhibits similar deficiencies. The last census conducted by the *Dirección de Régimen Penitenciario* (Directorate of the Penitentiary Regime) in 2005 reports that, of 7,310 persons deprived of their liberty, 949 are women and 6,258 are men. From this it can be concluded that 12% of those imprisoned in penitentiary centers are women⁴². At the same time, 74.98% of persons deprived of their liberty are held in preventive detention and only 25.02% have a prison sentence⁴³.

Year	Women deprived of their liberty	Population deprived of their liberty	Women deprived of their liberty (% in relation to the total population in prisons)
1998	1.100	6.149	17,89%
1999	1.243	8.084	15,38%
2000	1.393	8.151	17,09%
2001	674	5.577	12,08%
2002	751	6.065	12,38%
2003	744	5.669	13,12%
2004	909	6.495	13,99%
2005	913	6.793	13,44%

This chart shows the evolution of the female prison population in Bolivia and its relation to the general growth of the penitentiary population in prisons.

Source: *Instituto Nacional de Estadística, Bolivia Población Penal según Departamento y Sexo, 1998-2005*, available at <http://www.ine.gov.bo/cgi-bin/piwdielxx.exe/TIPO>.

The situation in the prisons in **Chile** is also very serious. The evolution of the number of prisoners per 100,000 inhabitants is as follows: in the year 1995 there were 155 prisoners, in 1998 there were 181, in 2002 there were 231, and in 2003 there were 238. The growth rate of the overall prison population, between 1995 and 2003, was approximately 54%⁴⁴. In an interview with *Cladem*, Chile, authorities from the Gendarmerie affirmed that prison overpopulation is a very serious problem in the country, as there are currently more than 39,000 imprisoned persons in an infrastructure suitable to accommodate only 24,000, with the imprisoned population growing at a rate of about 8% annually⁴⁵. According to experts, the level of overcrowding fluctuates around 60%⁴⁶. In March of 2005, 600 detainees in the Southern Santiago Center for Preventive Detention had to sleep outdoors due to the lack of cells on the premises to accommodate the number of prisoners⁴⁷. The prisons for women are not any different. In the year 1999 it was verified that the *Rancagua* Female Penitentiary Center had a population of 55 women, when its capacity was for only 22 people, which implies a deficit of 150%. In the same year, the *Santiago* Female Penitentiary Center, which houses the majority of women in Chile, had a population of 623 women, while its capacity was for 180 people, which represents a deficit of 246%⁴⁸. In 2005, this percentage rose to 300%⁴⁹. In effect, the female prison population has had a continual growth in the last few years. In 1998 there were 1,887 adult women prisoners out of a total of 23,485 prisoners, in the so-called 'closed system.' In 2005 the total was 2,857⁵⁰. According to figures contributed by the Gendarmerie of Chile, by June of 2006 women deprived of their liberty constituted 6.4% of the total population (39,916 people)⁵¹, which shows that the proportion of women in relation to the total population has remained the same.

Year	Women deprived of their liberty	Adult population deprived of their liberty	Women deprived of their liberty (% in relation to the adult population in prisons)
1998	1.887	26.465	7,13%
1999	1.984	29.523	6,72%
2000	2.216	32.445	6,83%
2001	2.224	33.144	6,71%
2002	2.227	34.420	6,47%
2003	2.248	35.910	6,26%
2004	2.240	35.955	6,23%
2005	2.857	42.897	6,66%

This chart shows the evolution of the female prison population in Chile and its relation to the general growth of the penitentiary population in prisons.

Source: Jorge Stippel, *Las Cárceles y la búsqueda de una política criminal para Chile*, LOM, Santiago, 2006, p. 149.

In this context, **Paraguay** is not an exception. In 2003, the total prison population was 5,06352, of which only 5.1% were women⁵³. Male detention centers are overpopulated⁵⁴ and the growth rate of the female penitentiary population results in the same situation in women's prisons. In 2002 in the *Pedro Juan Caballero* Regional Penitentiary it was affirmed that seven adult women and adolescents shared one cell of approximately 12m2 (129.17 square feet), and when necessary, some women had their babies there as well, all enclosed in one space 24 hours a day, without any opportunity for recreation⁵⁵.

In **Uruguay**, the prison population has also been rising. In September of 2003, the total population in prisons, penitentiaries and correctional facilities was 7,100⁵⁶, of which only 6% were women⁵⁷. In May of 2006, of 6,638 persons deprived of their liberty, 370 were women⁵⁸. In a period of ten years, since the middle of the 1990s, the prison population doubled, while the infrastructure, staff and budget did not, leading to the collapse of the system⁵⁹. Specifically, with regard to women deprived of their liberty in Uruguay, in November of 2004 in the *Cabildo* Correctional and Detention Establishment for Women, there were 212 prisoners, an overpopulation that brought numbers to more than double the capacity of the establishment. Many prisoners have to sleep on the floor due to the overpopulation of prisoners, as even if there are mattresses for everyone, there is not sufficient space for the necessary number of mattresses⁶⁰. In the *Canelones* Female Reclusion Center in August of 2005, they reached the limit with 42 women prisoners, given that the establishment's capacity is for 20 women without children⁶¹. In reference to the growth of the female prison population, it is pertinent to note that since the year 2000, the number of women detained for crimes linked to drugs has risen, and in particular, the selling and possession of cocaine sulfate (base paste)⁶²

The following chart shows the evolution of the female prison population in Uruguay between 2003 and 2006.

Year	Women deprived of their liberty	Population deprived of their liberty	Women deprived of their liberty (percentage in relation to the total population in prisons)
2003	426	7.100	6%
2006	370	6.638	5,57%

Sources: *Centro Internacional de Estudios Penitenciarios*, available at http://www.kcl.ac.uk/depstalrel/icps/world-brief/south_america_records.php, last visited on August 11, 2006, and *Ministerio del Interior, Ministerio de Salud Pública, Comisionado Parlamentario, Consejo de Educación Secundaria, Dirección Nacional de Cárceles - INACRI, Patronato Nacional de Encarcelados y Liberados, Patronato Departamental de Canelones, Servicio de Paz y Justicia, Instituto Nacional de la Mujer ONG .ANIMA, Informe sobre la Situación de las Mujeres Privadas de Libertad en el Uruguay*, 2006, p. 17.

Problems of overpopulation and overcrowding are not unique to male prisons. However, in the case of women, the factors that affect men and women equally are added to those that women suffer exclusively as a result of their gender. Prisons are not meant to accommodate women, but rather are constructed and programmed from a chauvinistic perspective: the regulations, practices, roles, and delegations were developed by men and for men. Consequently, the distinct components of incarceration for women are neglected. The section that follows attempts to analyze the distinct impact penitentiary practices have in women's prisons.

III. Discrimination in women's prisons in Argentina, Bolivia, Chile, Paraguay, and Uruguay

The American Convention on Human Rights and the American Declaration of the Rights and Duties of Man include norms that evidence the State's obligation to guarantee equality before the law and to enforce the rights that are recognized in the distinct conventions "without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"⁶³. In the Inter-American system, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, an instrument ratified by all of the countries included in this report, also adopts the principle of equality under the law and non-discrimination⁶⁴.

For the analysis that we seek to develop, it is necessary to take into account both direct discrimination—situations in which the laws, rules or practices deliberately exclude particular persons because of their situation or condition—and indirect discrimination, situations in which the laws, rules or practices appear neutral, but upon application disproportionately affect members of certain groups. When an action or omission is indirectly discriminatory, it inevitably affects in an adverse manner a number of individuals who are denied supposed equal treatment due to the application of criteria falsely deemed "neutral". This type of discrimination renders unnecessary any subjective inquiry aimed at identifying the psychological element of discriminatory behavior; on the contrary, the verification of the prejudicial effect produced by the law, rules, or practice is sufficient.

In the exercise of their respective functions, the Inter-American Commission and Court have laid down a basis for the appropriate analysis of discrimination against women. In relation to indirect discrimination, within the framework of the Inter-American system, it has been recognized that *prima facie* neutral treatment of situations can jeopardize equality. For this reason, the Commission and the Court have both expressed the need to take specific measures to guarantee the rights of people in a “situation of real inequality” due to their situation or condition. In this sense, the Inter-American system recognizes that facially neutral treatment can be quite arbitrary; this occurs, for example, with laws or other types of acts that do not appear discriminatory but the overall impact or effect is⁶⁵.

In this normative context, it should be taken into special consideration that the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women advises about the vulnerability that affects women deprived of their liberty, and invites States to define their responsibilities with regard to such circumstances⁶⁶. The Inter-American Court has sustained that this treaty, as well as the Convention on the Elimination of All Forms of Discrimination against Women, complement the international *corpus juris* regarding matters of protection for women⁶⁷.

In accordance with these principles, section III will present information that explains the impact on the principle of equality and non-discrimination in light of the norms of the Inter-American system—principally with regard to existing indirect discrimination practices that affect women—with a special emphasis on the conditions for imprisoned women.

To verify this type of discrimination, we have decided, on one hand, to perform a critical review of the procedures and practices of the penitentiary systems, and on the other, to carry out a statistical analysis of the existing inequalities for the female prison population, whose growth, added to the specific questioning of the penitentiary system in general, has helped aggravate the situation of detained women. Among the major themes to analyze in terms of a standard for indirect discrimination, we will focus on the geographic distribution of detention centers; family and conjugal visits; medi-

cal attention; recreational, educational, formative, and labor activities; rehabilitation programs; incarceration of women with children; disciplinary treatment; and violence against women.

A. *Geographic distribution of detention centers and penitentiary personnel*

The attached chart labeled Appendix II shows that the number of detention centers for the imprisonment of women is less than those for men. In light of the growing female prison population and the lack of detention centers for women, some States have chosen to open sections of male prisons to women. The fact that women reside in prisons constructed and intended for men, means that the sections allocated to women are run by male personnel, despite the fact that the Standard Minimum Rules for the Treatment of Prisoners indicate that these centers shall not be run by male penitentiary personnel⁶⁸.

In **Argentina**, this situation is clearly seen. For example, Unit 3, one of the female prisons of the Federal Penitentiary Service of Argentina, was originally designed as an annex to Unit 19, which was intended to house males deprived of their liberty and offer drug addiction treatment. In 1995, studies already noted a large growth in the female prison population, which resulted in the unit's transformation into a place to accommodate women prisoners⁶⁹. Originally, Unit 3 was located in the city of Buenos Aires and functioned as a hospital run by a religious order; with an adjacent area for women deprived of their liberty. In the middle of the 19th century it became a detention center for men and women. Once installed in the Ezeiza district, Unit 3 became a detention center exclusively for women, although currently the administration and security of the unit are run by men⁷⁰.

In **Paraguay**, the lack of detention centers exclusively for women results in them being housed in male prisons with separations that are inadequate for the prevention of violence. This is seen, for example, in the *Pedro Juan Caballero* Regional Penitentiary, where the only separation between men and women is a fragile wire fence⁷¹. The same situation occurs at the

San Bautista de las Misiones Regional Center; where children, women and men all share the same yard during recreational time⁷². We also see this lack of separation between men and women in the *Encarnación* Regional Penitentiary, where 477 older adult males, 16 adult women and 9 adolescents are housed⁷³. Also in Paraguay, in the *Comisaría Central de Santana* in 2005, it was verified that, due to the lack of a specific place to house women, they were kept in an area intended for guards⁷⁴.

In **Chile**, of 146 prisons throughout the country, there are only 7 for women, which house 48% of the female prison population⁷⁵. Consequently, more than half of women in prison reside in mixed sections⁷⁶. According to studies done in the 1990's, 47% of imprisoned women were found in preventive detention centers or in male detention centers, and only 53% were in female prisons, as mandated⁷⁷.

In **Uruguay**, the National Prisons Directorate under the *Ministerio del Interior* has six detention centers under its jurisdiction, of which only one is a women's prison, the *Cabildo* Prison, in Montevideo. In fourteen departments outside the capital it has been confirmed that women deprived of their liberty are housed on the same premises as men, separated only by a wall or minimal fence⁷⁸. In four departments, women are confined in police quarters. The *Canelones* departmental prison is the only prison with an independent house allocated for women, which is located far from the central men's prison⁷⁹. In the *Tacuarembó* departmental prison, in 2005, it was confirmed that women were housed in an area with a bathroom and a small yard, separated from the patio in the men's section. However, women had access to the men's yard, and between the hours of 9am to 11am, and 3pm to 6pm, men and women shared the same area.

The lack of establishments specifically for women deprived of their liberty also has an effect on the separation between those being tried and those who are convicted. In **Chile** “[...] in contrast to what occurs with the male population, confined women do not have different establishments according to their procedural status, but on the contrary, in the majority of prison establishments, accused and convicted women are placed together; and separation based on the type of imprison-

ment only occurs in precincts with a considerable number of prisoners and sufficient space to do so⁸⁰. Due to the lack of prisons in **Paraguay**, the reclusion centers do not adhere to the separation of accused and convicted persons⁸¹. With regard to **Argentina**, in Unit 3 of Ezeiza, 78.7% of the population lives with prisoners who have a different procedural status from their own,⁸³ and in Unit 31 of Ezeiza the same phenomenon occurred with regard to 85.9% of the prison population⁸³. The same situation occurs in **Uruguay**, where, in the *Canelones* Reclusion Establishment for Women⁸⁴, the *Tacuarembó* prison and the *Cabildo* Correctional and Detention Establishment for Women, there is no separation between accused and convicted⁸⁵. In **Bolivia**, the penitentiary system does not currently have adequate classifications, and for this reason, women detained on remand are held together with convicted women, under the same administration⁸⁶.

B. *Family and conjugal visits*

There are very few detention centers that accommodate women relative to the number of prisons for men. Penitentiary centers for women are set up in areas far from the communities from which prisoners come, which exacerbates the imprisonment by adding an additional level of isolation to confinement. Being located far from home causes a further uprooting, as family and friends encounter greater difficulties visiting and offering support, and even more so when they lack the economic resources to do so. In the same way, the isolation worsens when women deprived of their liberty are restricted or prohibited from exercising their sexual rights, a fact that is evidenced by the restrictions on conjugal visits⁸⁷.

In contrast to male detainees, women deprived of their liberty are rarely visited⁸⁸. While many women visit their imprisoned husbands, fathers, children and friends, female prisoners practically never receive visits from relatives or partners⁸⁹. With respect to women, “the breaking of continual contact with relatives, and above all, their children, is exceedingly difficult to deal with⁹⁰,” and this lack of continuous connection has a concrete impact on detained women. A study done in 2002 in Unit 5 of the Province of Santa Fe, **Argentina**, *Instituto de Recuperación de Mujeres de Rosario*, determined that the majority of women detainees had been abandoned by their partners and seldom received visits from relatives⁹¹.

Research collected on this subject indicates that the location of detention centers affects the frequency of visitors. A study conducted by the *INECIP* in **Argentina** verified that the location of Unit 3 of Ezeiza made the regular recurrence of visits difficult on account of the cost⁹². The same notion is seen in Unit 31 of Ezeiza, where 60% of women expressed that they had not received visits in the prison. Of these women, 43.5% explained that was a result of the distance, and 17.4% said it was because of the cost⁹³. Of course, the foreign-born prison population receives even fewer visits than do nationals, which implies a greater level of vulnerability⁹⁴. In this regard, 31.8% of the prison population of Unit 31 of Ezeiza, in **Argentina**, said they were born abroad⁹⁵. A poll conducted in September of this year in the *Juana María de Lara* Penitentiary, the *Concepción* and *Encarnación* Regional penitentiaries, and the *Casa del Buen Pastor*, all centers in **Paraguay**, shows that 15% of the detained population is foreign⁹⁶.

Nevertheless, it is not only the location of detention centers that creates obstacles for visits. In **Chile**, in the Female Penitentiary Center of Santiago, prisoners only receive regular visits two times per week, between 3pm and 5pm. The area allocated for the visits does not have even the most basic necessities to confront rough weather (rain or heat), but even more serious is the security check that visitors must pass through, where they are stripped and searched, all the way to their sexual organs, circumstances which oftentimes inhibit a second visit. The denigrating physical examinations performed on visiting family members deprive them of their rights. For example, women must undress in front of guards and are often obligated to bend over to have a cavity search, in the vagina or the anus⁹⁷. In **Uruguay**, in the *Cabildo* Reclusion Center for Women, visitors must submit to a physical examination, for which there is not any kind of technology⁹⁸. The same occurs in Unit 5 of Santa Fe, **Argentina**, where the inspections for visitors to enter are extremely demeaning, especially for women, who are subjected to abuse from the guards, humiliating examinations, insults, and constant extortion⁹⁹. In this sense, the area for family meetings is associated with violent practices and degradation, which results in profound individual and social deterioration for the prisoner and their relatives¹⁰⁰. While it is true that these practices are not exclusive to women's prisons—in male penitentiary centers visitors must pass through the same examinations—it is certain that such practices add another factor to discourage the already rare visits that women receive.

Family separation is also affected by the restrictions placed on the possibility of conjugal visits. Prisons are extremely discriminatory towards women who exercise their right to conjugal visits. Different from what occurs with males deprived of their liberty, women are forced to submit to particular requirements for conjugal visits. For example, women must prove that they are in a relationship with their partner; pass medical examinations, and adopt a contraceptive method¹⁰¹. In **Uruguay**, the *Cabildo* Reclusion Center for Women demands that detainees have spent a minimum of three months in prison, possess good conduct, and have a stable partner¹⁰². In Unit 5 of Santa Fe, **Argentina**, women must prove that they lived with their partner prior to admission into the prison. In addition, they must have an HIV-AIDS test and undergo a rigorous “hygiene” inspection¹⁰³. In 2002, in Unit 5, which has a capacity of 50 women, none of the detainees had been authorized to have conjugal visits, and there were only two requests being processed¹⁰⁴. In September of 2006, in Unit 3 of Ezeiza, 87.7% of women affirmed that they had not had sexual relations in the prison¹⁰⁵. In **Chile**, women detainees in the *Santiago* Female Penitentiary Center were prohibited from maintaining sexual relations with their partners. This changed after two pilot programs. The first was implemented in the *Concepción* prison and the second, known as the Venus Program, was implemented in the *Santiago* Female Penitentiary Center. Admittance to the Venus Program requires complying with a series of requirements, including: having been convicted, having a stable partner (a relationship of at least six months), good behavior (six months), not carry any sexually transmitted diseases, and the completion of an HIV test. The *Reglamento de Gendarmería* rules are silent about birth control, but in practice women are forced to use it¹⁰⁶. The authorities’ preferred contraceptive method is the intrauterine device, which from the perspective of reproductive health is inadvisable for women exposed to sexually transmitted diseases by their partner. Though there are indications that there has been more flexibility with women’s conjugal visits, the concept of “stable partner” continues to be interpreted in a restrictive and discretionary manner solely for women, which limits their ability to exercise this right. For example, in the *Calama* Prison, authorities only consider this right applicable to those who are married¹⁰⁷. This situation is even more serious when both persons in the relationship are imprisoned and the authorities restrict the couple from their “benefits.” For this reason, in mixed prisons, like in *Arica*, couples tend to intentionally violate rules so that they can be transferred to punishment cells and, at the least, be in closer proximity to converse¹⁰⁸. The situation of prisons in **Paraguay** is exceptionally troubling. In a

poll recently conducted in the *Casa del Buen Pastor* and the *Correccional Juana María de Lara* –women’s prisons- and the in the *Concepción* and *Encarnación* Regional Penitentiaries- mixed prisons- it was verified that for women to have conjugal visits, they had to pay between 10,000 and 20,000 guaraníes¹⁰⁹.

However, it is not only the regulations in place that prevent access to having conjugal visits. In **Bolivia**, the infrastructure’s limitations prevent the acknowledgement of this right, and due to questions of shame and embarrassment women almost never claim their exercise of this right. Meanwhile, this situation has caused the separation of a high proportion of couples. Today, owing to the *Defensor del Pueblo*’s (ombudsman’s) intervention, some departments like La Paz and Santa Cruz have conjugal visits every 15 days, though there are not specific areas for these to take place¹¹⁰. In some prisons, an awning is simply hung, visible to all the other women and children living there¹¹¹. In **Uruguay**, the *Manual de Orientación para Reclusos* (Orientation Manual for Prisoners) of the National Prisons Directorate (2003 version), states that “the inmate has the right to conjugal visits of a sexual nature”¹¹² but this is not carried out in the *Canelones* Reclusion Center for Women because there are no physical facilities for conjugal visits, nor in the Departmental Reclusion Establishments, as the existing facilities are in terrible condition¹¹³. Unit 5 of Santa Fe, **Argentina**, also lacks the infrastructure for these types of visits. For this reason, women must be transported to Unit 3 for men¹¹⁴, exposing them to all kinds of humiliation from the penitentiary personnel in charge of their transport¹¹⁵. In the *Buen Pastor* prison in **Paraguay**, women can only have conjugal visits if their partner is in another penitentiary center¹¹⁶.

C. Medical Attention

Medical attention for women deprived of their liberty also presents unique characteristics. While imprisoned, women suffer from health problems related to their social status (conditions and quality of life), experiences prior to being imprisoned (gender violence), and drug addictions. Significant psychological suffering further deteriorates women’s already poor health. It has been shown that the loss of maternal-filial relationships creates greater anxiety for women, and that they seriously

suffer from the awful hygienic conditions of the facilities¹¹⁷, the indigestible food, the lack of air, and the violence of the inspections. In light of these conditions, the medical attention offered in feminine detention centers is gravely deficient.

A report conducted by *INECIP* concerning Unit 3 of Ezeiza in **Argentina** documented the deficiency of medical attention. They found that there are no preventative practices (clinical checkups, periodical clinical revisions, dental checkups), nor special programs for attention to specific illnesses. Accounts from women show that before receiving assistance, they make numerous claims, and in a significant number of cases, this lack of immediate attention imposes further suffering¹¹⁸. This is reflected in the interview conducted by the *Ministerio Público de Defensa* (Public Ministry of Defense) where 47.6% of the prison population in Unit 3 of Ezeiza considered the medical attention to be in between bad and regular, and 59.2% believed that their health was affected by the lack of medical attention. Similar figures were obtained with respect to Unit 31, where 57.6% deemed medical attention to be somewhere between bad and regular, and 67.4% declared that their health was affected by the lack of medical attention. Meanwhile, 26.5% said they need medicines that are not supplied by the penitentiary services¹¹⁹. In **Bolivia**, the attention to health is also deficient, as doctors are only available two hours, three times a week and furthermore, the doctors are not specialists. In 2003 there were three deaths that resulted from the lack of medical attention. Pregnant women do not have adequate medical assistance in prison either. If a woman is about to give birth, they transfer her to a hospital in conditions that put her life and the life of her baby at risk¹²⁰. There is an extreme shortage of medicines. In the *Palmasola* prison, the only existing pharmacy, which has only painkillers or donated products that are of little use, is in charge of the inmates¹²¹. In **Paraguay**, prisons also lack adequate instruments, medicines and other medical supplies necessary to treat women's illnesses¹²². A recently published article in a Paraguayan newspaper reported that *Buen Pastor* prison did not receive medications from the State, and that they were obtained from private donations¹²³. In a diagnostic study conducted this year in the same prison, all of the women interviewed expressed that the medical equipment is neither adequate nor sufficient and that the supply of medications is deficient¹²⁴. In a poll conducted in the *Juana María de Lara* prison, and the *Concepción* and *Encarnación* regional penitentiaries confirmed that the majority of women had illnesses that had not been treated. Among these cases, the case of a woman with breast cancer stands

out¹²⁵. One concern that was emphasized was that women live together with all kinds of insects, conenose bugs and other parasites¹²⁶. One woman recounted that she was pregnant in prison and the first form of assistance she received for the labor pains was from another prisoner who knew about nursing. She also said that the last time she received medical attention was six months earlier, when she was told that she needed an urgent surgery, but that they told her that they did not have a vehicle to transfer her to the hospital¹²⁷. One of the women interviewed by the priest, Pablino Cáceres, in the *Juan Pedro Caballero* prison related that everything there is governed by the *ñembotavy* law (law of apathy, of feigning ignorance) and that solutions for cases of illness or other things that are needed never come from the authorities¹²⁸. According to a recent report conducted in Uruguay, the *Cabildo* Establishment for Women has medical service available 24 hours a day, provided by the Penitentiary Medical Service. In addition, there are seven doctors, two gynecologists, a dentist, a laboratory technician, a sonographer, and preventative medicine provided by the Ministry of Public Health (PAP, COLPO, and birth control). Inmates are given a medical exam when they enter and routine exams (e.g. VDRL, HIV, etc.). HIV infected prisoners (2) are treated by a medical specialist¹²⁹. However, in an interview with Cladem Uy, the Director of the *Cabildo* prison, in reference to prisoners with HIV, stated, "In a lot of cases, the Institute of Hygiene does not provide a new treatment if the patient discontinued one previously." The reason given is that the costs are very high¹³⁰. In the *Canelones* reclusion center for women, although nurses make rounds to distribute medication, there is no permanent doctor and prisoners are not given preventative medical examinations¹³¹. The same report informs that in the departmental reclusion establishments, attention provided by the Ministry of Public Health and/or the *Dirección Nacional de Sanidad Policial* is deficient, the nurse personnel is scarce, they do not always perform entrance, nor do routine, examinations, and not all of the prisons have medical records¹³².

Adding to the problems associated with the lack of attention inside prisons is the fact that the geographic location of prisons imposes many challenges. One example that illustrates this situation is what occurs in Unit 3 of Ezeiza, in **Argentina**. There, it was recorded that "[...] in July of 2004, out of a total of one hundred thirty seven (137) requests to move to outside assistance centers, only eighty eight (88) materialized, that is to say, 64.23%"¹³³.

In addition, it was determined that in the *Palmasola* prison, in **Bolivia**, the center's geographical distance to the hospital is a very serious problem¹³⁴.

An especially important issue concerns States' neglect of the particular way that sexuality and reproduction affects women, to the detriment of their sexual and reproductive rights. This omission results in women deprived of their liberty being the objects, rather than subjects, of the health policies that respond to their necessities and interests. In various penitentiary establishments of the region, it has been verified that there is a lack of gynecological medical attention. In **Paraguay**, a report conducted by the *Comisión Interinstitucional de Visita y Monitoreo de cárceles* (Inter-institutional Prison Visit and Monitoring Commission) for the period of 2002-2005 points out that the main health problems detected were menstrual and dental problems, and very low health standards for self-care¹³⁵. Similarly, it was found that obstetrics services, to attend to consultations and childbirth, are greatly lacking¹³⁶. For example, the *Juana María de Lara* Correctional Institution for Women does not have an assigned gynecologist¹³⁷. The same thing occurs in the *Encarnación* Regional Penitentiary where 16 women reside¹³⁸. In **Argentina**, in Unit 31, although 67.9% of the women expressed that they were given gynecological examinations, only 39.3% said they were given a pap smear in the last year; and 77.4% said that in the last year they did not have a mammography, even when more than 45% of the prison population is over 35 year old¹³⁹. In **Chile**, according to a report by *Cladem*, medical attention is inadequate, there is neither sufficient nor appropriate space for attention to those who are pregnant or nursing, and there is a lack resources for gynecological and obstetrical exams¹⁴⁰. Notwithstanding this information, it has been verified that since the implementation of the Venus program the female population has experienced some benefits, as periodic checks to detect cervical cancer and sexually transmitted diseases and infections have been initiated¹⁴¹.

A related issue concerns, on the one hand, psychological care, and on the other hand, psychological care that involves the provision of medication. With this particular matter, it is important to keep in mind that, because female inmates have greater familial and domestic responsibilities than their male counterparts, the tension in women's prisons imposes more

severe restrictions, which results in truly depressive manifestations. A study conducted by Carmen Antony García showed that in **Paraguay**, professionals confronted cases that they deemed “impossible” and abandoned such cases, alleging that the majority were neurosis due to confinement and depression¹⁴². In **Argentina**, in Unit 3 of Ezeiza, 46.9% of inmates receive medication from the penitentiary service. Of this percentage, 68.4% stated that a doctor prescribes the medication they receive, while 8.4% said that this is never the case¹⁴³. The joint data from Units 3 and 31 of Ezeiza reveals that 34% of women receive psychiatric care and the majority of women are given some kind of medication¹⁴⁴. In **Bolivia**, the *Palmasola* prison does not have psychologists¹⁴⁵. In **Chile**, tranquilizers are abused due to the clear depression of imprisoned women, a large number of whom were victims of violence and sexual abuse in their childhood and adolescence and who are particularly sensitive to problems associated with abandoned children¹⁴⁶. The lack of adequate psychological care, added to the stereotyped conception of imprisoned women, results in women’s prisons supplying more medication. Thus, the predominant focus of penitentiary treatment for women is psychotherapeutics. For this reason, the level of prescriptions of tranquilizers, antidepressants, and sedatives supplied for imprisoned women is, in general, much greater than that for men who are in the same situation. This is not strange if you keep in mind that, through many years, mental disturbance has been considered one of the main causes of female criminality and for this reason, medication and psychiatric internment were, and in many cases still are, common practices in penitentiaries¹⁴⁷. Studies on supplying medications and drugs to women prisoners reveal that this is part of the treatment for women intended to correct their deviation¹⁴⁸. Treating women with drugs can have harmful results, not only because of the damaging health effects, but also because it limits their capability to defend themselves if they have committed an offense or if they still face criminal proceedings¹⁴⁹.

With respect to nourishment, in **Bolivia**, in detention centers known as “*carceletas*,” in the region of *El Chapare* and the cities of *Cochabamba* and *Santa Cruz*, conditions are inhumane; detained women are not supplied with health necessities that are specific to gender; nor is there a nutrition regimen for pregnant women or women who have recently given birth¹⁵⁰. In **Uruguay**, in the *Durazno* and the *Cabildo* Correctional and Detention Establishment for Women prison centers, food and nutrition (meat, fruit and vegetables) is scarce¹⁵¹, and in the *Maldonado* prison, women have very restricted ac-

cess to water¹⁵². In **Paraguay**, in the *Pedro Juan Caballero* Prison, one of the prisoners explained that nobody there eats the food prepared in the prison, but rather each person prepares her own food¹⁵³. Interviews conducted in the *Juana María de Lara* prison and the *Concepción* and *Encarnación* regional penitentiaries note similar deficiencies; women tend to prepare their own food due to the poor nutrition provided in the prisons¹⁵⁴. In **Argentina**, like elsewhere, acceptable nutrition for women depends on help from their visitors which, as seen, is very limited¹⁵⁵. In an interview conducted in Unit 3 of Ezeiza it was confirmed that 41.9% of the population receives two meals per day and 49.7% mainly eat food provided from outside the prison, while 47.1% declared that the food inside the prison was bad and 25.2% said it was fair¹⁵⁶. Responding to the same interview, in Unit 3 I, 63.5% of women said that food was in between fair and bad¹⁵⁷.

With respect to hygiene, the scarcity of showers and bathrooms is an indication of deficient conditions. The situation in Jujuy, **Argentina**, best illustrates this situation. In September of 2004 it was verified that the eleven women living in the *Alcaidía Federal* only had access to two bathrooms at night, and after 10pm, cells were closed and women did not have any access to the bathrooms. For this reason, women were forced to make use of makeshift containers, which especially harmful to pregnant women¹⁵⁸. Also in *Jujuy*, women who were detained in a trailer recounted that they were not provided with bleach or detergent to sanitize the bathroom, personal hygiene items, nor sanitary napkins, and as a result, various women became sick with vaginal infections and illnesses that they caught from one of the girls living there¹⁵⁹. In **Uruguay**, the *Durazno* Prison Center does not have a bathroom, and if women or their children want to go to the bathroom they have to shout for the guard to come open the rooms¹⁶⁰. In the *Cabildo* Correctional and Detention Establishment for Women, a very serious lack of basic hygiene items for personal cleanliness was reported; both diapers for children and sanitary napkins for women are lacking. The resources continue to become more and more limited, as the rise in prison population has not been accompanied by an increase in resources¹⁶¹. In **Paraguay**, 50% of women interviewed in the *Buen Pastor* and *Juana María de Lara* prisons, and the *Concepción* and *Encarnación* regional penitentiaries, expressed that they did not have hot water in the bathrooms¹⁶².

D. Recreational, educational, formative and labor activities & rehabilitation programs

The information collected on women deprived of their liberty has exhibited the limited access imprisoned women have to recreational, educational, formative and labor activities, as well as the scarcity of adequate rehabilitation programs.

With regard to recreational activities, women's prisons have few spaces for distraction. For example, in 2002 in the *Pedro Juan Caballero* Regional Penitentiary in **Paraguay**, there was not any area for recreation, nor programs for physical or recreational activity¹⁶³. The same occurs in **Uruguay**, where according to research conducted by *Serpaj*, prisoners in the *Maldonado* prison rarely go outside to the patio for air or sun, and there are no recreational activities¹⁶⁴. A similar situation occurs in the *Tacuarembó* prison, where idle time and the lack of activities is the biggest problem¹⁶⁵. In centers in the other departments of the country, there is also a lack of space and programs for physical and recreational activities¹⁶⁶.

In terms of formal education, in Unit 3 of Ezeiza in **Argentina**, access to academic courses is highly deficient. For primary school, classes are offered regularly, but with very limited schedules, for secondary school there are no classes, and for tertiary education and university, the University of Buenos Aires offers classes, but with a very limited schedule¹⁶⁷. Women who want to study, above all for university degrees, are "extorted" with regard to work in the penitentiary service, obligated to choose between work and study, or relegated to workshops where they work fewer hours for less pay. As a result, in many cases detainees who need work to support themselves abandon their studies¹⁶⁸. The lack of motivation from authorities to improve women's level of education shows the inadequacy of the personnel assigned to educational activities. Unit 3 has four teachers who offer primary school classes, one teacher for secondary school, two for physical education, and one assistant¹⁶⁹. The inaccessibility of secondary programs affects the possibility of continuing on to tertiary or university studies¹⁷⁰. In Unit 5 of Santa Fe in **Argentina**, women only have primary school instruction, unlike in men's prisons where they have access to the *Escuela de Enseñanza Media para Adultos* (Alternative High School for Adults)¹⁷¹. Similarly, women living in the *Encarnación* Regional Penitentiary, in **Paraguay**, do not have access to scholastic education,

in contrast to their male peers imprisoned in the same detention center¹⁷². In **Uruguay** in the *Cabildo* Reclusion Center for Women, 16% of the prisoners take courses in primary education, 9% in secondary, and 1% in tertiary¹⁷³. According to the information received, in the Departmental Establishments outside the capital only 17% of women detainees study in prison¹⁷⁴. In the *Canelones* Reclusion Center, none of the prisoners engage in formal studies or professional training activities in prison, despite the fact that they show interest in doing so¹⁷⁵. Women prisoners in **Chile**, for example, declared that they wanted a system that allowed them to finish formal education or acquire knowledge and training in other areas¹⁷⁶. This is relevant if you consider that, according to data collected in a study conducted by the Chilean Gendarmerie concerning women under a system of alternative measures to custodial punishment, such as probation, 14.3% of women had not finished basic education and 28.6% had not finished secondary instruction¹⁷⁷.

Formative activities are centered on activities that reinforce traditional roles of women in society and magnify women's attachment to the home, such as cooking and sewing classes, which makes it very difficult to learn the type of work that leads to employment opportunities¹⁷⁸. This shows that such activities aim to utilize the "capabilities" that women supposedly acquired prior to detention, or to ensure that they acquire such skills during their detention in cases where they didn't already have them. This clearly reveals a domestic-feminine orientation that does not promote the development of capacities in other areas with greater job possibilities¹⁷⁹. This can be related to a survey recently conducted by the Public Ministry of Defense in Unit 31 of Ezeiza, in **Argentina**, in which it was confirmed that cooking, sewing and handicraft workshops predominate¹⁸⁰. In **Bolivia** the only classes offered are on confectionery, fabric painting, dressmaking, hairdressing, and occasionally accounting and marketing¹⁸¹. However, women's aspirations are much broader. One woman from the *Centro de Orientación Femenina de Santiago* in **Chile** pointed out, "*Yo asisto a un taller de quimo, confección de carpetas de pelos, somos 20 compañeras. Llevo muchos años presa y por primera vez me permiten tener un trabajo, antes solo me permitían estar en lo cultural, en la danza, en el baile, pero eso es malo porque yo siempre he sido comerciante, las veces que he estado en la calle fui vendedora callejera, por eso a mí me gustaría tener derecho a que una institución me diera un préstamo p'a tener capital e iniciar mi negocito o que me den clases de marketing o de computación y así aprender a hacer un negocio, pero no pasa*

n'á, no aprendís n'á aquí, casi pura artesanía, puras cosas pa que no te aburrái" ¹⁸² ("I attend a *quimo* workshop, there are 20 of us inmates. I have been in prison for many years and for the first time they are allowing me to have a job, before they only let me do cultural things, dance, or formal dance, but this was bad because I have always been a merchant, the times that I was on the street I was a street vendor. For this reason I would like to have the right to get a loan from an institution so that I can have capital and start my own little business, or that they give me marketing or computing classes so that I can learn how to have a business, but none of this happens, you don't learn anything here, almost purely craftwork, only things so that you don't get bored"). The same was verified in **Uruguay**, where in the *Canelones* Reclusion Center, women showed interest in having computing workshops, hairdressing, secondary education or classes at the *Universidad del Trabajo del Uruguay* (U.T.U.), and literary workshops¹⁸³.

In terms of labor activities, these are neither sufficient nor adequate. In Unit 3 of Ezeiza in **Argentina** in 2004, out of a population of 613 prisoners, only 298 performed labor activities; 225 worked doing kitchen related tasks, bookbinding, knitting, laundry, sewing, confectionery, sandwich making, silk screening, doll making, gardening and purse making, and the remaining 73 were in charge of doing the chores of the establishment¹⁸⁴. In some cases, "labor" tasks are subject to systems of power abuse, as is the case in the women's prison in *Rosario*, **Argentina**, where women detainees wash and iron the uniforms and other clothing of the unit's penitentiary personnel¹⁸⁵. In terms of labor supply in **Argentina**, the level of overpopulation makes the supply unsuitable to the demand. Additionally, 70% of the prison population is in legal proceedings and for this reason has even fewer opportunities to access their right to work. In particular, the population in preventive detention has the most unoccupied time, which produces serious mental deterioration that manifests itself in anxiety, anguish, and depression. For example, in Unit 3 of Ezeiza only 44.5% of people have work inside the prison¹⁸⁶. At the same time, women's labor tasks are insufficiently paid, if they are paid at all. According to research conducted by *Inecip* in Unit 3 of **Argentina**, the current salary for detainees involved in criminal proceedings is AR\$ 1.25 per hour and AR\$ 1 for those convicted¹⁸⁷. Moreover, these wages are reduced to compensate for damages and harm caused by the offense, for food services, and to finance the establishment's expenses. The women are only compensated for 30% of what

they worked¹⁸⁸. According to an interview conducted in this unit, of the population that works 22.5% are not paid. Of the population that is paid (the remaining 77.5%), only 54.5% are paid for all the hours' worked¹⁸⁹. Information collected in **Chile** indicates that, according to official figures, in December of 2004 43.4% of the population had a job, and of these 95% were convicted¹⁹⁰. Those who have benefited from penitentiary work policies have primarily been men. For women, while there was a 75% increase in labor activities between 1998 and 2004, this contrasts with a growth of 250% for men over the same period¹⁹¹. This should all be viewed in the historical context in which, proportionally, women have participated more heavily in penitentiary labor than men. In effect, in 2004, of convicted women, 1,059, or 47.2%, worked doing some type of labor; compared to 43.1% for men¹⁹². A significant percentage (28%) of women perform tasks that provide services to individual, 14% do manufacturing jobs for private businesses or for individuals, 11.9% perform cleaning tasks, and 10% do work involving with food¹⁹³. These occupations are internal services in prisons; nevertheless, the women are not necessarily paid for the services as they are able to take on these positions voluntarily. In this sense, the authorities have a great deal of discretion when granting the benefit/right to domestic work in prisons. For women who are head of their household and have to support children outside of the prison, having a paid job is of great importance. In **Uruguay**, in the *Cabildo* Reclusion Center for Women, 40% of prisoners have work, 68 receive a wage, and 30 work for private companies on a seasonal basis¹⁹⁴. In the *Canelones* Reclusion Establishment for Women, with the exception of four women who cook and two who clean the common areas, the remaining population do not have access to work. The monthly salary allocated was \$220, which 6 out of 38 prisoner's received¹⁹⁵. With regard to the Reclusion Establishments in the remaining departments, there are only five departments where prisoners have work, and only a minority receive compensation. Some prisoners take on handicrafts and pastry making, which they can later market for personal gain. It can be concluded that labor in prisons outside the capital is practically nonexistent for the female imprisoned population, and in those cases where they do have work, the conditions are extremely precarious and the job is without pay¹⁹⁶. In **Bolivia**, in the *Cantumarca* prison in the city of Potosí, the situation is even more serious. The prison's distance from the city makes paid jobs, even washing clothes, inaccessible for women, and furthermore, penitentiary security denies access to people in need of such services¹⁹⁷. In other prisons in Bolivia, work is arranged by the women themselves or by organizations, as the State does not provide

sources for labor: Some centers have *Régimen Penitenciario* stores in which prisoners can sell their products, and in other cases, relatives take charge of the sales¹⁹⁸. In the same way, in Uruguay, in the Departmental Reclusion Establishments, some women take on handicrafts and pastry-making to later market for personal gain¹⁹⁹. In **Paraguay**, interviews conducted in the *Buen Pastor* prison reveal the need to implement some type of work that provides income for the prisoners, as the majority are heads of their households²⁰⁰.

Finally, institutions have insufficient rehabilitation programs. In **Argentina**, since the enactment of the *ley de drogas* (drug law)²⁰¹ the female prison population grew almost 300% in a period of ten years²⁰². The majority of younger women are admitted with addiction problems, while in Units 3 and 31 of Ezeiza, the only program that has been implemented is the *Programa de Tratamiento para Mujeres Presas Drogadependientes* (Treatment Program for Drug-Dependent Women Prisoners)²⁰³, the uselessness of which becomes clear from testimonies²⁰⁴. The staff is minimal, which shows that the prison's supposed rationale is not in fact represented by a real penitentiary concern in their daily practices²⁰⁵. Additionally, a study conducted in **Argentina** in 1996 noted that 84% of convicted women were victims of violence in their home environment²⁰⁶; nevertheless, detention centers do not have programs that attend to these problems. In **Uruguay**, the director of the *Cabildo* prison, Commissioner Margarita Hermida, said that while they have two programs that work in participation with Narcotics Anonymous, this has not produced any results because the programs are not obligatory. She maintained that while addicted persons should be individually treated in a safe environment so that the withdrawal symptoms are not damaging to others, this is not what occurs²⁰⁷. In **Paraguay**, similar deficiencies are seen. In the *Buen Pastor* prison the addicted population reaches 15 or 20%, but there is no rehabilitation program²⁰⁸.

E. *Incarceration of women with children*

The Standard Minimum Rules for the Treatment of Prisoners make reference to the need to provide special accommodation for all necessary pre-natal and post-natal care and treatment in women's institutions. They also contain provisions

pertaining to children in cases where they are allowed to remain in the institution with their mothers²⁰⁹. A great deal of Latin American legislation permits mothers in prison to keep young children with them until a certain age, however the majority of establishments do not have nurseries nor programs of special care for these children.

In **Argentina**, Unit 31, the only unit of the Federal Penitentiary Service that has a nursery school, accommodates detained women and their children. Currently there are 229 prisoners, of which 88 are mothers, and together with them are 95 children²¹⁰. An interview conducted by the Public Ministry of Defense reflects the situation for the women living there: 31% of the women were pregnant in prison and of these, 38.1% considered the medical care they received to be between bad and fair. With respect to their sons and daughters, 82.1% of women stated that they spend 24 hours a day with them. At the same time, 62% indicated that their children do not receive adequate nutrition. It is important to note that, in violation of the Standard Minimum Rules for the Treatment of Prisoners, and in particular, affecting children's rights, 38.9% of women whose children were born inside the prison said that this appeared on the birth certificate²¹¹. A recent publication reported that there are 61 children living in different prisons in the Buenos Aires province²¹². Nine out of every ten mothers living with their children are still awaiting a final judgment in criminal proceedings against them.

In the Buenos Aires province, only the *Complejo Penitenciario Femenino Los Hornos*, in La Plata, has a nursery. In the remaining provincial units, the children do not attend any educational activities and the conditions of the establishment are not adequate for children to grow and develop in a healthy environment²¹³.

In **Bolivia**, although there are a large number of children, there are not particular sections allocated for them, and they must share a small space with their mothers²¹⁴. Currently, only two women's prisons have nurseries for the children, the *Centro de Orientación Familiar* and *Palmasola*. In these centers, serious situations of abuse have been verified. Some women were placed, with their children, in solitary confinement or isolation as a result of their wrongdoing, which violates the rights of these children²¹⁵.

In the *Buen Pastor* prison in **Paraguay**, children can live with their mothers until they are two years old, however the women themselves are in charge of providing nutrition and supplying diapers and clothes²¹⁶, even when there is not work available for them in the detention center. This forces women to request help from individuals and non-governmental organizations²¹⁷. In **Uruguay** in the *Cabildo* Correctional and Detention Establishment for Women, they have had to restrict the number of children living with their mothers due to the lack of available space. In November of 2004, there were only 16 mothers living with their children (out of a total of 212 prisoners), and a total of just 19 children²¹⁸. Currently, a nursery is about to open outside of the prison that will attend to the detainees' and the employees' children between six months and four years old²¹⁹. In the different departments of Uruguay, only one has the help of a nursery, which is located adjacent to the prison and attends to children of prisoners and police personnel²²⁰.

In an interview conducted by *Cladem* **Chile**, the Gendarmerie authorities indicated that children can live with their mothers until age 2, in a system that permits care from educators and assistants during the day and strengthens the child's relationship with a relative in anticipation of the time when this person must take charge of the minor²²¹. Nevertheless, there is not enough space in prisons for children to partake in activities. Once children reach age two, they are separated from their mothers. For many prisoners, this feels like a double punishment, especially for those who do not have someone to watch their children²²².

In its March 1999 report, the *Comisión Especial de Políticas Carcelarias del Parlamento Latinoamericano* (Special Commission on Incarceration Policies of the Latin American Parliament) established that the fundamental problem in women's prisons is the presence of prisoners' children who live with the women. One of the report's most alarming findings involved an extreme case where it was confirmed that the children had never consumed milk²²³. In contrast, a program called *Apego* has been developed in **Chile** to strengthen the mother-child relationship from the viewpoint of emotional connections. The program includes projects to improve infrastructure. The Gendarmerie of Chile is in charge of this project and its scope has been limited. First, because it has only been carried out in four regions of the country, *la Metropolitana*, the

Second, the Eighth, and the Tenth²²⁴; and second, because only convicted women, 50% of detainees, have access to the plan. The two programs in operation are the *Fundación Paternitas*, which has a center for children of persons deprived of their liberty, and the government program *Conozca a su Hijo* (Get to Know your Child). While these programs help detained mothers, they are not sufficient²²⁵.

F. Disciplinary Treatment

Conditions of detention for women, especially in relation to visits and medical attention, entail humiliation and, to a certain extent, concealed punishments. In addition, the penitentiary regulations' ambiguity allows for the imposition of indeterminate punishments that worsen imprisonment for women. Punishments are even administered in response to legitimate claims that are categorized as excessive, like a complaint that food arrived rotten or late, or that it never arrived²²⁶. The supplementary punishments are not found in the disciplinary codes, but still form part of the undefined disciplinary methods that are not subject to any review or supervision. In this regards, the authorities have absolute discretion due to the closed autonomy of the incarceration facility²²⁷.

Most forms of punishment for women tend to involve whatever is most valued in the prison. The information gathered shows that the most severe punishments are those that affect visits or any form of contact with the outside world, like, for example, using the telephone. In the *Santiago* Female Penitentiary Center in **Chile**, the few visits that prisoners receive are often revoked as a result of disciplinary sanctions imposed in response to offenses of little seriousness. It is rather common that visits are suspended for behavior such as not responding to the roll call, showering late, taking a long time in the shower or being insolent with custody personnel²²⁸.

In any case, isolation (additional imprisonment inside the prison) is the most commonly used punishment²²⁹. In Units 3 and 31 of Ezeiza in **Argentina**, the penitentiary personnel's strategies to control conflicts and misconduct are basically

limited to isolation. In Unit 3 of Ezeiza between June 1 and August 12 of 2004, they imposed 115 punishments, of which 104 were isolation²³⁰. It is pertinent to emphasize that the isolation areas used to penalize women are uninhabitable. The maintenance is appalling and the dimensions are minimal. The bathroom is unusable which leaves women no other option than to respond to their needs in the cell itself, giving the cell a nauseating smell. The mattresses where prisoners sleep are rotten, covered in fleas, and damp. Women remain enclosed for 22 hours, some of them in cells without light and without warm clothes²³¹. Undoubtedly, isolation can be ordered for any conduct. In general it is applied to those who most often complain, for “disobedience,” or for kissing another prisoner. Prisoners recognize that the conditions of “*los tubos*” are even worse than the pavilions, as they can catch all kinds of illnesses from rats, cockroaches and other pests²³². In **Chile**, Carmen Antony established that prisons abuse their use of the punishment cell by employing them for longer periods than permitted by national and international laws²³³. In **Paraguay**, in 2005 the *Comisión Interinstitucional de Visitas y Monitoreo de Cárceles* (Inter-institutional Prison Visit and Monitoring Commission) registered complaints regarding the use of these types of cells in the *Buen Pastor* prison²³⁴. Interviews that were recently conducted in this detention center, in the *Juana María de Lara* penitentiary, and in the *Concepción* and *Encarnación* regional penitentiaries, verified cases of women who have been confined in cells for over a month, including being tied up with shackles²³⁵. In **Uruguay**, seven departments use isolation cells for punishment, and the rest resort to restricting visits, trips to the patio, telephone calls, and conjugal visits²³⁶. In terms of the criterion used for punishments, in the *Cabildo* Correctional and Detention Establishment for Women, prisoners are penalized for sleeping, waking up late, or claiming their rights²³⁷.

The arbitrariness of disciplinary treatment takes on another dimension if you take into account the improbability of prisoners accessing legal assistance for their protection from these abuses. According to a recent report, in two Departmental Detention Establishments in **Uruguay**, prisoners do not have the opportunity to question the punishments imposed on them²³⁸. In **Chile**, an additional problem is that the *Defensoría Penal Pública* (Public Defender Service) does not provide representation to convicts regarding complaints and loss of benefits for disciplinary problems²³⁹. In terms of checks on the conduct of the Gendarmerie personnel, there is not an effective system of internal control to verify, investigate and punish

conduct that violates basic rights. The wardens of each precinct are responsible for the processing of petitions, however, in some penitentiary precincts, the warden never learns about the claims that are made or against whom they are filed. Some penitentiaries comply with the formality of having a book to register complaints, but in practice nothing is ever done with these. It is, therefore, no surprise that the Director of the Gendarmerie, in March of 2002, recognized that in three and a half years only 20 gendarmes were in some way punished²⁴⁰. In **Argentina**, in Unit 3 of Ezeiza, 17.4% of women received some sort of punishment in prison, while 76.8% do not know what their rights are in such a situation²⁴¹. Similar data was verified with respect to Unit 31, where 63.5% of inmates said that they are not familiar with the internal rules of the prison, 32.9% stated that they had been punished in prison, and 74.1% expressed that they do not know what their rights are in this situation²⁴².

G. *Violence against Women in Prisons*

Violence against women is a form of punishment and control, given that the intention is to keep women, individually as well as in groups, in a position of submission and subordination²⁴³. Inside prisons, women are exposed to physical and sexual attacks that, depending on the severity of the suffering, could be classified as torture or cruel, inhumane or degrading treatment²⁴⁴. Violence tactics are not the same for those registered in male penitentiaries. Humiliating situations aimed at women's private life, things related to cleaning, body care and fear of contagious diseases²⁴⁵, also shape the framework in which women are physically and emotionally assaulted.

Information collected in the region informs us of the different levels of violence. In **Paraguay**, serious incidents of physical violence were recorded. One woman reported that during the period of time after being detained but before her detainment was officially recorded, she was subjected to all kinds of ridicule and mistreatment, including threats of rape²⁴⁶. In the *Pedro Juan Caballero* prison, one detainee recounted, "*[e]s verdad que también antes ha habido casos de abusos de algunas internas; algunos funcionarios entraban en las celdas y obligaban a alguna compañera a tener relaciones con él o las llevaban en la oficina de al lado*"

("it is also true that there have been cases of abusing prisoners; some officials would go in the cells and force a prisoner to have relations with him, or they would take the women to the office next-door"), and another woman related, "[...]a gente que nos cuida (las celadoras) muchas veces nos maltrata, nos hace pasar vergüenza, de todo, estamos muy indefensas delante de ellas [...], inclusive por la ropa que vestimos las celadoras nos hacen pasar vergüenza delante de otra gente, pero yo no me callo cuando sé que no estoy actuando mal" ("the people who take care of us (the wardens) often mistreat us, they embarrass us, with everything, we are defenseless in front of them [...], even over the clothes we wear; the wardens embarrass us in front of other people, but I don't stay quiet when I know that I am not doing anything wrong"). With regard to the *Coronel Oviedo* prison, another woman recounted, "[...]a mayoría de las chicas [...], incluso las señoras, se quejan del director porque se pasaba acosándonos. A mí me mandaba llamar en la dirección, yo pedía a los guardias que no me lleven sola junto a él, pedía por otras compañeras. Me faltaba el respeto hasta que una vez 'me tocó todo mal', entonces reaccioné y llegué a amenazarle con contarle a la Hermana Filomena, que se iba a vernos en la cárcel. Yo reaccioné y tuve muchos problemas a causa de eso, no me dejaba salir al patio, me dejaba sin recreo, no recibía visitas, etc." ("the majority of the girls [...], even the older women, complain about the director because he harasses us. He sent for me, I asked the guards not to leave me alone with him, I asked if other inmates could come with me. He treated me with disrespect, until one time 'he touched me inappropriately,' so I reacted and I threatened him with telling Sister Fiomena, who would come to see us in prison. I reacted and had a lot of problems because of this, I wasn't allowed to go out to the patio, I was left without leisure time, I did not receive visits, etc."²⁴⁷). Interviews conducted this year in the *Buen Pastor* prison, the *Juana María de Lara* penitentiary, and the *Concepción* and *Encarnación* regional penitentiaries revealed cases of harassment from male personnel, maltreatment from guards, and even a case where a woman was hit causing her pregnancy to terminate, and was not taken to the hospital to receive medical attention²⁴⁸. A recent study from the *Comisión Interinstitucional de Visitas a Cárceles* (Inter-institutional Commission on Jail Visits) published that women in the *Buen Pastor* prison are forced to prostitute themselves to the persons assigned to them by the guards or wardens in the *Tacumbú* prison. This type of violence occurs when women converge at the *Tacumbú* prison for conjugal visits with their partner. It was reported that this penitentiary center has an album with photos of the women from the *Buen Pastor* prison. Monthly, this activity yields an average of 300,000,000 *guaraníes* for the *Tacumbú* National Penitentiary²⁴⁹.

A report from the *Procuración Penitenciaria* (Office of the Management of Penitentiaries) in **Argentina** informs us that women imprisoned in Unit 3 of Ezeiza question their severe mistreatment. Mistreatment includes blatantly degrading practices involving the unjustified repetition of humiliating physical inspections often consisting of totally undressing and flexing, irrespective of age²⁵⁰. In Unit 31, 17.9% of women expressed having suffered physical violence, consisting of being hit, kicked, shoved and forced to have sexual contact, by personnel or other women²⁵¹. Inspections produce the most violent, humiliating, and belittling acts that occur in the prison. In addition, there were also cases recorded in *Santa Fe*, a province of **Argentina**. Romina Vera, who was 17 years old and two months pregnant, was handcuffed and beat in Police Station 19. The incident, which occurred in plain view of those visiting other prisoners, put the woman at risk of losing her pregnancy²⁵². Similarly, Andrea Elizabeth Viera, a 30 year old woman, and Gustavo Cardozo were detained on May 10, 2002, in Florencio Varela, a district in the province of Buenos Aires. While detained at Police Station I, they were handcuffed and beaten. Cardozo heard Elizabeth shouting and begging for help for hours, in spite of the fact that the police raised the television's volume. She died 11 days later²⁵³.

In **Chile**, one aspect of the violence and detainees' loss of their right to privacy is that the gendarmes, who are men, record images of nude prisoners after riots or raids in the prisons²⁵⁴, a practice that clearly demonstrates sexual violence²⁵⁵. Also, it is important to point out that women detained and deprived of their liberty by police in their establishments suffer abusive treatment, refusal or restriction of communication with their family or lawyer, and are typically detained together with men, due to the fact that these precincts do not have separate premises for men and women²⁵⁶.

A separate paragraph is warranted to discuss the possibility women have of reporting abuses they suffer from penitentiary personnel or other detainees. This situation is supported by answers to an interview conducted by the Public Defenders Office. Interviews from Unit 31 of Ezeiza, **Argentina**, show that 88% of women were not given any information about their rights and the grounds for presenting complaints, and 92% related that they did not receive information on how to file a complaint²⁵⁷. In Unit 3 of Ezeiza in **Argentina**, they went so far as to destroy the complaints in front of those who completed them²⁵⁸.

IV.*Conclusions and Recommendations*

In general, we can affirm that the number of women deprived of their liberty is rising. However, for the moment, there is neither sufficient data nor official information available regarding women deprived of their liberty²⁵⁹. This report has aimed to help fill, although only partially, this shortage. The information collected leads to the conclusion that existing laws do not consider the specific characteristics of women deprived of their liberty, and in practice reinforce the existing gender inequalities in society.

As a result of the information collected and in response to the Inter-American Commission's request for opinions, the signatory organizations of this report request that the Commission take into account, during the further development of the Declaration of Principles on the Protection of Persons Deprived of their Liberty, the following considerations²⁶⁰:

- In light of discrimination practices that occur in women's prisons in the countries evaluated, the Declaration of Principles on the Protection of Persons Deprived of their Liberty should state in its preamble that this declaration aims to prevent discriminatory practices inside of prisons, paying special attention to minorities and other groups that are discriminated against due to their condition or situation, such as women and foreigners.
- Furthermore, taking into account the unique impact that imprisonment has on women deprived of their liberty, article 4 of the Declaration of Principles should adopt a standard against discrimination that deems any distinction, exclusion or restriction that aims to, or results in, diminishing or repealing the recognition, enjoyment or exercise of rights, contrary to the Declaration. This type of standard is compatible with that established in article I of the Convention on the Elimination of All Forms of Discrimination against Women, extensively ratified by the countries in the region.
- Taking into account women's experiences during transfers, article 11.4 of the Declaration of Principles should provide that when being transferred, women deprived of their liberty shall be accompanied by female penitentiary personnel.

- In light of the recorded deficiencies in the penitentiary treatment, we believe that article 11.3 of the Declaration of Principles should demand that, at the moment of admission, information be obtained regarding the possibility of prior drug or alcohol addiction, and about past experiences of domestic violence, to guarantee that necessary medical and psychological attention services are accessible.
- Considering the deficiencies of penitentiary services in matters concerning sexual and reproductive health, we believe that article 12, paragraph 1 of the Declaration of Principles should recognize the rights of persons deprived of their liberty to freely and responsibly decide the number of children they have and the interval between births. Consequently, we believe that the Declaration should consider the need for States to provide information, education, and measures that permit women to exercise these rights. This type of consideration is compatible with what is confirmed in articles 10 b) and 16 e) of the Convention on the Elimination of All Forms of Discrimination against Women.
- One of the many disconcerting aspects of the prison situation relates to nourishment for persons deprived of their liberty. The Declaration of Principles Resolution includes this concern in its article 13, in which it is established that every person has the right to receive nourishment that responds, in quantity, quality and hygiene conditions, to adequate and sufficient nutrition. We believe that, in direct opposition to regional practices, the Declaration should include special mention of nourishment for women who are pregnant or breastfeeding. It should further mention children who reside in prison with their parents. These persons should have access to adequate nutrition and vitamin supplements appropriate for their condition.
- The information compiled in this report informs us that one aspect of the exceptional vulnerability of imprisoned women concerns access to educational, formative and labor activities. Taking into account that discrimination against women is even more extreme with respect to these activities, we believe that articles 15 and 16 of the Declaration of Principles should make a special reference to the principle of non-discrimination with regard to gender, to guarantee accessibility

to equal conditions. This modification would be compatible with that established in article 6 b) of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, "*Convención Belem do Pará*."

- In regard to article 18 of the Declaration of Principles Resolution, we believe that, in light of the experiences collected in this report, its wording should emphasize the principle of non-discrimination for women in their access to conjugal visits, so that they do not function according to the logic of prize and punishment. Additionally, to guarantee contact between persons deprived of their liberty and their children, it should be ensured that security measures involving minors be implemented by specialized personnel. Finally, it should be guaranteed that women deprived of their liberty have control of who visits them. In particular, those who have been victims of domestic violence should receive specialized support to facilitate their contact with the outside world.
- Also, with respect to article 18 of the Declaration of Principles Resolution, we believe that there should be a greater emphasis on the need to foster contact with the outside world, by means of contact with culture, politics, education, and the press. For this, States should take measures to facilitate access to newspapers, books and other publications, as well as television and radio programs.
- In general, with regards to articles 15, 16 and 18 of the Declaration of Principles Resolution, we believe that the situation for girls living in prisons should be recognized, for which the utilization of more inclusive language would be appropriate.
- With regard to article 22 of the Declaration of Principles Resolution, referring to physical inspections for prisoners and their relatives, we believe that the Declaration of Principles should also include the standard already recognized by the Inter-American Commission, in which four conditions were established: a) that the inspection be absolutely necessary to obtain the security objective in the specific case, b) that there is no other alternative, c) that in principle the inspection be authorized by a court order and d) that the inspection is solely done by health care professionals²⁶¹. Following

these parameters it is extremely important to prevent practices that, according to Inter-American jurisprudence, can constitute torture or cruel, inhumane or degrading treatment²⁶².

- With regard to the disciplinary system, while we acknowledge that article 23.2 of the Declaration of Principles Resolution recognizes that there must be exceptional circumstances for isolation (which can only be imposed with judicial authorization), we believe that there should be a strict limitation on the length of time for this measure, due to the fact that its prolongation could constitute inhumane or degrading treatment. In any case, in light of this report, we believe that isolation should be strictly prohibited in cases of pregnant women and for those who live in prison with their children. With regard to pregnant women, isolation should be prohibited on account of their condition and the restrictions imposed by its adoption. In terms of persons who reside in prison with their children, isolation should be prohibited so as to reduce rights violations of those children as unconnected third parties to the conflict.
- With reference to article 24.2 of the Declaration of Principles Resolution, we believe that promoting approaches to conflict resolution that aim to progressively replace disciplinary punishments is advisable in cases of minor incidents. Information that has been collected in this report informs us that, inside penitentiary centers, disciplinary punishments are applied for staying more than the assigned amount of time in the shower or for not responding to the roll call. This arbitrary use of disciplinary punishments as a mechanism of control should be eliminated. To do this, it will be important to include communication skills in the training of penitentiary personnel and treatment for women deprived of their liberty, which will optimize the quality of responses to the demands of persons deprived of their liberty. These control mechanisms cannot be interpreted as aiming to restrict access to the law.
- Finally, taking into account the percentage of the resident foreign population in prisons, and considering the high level of vulnerability to which they are exposed, the Declaration of Principles should establish that these persons receive special attention from consular officials. To do this, penitentiary center authorities should facilitate communication with

these consular representatives. Similarly, the Declaration should consider other aspects that distinguish the foreign population, such as language, in order to establish that these differences cannot affect the exercise of their rights²⁶³.

In the same way, recognizing the Inter-American Commission's ability to issue recommendations to the States, we request in this report that the following be expressed:

- That States gather and spread relevant information with regard to women deprived of their liberty, in a way that permits an analysis of the penitentiary system's situation from a gender perspective.
- That States develop social and professional reintegration programs that discourage set assignments of stereotyped roles and standards of behavior. To do this, States should offer equal training and working opportunities to men and women alike.
- That States implement training programs within the penitentiary services to guarantee training in human rights that considers the problems for women and reorients their professional practice in a manner that is sensitive to questions of gender.
- That States create penitentiary treatment programs that, when necessary, attend to incidents of violence that women suffered before entry into the prison (through adequate therapeutic, social, and economic support), and that they avoid treating women's depression by over-medicating. To do this, it is recommended that external psychological services reinforce the health care.
- That States implement regulations that are particularly respectful of international standards. To this end, preventive detention should be regulated and interpreted as an institution for exceptional circumstances. Furthermore, in any case, pregnant and nursing mothers should receive very special consideration and preventive detention should require even more exceptional circumstances.

APPENDIX I

EVOLUTION OF THE FEMALE PRISON POPULATION AND ITS RELATION TO THE PENITENTIARY POPULATION IN EACH COUNTRY

I. Argentina

Year	Women deprived of their liberty in federal prison	Population deprived of their liberty in federal prisons	Women deprived of their liberty (percentage in relation to the total population in prisons)
1995	562	5.928	9,48 %
1996	659	6.112	10,78 %
1997	679	6.177	10,99 %
1998	766	6.385	11,99 %
1999	739	6.767	10,92 %
2000	780	7.146	10,91 %
2001	876	8.472	10,34 %

Source: Alcira Daroqui, Daniel Fridman, Nicolás Maggio, Karina Mouzo, Victoria Rangugni, Claudia Anguillesi, Claudia Cesaroni, *Voces del encierro. Mujeres y jóvenes encarceladas en la Argentina. Una investigación socio-jurídica*, Editorial Omar Favale, Buenos Aires, 2006, ps. 47 y 49.



II. Bolivia

Year	Women deprived of their liberty	Population deprived of their liberty	Women deprived of their liberty (percentage in relation to the total population in prisons)
1998	1 100	6.149	17,89%
1999	1243	8.084	15,38%
2000	1393	8.151	17,09%
2001	674	5.577	12,08%
2002	751	6.065	12,38%
2003	744	5.669	13,12%
2004	909	6.495	13,99%
2005	913	6.793	13,44%

Source: Instituto Nacional de Estadística, 1998-2005, available at en <http://www.ine.gov.bo/cgi-bin/piwdielxx.exe/> TIPO.

III. Chile

Year	Women deprived of their liberty	Population deprived of their liberty	Women deprived of their liberty (percentage in relation to the adult population in prisons)
1998	1.887	26.465	7,13%
1999	1.984	29.523	6,72%
2000	2.216	32.445	6,83%
2001	2.224	33.144	6,71%
2002	2.227	34.420	6,47%
2003	2.248	35.910	6,26%
2004	2.240	35.955	6,23%
2005	2.857	42.897	6,66%

Source: Jorge Stippel. *Las Cárceles y lo búsqueda de una política criminal para Chile*, LOM. Santiago, 2006. p.149.

IV. Uruguay

Year	Women deprived of their liberty	Adult population deprived of their liberty	Women deprived of their liberty (percentage in relation to the total population in prisons)
2003	426	7.100	6%
2006	370	6.638	5,57%

Source: Centro Internacional de Estudios Penitenciario, available at http://www.kcl.ac.uk/depstalrel/icps/world-brief/south_america/records.php, last visited on August 11, 2006 and *Ministerio del Interior Ministerio de Salud Pública, Comisionado Parlamentario, Consejo de Educación Secundaria, Dirección Nacional de Cárceles - INACRI, Patronato Nacional de Encarcelados y Liberados, Patronato Departamental de Canelones, Servicio de Paz y Justicia, Instituto Nacional de la Mujer ONG ANIMA. Informe sobre la Situación de las Mujeres Privadas de Libertad en el Uruguay*, 2006, p. 17.

APPENDIX II

DISTRIBUTION OF DETENTION CENTERS IN EACH COUNTRY

I. Argentina

In the Federal Penitentiary Service, there are 30 detention centers distributed in the Autonomous City of Buenos Aires and the Buenos Aires, Chaco, Chubut, Formosa, Jujuy, La Pampa, Mendoza, Misiones, Neuquén, Río Negro, Salta, and Santa Cruz provinces. Of these, only three are exclusively for women.

Province	Unit
SPF– Buenos Aires	SPF – Centro Federal de Detención de mujeres (U.31)
SPF– Buenos Aires	SPF – Instituto Correccional de Mujeres (U.03)
SPF– La Pampa	SPF – Instituto Correccional de Mujeres “Nuestra Señora del Carmen”



With regard to the provincial penitentiary services, of the one hundred and ten detention centers, only ten are for women.

Province	Unit
Buenos Aires	Unidad 33 – Los Hornos (Mujeres)
Chaco	Centro de Detención de Mujeres “Villa Floriani Fontana”
Córdoba	Establecimiento Penitenciario N° 3 (Correccional Mujeres)
Entre Ríos	Unidad Penal N° 6 Femenina –Paraná
Formosa	Alcaldía Policial de Mujeres.
Jujuy	Establecimiento Penitenciario N° 3 de Mujeres.
Misiones	Unidad Penitenciaria V – Instituto Correccional Mujeres
Neuquén	Unidad de Detención 16 – Mujeres
San Luis	Complejo Penitenciario Provincial – Unidad 4 Mujeres.
Santa Fe	Unidad N° 4 Instituto de Recuperación de Mujeres– Santa Fe
Santa Fe	Unidad N° 5 Instituto de Recuperación Mujeres – Rosario
Tierra del Fuego	Alcaldía Mujeres

Source: SNEEP, Informe del servicio penitenciario federal, año 2003.

II. Bolivia

In the Departments of Bolivia there are eighty six centers distributed in La Paz, Santa Cruz, Cochabamba, Beni, Pando, Tarija, Sucre, Potosí and Oruro, and only eleven are exclusively for women.

Departament	Penitentiary Establishment
La Paz	Centro de Orientación Femenina de Obrajes Centro Penitenciario Femenino de Miraflores
Santa Cruz	Palmasola Mujeres
Cochabamba	San Sebastián Mujeres San Pablo Mujeres
Beni	Mocovi Mujeres
Pando	Villa Busch
Tarija	Morros Blancos Mujeres
Sucre	San Roque Mujeres
Potosí	Cantamarca Mujeres
Oruro	San Pedro Mujeres

Source: Gabriela Veizaga Bellilo, *Informe de situación de los Derechos Humanos de las mujeres privadas de libertad en Bolivia*, p. 16.

III. Chile

Out of the one hundred forty-six prisons in the country, only seven are exclusively for women.

Province	Penitentiary Center
Antofagasta	Antofagasta
Rancagua	Rancagua
Talca	Talca
Chillan	Chillan
Temuco	Temuco
Santiago	Santiago
Concepción	Concepción

Source: Jorge Stippel, *Las Cárceles y la búsqueda de una política criminal para Chile*, LOM, Santiago, 2006, p. 53.

III. Paraguay

In the Penitentiary Service of Paraguay there are nineteen correctional facilities, of which only three are exclusively for women.

Department	Penitentiary Center
Capital – Asunción	Casa del Buen Pastor
Capital – Asunción	Centro Educativo Virgen de Fátima (sólo para adolescentes)
Paraná	Correccional para mujeres Juan María de Lara

Source: Ana María Mendoza de Acha, Congreso de la Nación. Honorable Cámara de Senadores, *Comisión Interinstitucional de visitas a los Centros Penitenciarios de la República del Paraguay*, 2006.

IV. Uruguay

The National Prisons Directorate under the Ministerio del Interior has five prisons under its jurisdiction, of which only one, the *Cabildo* Women's Prison in Montevideo, is exclusively for women.

On the other hand, Uruguay has nineteen departmental correctional facilities under the *Jefaturas de la Policía* (Police Headquarters) in each department. Of these detention centers, none of them exclusively house the female population. The *Canelones* prison is a special situation, as it has an independent house assigned to women, which is located far away from the main premises of the male prison and is directed by female personnel.

Department	Unit
Montevideo	<i>Cabildo</i> Reclusion Establishment for Women
Canelones	<i>Canelones</i> departmental Prison

Source: Ministerio del Interior; Ministerio de Salud Pública, Comisionado Parlamentario, Consejo de Educación Secundaria, Dirección Nacional de Cárceles – INACRI, Patronato Nacional de Encarcelados y Liberados, Patronato Departamental de Canelones, Servicio de Paz y Justicia, Instituto Nacional de la Mujer; ONG. ANIMA, *Informe sobre la Situación de las Mujeres Privadas de Libertad en el Uruguay*, 2006.

NOTES

- 1 Cf. I/A Court H.R., *Case of the Inmates of Mendoza v. Argentina*, Provisional Measures of June 18, 2005.
- 2 Cf. I/A Court H.R., *Case of Urso Branco Prison v. Brazil*, Provisional Measures of September 21, 2005.
- 3 Cf. I/A Court H.R., *Case of Miguel Castro Castro v. Perú*, Judgement of November 25, 2006.
- 4 Cf. Carmen Antony García, *Las Mujeres Confinadas. Estudio criminológico sobre el rol genérico en la ejecución de la pena en América Latina y en Chile*, Editorial Jurídica de Chile, Santiago de Chile, 2000, p. 94 and 95.
- 5 Cf. article 176 of law 24.660.
- 6 Cf. article 190 of law 24.660.
- 7 Cf. articles 190 to 196 of law 24.660.
- 8 Cf. articles 58 to 60 and 143 to 147 of law 24.660.
- 9 Cf. Decree 518/98.
- 10 Cf. article 13 of decree 518/98.
- 11 Cf. article 19 of decree 518/98.
- 12 Cf. articles 34 to 38 and 45 to 47 of decree 518/98.
- 13 Cf. article 5 of decree 518/98.
- 14 Cf. article 91 of law 210/70.
- 15 Cf. article 101 of law 210/70.
- 16 Cf. articles 94, 95 and 96 of law 210/70.
- 17 Cf. article 5 of law 210/70.
- 18 Cf. article 53 of law 210/70.
- 19 Cf. Ministerio del Interior, Ministry of Public Health, Parliamentary Commission, Secondary Education Council, National Prison Directorate – INACRI, National Director of Convicts and Ex-convicts, Departmental Director of Canelones, Peace and Justice Service, National Woman's Institute, NGO ANIMA, *Informe sobre la Situación de las Mujeres Privadas de Libertad en el Uruguay*, 2006.
- 20 Cf. article 27 of decree law 14.470.
- 21 Cf. article 29 of decree law 14.470.
- 22 Cf. article 28 of decree law 14.470.
- 23 Cf. articles 21 and 22 of decree law 14.470.
- 24 Cf. article 326 of law 15.032
- 25 Cf. Cladem Uy, *Mujeres privadas de libertad en el Uruguay Informe de Cladem-Uy*, 2006, p. 9 (unedited document In possession of Cladem and CE-JIL).
- 26 Cf. article 26 of law 2.298.
- 27 Cf. article 91.2 and 91.5 of law 2.298.
- 28 Cf. article 130 of law 2.298.
- 29 Cf. article 134 of law 2.298.



- 30 Cf. article 197 of law 2.298.
- 31 With respect to Chile, Cf. Diego Portales University, Faculty of Law, *Informe Anual sobre Derechos Humanos en Chile 2006*. Events of 2005, Santiago de Chile, 2006, p. 23 and 24. In relation to Paraguay, Cf. Yeny Villalba, *Situación penitenciaria: los avances son todavía imperceptibles*, in Codehupy, Human Rights 2005, Asunción, 2005, p. 81 and ss. In relation to Argentina, Cf. CELS, *Informe 2005, Derechos Humanos en Argentina, Siglo XXI Editores Argentina S.A.*, Buenos Aires, 2005, p. 170 and ss. In relation to Uruguay, Cf. Serpaj Uy, *Informe realizado para el IV Seminario sobre Cárceles. El fracaso del sistema penitenciario actual. Realidad y reformas urgentes*, 2003, p. 10, available at http://www.serpaj.org.uy/serpajph/dcp/carcel/dcp_carcel_01.pdf, last visited on November 28, 2006.
- 32 Cf. I/A Court H.R., *Case of Inmates of Mendoza*, *op. cit.*
- 33 This yields a percentage of 148 prisoners per 100.000 inhabitants, based on an estimation of 38.150.000 people. Cf. International Center for Prison Studies, available at http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/south_america_records.php, last visited August 11, 2006.
- 34 Cf. International Center for Prison Studies, available at http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/south_america_records.php, last visited on August 11, 2006.
- 35 Cf. CELS, *op. cit.* In this context, on May 3, 2005, the Nation's Supreme Court of Justice dictated its judgment in the case *Verbitsky, Horacio s/ habeas corpus*, referring to a collective habeas corpus on detention conditions in jails and commissaries in the province of Buenos Aires. In its resolution the Court established that the United Nations Standard Minimum Rules for the Treatment of Prisoners should serve as basic standards for the interpretation of article 18 of the National Constitution that establishes that prisons should be clean and sanitary. Moreover, the highest tribunal decided that prevailing legislation regarding preventative prison and released prisoners in the province of Buenos Aires did not measure up to constitutional and international principles.
- 36 Cf. Alcira Daroqui, Daniel Fridman, Nicolás Maggio, Karina Mouzo, Victoria Rangugni, Claudia Anguillesi, Claudia Cesaroni, *Voces del Encierro. Mujeres y jóvenes encarceladas en la Argentina. Una investigación socio-jurídica*, Omar Favale Ediciones Jurídicas, Buenos Aires, 2006, p. 49.
- 37 Cf. Alcira Daroqui and others, *op. cit.*, p. 50. For the year 2004, the population of females was 974, which indicates an increase of 11.2% between 2001 and 2004
- 38 Cf. Procuración Penitenciaria, *Informe Anual 2003–2005*, Edición Crearte, 2006, p. 31.
- 39 Overpopulation is extremely high, especially when compared to the Instituto de Detención de la Capital Federal (U.2), a prison for males that is overpopulated by 39%. Cf. Procuración Penitenciaria, *op. cit.*, p. 31.
- 40 Cf. Public Ministry of Defense, *La Defensa oficial y su impacto en la jurisprudencia*, Buenos Aires, 2005, p. 320.
- 41 Cf. Public Ministry of Defense, *La Defensa oficial and su impacto en la jurisprudencia*, *op. cit.*, p. 321. On a visit made in September of 2004 the office of the Advocate General of Argentina warned that the entire surface of the cell was covered by the beds and it was impossible to walk more than one step in any direction.
- 42 Cf. Gabriela Veizaga Bellido, *Capítulo Boliviano de Derechos Humanos, Democracia and Desarrollo, Situación de los Derechos Humanos de las mujeres privadas de libertad en Bolivia*, s/f, p. 4.
- 43 Cf. Gabriela Veizaga Bellido, *op. cit.*, p. 7.
- 44 Cf. Diego Portales University Faculty of Law,

Informe Anual sobre Derechos Humanos en Chile 2006. Events of 2005, *op. cit.*

- 45 Cf. Cladem Chile, *Informe de mujeres privadas de libertad en Chile, 2006*, p. 6. (unedited document in possession of Cladem and CEJIL).
- 46 It has been informed that the prison concessions program will equip the system with 16,000 new units, but it is estimated that with actual prison population growth rates around 6.5% it will rapidly become overcrowded within the next 8 to 9 years. It should also be mentioned that the government has announced a proandecto of penitentiary infrastructure concession to inmates. The bidding process began in 2001 and its objective is to construct 10 new jails by the end of 2006. Cf. Cladem Chile, *op. cit.*, p. 8.
- 47 Cf. Diego Portales University Faculty of Law, *Informe Anual sobre Derechos Humanos en Chile 2006*. Events of 2005, *op. cit.*, p. 23 and 24. Given this situation a guarantee judge determined that two accused criminals could not be subject to preventive prison—due to the request of the Public Ministry and the antecedents of the accused—, if the Warden could not provide a cell that allowed the men to withstand cold weather: Judge Jorge Norambuena freed two suspects accused of assault on July 21, 2006. By rejecting preven-

tive prison he took into account the precarious conditions of the prison system with regard to the possibility of poor weather. Cf. Patricio Carrera, *Defensor Nacional: Plan antidelinuencia ahondará crisis en cárceles del país*, La Tercera, August 16, 2006, p. 14.

- 48 Cf. Diego Portales University Faculty of Law, *Informe Anual sobre Derechos Humanos en Chile 2003*. Events of 2002, Santiago de Chile, 2003, p. 66 and 67.
- 49 Cf. Jorge Stippel, *Las Cárceles y la búsqueda de una política criminal para Chile*, LOM, Santiago de Chile, 2006, p. 61.
- 50 Cf. Jorge Stippel, *op. cit.*, p. 149. It should be noted that during the period 1998–2005, the evolution of the female inmate population illustrates that a large section of the population is composed of people who have only been processed and detained, and only in the past two years, has grown to constitute a majority by those convicted of crimes. It is possible to argue that this is due to the types of crimes in which women are involved, usually micro or narcotics trafficking in which it is difficult to obtain conditional release. In effect, the change in the female inmate population is not just quantitative, but has also transformed according to the type of crimes committed by women, due

to the increase in charges of drug trafficking Cf. Cladem Chile, *op. cit.*, p. 17.

- 51 Data available at <http://www.gendarmeria.cl/index.htm>, last visited on September 28, 2006.
- 52 This yields a percentage of 86 prisoners for every 100,000 inhabitants, based on an estimation of 5,900,000 people. Cf. International Center for Prison Studies, available at http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/south_america_records.php, last visited August 11, 2006.
- 53 Cf. International Center for Prison Studies, available at http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/south_america_records.php, last visited on August 11, 2006.
- 54 Cf. Yeny Villalba, *op. cit.*, p. 87.
- 55 Cf. Interinstitutional Commission on Jail Monitoring and Visits, *Condiciones de Reclusión de los Adolescentes Privados de Libertad en el Paraguay, Sistematización Años 2002–2005*, 2005, p. 27 and ss.
- 56 This yields a percentage of 209 prisoners for every 100,000 inhabitants, based on an estimation of 3,400,000 people. Cf. International Center for Prison Studies, available at http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/south_america_records.php, last visited on August 11, 2006.

- 57 Cf. International Center for Prison Studies, available at http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/south_america_records.php, last visited on August 11, 2006.
- 58 Cf. Ministerio del Interior and others, *op. cit.*, p.17.
- 59 Cf. Cladem Uy, *op. cit.*, p. 2, where an interview with Dr. María Noel Rodríguez, advisor in the Ministerio del Interior for Prison Policy is cited; interviewed by Cladem on September 15, 2006 (unedited document in possession of Cladem and CEJIL).
- 60 Cf. Serpaj Uy, *Informe de la visita al Establecimiento Correccional y de Detención para Mujeres (Cabildo)*, November 25, 2004, available at http://www.serpaj.org.uy/serpajph/dcp/carcel/dcp_carcel_07.pdf, last visited on July 31, 2006.
- 61 Cf. Cladem Uy, *op. cit.*, p. 2 and 3, where Rosa Quintana is cited, *Relevamiento del Centro de Reclusión Femenino de Canelones*.
- 62 Cf. Cladem Uy, *op. cit.*, p. 5.
- 63 Cf. art. 1.1 of the American Convention. Art. 24 of the same document guarantees that: "All people are equal before the law. As a consequence, they have the right, without discrimination to equal protection of the law". Art. II of the American Declaration establishes that: "All people are equal before the Law and have the rights and duties consecrated in this Declaration without distinction of race, sex, language, creed or any other".
- 64 Art. 6 of the Belém do Pará Convention notes: "The right of every woman to be free from violence includes, among others, the right of women to be free from all forms of discrimination".
- 65 Cf. Viviana Krsticevic, *La igualdad de las mujeres en el sistema interamericano*, in *Liberam-icorum in honor of Judge Antônio Augusto Cançado Trindade*, in which an analysis of specific cases from the interamerican system of human rights is presented.
- 66 Art. 9 of the Belém do Pará Convention notes: "With respect to the adoption of the measures in this Chapter, the States Parties shall take special account of the vulnerability of women to violence by reason of among others, their race or ethnic background or their status as migrants, refugees or displaced persons. Similar consideration shall be given to women subjected to violence while pregnant or who are disabled, of minor age, elderly, socio-economically disadvantaged, affected by armed conflict or deprived of their freedom".
- 67 Cf. I/A Court H.R., *Case of Miguel Castro Castro*, *op. cit.*, par. 276.
- 68 Art. 53 of the Minimum Standards for Prisoners states: "1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution. 2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer. 3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women".
- 69 Cf. Alcira Daroqui and others, *op. cit.*, p. 101.
- 70 Cf. Alcira Daroqui and others, *op. cit.*, p. 90 and 91.
- 71 Cf. Interinstitutional Commission on Jail Monitoring and Visits, *Condiciones de Reclusión de los Adolescentes Privados de Libertad en el Paraguay*, *op. cit.*, p. 6. Regarding this statement, women staying at the center have expressed their discomfort, not only because they share their space with men, but with the male authorities as well. In addition, Cf. *Entrevistas a mujeres privadas de libertad en la ciudad de Pedro Juan Caballero*, by the

- Catholic Priest, Pablino Cáceres* in 2004 and 2005, with the support of Cladem Paraguay (unedited document In possession of Cladem and CEJIL).
- 72 Cf. Yeny Villalba, *op. cit.*, p. 87.
- 73 Cf. Interinstitutional Commission on Jail Monitoring and Visits at the Adolescent Detention Centers in Paraguay, *Abogacía para el mejoramiento de las condiciones de reclusión de adolescentes, First round of visits, May–June 2006*, p. 4.
- 74 Cf. Interinstitutional Commission on Jail Monitoring and Visits, *Condiciones de Reclusión de los Adolescentes Privados de Libertad en el Paraguay, op. cit.*, p. 32.
- 75 Cf. Jorge Stippel, *op. cit.*, p. 53.
- 76 Cf. Cladem Chile, *op. cit.*, p. 4.
- 77 Cf. Center for Defense Documentation Public Law, Studies and Training, *Defensa de mujeres en el nuevo sistema procesal penal*, Santiago de Chile, 2005, p. 46.
- 78 Cf. Ministerio del Interior and others, *op. cit.*
- 79 Cf. Cladem Uy, *op. cit.*, p. 3 and 4. For this reason, this report will make reference to the Establishment of Female Imprisonment of Canelones.
- 80 Cf. OMCT, *Violencia Estatal en Chile. Counter-report of the Chilean State presented to the Committee Against Torture (CAT) May*

- 2004, Geneva, February 2005, available at http://www.omct.org/pdf/procedures/2004/joint/s_violence_chili_05_2004_esp.pdf, p. 131, last visited on July 31, 2006. The fact that there is a large percentage of women in preventive prison leads to a majority of them not having access to reinsertion, given that these are exclusively provided for convicts and not for those who are still in the process of being charged with a crime. In this regard, Cf. Center of Defense Documentation Prison Policy, Studies and Training, *op. cit.*, p. 46. This data shows that preventive prison is utilized as a control tool for delinquency and not as an institute that should be used in exceptional situations. This is a situation that affects all prisoners and is not just a problem specific to women.
- 81 Cf. Yeny Villalba and Hugo Valiente, *Tortura y otros tratos o penas crueles, inhumanos and degradantes: Escasos esfuerzos para eliminar la tortura*, en Codehupy, Derechos Humanos en Paraguay, 2005, p. 59 and ss.
- 82 Cf. Public Ministry of Defense, *Encuestas realizadas por la Defensoría General de la República Argentina en la Unidad 3 de Ezeiza*, Septiembre 2006. The statistical work has its origin in the National Advocate General Program, internal profile in the Federal

- Penitentiary Unit. This program was coordinated by Dr. Sergio A. Paduczak –National Advocate General– and by Dr. Mario Gerlero– GESOC–. The program analyzes the situation of the prisoners throughout the country. The qualitative analysis is in possession of Dr. María Odila Pedrido, the quantitative analysis is found in the hands of Dr. Patricio A. Rocclaw. The survey was carried out by members of the National Advocate General’s Prison Commission, by members of the Secretary General of Institutional Policy within the National Advocate General, and by members of the GESOC. The technical report was written by Alejandro Hener and Dan Adaszko. This is currently in possession of the National Advocate General and will be published soon. According to preliminary studies 31 % of the population has been convicted and the remaining 69 % have only been charged with crimes.
- 83 Cf. Public Defense Ministry, *Encuestas realizadas por la Defensoría General de la República Argentina en la Unidad 31 de Ezeiza* September 2006. Similar to the preceding citation, the statistical work has its origin in the National Advocate General Program, internal profile in the Federal Penitentiary Unit. This program was coordinated by Dr. Sergio

A. Paduczak –National Advocate General– and by Dr. Mario Gerlero–GESOC–. The program analyzes the situation of the prisoners throughout the country. The qualitative analysis is in possession of Dr. María Odila Pedrido, the quantitative analysis is found in the hands of Dr. Patricio A. Roclaw. The survey was carried out by members of the National Advocate General’s Prison Commission, by members of the Secretary General of Institutional Policy within the National Advocate General, and by integrantes del GESOC. The technical report was written by Alejandro Hener and Dan Adaszko. This is currently in possession of the National Advocate General and will be published soon. The surveys determined that 48.2% of the population has been convicted, and 51.8 % await their sentences.

84 Cf. Ministerio del Interior and others, *op. cit.*, p.28.

85 Cf. Serpaj Uy, *Informe sobre la Visita a la Cárcel de Tacuarembó*, July 15, 2005, available at http://www.serpaj.org.uy/dcp/serpajph/dcp/carcel/dcp_carcel_111.pdf, p. 2 and 3, last visited on July 31, 2006. In addition, Cf. Serpaj Uy, *Informe de la visita al Establecimiento Correccional y de Detención para Mujeres (Cabil-do)*, *op. cit.*

86 Cf. Gabriela Veizaga Bellido, *op. cit.*, p. 4.

87 Cf. National University of Rosario, Faculty of Arts and Humanities, *Seminario “Género y legislación” de la Maestría “Poder y Sociedad desde la Perspectiva de Género”*, corresponding extracts presented at the seminar directed by Prof. Susana Chiarotti. The work were written by Analía R. Aucia, Marcelo Uboque, Andrea Traviani, Mercedes Simoncini, María Rosa Amaduri, Lucrecia Donoso, Beatriz Fullone, Mariela Palloti, Silvia Bacci, Vilma Bidut, Lilian Diodati, Roberto Retamar, Norma Stati, Laurana Malacalza, 2002. (unedited documents in possession of Cladem and CEJIL).

88 Cf. Carmen Antony García, *Las Mujeres Confinadas*, *op. cit.*, p. 68.

89 Cf. María Noel Rodríguez, *Mujer y Cárcel en América Latina*, Ilanud, 2004.

90 Cf. Olga Espinoza, *Mujeres enfrentadas con el sistema punitivo*, Pena y Estado, Inecip, Buenos Aires, 2005, p. 21.

91 Cf. National University of Rosario, Faculty of Arts and Humanities, *op. cit.*

92 Cf. Natalia Belmont, *Proyecto Mujeres Privadas de Libertad, Divulgación Jurídica y Participación Ciudadana*, November 16, 2005, available at http://www.inecip.org/index.php?option=com_docman&task=cat_

[view&gid=7&Itemid=14](#), p. 12, last visited on July 31, 2006.

93 Cf. Public Ministry of Defense, *Encuestas realizadas por la Defensoría General de la República Argentina en la Unidad 3 de Ezeiza*, *op. cit.*

94 Cf. Procuración Penitenciaria, *op. cit.*, p. 36.

95 Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza*, *op. cit.*

96 Cf. Inecip Paraguay, *Sondeo de mujeres privadas de libertad, 2006* (unedited document in possession of Inecip Paraguay and CEJIL). According to the findings, 5 % of the population is Argentinian, 6 % is Bolivian and 4 % Brazilian.

97 Facing an appeal for protection from a woman visiting an inmate that was forced to strip and then received a body cavity search by a jail official, the Warden justified the practiced at the Appellate Court in Santiago, claiming that “unfortunately we find ourselves obligated to use all different types of measures in order to prevent the alteration of the internal regime of any penitentiary system [...] which means that the choice of action can ultimately result in feelings of discomfort for those subjected to the punishment, as well as for those compelled to execute it”; adding that “consequently, and in relation to the expressed appeal, it is not

possible to understand, in any manner, that any constitutional right has been suppressed against the mentioned person, given that, the rights of all people who enter the prison, for whatever reason, cannot be violated by the interests of one person in particular requiring that each person be subject to the same measures that permit us to offer minimum levels of security'. The Court finally responded to the appeal stating that "that the abuse, with or without the anal probing, should be considered a violation or grave attack against personal integrity and introduces a grave moral dilemma that effects the mental health of the victim" and that "in effect, one cannot accept this technique that is performed on those who visit inmates, as dangerous as the visit may be; it goes against the essential principles that protect human beings, and if there exists the danger that the prison authorities wish to avoid, they should look for other civilized ways to prevent it, and if they do not exist, it is better to run that risk than to trample the right of every person to their physical and mental integrity". Cf. Cladem Chile, *op. cit.*, p. 10.

98 Cf. Minister of the Interior and others, *op. cit.*

99 Cf. National University of Rosario, Faculty of Arts and Humanities, *op. cit.*

100 Cf. National University of Rosario, Faculty of Arts and Humanities, *op. cit.*

101 Cf. María Noel Rodríguez, *op. cit.*, p. 14.

102 Cf. Minister of the Interior and others, *op. cit.*

103 Cf. National University of Rosario, Faculty of Arts and Humanities, *op. cit.*

104 Cf. National University of Rosario, Faculty of Arts and Humanities, *op. cit.*

105 Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza*, *op. cit.*

106 Cf. Diego Portales University, Faculty of Law, *Informe Anual de Derechos Humanos 2005. Hechos de 2004*, Santiago de Chile, 2005, p. 177.

107 Interview with detained individual at the Calama Prison, Cf. Public Criminal Defender, *Defensa de Mujeres en el Nuevo Sistema Procesal Penal*, n° 4, December 2005, p. 173.

108 Personal communication of Alvaro Castro, Researcher at the Criminal Justice Center at Diego Portales University with jail officials from Acha Prison in Arica, August 2006.

109 Cf. Inecip Paraguay, *Encuestas realizadas en la Casa del Buen Pastor, Penitenciaria Regional de Encarnación, Penitenciaria Regional de Concepción y en Correccional de mujeres Juana María de Lara*, September 2006 (unedited document in possession of Inecip Paraguay

and CEJIL). The figure is equivalent to 1.81 and 3.62 USD (exchange rate current as of October 6, 2006)

110 Cf. Gabriela Veizaga Bellido, *op. cit.*, p. 13 and 14.

111 Cf. Nardy Suño Iturry, *Derechos humanos de las mujeres privadas de libertad*, Due Process of Law Foundation, 2004, available at http://www.dplf.org/PPL/span/mx_pp103/mx_pp103_Suño.pdf, p. 3, last visited on July 31, 2006.

112 Cf. Cladem Uy, *op. cit.*, p. 10.

113 Cf. Ministerio del Interior and others, *op. cit.*

114 Cf. National University of Rosario, Faculty of Arts and Humanities, *op. cit.* The male prison has ten living spaces that each contain a mattress, a toilet and a sink; maintenance and construction was carried out by the prisoners with their own financial stipends.

115 Cf. National University of Rosario, Faculty of Arts and Humanities, *op. cit.*

116 Cf. Interinstitutional Commission of Monitoring and Visits at Detention Centers in Paraguay, *Evaluación del Sistema Penitenciario Comisión Interinstitucional*, April – May 2006, p.4.

117 Taking into account the particular form in which lack of hygiene affects women, article 19 of the European Prison Rules makes special reference to the necessity of detained

women to have easy access to integral health items and have the ability to receive the necessary elements to guarantee basic hygiene. Legal commentators have offered additional details about the necessities of women. They have noted that female inmates should be able to have access to hygiene products and have the ability to shower more than twice a week. Cf. Council of Europe Committee of Ministers *Recommendation Rec (2006) 2 on the European Prison Rules, 2006*, adopted by the Ministers' Committee January 11, 2006, available at [https://wcd.coe.int/ViewDoc.jsp?Ref=Rec\(2006\)2&Sector=secCM&Language=lanEnglish](https://wcd.coe.int/ViewDoc.jsp?Ref=Rec(2006)2&Sector=secCM&Language=lanEnglish), last visited on December 13, 2006. In the case of *Miguel Castro Castro v. Perú*, the Interamerican Court highlighted principles of the International Committee of the Red Cross. The Court decided that the State should make sure that sanitary conditions in the prisons are adequate in order to maintain good health and hygiene of the prisoners, for which it is required that they are permitted regular access to toilets and showers and to wash their clothes. The Court also concluded that by neglecting the physiological needs of women and by denying them materials for personal hygiene, such as soap, toilet paper, towels and undergarments, it could constitute

an attack against their personal integrity. Cf. I/A Court H.R., *Case of Miguel Castro Castro*, *op. cit.*, par. 319.

- 118 Cf. Natalia Belmont, *op. cit.*, p. 8.
119 Cf. Public Ministry of Defense *Encuestas realizadas por la Unidad 31 de Ezeiza*, *op. cit.*
120 Cf. Nardy Suxo Iturry, *op. cit.*, p. 3.
121 Cf. Carmen Antony García, *Las Mujeres Confinadas*, *op. cit.*, p. 79 and Cf. Gabriela Veizaga Bellido, *op. cit.*, p. 7 and 8.
122 Cf. Yeny Villalba and Hugo Valiente, *op. cit.*
123 Cf. ABC Color, *Sospechas de desvío de dinero para cárceles*, Asunción, Paraguay, May 28, 2006.
124 Cf. Yeny Villalba and Gladys Fariña, *Condiciones de centros de detención de mujeres en Latinoamérica. Casa del Buen Pastor*, Asunción, Paraguay, August 2006. The study carried out by Yeny Villalba and Gladys Fariña revealed information throughout interviews with 48 of the 218 residents of the Casa del Buen Pastor:
125 Cf. Inecip Paraguay, *Surveys*, *op. cit.*
126 Cf. Yeny Villalba and Gladys Fariña, *op. cit.*
127 Cf. Yeny Villalba and Gladys Fariña, *op. cit.*
128 Cf. *Entrevistas a mujeres privadas de libertad en la ciudad de Pedro Juan Caballero by Pablino Cáceres*, *op. cit.*
129 Cf. Minister of the Interior and others, *op. cit.*
130 Cf. Cladem Uy, *op. cit.*, p. 6. The Director was

interviewed By Cladem Uy on September 19, 2006. On the same topic, Cf. La Diaria, August 31, 2006, p. 10.

- 131 Cf. Ministerio del Interior and others, *op. cit.*
132 Cf. Ministerio del Interior and others, *op. cit.*
133 Cf. Procuración Penitenciaria, *op. cit.*, p. 36.
134 Cf. Carmen Antony García, *Las Mujeres Confinadas*, *op. cit.*, p. 79.
135 Cf. Interinstitutional Commission of Jail Monitoring and Visits, *Condiciones de Reclusión de los Adolescentes Privados de Libertad en el Paraguay*, *op. cit.*, p. 12.
136 Cf. Carmen Antony García, *Las Mujeres Confinadas*, *op. cit.*, p. 50.
137 Cf. Interinstitutional Commission of Monitoring and Visits at Detention Centers in Paraguay, *Evaluación del Sistema Penitenciario Comisión Interinstitucional*, *op. cit.*, p. 4.
138 Cf. Interinstitutional Commission of Monitoring and Visits at Detention Centers in Paraguay, *Evaluación del Sistema Penitenciario Comisión Interinstitucional*, *op. cit.*, p. 4.
139 Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza*, *op. cit.*
140 Cf. Cladem Chile, *op. cit.*, p. 10.
141 Cf. Center for Defense Documentation Prison Policy, *Studies and Training*, *op. cit.*, p. 171.
142 Cf. Carmen Antony García, *Las Mujeres Confinadas*, *op. cit.*, p. 130.

- 143 Cf. Public Ministry of Defense, *Encuesta Unidad 3 de Ezeiza*, op. cit.
- 144 Cf. Alcira Daroqui and others, op. cit., p. 175.
- 145 Cf. Carmen Antony García, *Las Mujeres Confinadas*, op. cit., p. 70.
- 146 Cf. Cladem Chile, op. cit., p. 10.
- 147 Cf. Elisabet Almeda, *Corregir y Castigar*, Ediciones Bellaterra, Barcelona, 2002, p. 231.
- 148 Cf. Kathleen Agüeran and Elisabeth D. Leonard, *Docile bodies? Chemical Restraints and the female inmate*, in *The Journal of Criminal Law & Criminology*, vol 90, Northwestern University School of Law, Chicago, 2000, p.628.
- 149 Cf. Center for Defense Documentation Prison Policy, Studies and Training, op. cit., p. 27.
- 150 Cf. Amnesty International, Bolivia, *Tortura y malos tratos: Preocupaciones de Amnistía Internacional (Amnesty International June 2001 AI Index: AMR 18/008/2001)*, August 2001, available at <http://web.amnestand.org/library/index/eslamr180082001>, p. 8, last visited on July 31, 2006.
- 151 Cf. Serpaj Uy, *Informe de la visita a los centros carcelarios de Durazno*, July 14, 2005, available at http://www.serpaj.org.uyand/serpajph/dcp/carcel/dcp_carcel_09.pdf, last visited on July 31, 2006. In addition, Cf. Serpaj Uy, *Informe de la visita al Establecimiento Correccional y de Detención para Mujeres (Cabildo)*, op. cit.
- 152 Cf. Serpaj Uy, *Informe sobre la situación de la Cárcel de Maldonado, September 29, 2004*, available at http://www.serpaj.org.uy/serpajph/dcp/carcel/dcp_carcel_05.pdf, last visited on July 31, 2006.
- 153 Cf. *Entrevistas a mujeres privadas de libertad en la ciudad de Pedro Juan Caballero by Pablino Cáceres*, op. cit.
- 154 Cf. Inecip Paraguay, *Encuestas*, op. cit.
- 155 Cf. Alcira Daroqui and others, op. cit., p. 98.
- 156 Cf. Public Ministry of Defense, *Encuestas Unidad 3 de Ezeiza*, op. cit.
- 157 Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza*, op. cit.
- 158 Cf. Public Ministry of Defense, *La Defensa oficial y su impacto en la jurisprudencia*, op. cit., p. 321.
- 159 Cf. Public Ministry of Defense, *La Defensa oficial y su impacto en la jurisprudencia*, op. cit., p. 320 and 321.
- 160 Cf. Serpaj Uy, *Informe de la visita a los centros carcelarios de Durazno*, op. cit., p. 2 and 3.
- 161 Cf. Serpaj Uy, *Informe de la visita al Establecimiento Correccional y de Detención para Mujeres (Cabildo)*, op. cit.
- 162 Cf. Inecip Paraguay, *Encuestas*, op. cit.
- 163 Cf. Comisión Interinstitucional de Visita y Monitoreo de Cárceles, *Condiciones de Reclusión de los Adolescentes Privados de Libertad en el Paraguay*, op. cit., p. 28.
- 164 Cf. Serpaj Uy, *Informe sobre la situación de la Cárcel de Maldonado*, op. cit.
- 165 Cf. Serpaj Uy, *Informe sobre la Visita a la Cárcel de Tacuarembó*, op. cit.
- 166 Cf. Ministerio del Interior and others, op. cit.
- 167 Cf. Procuración Penitenciaria, op. cit., p. 39.
- 168 Cf. Natalia Belmont, op. cit., p. 7.
- 169 Cf. Procuración Penitenciaria, op. cit. p. 39.
- 170 Cf. Alcira Daroqui and others, op. cit. p. 170.
- 171 Cf. National University of Rosario, Faculty of Arts and Humanities, op. cit.
- 172 Cf. Comisión Interinstitucional de Visita y Monitoreo a Centros de Reclusión en Paraguay, *Evaluación del Sistema Penitenciario Comisión Interinstitucional*, op. cit., p. 4.
- 173 Cf. Ministerio del Interior and others, op. cit.
- 174 Cf. Ministerio del Interior and others, op. cit.
- 175 Cf. Cladem Uy, op. cit., p.7, where Rosa Quintana is cited, *Relevamiento del Centro de Reclusión Femenino de Canelones*.
- 176 Cf. Defensoría Penal Pública, *La Perspectiva de Género en la Defensa de Mujeres en el Nuevo Sistema Procesal Penal*, Santiago de Chile, 2006.
- 177 Cf. Gendarmería de Chile, *Departamento de Medio Libre, Caracterización de la población femenina en la Medida Alternativa de Libertad Vigilada del Adulto*, s/f, p. 4.

- ¹⁷⁸ Cf. Elisabet Almeda, *op. cit.*, p. 230. En este sentido, parecería que frente a la criminalidad femenina, ante un supuesto alejamiento de las concepciones estereotipadas de las mujeres, se reacciona intentando “domesticar” a quien ya actuó fuera de su rol.
- ¹⁷⁹ Cf. Alcira Daroqui y otros, *op. cit.*, p. 188.
- ¹⁸⁰ Cf. Ministerio Público de la Defensa, Encuestas Unidad 31 de Ezeiza, *op. cit.*
- ¹⁸¹ Cf. Gabriela Veizaga Bellido, *op. cit.*, p. 9.
- ¹⁸² Cf. Universidad Diego Portales, Facultad de Derecho, Informe Anual de Derechos Humanos en Chile 2005. Hechos de 2004, *op. cit.*, p. 173.
- ¹⁸³ Cf. Cladem Uy, *op. cit.*, p. 10, where the document *Relevamiento del Centro de Reclusión Femenino de Canelones*, made by Rosa Quintana, the vice-president of the Patronato de Encarcelados y Liberados del departamento de Canelones, (March 2006) is cited.
- ¹⁸⁴ Cf. Procuración Penitenciaria, *op. cit.*, p. 38.
- ¹⁸⁵ Cf. National University of Rosario, Faculty of Arts and Humanities, *op. cit.*
- ¹⁸⁶ Cf. Public Ministry of Defense, *Encuestas Unidad 3 de Ezeiza*, *op. cit.*
- ¹⁸⁷ The figure is equivalent to 0,322 and 3.10 USD cents. (exchange rate current as of October 6, 2006)
- ¹⁸⁸ Cf. Alcira Daroqui y otros, *op. cit.*, p. 97. Also, cf. Natalia Belmont, *op. cit.*, p. 8.
- ¹⁸⁹ Cf. Public Ministry of Defense, *Encuestas Unidad 3 de Ezeiza*, *op. cit.*
- ¹⁹⁰ Cf. Gendarmería de Chile, *Actividad Laboral Penitenciaria con Enfoque de Género*, Santiago de Chile, 2005, p. 6.
- ¹⁹¹ Cf. Gendarmería de Chile, *Actividad Laboral Penitenciaria con Enfoque de Género*, *op. cit.*, p. 7.
- ¹⁹² Cf. Gendarmería de Chile, *Actividad Laboral Penitenciaria con Enfoque de Género*, *op. cit.*, p. 7.
- ¹⁹³ Cf. Gendarmería de Chile, *op. cit.*, p. 13.
- ¹⁹⁴ Cf. Ministerio del Interior and others, *op. cit.*
- ¹⁹⁵ Cf. Ministerio del Interior and others, *op. cit.* The figure is equivalent to 9.64 USD as of August 30, 2006. ¹⁹⁶ Cf. Ministerio del Interior and others, *op. cit.*
- ¹⁹⁷ Cf. Nardy Suño Iturry, *op. cit.*, ps. 2 y 3.
- ¹⁹⁸ Cf. Gabriela Veizaga Bellido, *op. cit.*, p. 11.
- ¹⁹⁹ Cf. Ministerio del Interior and others, *op. cit.*
- ²⁰⁰ Cf. Yeny Villalba y Gladys Fariña, *op. cit.* According to the report, 90% of the prisoners interviewed had children in or outside the prison.
- ²⁰¹ Cf. Law 23,737 of the Republic of Argentina.
- ²⁰² Cf. Alcira Daroqui and others, *op. cit.*, p. 184. In the year 2001, 64.3% of women were incarcerated for some type of infraction against the drug law.
- ²⁰³ Cf. Alcira Daroqui and others, *op. cit.*, p. 94.
- ²⁰⁴ The following testimonies illustrate the graphic results that this type of treatment has on those who undergo it: Amanda–3, upon asking her if she had been offered specific treatment for problems related to drugs, she said: “I rejected it because they use strategies that make you feel more imprisoned”. Delia–3, told her experience: “they offered me a treatment. They sent me to a rehabilitation center. They keep you like a slave. It doesn’t work.” Cf. Alcira Daroqui and others, *op. cit.*, p. 49.
- ²⁰⁵ Cf. Alcira Daroqui and others, *op. cit.*, p. 189.
- ²⁰⁶ Cf. *Informe de la Dirección Nacional de Política Criminal de Argentina*, 1996.
- ²⁰⁷ Cf. Cladem Uy, *op. cit.*, p. 5 and 6, interview by Cladem.
- ²⁰⁸ Cf. Yeny Villalba and Gladys Fariña, *op. cit.* Also, Cf. Interinstitutional Commission on Visits and Monitoring at Detention Centers in Paraguay, *Evaluación del Sistema Penitenciario Comisión Interinstitucional*, *op. cit.*, p. 4.
- ²⁰⁹ Rule 23 states that: “1) In treatment centers for women, there should be the special provision of services equipment for pregnant inmates, those who have just given birth and are recovering. Wherever possible, measures will be taken to make sure that childbirth occurs in a

- hospital. If the child is born in a treatment center; this fact should not be included in the birth certificate. 2) When the newborn is allowed to stay with the mother, measures should be taken to organize a children's nursery, with qualified personnel to watch over them when the mother cannot attend to her kids".
- 210 Data supported by Inecip Argentina.
- 211 Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza*, op. cit. 21.2 % of Female prisoners in Unit 31 had children in the prison.
- 212 Cf. Mariana Carbajal, *Las presas no bajan las banderas*, published in the daily *Página 12*, on October 9, 2006.
- 213 Cf. Mariana Carbajal, op. cit.
- 214 Cf. Nardy Suxo Iturry, op. cit., p. 3.
- 215 Cf. Gabriela Veizaga Bellido, op. cit., p. 5 and 12.
- 216 Cf. Yeny Villalba, op. cit., p. 87. Also, Cf. Inter-institutional Commission on Visits and Monitoring at Detention Centers in Paraguay, *Evaluación del Sistema Penitenciario Comisión Interinstitucional*, op. cit., p. 4.
- 217 Cf. Interinstitutional Commission on Visits and Monitoring at Detention Centers in Paraguay, *Evaluación del Sistema Penitenciario Comisión Interinstitucional*, op. cit., p. 3.
- 218 Cf. Serpaj Uy, *Informe de la visita al Establecimiento Correccional y de Detención para Mujeres (Cabildo)*, op. cit.
- 219 Cf. Cladem Uy, op. cit., p. 6, where the interview by Commissary Margarita Hermida is cited, September 19, 2006.
- 220 Cf. Ministerio del Interior and others, op. cit.
- 221 Cf. Cladem Chile, op. cit., p. 5.
- 222 Cf. OMCT, op. cit., p. 131 and 132.
- 223 Cf. María Noel Rodríguez, op. cit.
- 224 Cf. Desio Metifogo, Director of the Social Sector Of the Ministry of Justice, Personal Communication, September 27, 2006.
- 225 Cf. Cladem Chile, op. cit., p. 12.
- 226 Cf. Alcira Daroqui and others, op. cit., p. 144 and ss.
- 227 Cf. Alcira Daroqui and others, op. cit., p. 144.
- 228 Cf. Carmen Antony García, *Las mujeres confinadas*, op. cit., p. 103.
- 229 Cf. Alcira Daroqui and others, op. cit., p. 146.
- 230 Cf. Procuración Penitenciaria, op. cit., p. 35.
- 231 Cf. Procuración Penitenciaria, op. cit., p. 32.
- 232 Cf. Natalia Belmont, op. cit., p. 11.
- 233 Cf. Carmen Antony García, *Panorama de la situación de las mujeres privadas de libertad en América Latina desde una perspectiva de Género; Violaciones de los Derechos Humanos de las mujeres privadas de libertad*, México, April 28 and 29, 2003 available at <http://www.cejamericas.org/doc/documentos/panorama-sin-libertad.pdf>
- 234 Cf. Interinstitutional Commission on Jail Monitoring and Visits, *Condiciones de Reclusión de los Adolescentes Privados de Libertad en el Paraguay*, op. cit., p. 10 a 12.
- 235 Cf. Inecip Paraguay, *Encuestas*, op. cit.
- 236 Cf. Ministerio del Interior and others, op. cit.
- 237 Cf. Serpaj Uy, *Informe de la visita al Establecimiento Correccional and de Detención para Mujeres (Cabildo)*, op. cit.
- 238 Cf. Ministerio del Interior and others, op. cit.
- 239 Cf. Diego Portales University, *Informe Anual de Derechos Humanos 2006. Hechos de 2005*, op. cit., p. 158.
- 240 Cf. Cladem Chile, op. cit., p. 14.
- 241 Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza*, op. cit.
- 242 Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza*, op. cit.
- 243 Cf. Natalia Belmont, *Mujeres en situación de encierro. Las prácticas discriminantes de las agencias del Estado*, in *Pena y Estado, Cárceles*, año 6, n° 6, Ediciones del Instituto, Buenos Aires, 2005, p. 67.
- 244 Cf. I/A Court H.R., *Case of Miguel Castro Castro*, op. cit., pars. 308 and 310 to 312. In this case the Interamerican Court that the dactylic vaginal inspection that a prisoner was subject to in the prison in Peru constituted an act of sexual violence and torture.
- 245 Cf. Alcira Daroqui and others, op. cit., p. 118.

- 246 Cf. Yeny Villalba and Hugo Valiente, *op. cit.*
- 247 Cf. *Entrevistas a mujeres privadas de libertad en la ciudad de Pedro Juan Caballero by Pablino Cáceres, op. cit.*
- 248 Cf. Inecip Paraguay, *Encuestas, op. cit.*
- 249 Cf. Interinstitutional Commission on Visits and Monitoring at Detention Centers in Paraguay, *Evaluación del Sistema Penitenciario Comisión Interinstitucional, op. cit.*, p. 5 and 6.
- 250 Cf. Procuración Penitenciaria, *op. cit.*, p. 33. 49 % of the population told that relations with the requisite personnel is poor. Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza, op. cit.*
- 251 Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza, op. cit.*
- 252 Cf. Amnesty International, *Implementación del CAT en Argentina*, January 2005, available at <http://web.amnestand.org/librarand/Index/ESLAMR130012005?open&of=ESL-ARG>, p.15, last visited on July 31, 2006. The event occurred on December 8, 2003.
- 253 Cf. Amnesty International. *op. cit.*, p. 17 and 18.
- 254 Cf. Diario Punto Final, edition 603, April 21, 2006. A "routine" raid is reported to have taken place on February 2, 2006 in which prisoners were filmed in the nude.
- 255 This is, moreover, the position of the Inter-american Court regarding this type of agreement. Cf. I/A Court H.R., *Case of Miguel Castro Castro, op. cit.*, par. 306.
- 256 Cf. Cladem Chile, *op. cit.*, p. 9.
- 257 Cf. Public Ministry of Defense, *Encuestas Unidad 31 de Ezeiza, op. cit.*
- 258 Cf. Procuración Penitenciaria, *op. cit.*, p. 37.
- 259 There are no sufficient official stats on female crime, the proportion of females in preventive Prison, ages of female inmates or their nationalities among others.
- 260 Cf. Annex III, where the Proyecto de Declaración de Principios sobre la Protección de las Personas Privadas de Libertad is found.
- 261 Cf. CIDH, *Report 38/96, Case 10.506 (Argentina)*, October 15, 1996.
- 262 Cf. I/A Court H.R., *Case of Miguel Castro Castro, op. cit.*, par. 312.
- 263 Cf. I/A Court H.R., *Caso Lopez Alvarez v. Honduras*, Judgement of February 1, 2006, pars. 164, 171 and 176.

