



COMITÉ NACIONAL
PARA LA PREVENCIÓN
DE LA TORTURA



CONSEJO FEDERAL DE
MECANISMOS LOCALES
PARA LA PREVENCIÓN
DE LA TORTURA

Women in Prison: Argentina

Analysis by the National Preventive
Mechanism

| August 2024



association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture



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Argentina - National Committee for the Prevention of Torture



UNCAT Ratification
24 September 1986

OPCAT Ratification
15 November 2004

National Preventive Mechanism (NPM)

National Committee for the Prevention of Torture (CNPT)

NPM legal framework
[National Law N° 26.827](#) (2013)

NPM operationalisation
Since December 2017

NPM structure
Specialised autonomous public body
The CNPT is the governing and coordinating body of the National System for the Prevention of Torture in Argentina, composed of the Federal Council of Local Mechanisms, the Local Mechanisms for the Prevention of Torture, public bodies and NGOs working for the rights of persons deprived of their liberty.

NPM composition
80 members (40 women):
7 members¹ (2 women)
-1 Executive Secretary
-71 members of the Executive Secretariat (37 women)

Preliminary clarification:

The Argentine Republic is a federal State, and the way in which the OPCAT is implemented reflects this. National Law 26.827 created the National System for the Prevention of Torture (SNPT), governed and coordinated by the National Committee for the Prevention of Torture (CNPT), and composed of Local Mechanisms from the different jurisdictions of the country. In its role as the governing and coordinating body of the SNPT, the CNPT is responsible for responding to and interacting with the UN Subcommittee on Prevention of Torture and other international bodies. For this report, in addition to its own contributions, it coordinated the contributions of the functioning Local Mechanisms that joined the initiative.

I. Facts and Figures

Prison population	Women in prison - Characteristics	Prisons for women	Prison staff
Total prison population 105,112	Foreign women 293	Number of women's prisons 62	Prison staff (total) 57,681
Women in prison (total) 4,171 4%	Pregnant women 49	Women-only prisons 30	Women prison officers 17,900

¹ Data updated as of February from 2024. Law 26.827 creating the CNPT (art. 11) establishes that it must be made up of 13 members.

<p>Sentenced women</p> <p>2,063</p> <p>Women in pre-trial detention</p> <p>1,989</p> <p>Women in other procedural situations</p> <p>37</p> <p>Source: CNPT, National Register of Places for the Deprivation of Liberty, Population and Capacity of Argentina, 31 December 2022.³</p>	<p>Women with children in prison</p> <p>51</p> <p>Trans persons²</p> <p>139</p> <p>Source: CNPT, National Register of Places for the Deprivation of Liberty, Population and Capacity of Argentina, 31 December 2022.</p>	<p>Mixed prisons with separate units for women</p> <p>32</p> <p>Source: CNPT, National Register of Places for the Deprivation of Liberty, Population and Capacity of Argentina, 31 December 2022.</p>	<p>Source: National System of Statistics on Sentence Execution, 2022.</p>
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II. Recommendations

Body searches

- + Review clearance rules and search and seizure protocols to avoid discretionary leeway that facilitates this type of degrading practices.⁴
- + In each jurisdiction, the authorities should strictly control and record how searches are carried out and prevent ill-treatment and violations of the rights to dignity, privacy and personal integrity in their execution.⁵
- + Record, systematise and investigate complaints about intrusive, degrading searches and seizures that affect personal dignity and integrity.⁶
- + Create protocols for the search of visitors in general, and of children and adolescents in particular, in accordance with applicable standards, prioritising the use of technological devices, so that they are respectful of human dignity and avoid invasive and/or humiliating actions. This should be complemented by training for the staff who carry them out.⁷
- + Put an end to invasive search practices, as they constitute cruel, inhuman or degrading treatment, both towards detainees and their visitors. At the same time, consider setting up a roundtable with the participation of various actors involved in the issue, with the aim of reviewing and modifying the existing regulations on searches. This process should focus on developing updated

² The information reported by prison services only includes the category "transgender". Most prison services do not provide information on gender, but only on sex as it appears on the person's ID card. For this reason, it is estimated that the calculations on the "transgender" population are biased and under-reported. Moreover, the other broad and complex categories within the diversity group are not made visible.

³ [National Register of Places for the Deprivation of Liberty, Population and Capacity in Argentina](#), compiled by the CNPT on the basis of information provided by Local Mechanisms for the Prevention of Torture and prison services in the different jurisdictions of the country, 31 December 2022.

⁴ *Op. cit.* p. 14.

⁵ CNPT (2021) Recommendation 5/21, [El derecho a la vinculación familiar y social de las personas privadas de su libertad y sus familias \[The right to family and social ties of persons deprived of their liberty and their families\]](#), p. 13.

⁶ *Op. cit.*, p. 18.

⁷ CNPT (2023) [Relevamiento sobre los alcances de la implementación de políticas públicas de vinculación familiar para niñas, niños y adolescentes con referentes adultos privados de la libertad \[Survey on the scope of the implementation of public policies on family bonding for children and adolescents with adult referents deprived of their liberty\]](#).

regulations on the search of detainees that comply with current international standards.⁸

Means of coercion

- + Eliminate the practice of restraint of persons that does not conform to international standards, by repealing the regulations that authorise it and carry out the necessary communication and training actions to eradicate this practice.⁹
- + Urge the authorities of the judiciary to carry out the corresponding investigations to clarify the facts and determine the responsibilities on the part of state officials. At the same time, the sanctions regime should be formalised and instances of dialogue and alternative conflict resolution mechanisms based on principles on restorative justice should be promoted.¹⁰

Comprehensive healthcare

- + It is recommended that the comprehensive healthcare of detainees, and particularly mental healthcare, should be addressed by an interdisciplinary team of the mental health service under the terms of the National Mental Health Act, and not by an assessment carried out in the prison units. With regard to women, comprehensive psychophysical healthcare is recommended, through health policies that take into account the particularities and complexities of this population. The health of the prison population cannot come under the Ministry of Justice and be dissociated from the health policies of the rest of society. It must therefore be linked to the Ministry of Health.¹¹
- + Guarantee proper medical care for women and trans person in prisons: provide the necessary means to manage the incorporation of a staff of health professionals (especially medical clinicians, infectious disease specialists and gynaecologists); incorporate ambulances for transfers in case of medical emergencies; regularly carry out the necessary medical check-ups for the prevention, diagnosis, assistance and treatment of cervical and breast cancer; provide the necessary means to carry out targeted programmes linked to sexual and reproductive health, maternity and childhood, HIV and sexually transmitted diseases, tuberculosis, mental health and prevention of cervical and breast cancer.¹²
- + Conduct comprehensive, ongoing and regular theoretical and practical training for police staff on the Nelson Mandela Rules and the Bangkok Rules to inform them of the rights of persons in their temporary custody.¹³

Mental healthcare

- + With regard to involuntary internment, the following is recommended: i) the immediate cessation of isolation cells called "individual permanent observation rooms", as well as the immediate cessation of the isolation of persons with

⁸ PPN (2011) *Recomendación sobre el procedimiento de requisita personal [Recommendation on the personal search procedure]*.

⁹ CNPT, *Informe de seguimiento de las recomendaciones realizadas por el Comité nacional para la prevención de la tortura en virtud de los hallazgos relevados en su visita de inspección a la provincia de Córdoba (2018 - 2019) [Report on follow-up to the recommendations made by the National Committee for the Prevention of Torture on the basis of the findings of its inspection visit to the province of Córdoba (2018 -2019)]*, 2022, p. 39.

¹⁰ CNPT (2022) *Informe sobre visita de inspección a la provincia de La Rioja [Report on inspection visit to the province of La Rioja]*, p. 13.

¹¹ CPM (2019) *La salud en las cárceles bonaerenses [Health in Buenos Aires prisons]*.

¹² PPN (2022) *Recomendación puntualmente orientada a la situación de mujeres y personas trans alojadas en el Complejo Penitenciario Federal IV de Ezeiza, en la Provincia de Buenos Aires [Recommendation specifically aimed at the situation of women and transgender persons housed in the Federal Penitentiary Complex IV of Ezeiza, in the Province of Buenos Aires]*.

¹³ Recommendation of the Local Mechanism of the Province of Chaco.

involuntary psychiatric internment; ii) the immediate cessation of medicalisation practices and physical violence against women and trans persons, in violation of the provisions of Law 26.657 "Right to the Protection of Mental Health"; iii) take the necessary measures to immediately guarantee the full implementation of the provisions of the "National Mental Health Law" N°26.657 and its regulatory decree, in particular with regard to involuntary internment and the notifications to the corresponding courts in criminal and civil matters, as well as to the Mental Health Review Body, in order to carry out the appropriate audits.¹⁴

- + It is recommended that the relevant agencies of the Ministry of Health or the Local Mental Health Review Body accompany and/or monitor the process and time of detention of women with mental health conditions, with the aim of reducing their barriers to accessing information, health treatment, social security, building and sustaining family and/or affective ties of reference and the creation of strategies that tend to externalisation.
- + It is recommended that the so-called "neuro-psychiatric" penal units be closed, as they cannot be considered suitable facilities to guarantee the approach required by mental health regulations. Mental health admissions should be carried out in accordance with Rule 109 of the Mandela Rules and Law 26.657, in general hospitals (Art. 28), and the approach must "be carried out by an interdisciplinary team composed of professionals, technicians and other trained workers duly accreditation by the competent authority" (Art. 8).
- + It is recommended that the state produce information on the population with psycho-social disabilities in detention, in accordance with the UN principles of maximum urgency, maximum access and openness. Information on torture, ill-treatment, violence, illness, deaths and various aspects of criminal policy is inadequate or non-existent. The information available on the penal system is often sporadic, scattered and inaccurate.

Contact with the outside world

- + Ensure the intervention of the corresponding authorities, as well as the application of the relevant social mechanisms and programmes, with the aim of avoiding the separation of women in prison from their family ties, to preserve their relationship with their children and to guarantee that the children of women in prison are not left in a situation of neglect.¹⁵

Social rehabilitation

- + Develop post-prison policies that integrate pre-release programmes, conceived with a gender-specific perspective, and that take into account diversity and interculturalism. These policies should be designed in a way that responds to the personal and social characteristics of each individual.
- + Promote the participation of women in working spaces from the perspective of Restorative Justice with civil society organisations.

Prison life: routine and activities

- + Ensure equal conditions for access to work for women in prison. Sufficient quotas for occupational therapy, decent wages and training that is not stereotyped to gender should be allocated.

¹⁴ PPN (2022) *Recomendación referida a la situación observada en el Pabellón A del Módulo 6 del Complejo Penitenciario Federal IV de Ezeiza, Provincia de Buenos Aires* [*Recommendation regarding the situation observed in Ward A of Module 6 of the Federal Penitentiary Complex IV of Ezeiza, Province of Buenos Aires*].

¹⁵ CNPT, Annual Report to the Bicameral Commission of the Ombuds Institution January-December 2021, p. 262.

Prison staff

- + Incorporate mandatory and ongoing training for prison staff from a human rights, gender, intercultural and disability perspective. It should also include an approach based on the prevention of torture, inhuman, cruel or degrading treatment or punishment.

Pregnant, postpartum and breastfeeding women

- + Guarantee all necessary means related to the health, hygiene, safety and sanitation of all women, and especially those who are pregnant, in prison, so that, during pregnancy, childbirth and/or breastfeeding, their rights are not violated due to the lack of material means that allow their full exercise.¹⁶

Women with children in prison

- + In accordance with the Bangkok Rules, the facilities where mothers or pregnant women and their dependent children live should, in accordance with the Bangkok Rules, be conducive to guaranteeing integral development, safeguarding the best interests of the child, in an environment that minimises differences with the outside world, and should have as its primary objective to avoid the separation of children and adolescents from their parents, relatives or people who play an important parental role in their lives.¹⁷

LGBTIQ+ people

- + It is recommended to the national and provincial executive branches¹⁸:
 - o include training on the subject in the mandatory training programmes for custodial staff, extending it to those professionals who interact with this population on a daily basis.
 - o adapt regulations and search protocols to national and international standards on the matter – such as the Yogyakarta Principles, Bangkok Rules, Law No. 26.743 on Gender Identity, among others, and prioritise the use of electronic devices.
 - o ensure progress in the progressive regime for trans, non-binary and gender-diverse people, as well as access to rights, and adopt measures to avoid segregated confinement or isolation measures for this group as a form of protection.
- + LGBTQ+ detainees who make their sexual orientation or gender identity known should be consulted regarding their accommodation preference. In the event that they wish to be rehoused, the necessary arrangements should be made to ensure that they are moved as soon as possible in order to protect their physical and/or psychological integrity.

Alternatives to detention

- + Review the standards for the use of pre-trial detention in order to reduce its use and the length of time people are deprived of their liberty in this situation, especially for women with dependants. It is essential to promote greater use of alternative measures, in line with international standards such as the Tokyo Rules and the Bangkok Rules, as well as house arrest, even in the absence of electronic

¹⁶ *Op. cit.*, p. 262.

¹⁷ CNPT (2021) *Estándares mínimos de capacidad de alojamiento y condiciones de detención en establecimientos penitenciarios [Minimum Standards for Accommodation Capacity and Detention Conditions in Prisons]*, p. 29.

¹⁸ CNPT (2021) *Informe Anual a la Comisión Bicameral de la Defensoría del Pueblo HCN [Annual Report to the Bicameral Ombuds Institution HCN]*, p. 240.

monitoring devices.¹⁹

- + When sentencing adult carers of children, whenever possible, alternative measures to imprisonment such as house arrest should be prioritised over those involving incarceration. In addition, consideration should be given to the application of these measures especially in cases where mothers are housed with their children in prisons. Alternatives to detention should be made available and applied taking full account of the possible impacts of different sentences on the best interests of children.²⁰
- + Review judicial practices aimed at gender-sensitive sentencing that fully takes into account the specific circumstances that women face, such as a history of gender-based violence, socio-economic vulnerability, caring responsibilities, etc.

III. Detention Issues

Body searches

a. Legal framework

The legal establishment of standards for searches and registration (body and in facilities) in penitentiary units constitutes a normative obligation in Argentina. The current National Law of Penal Execution (24.660 and its amendments) only contemplates it in Article 70 and makes it subject to the guarantees determined by regulation and with respect for human dignity.²¹

In the framework of monitoring, the CNPT recommends that jurisdictions put in place mechanisms to prevent situations amounting to torture and ill-treatment during searches, either through the development or modification of specific protocols in accordance with international standards on the subject; acquire and prioritise the use of technological devices to replace tactile searches; provide training to staff who carry them out; and start recording and filming the procedures.

The situation is disparate in each of the jurisdictions, as some have rules regulating the procedures and others do not. In the area of the Federal Penitentiary Service, body searches are based on the General Protocol of Search and Inspection (Public Normative Bulletin No. 714 of 29 July 2020), in which body searches remain the rule. The regulation is very broad and vague as to what the actions of prison officers should be. A positive feature of the regulation is the specification that "*every person shall be searched by staff of the same self-perceived gender*". However, with regard to transgender persons, in 2016, the "Guía de procedimiento de visu médico y control y registro de personas trans en alcaidías del SPF" [Guide to medical visu procedure and control and registration of transgender persons in SPF prisons] was approved, which regulates human rights standards in the framework of search procedures for transgender persons.

b. The use of body searches in practice

From the information gathered during visits and inspections, the CNPT became aware of situations of arbitrariness and lack of protection of women in prison with regard to body searches. In some jurisdictions, they face invasive body searches

¹⁹ CNPT (2021) Informe Anual a la comisión bicameral de la defensoría del pueblo HCN [Annual Report to the bicameral ombuds institution HCN], p. 260.

²⁰ CNPT (2023) Relevamiento sobre los alcances de la implementación de políticas públicas de vinculación familiar para niñas, niños y adolescentes con referentes adultos privados de la libertad [Survey on the scope of the implementation of public policies on family bonding for children and adolescents with adult referents deprived of their liberty].

²¹ CNPT (2021) Informe Anual a la Comisión Bicameral de la Defensoría del Pueblo [Annual Report to the Bicameral Commission of the Ombuds Institution], pp. 108-109.

consisting of total nudity, without respecting hygienic standards²² or criteria of reasonableness and proportionality.²³

Women are often required to remove their underwear, without having adequate space for this, while body cavity searches are carried out, and they are asked to do squats. In addition, there are units where these practices are carried out by male staff, despite having electronic devices (paddles) specifically designed for these tasks.²⁴ Moreover, in this context, they are often subjected to aggressive and humiliating comments.

c. Body searches of visitors

In relation to the searches carried out on visitors, it was found that they frequently involve full nudity with humiliating positions such as squatting and, in some cases, women have their genitals searched. This nudity is also applied to children, despite the availability of electronic paddles for this purpose. There have also been testimonies of violence and sexual abuse, as well as outrageous and humiliating treatment of children, who ask their families to stop visiting the facilities, so as to not be subjected to traumatic situations.

In jurisdictions where electronic devices are available, such as in the federal penitentiary system, there have been procedural irregularities related to failure to correctly read the devices and the application of manual strip searches. This is compounded by a lack of training for operators, who do not have sufficient knowledge to read the digital images correctly.

d. Legal action

In 2024, the CNPT began to participate in a roundtable convened in the framework of a corrective collective habeas corpus filed in 2012 by a group of detainees of the IV Federal Penitentiary Complex of Ezeiza with the participation of the PPN, denouncing the intrusive searches to which they were routinely subjected. The action was upheld and it was ruled that invasive physical searches could only be carried out in exceptional cases and when there were no less restrictive alternative means or when there were well-founded and duly accredited reasons. Within the framework of the roundtable convened by the intervening court, a new regulation on searches and registers is being agreed upon in accordance with international standards on the subject.²⁵

Solitary confinement, isolation

a. Legal framework

The National Penal Enforcement Law provides only for solitary confinement as a disciplinary sanction. Specifically, Article 87(e) provides for solitary confinement in individual accommodation or in cells whose conditions do not unlawfully aggravate detention, for a period of up to fifteen (15) uninterrupted days. It is established that its imposition is a consequence of an administrative disciplinary procedure in which the person must be aware of the accusation against them, may offer evidence, present their defence and even appeal the decision (in accordance with Articles 91 and 96 of the law). And, while serving the sanction, they may work and request medical assistance (Article 88). Furthermore, the Regulatory Decree N° 18/97, from which the Disciplinary Regulations for persons deprived of liberty are approved,

²² CNPT (2021) *Report of the inspection visit to the province of Tierra del Fuego A.I.A.S [Report of the inspection visit to the province of Tierra del Fuego A.I.A.S.]*

²³ CNPT (2022) *Informe de visita de Inspección a la provincia de La Rioja [Report of the inspection visit to the province of La Rioja].*

²⁴ CNPT (2021) *Informe de visita de Inspección a la provincia de San Juan [Report of Inspection Visit to the Province of San Juan]*, p. 29; Provincial Commission for Memory (2020). *Informe Anual [Annual Report]*, p.180.

²⁵ The action is pending before the Federal Criminal and Correctional Court No. 1 of Lomas de Zamora in Case No. 51010899 / 2012 "LUNA VILA, DIANA Y OTROS s/HABEAS CORPUS".

states that the sanction of isolation may be applied in cases of medium or serious misconduct: medical assistance must be guaranteed and in no case does it imply the total suspension of the right to visit and correspondence with a direct family member or close relative.

In other words, Argentina's regulations do not contemplate the application of this regime under the argument of safeguarding people's physical integrity. In the federal prison system, Articles 12 and 13 of the Protocol for the Implementation of the Protection of Persons in Situations of Special Vulnerability²⁶ prohibits individual and/or collective isolation as a protective measure.

b. The use of isolation in practice

As mentioned, although according to national regulations the only criterion for the use of solitary confinement is linked to the applicable disciplinary regime, in the different jurisdictions it has been found that in practice it is used for a variety of reasons. Moreover, it is used as a rule rather than an exception, since most prisons lack alternative mechanisms for conflict resolution.

There have also been reports of almost total isolation without access to a yard or outdoor space; in many cases the confinement is prolonged, far exceeding the maximum period of 15 days. While serving the sentence, persons do not have access to recreational, educational or work activities. At the same time, cases were detected in which no record is kept of the type of sanction imposed or its duration.

The use of isolation appears to be a widespread practice in different facilities and for reasons that go beyond those permitted. In the framework of the surveys carried out, its use has been detected as a security measure (voluntary and non-voluntary), as a routine for entering facilities, in transit while waiting for a transfer, as a tool for managing different conflicts between inmates, as a response by staff to requests or complaints, as well as for the seizure of prohibited items, even without formal sanctions.

With regard to the material conditions of the accommodation cells, it has been noted that they are in worse conditions than those used for the general population and do not meet the minimum criteria of habitability. In these cases, there is often prolonged accommodation lasting several months²⁷, in spaces that do not meet the necessary hygienic conditions, and are characterised by the presence of damp, rodents and even dangerous electrical installations.²⁸ The regime is often extremely restrictive, as people have no access to recreational or educational activities, and no communication with their families and relatives.²⁹

With regard to women in particular, in addition to the aforementioned reasons, it is particularly used on women who are classified as "conflictive". Situations of verbal abuse have been reported, as well as the promotion of conflict among detainees, when the nature of the offence for which they have been transferred there or the illness from which they suffer is publicised.

Furthermore, in the particular case of women and transgender persons, it was found

²⁶ Published in the Boletín Público Normativo No. 500 of 23 April 2013.

²⁷ CNPT (2018) *Informe de visita de Inspección a la provincia de Buenos Aires [Report on inspection visit to the province of Buenos Aires]*, p. 37; (2019) *Informe sobre la situación de las personas en situación de encierro de la provincia de Santa Fe [Report on the situation of persons in confinement in the province of Santa Fe]*, p. 80; (2020) *Informe sobre inspecciones a unidades penitenciarias y dependencias policiales en la provincia de Tucumán [Report on inspections of penitentiary units and police facilities in the province of Tucumán]*, p. 10; (2022) *Report on inspection visit to the province of Entre Ríos*, p. 62; (2022) *Informe sobre visita de inspección a la provincia del Chubut [Report on inspection visit to the province of Chubut]*, p. 63.

²⁸ CNPT, Informe de visita de Inspección a la provincia de Santa Fe [Report of the inspection visit to the province of Santa Fe], Op. cit. p. 50, Informe Entre Ríos [Entre Ríos Report], Op. cit. p. 75.

²⁹ CNPT, *Informe de visita de Inspección a la provincia de Entre Ríos [Inspection visit report to Entre Ríos province]*, Op. cit. p. 75; Informe provincia de Chubut [Report province of Chubut], Op. cit. p. 73; and PPN (2019) *Informe Anual [Annual Report]*, CAP VII, *Colectivos sobrevulnerados en prisión [Collectives over-vulnerated in prison]*, 1.2. Habeas corpus for appalling material conditions in the isolation cells of CPF IV, p. 404.

that isolation is carried out by restraint of hands and feet (with handcuffs) and, in some cases, together with the use of injectable painkillers.³⁰ Within the federal penitentiary system, irregular practices of involuntary transfer of women to the “psychiatric emergency” sectors of the units, under isolation and medicalised measures without consent, have been identified.³¹

Good practice in the Province of Chaco: Alternative dispute resolution measures

Due to the implementation of conflict resolution committees to address disputes between women and prison staff, sanctions are now exceptional. For this reason, there are no isolation cells in penitentiary units housing women. In some cases, the infirmary is temporarily used.

Use of means of coercion

a. Legal framework

The National Law of Penal Execution³² establishes exhaustively the cases in which means of restraint may be used, stipulating that the authorised means of restraint and its mode of use shall be established by the regulations to be issued, emphasising that the measure may not be prolonged beyond the necessary time under penalty of administrative or penal sanctions (Art. 76).

Under the same criteria, the regulations for defendants (Resolution 13/97) reproduce this article with the exception that Article 56 establishes that the regulations for the use of means of restraint shall be carried out by the Ministry of Justice and Human Rights of the Nation.

However, there is no regulation of its own to determine the circumstances for the use of mechanical restraints, the procedure and the resources to implement this measure. The absence of regulation increases the possibility of mistreatment, for example, with the official being able to determine its application if they consider that there is a risk of evasion, based on their reason and logic. The provincial enforcement laws also fail to go beyond the existing national legislation and regulations.

The CNPT considers that the absence of regulation poses a scenario that increases the possibility of mistreatment, and therefore recommends that these procedures be protocolised in accordance with international and national standards.

b. The use of means of coercion in practice

Within the framework of its functions, the National Committee has identified particular situations in some jurisdictions where mechanical restraints are used on women as a sanctioning mechanism. In these cases, the dynamic is that, when faced with conflict situations, prison staff leave them restrained to their beds for days at a time. In addition, they make the same restraints that are then used to restrain them.

In addition, it has been reported that prison staff use the practice of injecting substances violently through clothing as a means of disciplining the female

³⁰ *Op. cit.*, p. 29.

³¹ CELS, PPN, MPD (2021) *Mujeres en prisión, los alcances del castigo [Women in prison, the scope of punishment]*, Ed. Siglo XXI; PPN (2010) *Informe Anual [Annual Report]* PPN, (2012) *Informe Anual [Annual Report]* PPN (2014) *Informe Anual [Annual Report]*; PPN (2016) *Informe Anual [Annual Report]*.

³² Article 74 states that the use of any means of restraint as a punishment is prohibited and Article 75 states that it may only be used: as a precaution against possible escape during transfer; for medical reasons and with written medical advice; on the express order of the director if they are not on duty, if other methods of security have failed and for the sole purpose of preventing the person from causing harm to themselves, to a third party or to the facility. In this case, they shall immediately refer the matter to the medical service and shall submit a detailed report to the courts and to the higher prison authority.

population in isolation. The CNPT noted the existence of such procedures in the nursing staff records, based on diagnoses such as "psycho-motor excitation". In addition, the use of restraint beds as a form of punishment was observed, in which people are tied to their limbs, leaving them immobilised for days.³³

In the case of pregnant women, the use of handcuffs has been observed in units of the Buenos Aires Penitentiary Service before, during and after childbirth. Some women have reported difficulties in bonding with their children due to the restriction of movement, as in the case of crossed handcuffs, which makes breastfeeding difficult.³⁴

Healthcare

The neglect of the physical health of women detainees is one of the most serious situations observed in different jurisdictions. The lack of comprehensive health policies and limited access to adequate medical care are recurrent. Access to health services is marked by delays and arbitrariness in the treatment of illnesses. In some cases, women do not receive appropriate medication or are unaware of the type of drug they are given. Administrative procedures for obtaining additional medication are also slow and require judicial authorisation, which affects the course of their treatment.

A significant problem is the lack of annual gynaecological check-ups, with many women reporting that they are not screened or, even when they are, do not receive the results.

In addition, it was observed that women in prison who suffer from chronic and/or serious illnesses such as cancer, hypertension and diabetes, among others, do not receive adequate or continuous treatment. Detention conditions, such as overcrowding, damp, poor quality food and lack of hygiene, considerably aggravate women's health.³⁵

Mental healthcare

The CNPT has noted that psycho-pharmacological treatment is often prioritised over other approaches that prioritise psychological counselling and has made recommendations to this effect. In addition to the lack of mental health professionals, there is a widespread use of psychotropic drugs without a diagnosis or within the groups of unspecified disorders.³⁶ Also, the lack of mechanisms for dealing with problematic drug use has been highlighted as a generalised problem.³⁷

Despite the fact that in 2021 the National Suicide Prevention Law³⁸ was regulated

³³ CNPT (2022) *Informe de seguimiento de las recomendaciones realizadas por el Comité Nacional para la Prevención de la Tortura en virtud de los hallazgos relevados en su visita de inspección a la provincia de Córdoba (2018 -2019)* [Follow-up report on the recommendations made by the National Committee for the Prevention of Torture on the basis of the findings of its inspection visit to the province of Córdoba (2018 -2019)].

³⁴ See: point 3.4 Obstetric violence: the psychiatrisation of the puerperium in the Prison Policies Section of the *CPM 2020 Report*; point 3.2. Mothers and children in prison in the Prison Policies Section of the *CPM 2021 Report*; point 3.5. Pregnant women and children in prison in the Prison Policies Section of the *CPM 2022 Report*. Also in this regard, the research carried out by the PPN, the Ombuds Institution in Buenos Aires, and the Ministerio Público de la Defensa (2019) *Parí como una condenada, experiencias de violencia obstétrica de mujeres privadas de libertad* [Parí as a convicted woman, experiences of obstetric violence of women deprived of liberty] is also recommended.

³⁵ To see what has been recorded about the lack of or deficient healthcare suffered by women detainees in prisons in the Province of Buenos Aires, please consult the Reports of the Provincial Commission for Memory 2019, 2020, 2021, 2022, 2023, among others.

³⁶ CNPT (2021) *Informe sobre inspecciones a la provincia de Neuquén* [Report on inspections in the province of Neuquén].

³⁷ However, in federal prisons, there is a "Programme for the detection and specific intervention of problematic substance use" which aims to reduce consumption and promote alternatives for healthcare, based on identifying and addressing the needs of the population deprived of liberty.

³⁸ *Ley Nacional de prevención del suicidio 7.130* [National Suicide Prevention Act 7.130] (2015) and y *decreto*

and all the provinces of the country adhered to it, very few penitentiary services have incorporated specific protocols. One of the exceptions is the Federal Penitentiary Service through the "Programme of detection and specific intervention by levels of suicide risk for persons deprived of liberty housed in the Federal Penitentiary Service" (DIRSUIC).³⁹

In 2023, after observing this phenomenon extensively, the CNPT carried out a specific survey on access to mental health services for women in penitentiary units in the province of Buenos Aires. In this jurisdiction, there has been an increase in the number of mental health professionals, but this is not enough due to the large number of women incarcerated in this province, and the constant rotation of staff is an obstacle to the continuity of treatment. There are also no group spaces, which could make up for the difficulties in terms of human resources. The Committee notes as a good practice that health staff do not depend directly on the Prison Service.

Good practice in the province of Cordoba: Inter-institutional coordination and training

Following its monitoring visit to the province of Cordoba, the CNPT made recommendations related to suicides among women in prison, the interruption of the mother-child bond and acts of harassment and discrimination against the LGBTIQ+ population.

Following the recommendations of the CNPT, an agreement was implemented between the Provincial Penitentiary Service of Cordoba, the Secretariat for Children and Adolescents and the High Court of Justice, in order to generate mechanisms to sustain the bond between women and their children. Training on gender and diversity was also incorporated, which raised awareness among staff.

Good practice in the province of Salta: Training of specialised psychologists

Faced with the lack of psychological care for women in prison, in 2023, exceptionally, psychological care in private professional practices was authorised through the Execution Courts. On this basis, the Committee for the Prevention of Torture of Salta signed a reciprocal collaboration agreement with the College of Psychologists to advance in the creation of a differentiated list of professional psychologists specialised in accompanying persons deprived of their liberty and to strengthen their training.

IV. Women in Special Situations of Vulnerability

Pregnant, postpartum and breastfeeding women

Despite the fact that Argentina has a [National Law on Humanised Childbirth 25.929](#), as previously mentioned, cases of restraint during the transfer of pregnant women, the birth and postpartum process, lack of access to information, among others, were reported.

reglamentario de la Ley Nacional de prevención del suicidio [regulatory decree of the National Suicide Prevention Act] (2021).

³⁹ Published in the Public Gazette No. 668.

On 5 July 2022, the CNPT submitted to the High Court of Justice of Córdoba a document with observations on the use of restraints on persons deprived of their liberty, based on monitoring visits carried out in the province.⁴⁰ On that occasion, a pending appeal was also highlights in a case concerning the aggravation of the conditions of detention of pregnant persons in prison for practices similar to those observed, such as the use of restraints during transfer outside the facility and during their internment.⁴¹ The findings, observations and recommendations submitted by the CNPT were taken into account by the High Court of Justice. The Court upheld the appeal of the defence of the pregnant woman deprived of her liberty and expressly referred to the Committee's observations in its decision.

In addition, the CNPT intervened in two cases linked to pregnancy losses, where there are indications of possible negligence on the part of security and health staff, which are under investigation.

In the province of Buenos Aires, in 2022, a [Guía de Implementación del parto respetado en contextos de encierro en la Provincia De Buenos Aires \[Guide for the Implementation of Respectful Childbirth in Contexts of Imprisonment in the Province of Buenos Aires\]](#) was formulated, involving the Buenos Aires Penitentiary Service and authorities from the then Ministry of Justice, the Ministry of Health, the Ministry of Women, Gender and Diversity, and non-governmental organisations. However, in this jurisdiction, situations of serious violations of the rights of pregnant women in contexts of confinement have been reported, which may constitute torture. Women in penitentiary units face basic medical check-ups and long waiting times when they are potentially at risk. In addition, they do not receive sufficient information about their health, nor education about care during pregnancy, childbirth or the postpartum period. On the other hand, prison facilities lack adequate spaces and specific activities for them. In outpatient clinics, they suffer discrimination and humiliating treatment, and during childbirth, they are not allowed to be accompanied, limiting the access of their family members.

LGBTIQ+ people

In 2020-2021, the CNPT carried out a survey of prison policies aimed at trans, gender-diverse and non-binary persons, in the framework of compliance with [Law No. 26.743 on gender identity](#). It was found that the greatest advances in the recognition of transgender people were made by trans women and, to a lesser extent, trans men and non-binary or gender-diverse persons.

Among the main findings, it emerges that there is a high degree of undocumented status among the trans and non-binary incarcerated population. This is especially significant if we consider that this population has gone through judicial instances of prosecution and/or trial without documentation that accredits the formal registration of their identity, despite the fact that this is a right and an obligation of the state.

The survey also corroborated the predominance of security, separation and segregation criteria for the population deprived of liberty not based on the self-perception of the individuals. Dissimilar criteria are observed according to the jurisdiction and the administration of specific penitentiary units. In general, the absence of specific procedures respectful of self-perceived gender identity leads to situations of increased violence, ill-treatment or physical, mental or sexual abuse. Among the most worrying factors, body searches were identified as likely to involve further humiliation, abuse and discrimination. In addition, poor access to healthcare was identified, particularly with regard to hormone treatment, due to a lack of

⁴⁰ CNPT (2018-2019) [Informe sobre inspecciones a la provincia de Córdoba \[Report on inspections in the province of Córdoba\]](#), pp. 8, 19, 38 and 39.

⁴¹ Case " SUAREZ, Leyla Nahir - Cuerpo de ejecución de la pena privativa de la libertad" [SUAREZ, Leyla Nahir - Body for the enforcement of a custodial sentence] (file No. 7459073)

trained staff and the invisibility of specific health factors.

In different jurisdictions, the Local Mechanisms surveyed and documented serious cases of violence and discrimination against trans women in prison, including physical and psychological abuse, and rejection of their gender identity by prison staff. In the Province of Buenos Aires, a survey showed that the majority of trans women in detention are foreign nationals, which increases their vulnerability to lack of social support and difficulty in accessing procedural rights. In addition, the high prevalence of diseases, such as HIV, and cases of sexual violence and ill-treatment are evidence of an alarming situation of discrimination and abuse in the Buenos Aires prison system.

Good practice: Registration of transgender people

In 2016, the Guía de procedimiento de visu médico y control y registro de personas trans en alcaidías del SPF [Guidelines for medical visu procedure and control and registration of trans persons in SPF prisons] were approved by Public Normative Bulletin 596. The guidelines regulate and establish human rights standards in the framework of search procedures for trans persons. The document was the result of a habeas corpus filed by the National Public Defender's Office denouncing the implementation of humiliating searches of trans women attending Units 28 and 29 of the Federal Penitentiary Service. As a result, an inter-institutional roundtable was formed to discuss the criteria and standards for the development of the search procedure.

Young adult women

In federal prisons, young adult women (18-21 years old), who constitute 2.6% of the female prison population, face segregation and isolation due to the lack of a facility of their own, as observed by the PPN in its monitoring. They are placed in small areas within women's units, with limited access to activities and circulation to restrict contact with the older population. They also have less access to health services, especially gynaecological check-ups.

Indigenous women

In the province of Salta, indigenous women in prison report a lack of interpreters at all stages of the proceedings as well as in detention centres, and difficulties in understanding the reasons why they are being detained. In addition, they experience difficulties in maintaining contact with their families and communities due to the remoteness and lack of resources to move around: they cannot communicate in their mother tongue for months at a time or continue with their community practices. Furthermore, the prison service does not recognise that they belong to an indigenous people.

V. Alternatives to Detention

Argentina's legal framework provides for alternative measures to detention for special situations. In 2008 Law 26.472 was passed, which amended both the Law No. 24.660 on sentence execution and the Criminal Code, and expanded the assumptions for the granting of home detention as a substitute for prison confinement, establishing that the executing or competent judge may order the following persons and/or situations to serve the sentence imposed in home detention:

- a. To a sick person when the deprivation of liberty in a prison facility prevents them from recovering or adequately treating their ailment and their accommodation in a hospital is not appropriate;

- b. To a person suffering from an incurable terminal illness;
- c. To a disabled person when the deprivation of liberty in a prison facility is inappropriate because of their condition, or when the treatment is undignified, inhuman or cruel;
- d. To a person over seventy (70) years of age;
- e. To a pregnant women;
- f. To a mother of a child under five (5) years of age or a person with a disability in her care.

For its part, the National Code of Criminal Procedure also provides for the possibility of substituting effective pre-trial detention while the judicial process continues and progresses with house arrest, in this case for those persons who do not present a real danger of absconding or obstructing the investigation.

In the year 2022, the total number of women deprived of their liberty under house arrest in the country was 3,251⁴², which represents 43.8%, while 56.2% were housed in penitentiary facilities.⁴³ Regarding the legal situation of women under house arrest, 38.7% were convicted, 53.6% were being prosecuted and 7.7% could not be determined. On the other hand, most of the women under house arrest had dependent children (46.7%), 43.9% had no data and 9.4% had no children.

In relation to the use of this resource in the various provinces, there is some heterogeneity. While in the provinces of Buenos Aires, Mendoza, Salta, Rio Negro, Tierra del Fuego and in the Federal Penitentiary System, the use of both measures – i.e., house arrest and accommodation in prisons – is distributed in a similar way to the national total, in the jurisdictions of Chubut, Córdoba, Corrientes, Entre Ríos, Formosa, Neuquén, Salta, San Juan, San Luis, Santa Cruz and Santa Fe, detention in prisons predominates. In the remaining provinces, this trend is reversed and the number of women under house arrest is greater than the number of women in prison.

In practice, it has been found that access to alternative measures is very exceptional and the gender-specific perspective is not applied in assessing the granting of such measures. Women face difficulties such as the lack of a fixed address, either because it is the place where the crimes occurred, because they live with an aggressor, because they do not have a family network or because they do not have electricity and internet services for the use of electronic anklets. In this framework, the Local Mechanisms carry out different actions in their jurisdictions to promote the application of this type of measures, especially in cases of people from vulnerable groups, such as transgender people; women with infant children in critical socio-economic situations and women victims of gender-based violence; women with serious or terminal illnesses.

This report is part of the Global NPM report on Women in Prison.

Access the full report here: www.apt.ch/global-report/



⁴² Based on data published by the National System of Statistics on

⁴³ According to data compiled by the CNPT, those held in the pris



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