

# Women in Prison: Uruguay

Analysis from the National Preventive Mechanism

| August 2024



# Uruguay



UNCAT Ratification  
24 October 1986

OPCAT Ratification  
8 December 2005

National Preventive Mechanism (NPM)

## National Human Rights Institution and Ombudsman Institution

### NPM legal framework

Law No. 18.446 (24 December 2008), which creates the National Human Rights Institution and Ombudsman Institution. Article 83 assigns to the National Human Rights Institution and Ombudsman Institution the function of NPM.

### NPM operationalisation

Since 2013

### NPM structure

Specific area within the organisational structure of the INDDHH

### NPM composition

17 members (5 men and 12 women)

## I. Facts and Figures

Prison population	Women in prison - Characteristics	Prisons for women	Prison staff
Total prison population <b>14,992</b>	Pregnant women <sup>1</sup> <b>12</b>	Number of women's prisons <b>17</b>	Prison staff (total) <b>3,232</b>
Women in prison (total) <b>1,115   7.4%</b>	Foreign women <sup>2</sup> <b>35</b>	Women-only prisons <b>2</b>	Women prison officers <b>1,325 (41%)</b>
Sentenced women <b>1,044</b>	Older adult women <b>7</b>	Mixed prisons with separate units for women <b>13</b>	Prison operators <b>746</b>
Women in pre-trial detention <b>71</b>	Trans person <sup>3</sup> <b>28</b>	Chacras (minimum security penitentiary facilities) <sup>4</sup> <b>2</b>	Police officers <b>579</b>
Source: National Rehabilitation Institute (INR), 31 July 2023.	Source : Information collected by the NPM from official sources (INR, penitentiary establishments and direct observation during visits), 31	Source: National Preventive Mechanism, July 2023.	Source: National Rehabilitation Institute (INR), 31 July 2023.

<sup>1</sup> Pregnant women can remain in Prison Units 5 and 13 until approximately the third trimester of pregnancy. They are then transferred to other units or, if possible, alternative sentences to imprisonment are requested.

<sup>2</sup> Most of them are detained for offences linked to drug trafficking.

<sup>3</sup> The information provided by the National Rehabilitation Institute (INR) in response to NPM official letter No. 037/2023 of 23 August 2023 shows some difficulties in mentioning the transgender population. In this regard, the general tables on the total population do not distinguish between transgender women and men, and do not specify whether this population is included in the total or not. According to official information, as of 31 July 2023 there were 28 transgender women and 9 transgender men in the different units.

<sup>4</sup> Minimum security and trust prisons where women with a specific low risk profile are transferred.

July 2023.

## II. Recommendations

### Solitary confinement, isolation

- + Eliminate prolonged isolation and solitary confinement practices by implementing measures to ensure access to educational and work activities, access to the yard or outdoors for at least one hour a day, and regular communication with families.

### Body searches

- + In the control of admissions, seek the use of alternative means to the procedure carried out by prison staff (officers or operators) for the screening of persons entering for visits. The progressive incorporation of technology that can replace more invasive methods of screening should be encouraged. Care should be taken to ensure that such technology does not harm the health of those who enter.

### Healthcare

- + Incorporate new external custodial staff into the unit for consultation days, without prejudice to the entry of permanent staff, as a strategy to guarantee access to healthcare for women. This proposal is a palliative measure to be applied immediately, while other mechanisms to solve and overcome the obstacles that have been identified continue to be analysed<sup>5</sup>.

### Mental healthcare

- + Strengthen mental healthcare by providing adequate financial resources and the necessary number of professionals to form interdisciplinary teams, ensuring a comprehensive approach<sup>6</sup>.
- + Guarantee access to specialised mental health services that ensure that women in prison receive the minimum standards required of any person using health services in Uruguay<sup>7</sup>.

### Alternatives to detention

- + Prioritise the use of alternative measures through assisted home detention.

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<sup>5</sup> This proposal is a palliative act to be applied immediately, while other mechanisms to solve and overcome the obstacles identified continue to be analysed. This recommendation was made for the specific situation of access to healthcare for women in prison in Unit 5 by the inter-institutional health roundtable, which specifically took into account the lack of staff in the unit. The inter-institutional health roundtable has been in operation since 2020. It is convened and coordinated by the health division of the INR. The recommendation was made jointly by the different actors that make up the roundtable in December 2022 and was submitted to the INR management.

<sup>6</sup> National Human Rights Institution and Ombudsman Institution - National Preventive Mechanism, Thematic report: health and nutrition in the penitentiary system, 2020: <https://www.gub.uy/institucion-nacional-derechos-humanos-uruguay/comunicacion/publicaciones/informe-tematico-salud-alimentacion-sistema-penitenciario>

<sup>7</sup> Recommendation referring specifically to Unit 5. Joint report of the NPM with the Office of the Parliamentary Commissioner for the Prison System, [Informe sobre las condiciones de atención en salud mental de la población privada de libertad en el quinto nivel de la Unidad 5 \[Report on the conditions of mental health care of the population deprived of liberty on the fifth level of Unit 5\]](#), 2023.



### III. Detention Issues

In recent years, Uruguay has been registering a significant growth in the prison population, which as of 1 September 2023 reached 15,000 persons. The growth trend is also observed for women, whose share is higher than that of men, exceeding 1,115 on 31 July 2023, which represents approximately 8% of the total, in addition to 50 children with their mothers and 12 pregnant women. The level of overcrowding in prisons also affects women. In the only facility exclusively for women prisoners in the country (Unit 5 in Montevideo), the rate of overcrowding exceeds 160<sup>8</sup>.

#### Body searches

##### a. Legal framework

Article 26 of the Prison Inspection Regulations approved by the National Rehabilitation Institute (INR) establishes the procedure to be used in cases where there are no scanners for checking prisoners. It stipulates that the check must be carried out by prison staff in a professional manner in such a way that it does not affect the dignity of the person<sup>9</sup>. Article 28 expressly states that in the case of a "general inspection" the search must be in accordance with the Nelson Mandela Rules. Article 34 of the regulations also states that the inspection must be carried out by persons of the same gender, specifying the procedure in the case of transgender persons.

##### b. Body searches in practice

The penitentiary units where women are imprisoned do not have scanners for the control of visits, with the exception of units 3 (Libertad) and 4 (Comcar) where transgender women were housed.

Thus, although the visiting control mechanisms are regulated, the NPM has received regular complaints from prisoners about situations experienced by family members. These include aspects such as delays (in some units in spaces without or with little protection from inclement weather), variations in the criteria for authorising entry (mainly related to clothing) and the use of invasive body search mechanisms. In the monitoring carried out by the NPM, testimonies have been collected that show the existing difficulties in controlling the entry of LGBTIQ+ visitors.

#### Solitary confinement, isolation

As a result of the monitoring carried out by the NPM, situations of isolation and prolonged solitary confinement have been in the facility dedicated exclusively to women (Unit 5, Colón – Montevideo). Due to its size, this is the main establishment for women, located on the site where the Musto Hospital operated until 1996. The unit is divided into a ground floor and four upper floors and is organised into sectors 1, 2 and 3 (these in turn divided into "East" and "West") and levels 4 and 5 (which in turn are separated into two wings). This last level is considered maximum security. Each wing has cells facing a corridor through a metal door with a small barred window and a toilet. The building has serious maintenance problems, particularly with regard to the electrical and sanitary installations.

The information gathered during the visits and the analysis of the registers reveal situations of **isolation and prolonged isolation used on a regular basis** in level 5, some of them for an extended period of time.

The reasons for referral to this level are briefly recorded in the registers (together with notes that give an account of general movements), with a broad and loose definition of security as a criterion. Cases

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<sup>8</sup> The INR is planning the construction of a new penitentiary facility specifically for women prisoners, with a construction start date for the first half of 2024 through a public-private partnership contract.

<sup>9</sup> Resolution 1827/2018 by the National Rehabilitation Institute (INR).

have been verified in which the decision is taken for reasons of internal security, assessment on entry to the unit, conflicts in other sectors and mental health issues.

These situations are observed in the context of the difficulties of Unit 5 to adequately guarantee the security of women prisoners. On level 5, as is also the case on level 4 and in sectors 3, activity is reduced to exits to an interior courtyard on the same floor. In these, contact with women from other sectors is limited by security criteria established by the unit, with no access to educational activities and work activities restricted to cleaning the area. The report produced by the NPM in August 2023 recommended that the authorities take the process of improvements made on level 5 (which involved temporary relocations on an alternative basis in only one of the wings) to end all forms of isolation<sup>10</sup>.

The NPM's monitoring has not found any situations of isolation of children in the units where they are housed with their mothers.

In a women's prison unit, women with acute or chronic mental health conditions were found in a security sector, in precarious conditions of confinement and prolonged isolation, which contributed to the worsening of mental health disorders<sup>11</sup>.

## Mental healthcare

Access to mental healthcare for women in prison differs according to the department of the country to which it refers, mainly due to the different healthcare providers and the characteristics of each unit.

The NPM has monitored units 4 (trans women), 5 (women) and 9 (women with children and/or daughters) within Montevideo, as well as the female sectors of units 13, 20 and 24 in the interior of the country. In the units of the capital, healthcare is provided by the comprehensive care service for persons deprived of liberty (SAI PPL) of ASSE. In turn, within Montevideo, there are also specific differences in the assessment during the admission of women and transgender women.

Women in prison units, unlike men, do not have a centre for admission, diagnosis and referral. However, transgender women are initially assessed in this space designed for men's entry into the system. In this unit, a medical examination and an initial assessment of mental health status of the individual is carried out, mainly looking for signs of acute disorders. The first approach to the INR gender unit is also made.

The units monitored by the NPM since 2019 have an initial assessment form that must be applied on admission by medical staff in all cases. This form includes a section that refers to "psychiatric history", i.e. "psychiatric pathology, treatments, hospitalisations (Y/N): when and where, self-harm attempts and consultations with psychology".

However, comprehensive screening to determine women's mental healthcare needs is not always implemented. The NPM has observed that the information is not always adequately completed and, in some cases, is not applied at the time of admission, for various reasons such as lack of medical staff or that only a superficial examination is implemented that mainly on the identification of injuries without completing the pre-established form. This situation has led the NPM to develop recommendations along these lines to ensure that the interview on admission is carried out uniformly in the different units and that the established minimum standards are met.

Specifically in reference to unit 5, in cases where a suicide attempt is identified, the medical staff on duty, in liaison with the psychiatry department, will carry out an initial assessment and determine, if deemed appropriate, will decide on referral to the emergency department of a public hospital.

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<sup>10</sup> NPM Report on Unit 5, August 2023. Available at: <https://www.gub.uy/institucion-nacional-derechos-humanos-uruguay/comunicacion/publicaciones/informe-mnp-sobre-unidad-n-5>.

<sup>11</sup> CPP/MNP, 2023, Report on the conditions of mental health care of the prison population in the fifth level of Unit 5.

The modality of care, as well as the staff available, differs from place to place. The SAI-PPL (ASSE) has set up a method of teleconsulting with the Psychiatry Department for Units 5 and 9. For Unit 4, where transgender women are held, there is a psychiatrist who attends in person. In the case of the units in the interior of the country, where the provider is DNASS, there is no psychiatrist, so consultations are carried out in the departmental hospitals. The exception is Unit 13 in Maldonado, where there is one psychiatrist who attends on Saturdays for the whole facility, which is not enough and here is a long waiting list for care.

Due to a variety of circumstances, prisoners currently only have the option of teleconsultation, i.e. only Units 5 and 9 have psychiatric care in the unit and the others are subject to the availability of care providers as well as the possibility of fulfilling the consultations, for example due to problems with transfers due to lack of mobile phones or custody, among others.

On the other hand, SAI PPL of ASSE has a mental health team that is in charge of working with the directorates of all the Units, as well as engaging with persons in prison. In the case of women in Units in Montevideo, they have fortnightly consultations when deemed appropriate (in agreement with the women, i.e. it is not mandatory), while they have a monthly meeting with the management to discuss a comprehensive approach to the most complex situations from the different institutions.

It should be noted that the number of professionals involved in women's mental healthcare within the prison system is not sufficient to guarantee the right to access to the highest possible standard.

Although in some facilities, such as Unit 9 for women with children, workshops on mental health have been held for women prisoners with the main objective of raising awareness on the issue, in most of them there are no promotion and prevention activities. Likewise, there is no specific training or training that takes into account the gender perspective in the assessment and approach to mental health of women in prison.

## IV. Women in Special Situations of Vulnerability

### Good practice: Gender mainstreaming in detention centres

The National Rehabilitation Institute established a Gender Unit whose objective is to integrate a gender perspective in a cross-cutting manner in detention centres. According to the information provided by the Unit, it has five members to work in all units where women are housed, while incorporating a gender diversity approach, particularly with regard to transgender women. In this sense, the Unit seeks to hold a first interview with each of them close to admission and then to follow up on the most complex situations according to internal work definitions.

### LGBTIQ+ women

During 2023, the NPM in Uruguay has focused its monitoring on the transgender population, including specific visits to Module 9 of Unit 4 where transgender women are housed within a male unit. One of the visits was carried out jointly with the Parliamentary Commissioner. At the time of the visit, there were 14 transgender women in the unit. According to what was observed, in general the accommodation conditions were uneven, as in some cases the cells had poor ventilation, no lighting, no hot water, and in other cases, although they were better, the electrical installations were precarious. Most of them had little or no activities.

### Indigenous and ethnic minority women

As far as racial ethnic minorities are concerned, there is no official data on them, but some research<sup>12</sup> indicates an over-representation of women who self-identify as Afro or black, which ranges between 24% and 27% of the prison population. Despite this data, there are no actions and/or mechanisms for the specific attention of this group.

## V. Alternatives to Detention

In October 2022, Law 20075 was passed, which in its article 136 creates the National Directorate of Assisted Liberty Supervision, replacing the Office of Assisted Liberty Supervision, which means a change in status, while creating an instance of national scope, with a single directorate under the orbit of the INR. This new institutional framework takes charge of all judicial measures that provide alternatives to the imprisonment, such as probation, house arrest, periodic presentation at police stations, community service, use of ankle monitors, among others.

### Good practice: Awareness-raising campaign on alternative sentencing for women

The NPM launched a campaign<sup>13</sup> to promote alternative sentences for women with their children, in the understanding that imprisonment is never an adequate response as it produces harmful effects on the children's development. It is necessary to prioritise the mother-child bond through alternative measures (e.g. assisted house arrest) as a possible and necessary option to guarantee the rights of the children of detained women. It is necessary to prioritise the best interests of the child over punishment, because prison is not an appropriate place for children to live in.

The last legislative reform carried out by Law 19.889 (2020) has resulted in a toughening of penalties for crimes related to minor trafficking of psychoactive substances, by increasing the minimum penalties for criminal offences, with a strong impact on the number of women in prison. The modification made to Article 36 of Decree Law 14.294 resulted in the application of a minimum penalty of four years' imprisonment for different situations related to micro-trafficking, including when an attempt was made to bring psychoactive substances into the vicinity of or inside a prison facility. The consequence of the application of this legislation was the sentencing of a significant number of women with dependent children. Thus, after several proposals for changes and discussion on the issue, several articles were included in the last Law on accountability in order to respond to this situation.

In this regard, the draft accountability bill (2023) incorporated an article 173 that amends Decree Law 14.297, by incorporating article 37 BIS to Decree Law 14.294 (among other changes). This article establishes the possibility of applying the general provisions provided for in Article 87 of Law No. 9.155 of 4 December 1933 (Criminal Code) for attempted offences. This proposal for changes, incorporated into the current accountability, aims to mitigate some of the effects of Law 19.889 in relation to the situation of women with dependent children. Without prejudice to this, it establishes as an accessory penalty the disqualification for a maximum period of five years from entering prisons and detention centres for

<sup>12</sup> Juanche, A. and Palummo, J. (2012), Hacia una política de Estado en privación de libertad. Dialogue, recommendations and proposals – SERPAJ [Towards a State policy on deprivation of liberty. Dialogue, recommendations and proposals – SERPAJ]; Nómade Comunidad Consultora (2022), Diagnóstico sobre la situación actual, las principales problemáticas y necesidades de las mujeres privadas de libertad en Uruguay – Proyecto Crisálidas [Diagnosis of the current situation, main problems and needs of women deprived of their liberty in Uruguay – Crisálidas Project].

<sup>13</sup> See National Human Rights Institution and Ombudsman Institution campaign in: [Prisión domiciliaria asistida: una opción posible para garantizar derechos | Institución Nacional de Derechos Humanos y Defensoría del Pueblo](#) [Assisted home detention: a possible option to guarantee rights | National Human Rights Institution and Ombudsman Institution]

adolescent offenders.

## VI. Other Relevant NPM Information on Women in Prison

- + [NPM report on women deprived of liberty in Unit 5, 28 September 2023](#)
- + [Joint report by the NPM with the office of the Parliamentary Commissioner for the Prison System on mental health care for women housed on level 5 of Unit 5, 16 August 2023.](#)

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

Access the full report here: [www.apt.ch/global-report/](http://www.apt.ch/global-report/)