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### **Commission on the Status of Women**

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**Follow-up to the Fourth World Conference on Women and to the twenty-third special session of the General Assembly entitled “Women 2000: gender equality, development and peace for the twenty-first century”**

### **Statement submitted by IDPC Consortium, Washington Office on Latin America, Penal Reform International, non-governmental organizations in consultative status with the Economic and Social Council\***

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

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\* The present statement is issued without formal editing.

## Statement

### Introduction

The 65th Session of the CSW has as its review theme, “women’s empowerment and the link to sustainable development.” 2020 marks 5 years since the UN’s Sustainable Development Goals (SDGs) were adopted; and 10 years from when they should be achieved. Yet the gender-related SDGs are far from being attained, especially for women in situations of vulnerability, including women deprived of liberty and women who use drugs, two groups that are largely ignored in policy debates.

### Goal 5: Achieve gender equality and empower all women and girls

Women’s incarceration is rising, particularly across Latin America, and is growing at a much faster rate than that of men, with devastating consequences for the women deprived of liberty, their families, and communities. According to the Institute for Criminal Policy Research, between 2000 and 2017, the global female prison population grew by 53%, compared to 19% for men. Harsh drug laws are the driving force behind women’s incarceration. In most Asian and Latin American countries, non-violent drug offenses are the primary cause of women’s incarceration. They are usually arrested for low-level but high-risk activities, such as selling small amounts of drugs or transporting drugs within or between countries.

Most incarcerated and formerly incarcerated women face seemingly insurmountable odds in their lives – now exacerbated by the COVID-19 pandemic. They come from situations of pervasive poverty and inequality, have low levels of education and are either underemployed or unemployed. Many have histories of trauma and abuse. And most are responsible for providing for their children and other family members. According to a 2018 survey by the Inter-American Development Bank in eight Latin American countries, 87% of women in prison in Latin America are the primary caregivers for dependent children or the elderly.

Prison only serves to worsen this situation further, as criminal records limit chances of finding decent employment and housing after release from prison. All face stigma and discrimination long after their sentences are served – and women face far more stigma than men deprived of liberty, as they are seen as defying the gendered roles assigned to them by society.

Women generally engage in non-violent offenses, especially within the drug trade, but they bear the brunt of punitive policies, which exacerbates their inequality and disempowerment and prevents SDG Goal 5 from being achieved. Their incarceration also exacerbates the poverty and vulnerabilities faced by their families and communities.

The situation of trans women deprived of liberty is particularly alarming. Across the world, trans women have been subjected to discrimination, criminalization, and institutional violence. They often face social exclusion, violations of their human rights, and transphobia. In many cases, these factors lead to them working in highly criminalized informal economies, such as the drug trade, sex work, or sex for survival. As a result, the police profile them as being dangerous, making them more vulnerable to police abuse and to being incarcerated. While data is sorely lacking, trans women appear to be overrepresented in prison as compared to other groups, and they are much more likely to suffer abuse and violence behind bars than other populations. In addition to the challenges that incarceration imposes on any person deprived of liberty, trans women face particular challenges with regard to housing, their identification, body searches, access to medical services, privacy, and conjugal visits, among other issues. Yet the absence of standards and public policies to protect the rights of trans women deprived of liberty is widespread around the world.

### Goal 3: Ensure healthy lives and promote well-being for all at all ages

It is well evidenced that the female prison population have complex health needs with disproportionate rates of underlying health conditions compared to women in the community. This fact, coupled with overcrowded and unhygienic prisons, puts women at great risk of contracting not only COVID-19 but other transmissible diseases.

Women are particularly at risk of drug-related health harms because of criminalization, stigmatization, discrimination, and social exclusion, which impede access to evidence-based healthcare. Women who use drugs and have children often do not seek out healthcare services, including treatment for drug dependency, for fear of losing their custody rights. Pregnant women who use drugs may do the same, especially in contexts where they face forced or coerced sterilization or criminal penalties for using drugs while pregnant.

In some countries, women who use drugs are made to come in and out of the criminal justice system, hence suffering from the harms described above. Anecdotal evidence indicates that women who use drugs are also at higher risk of police brutality and sexual abuse by officers in the criminal justice system. Furthermore, while drug services are already limited for men deprived of liberty, they are almost inexistent in most parts of the world in female prisons. Many programmes in places of detention have been suspended or cancelled due to COVID-19, worsening pre-existing inequalities. Incarcerating women for using drugs can therefore have a severe, long-term impact on their health.

A promising, alternative approach is provided by Metzineres: Providing Shelter for Women who Use Drugs, Surviving Violence, which models a holistic approach for women and gender non-conforming people who use drugs. This project came into being in 2017 in Barcelona, Spain, as the first program exclusively by and for women and gender non-conforming people who use drugs in multiple situations of vulnerability, including experiences of violence and trauma. The project currently serves more than 220 women, and creates immediate access to flexible responses tailored to each person's expectations, concerns, curiosities, interests, and needs. Many of the women and gender non-conforming people who turned to Metzineres improved their physical, emotional and mental health; spent more time in social and healthcare networks; and were more likely to go to other shelters. They also perceive less stigma and discrimination in their communities.

#### Recommendations

- Review drug policies to incorporate a gender perspective and develop alternative approaches that actively promote the achievement of gender equality and women's empowerment.
- Consider release mechanisms as part of responses to COVID-19 for women who are imprisoned for drug offenses, in line with the UN Bangkok Rules.
- Reform drug laws so that sentences are proportionate to the actual harm caused by the action/behavior, give preference to non-custodial alternatives, and eliminate disproportionate sentencing measures such as mandatory minimum sentencing.
- Take steps towards removing criminal penalties for drug use and possession for personal use, as well as for small-scale cultivation of drugs and drug crops.
- Ensure that policies concerning the cultivation of drug crops take into account and address the specific situation of women farmers.

- Invest in communities and provide economic and other opportunities for women in situations of poverty who are at risk of becoming involved in the drug trade.
- Ensure that initiatives to legally regulate the cultivation of crops such as cannabis explicitly promote gender equality, social justice, and long-term development.
- Ensure full implementation of the UN Bangkok Rules, particularly to addressing the specific needs and circumstances of women in prison, implementing alternatives to incarceration – especially for women responsible for dependents –, and protecting them from violence in detention, including prison settings.
- Ensure availability and access to high-quality, gender-sensitive harm reduction measures, drug dependence treatment, and other healthcare services for women, including those who use drugs. Tackle barriers for women to access healthcare in detention settings brought with measures relating to COVID-19.
- Take all necessary measures to ensure that voluntary, informed consent is a precondition for any medical service for women, and that drug use or dependence alone cannot be grounds for removing children from their homes or violations of sexual and reproductive health rights.
- Develop indicators for evaluating drug policies that align with the 2030 sustainable development agenda, especially Goal 5 on gender equality.