

Examining Health Protection of Detainees: The Brazilian Female Prison System in the Context of Covid-19 and National-International Legal Frameworks

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Abstract

Women deprived of their liberty are a group particularly vulnerable to the new coronavirus because of the nature of the restrictions that are already imposed on them and their limited ability to take precautionary measures. In prisons and other places of detention, woman detainees lack the capacity to protect themselves mostly because many of the imprisonment establishments are severely overcrowded and unhealthy, thus inappropriate to the specific need urged by the female gender. To that matter, this analysis addresses the international and national legal frameworks to combat COVID-19, especially in female imprisonment scenarios, considering that they must receive special attention from the State due to their social and economic fragility in the face of the health crisis that has taken place in Brazil. The study begins with a bibliographical review through a qualitative approach. It concludes that prisons and detention centers in Brazil constitute a high-risk infection environment and, in order to diminish the contagious scale it should be adopted a congregation of efforts between the judiciary and legislative branches of government in a contingency plan focused both on the reduction of detainees' population and on first basic sanitarian-health care practices on women deprived of their liberty considering their gender specifics.

Key words: Female incarceration in Brazil; COVID-19; National and international legal framework of health protection

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1. INTRODUCTION

Public Security, as a fundamental right, is systematically vulnerable by the inability and institutional lack of commitment of the Brazilian State to develop strategies to combat crime that consider the multitudinous gender, historical, racial and economic factors that delinquency presents.

The present scenario of incisive perception of criminality is what has been conventionally called the "continuous public security crisis", which has worsened during the last two decades, as analyzed by the survey of the Atlas of Violence 2017, represents the ineffectiveness of criminal public policies aimed at guaranteeing citizenship rights.

In this sense, despite the numerous efforts to plan and structure an effective national security policy, crime remains a paradoxical topic in the country, since, while it is widely debated, it is still scientifically unexplored, especially when the object of study "criminality" presents itself within socially minority groups.

It appears that due to the etiological vastness of the "crime in Brazil" phenomenon, the processes of elaborating public security policies tend to forget an increasingly growing aspect in reality, and that certainly has an incisive impact on the current state of (anti)social control: female delinquency.

As a rule, in the study of criminology from a general perspective, this scientific process of "invisibilization" of the criminality of women is not a disability restricted to the Brazilian reality, nor at this historical moment.

As a result, female delinquency has never been widely used, although it has obviously been present since the most primitive civilizations. This process of invisibility, however, changed considerably at the turn of the 19th to the 20th century, with the breaking of a series of paradigms. Certainly, one of the overcome paradigms refers to the statistical factor.

As very precisely outlined by the INFOPEN 2014 survey, the rate of female imprisonment in Brazil grew exponentially by at least 567% (five hundred and sixty-seven percent) between 2000 and 2014, which, when compared in the same period, surpassed in 347 % (three hundred and forty seven per cent) male incarceration.

Given the complexity of the issue, knowing female criminality also means understanding different aspects that can allow the viewing of situations of vulnerability and life history, from e.g. race /color /ethnicity, education, marital status, to social origin, reason for the arrest, type of prison regime, and experiences of violence before prison.

Thus, it turns out that exploring the issue of female criminality is an essential condition to, first, conceive the processes through which women reach delinquency, and, secondly, to conceive how society perceives the phenomenon of female delinquency to, only then, outline guidelines that can contribute to the elaboration of a public security policy focused on the gender specificities of women.

In view of these findings, an interinstitutional effort in the elaboration of state policies aimed at understanding the phenomenon of incarceration as a response to the constant growth of violence arises on the national scene - triggered by the advent of the Criminal Executions Law.

In this context of female incarceration, a global health problem arises from the COVID-19 pandemic. The World Health Organization (WHO), with the objective of mitigating the contagion of the disease, issued guidelines whose central objective lies in social distance and the reinforcement of basic hygiene, not only of the body, but also clothing and food.

It turns out that, in principle, the prison system seems to be incapable of employing international techniques and protocols for mitigating coronavirus contagion, since overcrowding imposes conditions of severe unhealthy conditions in cells, a factor that, along with the comorbidities widely preexisting among inmates (above all, seropositivity to the HIV virus, tuberculosis and other respiratory tract infections) are able to expose, even more, this population to the contagion of COVID-19 - a disease that is easily transmissible.

Thus, in order to avoid a humanitarian health crisis in the prison complex, it is extremely important that the Brazilian State establish emergency public policies to prevent contagion in the prison and socio-educational system.

The present analysis, in order to systematize this particular, is structured in two sections: the first

presents a criminological and normative study of female incarceration and the second synthesizes the epidemiological legislation in force at the national level with regard to health measures public for persons deprived of their liberty.

2. THE WORLD NETWORK FOR THE PROTECTION OF WOMEN'S HUMAN RIGHTS (PRISON WOMAN)

As noted, the issue of female criminology has been largely unexplored. Certainly, what was agreed in this study as "*the process of invisibility of female delinquency*" is the result of a systematic irrelevance of the social role of women in the western world, which, unfortunately, was not restricted to the law.

In the lesson from França (2014, p.223) it is revealed that - as a subject of scientific studies, it is a universal premise in gender literature that, as a rule, man is first studied and then decided what should be created, developed and implemented in relation to women, especially those from lower social classes.

However, despite the biological differences between the sexes having already been overcome - as a criminological thesis of the submission/inferiorization of women, it is only possible to observe the advance of the legal-scientific discourse in the scope of female criminality very recently.

In this sense, as the processes of inclusion of women in '*non-inferiority*' environments are still under construction, any analysis that involves it requires considering (...) women's needs and highlighting the gender issue and the role of submissives that [make them occupy] in social relations, without disregarding the constructions and elements that support [the still existing] sex privileges (Smaus 1999, p.233; Fernandez 1995, p.342).

In view of this, the advancement of the criminological sciences through the social conception of crime has recognized in a way that gender violence suffered by women is related to their criminality to the extent that such violence is transmitted / experienced from generation to generation.

With the aim of enabling the elaboration of a public security policy focused on the gender specificities of incarcerated women, it is necessary to establish how the increase in the number of incarcerated women can reflect the changes in institutional legal discourse in a panorama of prison spaces and networks international and national standards for the protection of women's human rights.

2.1 The Inter-American Convention to Prevent, Punish and Eradicate Violence Against Women

In fact, the internationalization of human rights is a very recent phenomenon in the history of the world,

consolidating itself since the Second World War. It is that in view of the destructive logic that derogated from the value of the human person during the beginning of the 20th century, it became increasingly evident that it was necessary to rebuild new protection mechanisms that went beyond the state paradigm of jurisdiction.

In this vein, the Universal Declaration of Human Rights consolidated a complex kind of normativity, and started an era of transactional protection systematizations in favor of children, the elderly, and also women. Currently, with regard to international treaties for the protection of women, Brazil has incorporated the Convention of Belém do Pará into its legal system.

Also known as the Inter-American Convention to Prevent, Punish and Eradicate Violence Against Women, the Convention of Belém do Pará is structured in the regional/special system of protection of human rights.

Indeed, the aforementioned international protection framework recognizes that “(...) violence against women is an offense against human dignity and is a manifestation of historically unequal power relations between women and men (...).

The finding in this regard reinforces the duty imposed on the State and society to break with all the processes of violence that women suffer. In this regard, the Convention of Belém do Pará defines violence against women from the normative point of view as “(...) any act or conduct based on gender, which causes death, harm or physical, sexual or psychological suffering to women, both in the public and private spheres.”

The Convention sets the concept of violence even more precisely in Article 2, dividing its broad forms of manifestation into three major groups: violence against women within the family; community; and state.

It is necessary to establish that, the Convention recognizes that violence against women is a direct manifestation of historically unequal power relations, and, in an attempt to overcome such asymmetries, besides exemplifying the referred subjective rights, it establishes - as well as the Convention on the elimination of all the forms of discrimination against women of the UN -, a system of specific measures that aim to modify the social and cultural patterns of conduct with the aim of interrupting the reproduction of the processes of violence.

Among such measures, the duty of i stands out. promoting knowledge and observance of the right of women to a life free from violence and the right of women to have their human rights respected and protected; ii. promoting the education and training of all judicial and police personnel and other law enforcement officials, as well as personnel charged with implementing policies to prevent, punish and eradicate violence against women; and iii. provide women subjected to violence with access to effective rehabilitation and training programs that allow them to participate fully in public,

private and social life¹.

In order to consolidate the purposes of the Convention, as of 1995, Brazil began a progressive legal and legislative process that culminated notably with the advent of Laws No. 9,029, of April 13, 1995 - which “prohibits the requirement of certificates of pregnancy and sterilization, and other discriminatory practices, for admission to work”; and Law No. 11,340 of August 7, 2006, known as Law Maria da Penha.

2.2 The National Policies of Attention to Women in Situation of Deprivation of Liberty and Prisoners (NPAWSDLP)

Certainly, one of the most relevant legal frameworks resulting from the aforementioned legal innovation process, was the advent of Interministerial Ordinance n°. 210 of January 16, 2014 (Brazil, 2014).

Said ordinance instituted the National Policies of Attention to Women in Situation of Deprivation of Liberty and Prisoners of the Prison System - NPAWSDLP, with the objective of reformulating the practices of the Brazilian prison system, thus contributing to guarantee the rights of women.

In brief summary, the institutional relevance of Interministerial Ordinance n°. 210 of January 16, 2014 is justified insofar as such norm establishes the Brazilian criminal enforcement system, in first aspect, guidelines, objectives and goals aimed at the adequacy of procedures and norms to the specificities of incarcerated women.

Indeed, the NPAWSDLP establishes ten major national guidelines for the execution of the sentence of incarcerated women. Among these guidelines, the policy of recognition of the right to specificity of the female gender stands out, which, finally, imposes on federal and state organs and entities of the Brazilian prison system in addition to the humanization of the conditions of serving the sentence - guaranteeing the right to health, food, work, protection of motherhood and childhood - the adoption of rules and procedures appropriate to the specificities of women with regard to eg factors such as age, ethnicity, color or race, sexuality, sexual orientation.

In addition to the guidelines inherent in the regular execution of the sentence, the NPAWSDLP establishes too much, the promotion of the elaboration of studies, organization and dissemination of data, aiming at the consolidation of penitentiary information from a gender perspective.

In other words, that said Policeis recognizes the

¹ It should be established that the obligations contracted under Article 7, on the contrary, are immediately enforceable, so that the provision contained in Article 12 of the Convention recognizes that any person or group of persons has the right to present denouncements or complaints of their violation to the Inter-American Commission on Human Rights. As can be seen, with regard to monitoring mechanisms, the Convention of Belém do Pará represents an enormous advance compared to the UN Pact, since it was not restricted to the outdated system of reports.

importance of collecting and processing data from the female incarceration system (s) as an alternative for the establishment of new institutional mechanisms for improving the criminal justice system. In this aspect, the National Policy in question goes much further and still establishes as “the first major goal of the prison system, the“ creation and reformulation of databases at the state and national level on the prison system ”that include at least thirteen fields information.

Such information, object of survey by the organs of the enforcement system, intends to outline a great sociological profile of the incarcerated woman, raising aspects such as marital status, age group, color or ethnicity, disability, nationality, religion, education level, profession, monthly income of the family prior to imprisonment and current, civil documentation, total time of sentences, types of crimes, origin of rural or urban area, prison regime and criminal reiteration.

Of these thirteen information fields, the National Penitentiary Department, together with the state administration and prison monitoring / inspection bodies, should feed a shared database, collecting data, e.g. on the i) number of female and mixed establishments that guard women, indicating number of women per establishment, regime and number of vacancies; ii) number of pregnant, lactating and parturient women; iii) number of women involved in internal and external and educational, formal and professional work activities; iv) number of women enrolled in mental health care and drug addiction programs.

Thus, it is necessary to establish that the monitoring and inspection work carried out through the internal mechanisms of the system of execution of sentences, should be oriented to the elaboration of a centralized computerized database that, in view of the goals outlined by the NPAWSDLP, serves as a contribution for non compliance. solely from national legislation to protect women’s human rights, but from international agreements and conventions to which the country is a signatory.

It is clear from this that the legislative advance achieved through the commented normative frameworks established a series of protocols to be followed by the organs of the justice system, and, in particular, those aimed at the monitoring and inspection work of the prison system, given that they are directly linked to the strategic actions of the National Council of Justice with regard to integration and exchange between criminal, criminal and socio-educational enforcement jurisdictions.

Therefore, through the efforts expressed in the binomial protection / promotion of the human rights of women, it is that the work developed by the monitoring groups proves to be of great importance, since only from the statistical investigation of the reality of the brazilian prison system will it be possible to build new public policies that, while aiming at i) combating female crime, ii) can ensure full protection of the rights of women deprived of their liberty.

3. THE IMPACT OF COVID-19 ON THE BRAZILIAN PRISON SYSTEM: AN ANALYSIS OF THE EMERGENCY COMMUNICATION N.66/2020 OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS AND RECOMMENDATION N. 62 OF 17 MARCH 2020 FROM THE NATIONAL COUNCIL OF JUSTICE

On January 9, 2020, the World Health Organization (WHO) informed the international community about the existence of a new transmissible virus in China, which caused symptoms ranging from a common cold to severe respiratory system complications.

At this time, the international health agency began issuing hygiene recommendations to mitigate the proliferation of the new coronavirus. The guidelines included washing hands, covering the mouth and nose when coughing and sneezing, cleaning clothes used outdoors and, above all, avoiding contact and proximity to all people.

These recommendations were issued for the protection of all social groups, especially for people in the so-called “risk group” who include the elderly, pregnant women, individuals with pre-existing or immunodepressive comorbidities.

At the outset, it should be noted that groups that are on the margins of state public policies - notably the economically low-income population - do not even have the possibility to comply with these recommendations due to their inability to obtain basic hygiene material or to avoid social contact. with other people. This is evidently systematized by Boaventura de Sousa Santos in his work “The Cruel Pedagogy of the Virus” (2020, p.15) when he very precisely points out that:

Any quarantine is always discriminatory, more difficult for some social groups than for others and impossible for a large group of caregivers, whose mission is to make quarantine possible for the entire population. [...] These are the groups that have in common a special vulnerability that precedes the quarantine and worsens with it. [...].

It is in this context that the present analysis is inserted. This is because, in a first aspect, prisoners and young offenders are unlikely to have the means to follow the guidelines issued by the WHO: since the “state of affairs unconstitutional” that prevails in the brazilian prison complex highlights the incapacities of state protection over dignity of prisoners.

The brazilian prison scenario, notably marked by overcrowded cells, without access to minimum conditions of personal and environmental hygiene, is largely inappropriate for the custody and maintenance of the health of the prison population - thus exposing not only prisoners but also civil servants great risks of biological contamination by COVID-19.

Recently updated on 04/09/2020, the Ministry of Justice and Public Security published the newest report of the prison scenario in the country: National Penteicionarie Statistics 2019. According to the reported data, there are more than 755,274 (seven hundred and fifty-five) one thousand seven hundred and seventy-four) persons deprived of their liberty, numbers that place Brazil in the third position of countries with the largest prison population on the planet (Brazil, 2019).

This prison population, according to National Penteicionarie Statistics 2019, is in the custody of penal establishments that, together, in their full capacity, have only 442,349 (four hundred and forty-two thousand three hundred and forty-nine) vacancies. It means to say that, in Brazil, inmates are held in custody at the rate of 1.7 (one whole and seven tenths) per prisoner.

Statistical overcrowding is even more severe in regions in the north, northeast and midwest that have historically had fewer vacancies than the south and southeast. In the entire country, in the period from July to December of the last year (2019), the space deficit in the prison complex reached 312,925 (three hundred and twelve thousand nine hundred and twenty-five) vacancies.

This scenario of vulnerability in penal establishments, highlights the potential serious damage to individuals who are under the tutelage of the State. In the analysis of National Prison Ministry [Pastoral Carcerária Nacional], “if the virus spreads through brazilian prisons, the consequences will be disastrous. [About] 80% (eighty percent) of coronavirus cases have mild symptoms, like the flu; however, prisoners and inmates have very low immunity due to the degrading conditions existing in prison ” (Brazil, 2019).

With this ambience of human overcrowding, low levels of hygiene and the considerable number of preexisting diseases in people deprived of liberty, such as seropositivity for the HIV virus, tuberculosis, and other respiratory tract infections, the coronavirus finds the scenario ideal for proliferation.

In this context, with the objective of guaranteeing the health and integrity of persons deprived of their liberty before COVID-19, the Inter-American Commission on Human Rights (IACHR), issued an emergency statement no. 66/2020 directed to all signatory states to adopt public policies to combat the coronavirus, seeking a regional coordination of protocols.

One of the central points of recommendations n. 66/2020 of the IACHR, was the request to reduce “[the] number of persons deprived of their liberty and to examine different cases to release individuals especially vulnerable to COVID-19, in particular elderly detainees and those affected by diseases” (Inter-American Commission on Human Rights, 2020).

Thus, the Inter-American Commission on Human Rights (IACHR) brought in its recommendation important

points for the defense of the human rights of persons deprived of their liberty in the context of the recent pandemic.

In addition to combating prison overcrowding, the IACHR suggests the possibility for member states to grant alternative measures, e.g., parole, house arrest or early release for people at risk, such as the elderly, pregnant women or early release. those who are in an advanced state of sentence compliance.

Countries like Iran and Ethiopia have already taken decarcerating measures during the health crisis. Gholamhossein Esmaili, spokesman for the Iranian judiciary, announced on March 3, 2020 the forgiveness and release of at least 54,000 (fifty-four thousand) prisoners (BBC, 2020) in an attempt to contain the rapid spread of the disease in the prison system (although prisoners sentenced to more than five years in detention are not included in the said detention measure).

The problem arising from the coronavirus, it seems, goes far beyond the criminal relationship and the compliance with sentence, being a matter, above all, humanitarian to be defended and ensured by and for all.

In the national scenario, Law no. 13,979, of February 6, 2020, called the National Quarantine Law, which regulates public health measures related to combating the new coronavirus and providing for quarantine and social isolation (Brasil, 2020).

In it, public employment is authorized by the Ministry of Health and the local health managers of measures of i) isolation, ii) quarantine, iii) determination of compulsory medical examinations, tests, collection of clinical samples, vaccination and prophylactic measures, or specific medical treatments.

In addition to these, public authorities may employ measures of i) epidemiological study or investigation, ii) exhumation, necropsy, cremation and handling of corpses, iii) exceptional and temporary restriction on entering and leaving the country, iv) requisition of goods and services , v) exceptional and temporary authorization to import products subject to health surveillance without proper registration (provided that it is registered by a foreign health authority “ASE” and provided for in a generic act of the Ministry of Health).

Even though the National Quarantine Law defined the general scope of actions to combat COVID-19 in the country, it did not regulate preventive measures directly related to the context of the incarcerated population.

This absence of legal sanitary discipline on this population, which is considerably vulnerable to biological exposure, further demonstrates the immediate risk of mass contamination in brazilian prisons - a situation that completely changes the way in which current and future execution of sentences should be established.

3.1 Recommendation no. 62 of March 17, 2020 of the National Council of Justice: delimitations on its impacts on the criminal justice system

In this sense, the National Council of Justice (NCJ) issued an important defense mechanism to the longing and physical integrity of detainees and young offenders.

Recommendation no. 62 of March 17, 2020 of the NCJ determined to the Courts and magistrates “the adoption of preventive measures to the spread of infection by the new coronavirus within the scope of the criminal and socio-educational justice systems”, with the objective of protecting the community (article 1, items I, II and III) (NCJ, 2020).

Recommendation no. 62 / NCJ considers that maintaining the health and integrity of persons deprived of their liberty, especially due to the situation of confinement, overcrowding and unhealthy cells in Brazilian prisons and detention centers, is essential to ensure the health of the community and public security and health system as a whole.

The recommendation provides guidance i) competent magistrates for the knowledge phase in the investigation of infractions in the Child and Youth Courts, the “preferential application of socio-educational measures in an open environment and the review of the decisions that determined provisional hospitalization, notably in relation to adolescents: a) pregnant women, nursing mothers, mothers or guardians of children up to twelve years of age or by persons with disabilities, as well as indigenous people, adolescents with disabilities and other adolescents who fall into risk groups; b) who are provisionally hospitalized in socio-educational units with occupations greater than capacity, considering the parameters of the decisions rendered by the Federal Supreme Court of Justice in HC No. 143.988/ES; c) who are hospitalized in socio-educational units that do not have a health team assigned to the establishment; and e) who are hospitalized for the practice of offenses committed without violence or serious threat to the person.

For magistrates with competence to carry out socio-educational measures, the CNJ recommends the re-evaluation of socio-educational measures for hospitalization and semi-freedom, for the purpose of eventual substitution by measure in an open environment, suspension or remission, mainly applied to pregnant teenagers, lactating mothers or responsible for a child up to 12 years of age or for a person with a disability and executed in socio-educational units with occupancy above capacity, considering the parameters of the decisions handed down by the Federal Supreme Court of Justice in HC No. 143.988/ES.

The National Council of Justice also recommends for magistrates with competence to carry out socio-educational measures to reassess the decisions that determined the application of hospitalization-sanction, provided for in art. 122, III, of the Child and Adolescent Statute.

In the cognitive phase, the CNJ recommends magistrates to reassess the legality and convenience of provisional prisons with more than 90 (ninety) days of course, or even the provisional arrests of people imprisoned in penal establishments that are over-capacity, have health staff in the establishment.

In the area of criminal execution, the recommendation guides magistrates to grant early departure to prisoners and prisoners in closed or semi-open regimes, according to the parameters of the binding summary n. 56 of the Federal Supreme Court, especially for vulnerable groups, understood as i) pregnant women, nursing mothers, mothers or persons responsible for children up to 12 years old or for persons with disabilities and ii) persons imprisoned in penal establishments with occupations above capacity, who do not have a health team assigned to the establishment, under an interdiction order, with precautionary measures determined by a system of international jurisdiction, or who have facilities that favor the spread of the new coronavirus;

It should also be mentioned that recommendation n.62/2020 provides for cooperation between the Judiciary and the Executive Branch in the context of a pandemic.

In Article 9, the recommendation suggests that magistrates ensure that the Executive Branch prepares and implements a contingency plan that at least provides for information campaigns about Covid-19, health education actions and prevention and treatment measures. for public agents, people deprived of their liberty, visitors and all who need to enter the establishments.

In addition to these measures, the recommendation highlights the need for a contingency plan for magistrates that provides, at least, for the adoption of preventive hygiene measures, such as increasing the frequency of cleaning of all circulation spaces and the permanence of persons in custody and private. of freedom and uninterrupted supply of water for persons deprived of liberty and public agents of the units or, if it is impossible to do so, expansion of the supply to the maximum of the installed capacity.

With these guidelines, although only as a recommendation (soft law), the prison system will be able to align itself internationally with efforts to preserve the life, health and physical integrity of persons deprived of their liberty, correctional officers and organized civil society.

4. CONCLUSION

The present article allows us to conclude that Brazilian prisons and detention centers constitute a true COVID-19 vector among persons deprived of their liberty, visitors and prison administration agents.

It is clear that problems such as overcrowding and lack of access to basic personal hygiene and primary health resources will cause the death of thousands of detainees and inmates.

However, if it were not sufficiently tragic from the human point of view to speak of the death of any number of people, the announced health chaos will certainly go beyond the walls and fences of the establishments affecting the unique health system that is already in the limit of its installed capacity of treatment units for coronavirus.

The alarming growth of new cases of contagion of the coronavirus, at national level, exposes the intensity of social and economic vulnerabilities in Brazil.

In prison, the situation exponentially worsens women, as they have very specific health needs, notably with regard to pregnant and lactating women who can still serve as a vector of contamination for their own children.

Faced with this scenario, international institutions, such as the Inter-American Commission on Human Rights (IACHR), and national institutions, such as the National Council of Justice (NCJ), issued guidelines to public authorities for the prevention of the health and physical integrity of the incarcerated population.

In order to curb contagion in Brazilian prison, it is necessary to use a set of efforts by the judiciary and the executive to implement contingency plans that act simultaneously in at least two spheres, namely: i) reduction of the prison population; ii) implementation of health care for women deprived of liberty who consider their gender specificities.

It is also necessary to pay attention to the growing risk of rebellions and clashes between factions inside and outside prisons and detention centers. This is because criminal leaders who operate within prison establishments, in the face of the context of greater restriction on the use of collective prison and visiting spaces, will certainly articulate themselves in attempts to retaliate or subvert the order in these spaces;

Preliminary intelligence work at the prison level that is capable of dismantling these organizations even before the outbreak of these rebellions proves to be very important in order to keep the minimum order possible in the conduct of contention measures against contagion by COVID-19.

At another point, it should be noted that women who cannot benefit from alternative measures of imprisonment in the closed or semi-open regime, as suggested by recommendation n. 62/2020 of the NCJ, all necessary means of preventing contagion must be ensured, notably by the redistribution of prisoners by cells (in order to minimize the number of prisoners in a single cohabitation space), by providing soap and water and regular medical assistance for basic health or family health through medical staff installed in each unit.

In addition, penitentiary administrations must implement video conferencing technological tools in penal establishments in order to allow as little family contact as possible.

In Brazil, these possibilities of reducing damage to health and physical integrity in the prison system are

already possible through Recommendation n. 62 of the National Council of Justice (NCJ), and it is up to magistrates or courts of law to apply these guidelines in the specific case and within the social possibilities.

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