

# Penitentiary Treatment in Mexico: A Comparison between Men's and Women's Situation

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## Abstract

This work presents results of a comparative study between penitentiary treatment for men and women in Mexico. Firstly, a documental review was made to estimate the differences in operation between men's and women's penitentiaries in Mexico; right away, we expose reactions of a focus group integrated by penitentiary personnel working in a women's correctional center. It was found that there exists a differentiated treatment between men and women in prison that does not seem naturally justified, nor juridically pertinent. Starting from the administration, a distinct treatment persists between male and female inmates. Even if men correctional facilities have been improving recently, omissions, anti-constitutional practices and misstatements are still often seen in women correctional centers. Besides this, a comparative discourse is maintained among correctional officers, being more negative for those who work in women's penitentiaries, and transmitting a generalized feeling of abandon due to the lack of government support; correctional officers also believe that the main expressions of government behavior to inmates are those that show power and authority and very little that of balanced exchanges.

## Keywords

Penitentiary-Treatment, Correctional Centers, Inmates, Convicted Women, Mexico's Jails System, Prisons

## 1. Introduction

The public security has been one of the most budgeted expenditures in the government financial plan during last years in Mexico. This is due to the security crisis that imperates on the whole country, so the subject has become one of the

priorities of the President's agenda.

However, attention has been focused on the operation of police departments and, mainly, on stage II intervention activities (fight against crime when it is taking place); as a consequence, stage I (prevention) and stage III intervention activities have not been sufficiently attended. The penitentiary system belongs to these stage III activities and women's facilities are the object of study of the present work.

The Political Constitution of the United States of Mexico declares, in Article 18, that adults having attained the age of majority could be legally deprived of liberty if they are held to answer for a crime punishable by preventive imprisonment or if they have some criminal proceedings against them, by means of an indictment [1]. Constitution also details that, in both cases, people are subject to complete their sentences in different penitentiary centers named Centros de Reinserción Social, Ce.Re.So. (literally, "Reentry Centers") [2].

Moreover, Constitution mentions that penitentiaries have one major goal, rehabilitation, to allow individual reentry and to avoid recidivism. Thus, inmate treatment and general operation of detention centers turn around five major axes: 1) respect for Human Rights, 2) work and development of job skills, 3) education, 4) health and 5) sport [1] [3].

Considering reentry as the main purpose of imprisonment in Mexico, Zepeda emphasizes the flagrant contradiction with the legal reality in the country, as tougher prison sentences have been increasing in the last years [3]. Even life imprisonment could be reached for cumulative sentences imposed upon a defendant who has been convicted of two or more distinct offenses, making reentry almost impossible.

The condition of Mexican penitentiary system is, as can be seen, very complex. According to public statistics for 2010, there were a total amount of 420 detention centers within the country, 91 of whom under control of local governments, 314 under control of states (15 of whom in Mexico City) and 15 federal correctional centers [3]. A great number of them are in crisis nowadays [4].

It is important to point out that only 10 of the total 420 penitentiary centers hold women's facilities. Considering the geopolitical division of the country, counting 31 states and a federal district, that means that it exists much less than one women's correctional center in each state, which appears to be an alarming situation. The above exposed led us to consider the penitentiary treatment administered to women in Mexico as fairly asymmetric with respect to men's, including deliberate omissions and misstatements. We analyze this condition in the present work, basing our discussion on the theoretic approach by Ribes and cols. [5], on functional dimension of social behavior, as well as on the works of Durkheim [6] and Merton [7] on functionalism.

Together with the theoretic basis, we present the reactions of focus groups integrated by correctional officers from both men's and women's detention centers, and data from official data bases and diverse publications related to the

study of the status of the Mexican penitentiary system.

## 2. Mexican Penitentiary System Statistics

According to data from the Bureau of Federal Public Security, 195,278 inmates can be installed in Mexican penitentiary facilities; however, the correctional population increased to 254,705 inmates at year-end 2015, according to the Research Center for Development, that means an overcrowding of 24.31% [8]. At a global level [3], Mexico City represents the toughest case, as this region shows the highest rate of incarceration in the country. Penitentiary facilities in Mexico City include 10 detention centers which can hold 22,577 inmates [9], but the reality is that they hold over 41,057, *i.e.*, the number of prisoners exceeds official prison capacity by more than 81%, as the Federal Administrative Bureau for Prevention and Rehabilitation reported by the end of 2011.

Concerning penitentiary security, all levels of the spectrum are represented in Mexican facilities from maximum to minimum security prisons. Two detention centers for mentally ill offenders are available and also a penal colony in the Marias Islands.

Regarding prisons capacity, the federal penitentiary system has achieved an augmentation of more than 100% in the last 10 years, but this did not help to reduce recidivism, and violence, self-government and organized crime groups operation in prisons [3]. This is a clear proof that social and legal goals of the penitentiary system are not being achieved.

It must not be underestimated that some authors consider prisons as melting pots [10] from whom one should be able to infer various social environment symptoms [11]; high recidivism rates must be taken as an evidence of this statement.

### A Summary of Women's Imprisonment in Mexico

In 2010, Mexican correctional centers held a population of 223,140 inmates, from whom 10,204 were women<sup>1</sup>, that means 4.5% of the total amount of prisoners; 7288 women had committed common law offenses while 2916 of them had been convicted of federal offenses. Concerning women distribution, 3041 of them were incarcerated in one of the ten existing women's correctional centers, *i.e.* 29.8% of the total; meanwhile, 7163 women, or equivalently a 70.19% of the total, were blended in with men in mixed prisons or housed in annexe modules in men's penitentiaries [2] even if mandatory separation of male and female offenders is constitutional.

Moreover, Lorenzo presents, from the results of an empiric study carried out in Spanish detention centers, a lower efficiency in psychological and educational intervention for women housed in annexe modules in men's correctional centers [12].

In Mexico, it has been reported that conditions that women experience in

<sup>1</sup>Stats from the Mexican Bureau of Federal Public Security 2013.

prison are much adverse than men's [13]. Women are often abandoned by their companions within the six months after entering prison, while men inmates receive regularly support from their wives for years and never lose contact with neither friends nor relatives [14].

Furthermore, women in Mexican society struggle with marginality and prejudice, and societal constructions that are all but advantageous for them. As has been said, women are forbidden from everything but abnegation and docility [15] [16]. Women offenders are considered as having betrayed their families when incarcerated, as they are accused of leaving the house and their children unattended. Of course, men are not blamed in the same way, their crimes having been even socially justified as in quest of the family-sustaining wage [14].

Rehabilitation for women inmates is then more arduous and the psychological effects of the penitentiary treatment are aggravating factors [13].

In terms of operation, the Mexican penitentiary system has encountered serious difficulties to take in charge certain cases, as those of women of high-risk criminal profiles, due to the inexistence of maximum security women's penitentiaries in the territory. This is the reality of facts, despite the, quantitative as well as qualitatively, increasing women criminality in the last years.

### **3. Critique of Women's Penitentiary Treatment in Mexico**

As it was mentioned before, one of the purposes of this work was to establish a critical analysis of women's penitentiary treatment in Mexico, on the basis of some theoretical anchor points. As a first approach, we consider the functional dimensions of social behavior postulate [5], in the frame of the behavioral taxonomy developed by Ribes [17]. Therefore, we consider some concepts from structural functionalism developed by Émile Durkheim [6] and Robert Merton [7].

#### **3.1. A Critical Approach from the Theory of the Functional Dimensions of Social Behavior**

The taxonomy of behavior theory determines that exchange, sanction and power are the functional dimensions of social behavior. Exchange is linked with complementary behavior, like agreement, consensus or disagreement. This is the most basic interaction form, since sanction and power appear when social exchange between interacting subjects becomes asymmetric [17].

On one way, sanction appears when the performed behavior conformation to norms is appraised, positively or negatively, with respect to social established parameters. Behavior performance is compared to the one expected with reference to traditions, rules or law, and sanction arises as a consequence of non-fulfilled expectations [5].

On the other way, power is defined as the ability to control or produce an effect on people's behavior, even when they offer some resistance [18] [19]. Power is related to some actions such as prescription, regulation, supervision and ad-

ministration. Responses to (or evidences of) power are adherence, accomplishment, obedience and abidance [5].

Concerning power, Foucault works must be unavoidably consulted. He points out those prisons are an instrument of the established power (the State) which purpose is to legitimate majority's power [20] [21]. Majority's aim is to fix social conformation criteria at its convenience, in order to impose itself over and control minorities, mainly the most incommoding ones.

Considering the above and having in mind the situation of women in Mexican prisons, it is evident that the government, via the penitentiary system, has operated men's and women's detention centers in a flagrant asymmetric manner. According to the theoretical frame discussed above, the prevalent ambiance in correctional centers is favorable to the emergence of power and sanction-guided conducts. This provokes the emergency of an incongruous social atmosphere to offenders disposed to reentry, as interactions following the rules of social exchange should be promoted to better attain the desired results.

Worth mentioning, the rule of law is the legal principle that law should govern a nation, in order to be considered as functionally operative. Rule of law implies that every single citizen is subject to the law, including government officials, and the nation must have sufficient corrective mechanisms for avoiding its decay and restoring its power. Ribes and cols. describe an ideal nation administration as the one which is furnished both with power and authority, even if it could still produce results that should be considered unfair or unjust, mainly as far as sanction is concerned [5]. Even if there exists a clear connection between the rule of law and an ideal and well-constructed constitutional government, this does not imply that the state will be able to maintain the same constitutional structures in practice.

We can cite, for example, the Mexican penitentiary system whose official documents establish an equitable and impartial treatment for all the offenders, regardless of their sex, but in fact, a real inequality exists: men's penitentiaries are more budgeted than women's, so they are in a better condition for attending facilities and specialized treatments and also for guaranteeing acts in accord of the law.

### **3.2. A Critical Approach from the Theory of Structural Functionalism**

Functionalism appears in a context where occidental societies were undergoing major industrial and social transformations, including a rapid economic growth and development. As a consequence, the old regime norms, rules and social behavior styles were agonizing and a renewal of customs would be operated [22].

In a criminological context, and according to Durkheim's sociology of law, the most influent postulates from the theory of structural functionalism are, on the one hand, the *normality* of crime, which proposes that crime is a normal part of society, *i.e.*, it is generated by the society mode of operation itself. This would lead to punishment if social order is broken [7] [23]. Thus, "normalized" crime

is not originated by pathology or a collective disorder but it plays a homeostatic role [7].

On the other hand, we have the functionality of crime, as crime is not necessarily harmful for society, it can be useful to maintain stability and the normal evolution of social structures.

Durkheim observed that crime will always exist inside societies, regardless of their government regimes and contexts. In conclusion, 1) the defective conduct cannot be eradicated and 2) the different forms of social disorder—*anomie*—are determined by the social dominant group or group of interest [6]. According to Durkheim, crime is always present and even functional in a society operating at a normal level; in that case, the rate of deviance should minimally change [6] [24]. However, an abrupt drop or increase in the deviance rates could be considered abnormal. We can easily point out here a connection with women's penitentiary treatment in Mexico, since it continues to be left aside even when the amount of women offenders has risen dramatically, as well as the severity of their offenses. If this condition is compared to men's, it can be interpreted as an anomic situation.

In Durkheim's framework, *anomie* does not only refers to a crisis of values or norms caused by determined social circumstances, but it could also be a symptom of unachieved cultural goals, as the accepted social structures available for reaching them does not fulfill the expectations of some social groups [6] [24].

For Jiménez-Bautista there exists from the formal institutions some types of structural violence formed by a series of processes in which the action takes place through institutional or structural mediations; it is conceived as a type of indirect violence that is presented through social injustice and other circumstances that make many of the person needs are not covered [25].

From the above exposed we can infer that even if there is an increasing demand on bigger penitentiaries and better facilities for female inmates, situation is stagnated. Thus, there is evidence of another anomic symptom, as a constitutional dictate exists behind misstatements in women's treatment in prisons, and it would be constantly disregarded as long as this situation persists. According to Merton an individual facing stress between cultural and social structures can choose one of the following five alternatives: conformity, innovation, ritualism, retreatism and rebellion [7]. All of them but the first one can cause a social disorder. In that sense, the actual difference in penitentiary treatment towards men or women is potentially a trigger for the tensions described by Merton.

#### **4. Correctional Officers' Perception on Men's and Women's Treatment in Detention Centers**

One of the starting points of this work was to identify the differences between men's and women's penitentiary treatment in the Mexican context. Then, we proceeded with the critical reviewing of the penitentiary system figures to contrast them with various sociological theories. Finally, we created four focus groups integrated by prison staff (correctional officers and middle-level ranked

personnel). Interviews in focus groups were carried out in October and November 2013, in the Institute for Public Security of the State of Aguascalientes (IPSSA), as one of the 10 existing women's correctional centers is located here. 16 correctional officers of the State of Aguascalientes participated on the study. They were divided into 4 subgroups to prepare the focus groups.

Subdivision criteria: 1) men's penitentiary correctional officers, 2) women's penitentiary correctional officers, 3) men's penitentiary medium-level ranked personnel y 4) women's penitentiary medium-level ranked personnel. Subgroups were conformed by 5 individuals, in the case of men's penitentiaries, and 3 subjects for women's. There were 6 women and 10 men among the participants. They were distributed into the different subgroups as follows: 2 women in subgroups representative of women's penitentiaries and 1 woman in each subgroup representative of men's correctional centers.

Participants have an average time of 6.3 years at their workplace at the moment of the interview and the average age of the group was 29. The average educational attainment was some high school.

Interviews in focus groups were made in the IPSSA campus, where some classrooms were at our disposal. The interviews consisted of a guide of 12 questions in which topics such as the differential perception of the treatment, the causes of the differential conditions, equity and social justice within the female prisons were explored. Sessions lasted 25 minutes leaving a final space of 5 minutes for free contributions. Each one of the 4 mentioned topical explored was linked to a perception-expression of exchange, sanction or power.

With respect to the focus group analysis, this was carried out using a categorization from social behavioral psychology, in which the notions of exchange, sanction and power behavior are its basic structure. The central idea was to group the discourse references of the participants in perceptual segments related to exchange, sanction or power. Also by its nature the focus group had a mixed exploration, because on the one hand it identified the references provided in the three base categories, but it also facilitated a qualitative analysis of the verbal behavior expressed. In particular, the exchange references were composed by those expressions of equal, fair interaction and without discriminating differences. The expressions of sanction would have more relation with the administration of the power, the moral thing, the suitable thing and in general with mechanisms of regulatory control. And the expressions of power are the manifestations of one person's dominion over another, the submission, the operation of authority and the practice of control [26].

Methodologically, the review of the focus groups included audio recording support to carry out a careful analysis and a correct investigation of the narrative process. Focal groups analysis revealed that women's penitentiary staff feels their duties harder to accomplish in operation, although not in connection with working conditions, than those of men's penitentiary staff. Personnel of women's detention centers is more concerned about a feeling of abandon and lack of

hope in government support, which implies that this unfair regard is going to last at short and medium term. There's also the perception, among women's penitentiary staff, that the official's working conditions as well as the treatment towards inmates would never be the same as in men's penitentiaries due to the lack of adequate facilities and support tools.

Subgroups in focus groups integrated by men's penitentiary staff have the feeling that male centers are a priority in the Mexican penitentiary system, not only because of the dimensions of their facilities, but also because of the risks and overcrowding situations. As a consequence, they think that a selective attention must not be avoided but they acknowledged necessities and lacks in women's penitentiary treatment.

The fact of acknowledging challenges in treatment towards female inmates shows that penitentiary staff is conscious of the differential treatment of women versus men in Mexican correctional centers. Women face huge disadvantages in prison, not only because their needs are different to those of men, but also because they are completely left aside, even by public defenders; they feel powerless face to mandatory tasks that are not established by authorities, like sewing their jumpsuits or other people's clothing, cooking for themselves but also for men or trading sexual favors.

Thus the perceptions of prison staff in general is that the interactions between the institution as a conventional framework and female inmates tends to show as an asymmetric process where power predominates from the institution to women, there are also processes of moral sanction and almost zero presence of balanced exchanges.

This vision on women's correctional centers reinforces the unfair situation that women inmates live day to day. They are not only punished of an offense but also for being a woman offender. "...for women, punishment in prison is accomplished in two ways: real and symbolic. Because of this sexist way of thinking, women have always been considered as depositaries and guardians of moral, kindness and virtue" [27].

While most of male inmates have at least one relative or friend that visits them regularly, women are often left aside: "they are abandoned because of their imprisonment but also due to their public and unhidden transformation in bad women", transforming them into invisible women, as they struggle to be listened to and to be taken into account by some authority [28]. They claim for dignifying their inmate condition in detention centers where paying attention to women's concerns is not considered to be relevant.

This is a recent phenomenon that not only affects women, but also correctional centers and society, in general; as a consequence, an evolution has been seen in offenses committed by women. Till last century, women's offenses were circumscribed to private sphere, but nowadays the rate of public-order crimes committed by women has climbed (see **Figure 1**); these include crimes against public health, robbery, burglary, kidnapping, homicide and organized delinquency (see **Figure 2**) [4]. In some cases, this situation derives from women's

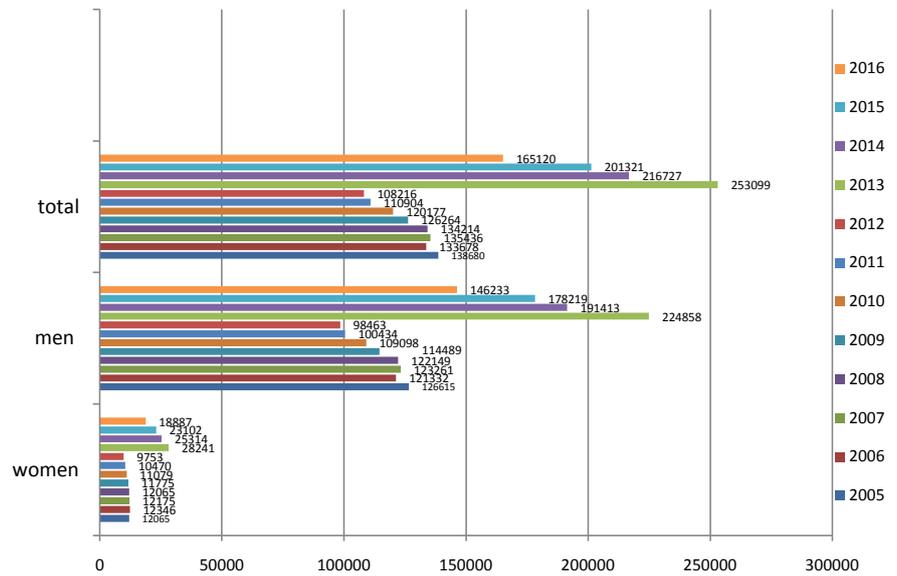


Figure 1. Stats of population of inmates in Mexico.

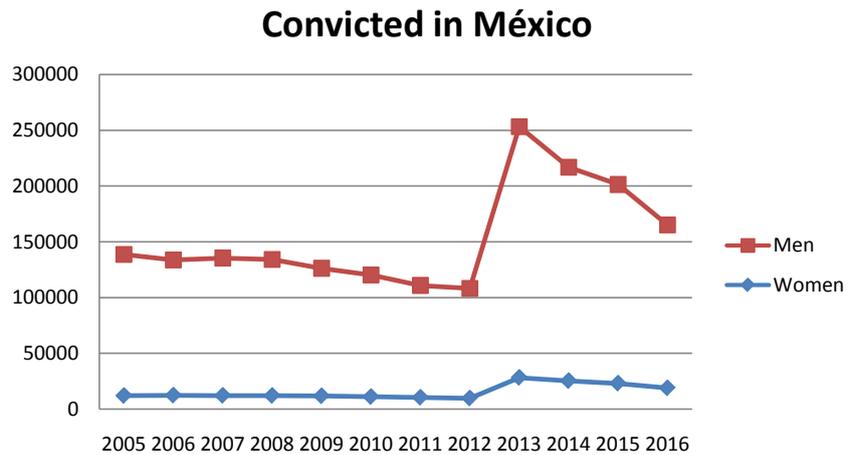


Figure 2. Quantification of convicted people in Mexico since 2005 to 2016. Source. INEGI, Judicial statistics 2005-2017.

relationship with gangs, in whose actions they become involved due to their socio-economical condition or vulnerability.

Briseño carried out a research in four correctional centers: Atlacholohaya, state of Morelos; Guadalajara, state of Jalisco; Los Mochis, state of Sinaloa and Cerro Hueco, state of Chiapas. As part of the results of the study, he elaborated a female inmate profile and they were described as young adults, married or in free union, mother of three or more children, with a basic educational level, belonging to a low social estrate and whose occupation before entering prison was housekeeping, trade or some low-paid job [29].

This means that most of the women housed in correctional centers belong to a marginalized social sector, which makes them even more invisible.

Wort mentioning, women inmate are aged mostly between 18 and 30, as re-

ported by the National Human Rights Commission (NHRC, or CNDH for its acronym in Spanish).

... a total of 1772 women inmates delivered information about their age and it resulted that 46.33% (821) of them declared being between 18 and 30 years old, 31.26% (554) of them declared being 31 to 40 years old, 14.72% (261) of them, 41 to 50, 5.64% (100) of them 51 to 60, and finally the last 2.03% (36) declared being aged over 60.

Women's condition is also degraded when they entering prison being pregnant. Not all of these women are allowed to have their children living with them but even when it is permitted the condition can be very detrimental to both the mother and child. They receive inadequate nutrition and health care, as well as a very low quality education (in contents as in facilities). Children become then even more invisible than their mothers and they have a high probability of reproducing the same conduct. The access to health care is one of the best examples of this situation, as many women's correctional centers or annexes in male centers do not have a specific health care area. In fact, the quality of that care is also deficient; there is not a doctor assigned to women's facilities and they have usually to wait for the doctor to have a void in his schedule to have an appointment. Moreover, doctors are not formed on female care, so there is no proper record of the illnesses or disorders they are affected with. Women inmates' health situation is critical as none of the female correctional facilities had a specialized unit in gynecology or obstetrics; even worse, many of them did not have the basic health care facilities. And this is only the tip of the iceberg, as Azaola and Yacamán explained, since "women are always in a disadvantageous position, as men's demands are always considered priority and spaces, services and facilities in general are always available for men first. Women, "as there are few of them", are indefinitely postponed" [30].

The fact that the number of women serving time in prison is considerably lower than the number of men in the same condition, as previously mentioned, does not justify the maintain of a system designed for satisfying male needs, in terms of facilities, organization and operation of the correctional centers. It is worthy to mention that, in the last years, the number of female inmates has considerably risen, but no intention to change the public penitentiary politics in order to dignify women's incarceration experience has been reported [4].

Mixed correctional centers without separated women's facilities are the most critical case, but the replication of conducts showing an unfair treatment to men and women is a sensitive point that overwhelms the experience of being in the criminal justice system. The authorities are aware of the situation in the different detention centers owing to the 2013 and 2015 reports submitted by the National Human Rights Commission, but women's condition in prison seems not to be improving, even worse, due to the crisis the penitentiary system is undergoing,

women inmates are more banished than ever. There are some particular cases like Topo Chico correctional center, in Monterrey, Nuevo León, where female inmates exerting self-government are controlled by gangs in the men's facilities [4].

Despite the emphasized facts on the 2013 report by the CNDH, there exists some penitentiary centers where women share facilities with men, as in Tecomán, state of Colima, Benito Juárez in Cancún, state of Quintana Roo and Fresnillo, state of Zacatecas "...a deficient nutrition, overpopulation and overcrowding, self-government, earned privileges, prostitution, inadequate separation and classification and irregular punishments" are some of the abuses women still suffer in prison [4].

One must suppose that, as women offenders are less in number than men, women's penitentiary centers would not be affected by overcrowding, but in fact, this is not the reality: in Venustiano Carranza correctional center, state of Nayarit, overpopulation has achieved a 246%, and in Chalco and Ecatepec prisons, State of México, and Cárdenas penitentiary, state of Tabasco, it has attained 100% or it is over [4]. However, as the delinquency patterns have changed, more women participate in different offenses (proportionally, there are more women involved,) but the buying and selling process of determinate cells for some specific female inmate public could be another reason for it. Even that situation reflects how disadvantageous and abandon full the situation is for women in the penitentiary and, generalizing, justice systems.

Finally, penitentiary staff in our focus groups admits that there are always conditions to be improved, but they declare that their working conditions in Aguascalientes seem to be more satisfactory than in other states.

## 5. Conclusions

Contrasting national penitentiary system statistics to some concepts derived from sociology, we can identify two penitentiary systems in Mexico, distinguished in an informal way: men's and women's systems.

Regarding functional dimensions of social behavior by Ribes and cols. [5], and their status in the penitentiary system, one realizes that management of social interactions is largely asymmetric; the relationship of authority to inmates above all leads to an ideal framework for sanctions and actions for showing power and strength. This could be considered not far from common in day-to-day correctional life, but is at least contradictory in a system for which reentry is one of the main aims.

According to the viewpoint of the sociological theory chosen for supporting this study [6] [7] [24], some conditions in the penitentiary system, especially when considering women's facilities, remain in a quasi-anomic situation, as there is a flagrant incoherence between real facts and rules and orders written on guidance documents. As a consequence of this, the whole structure becomes highly volatile. Moreover, violation of constitutional rights and failure to ac-

comply with constitutional principles are recurrent. For instance, mandatory separation between men and women in detention centers or between offenders under processing and inmates is only partially respected. In the same way, specialization in treatment is not a common practice, as only a minority of states are provided with women's facilities. In the majority of cases, women's treatment during serving time is carried out in men's penitentiaries with annexed pods for housing women.

At this point, it is worthy to think about the idea that prisons project a representation of the society they serve (Caballero, 1979 and 1982) [10] [11]. According to the results of the work here cited, the situation projected by Mexican prisons is that of a state that has not enough mechanisms to avoid decay of the rule of law, not only in what concerns the penitentiary system, but also at a deeper level, as in social discrimination or gender inequality.

Concerning the empirical inquiry among penitentiary staff, they have acquired a consciousness about different correctional treatment and conditions for men and women inmates, regardless of overcrowding. This situation must not be so notorious and must be eradicated, but meanwhile, it impacts the personnel discursive conduct.

The works by Azaola [13] and Martínez and cols. [14] support our results (empirically and documentarily obtained) in the sense that female inmates' experience of incarceration is much more regrettable than male's. These experiences are influenced not only by government structures, but also by social constructions which place women and men in different socio-ecological contexts.

This situation causes the replication of gender inequality in all social classes, indeed existent, as they are needed to maintain power in the hands of few, who control a system where they take advantage of the majority. In addition to class discrimination, we deal here to women's oppression and both together contribute to stigmatization of women inmates, producing a situation of total isolation, invisibility and abandon for women serving time in prison ([27] p. 6).

Call attention that in Mexico there exist a data that show that 25% of sentences for similar crimes, women received a sentence 25% harder than men [13]; That could be a point to start the discussion about a genre violence expression or some other kind of violence that can implicate structural violence.

Finally, despite the numerical disproportion between men and women offenders [2] [3], it is worthy to mention that differentiation in treatment received by men or women in prison is not juridically nor socially funded. The situations that women are undergoing reflect some of the arguing points when talking about arbitrary dispensation of power [20] [21]. Meanwhile, it is useful to continue to allow the reflexion about difference between men and women, especially among the conducts that produce and replicate social vulnerability.

## Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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