

Indigenous women deprived of their liberty in Guatemala

Racism and patriarchy present profound challenges within the Guatemalan prison system. The penal system is a reflection of the discrimination experienced by indigenous women all over: for being women, indigenous and poor. In the face of this adversity, the Colectivo Artesana promotes public policies that protect the human rights of indigenous female prisoners. False accusations, planted evidence, fraudulent use of bank accounts and the absence of translation services during the legal process are among the many recurring irregularities.

By Andrea Barrios Paíz and Oscar Perdomo - April 1st, 2021

In Guatemala, [indigenous peoples represent 43.75% of the population](#), or 6.5 millions of their 14.9 million inhabitants. This makes Guatemala one of the countries with the largest indigenous population in Latin America, along with Mexico, Peru and Bolivia. As if structural discrimination and 85% illiteracy in Spanish were not enough, Guatemala's indigenous women have to face a criminal justice system governed by Western norms and conducted by men. The Guatemalan penal system reflects the discrimination denounced by the ["Agreement on Identity and Rights of Indigenous Peoples"](#) signed in Mexico in 1995: "In order to overcome the historical discrimination against indigenous peoples, the cooperation of all citizens is required to transform mentalities, attitudes and behaviour. This transformation begins with all Guatemalans clearly recognising the reality of racial discrimination, as well as the imperative need to overcome it in order to achieve true peaceful coexistence".

Exacerbated by the shortcomings of a prison system that is 300 percent overcrowded and whose personnel are unaware of the standards of confinement set out by the ["United Nations Rules for the Treatment of Female Prisoners and Non-custodial Measures for Known](#)

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[Female Offenders](#)", better known as the Bangkok Rules, Guatemala is going through an extremely critical moment regarding women in dispute with criminal law. For the first time in history, the percentage ratio between incarcerated men and women is at 11 %, when the general average in Latin America is between 2 and 18 % ([CEJIL](#)).

In Guatemala, this percentage of women deprived of their liberty represents an alarming increase from the average of between 7 and 9%. Furthermore, the average age is between 18 and 36 years old: this means that female heads of household, women at their most productive age and mothers with an average of three children are being removed from society. And the state is not addressing this issue. There has also been a significant increase in cases of criminal extortion, which could mean women are re-victimised as they are required to provide bank accounts for extortive deposits and then they are forced to withdraw payment.

Accounts from the Artesana Collective

Over the last 30 years, the United Nations has studied the various power mechanisms used to sentence and punish around the world. While Western societies promote "codified-written" norms, according to which the penalty for an act must be previously determined by law as a crime, indigenous cultures have had to abandon their "customary" principles, which value deeds identified as socially dangerous by means of principles and customs (and not by pre-existing norms). Thus, the principle for judging a given conduct rests on local customs of the indigenous community itself, which is most familiar with the circumstances of social irregularity.

Against this backdrop, the *Colectivo Artesana* is a Guatemalan organisation that for the past 15 years has been promoting the development of public policies aimed to prevent criminal offences committed by women and in favour of the rights of incarcerated women, prison guards and the children and adolescents with family members deprived of their liberty. The ultimate goal is to put an end to social discrimination and the complete disregard of their

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rights, which will contribute to the prevention of violence and crime. In this regard, the collective has developed a set of strategies aimed at protecting the human rights of women in prisons and - given the increase in the number of indigenous women who are being incarcerated - has designed targeted actions to address this issue, which has made it possible to identify paradigmatic stories.

By means of training programs and focused actions to improve the lives of women in Guatemalan prisons, the *Colectivo Artesana* has built up the trust to accompany and support them in the face of all the adversities they face as a result of the triple discrimination they suffer in the country: for being women, for being poor and for being indigenous.

The sisters resisting jail

E and L are two Maya-Kekchí speaking sisters from the municipality of Carchá, who were each sentenced to 25 years in prison for homicide. According to their side of the story, it was a case of self-defence: L took the life of a man who broke into their house and sexually assaulted E. They were initially transferred to Santa Teresa prison in Guatemala City, where L learned to speak Spanish thanks to the efforts of the Institute of Public Criminal Defence. Subsequently, they were returned to Cobán prison where they have been held for the past 11 years and are a few months away from being released after 12 years.

L works in the prison selling tortillas and food for her fellow inmates and the prison staff. As a result, *Colectivo Artesana* designed and installed wood-burning cookers in the centre so that L and her fellow inmates can cook in line with their cultural traditions. They also have an area where they cultivate their own vegetables. E on the other hand, has been very sick for most of these 11 years, due to her diabetes. She is very malnourished and has gradually lost her eyesight. She never learned to speak Spanish and remains entirely dependent on her sister. Both graduated from the *comadronas* course (as community midwives are called) and the vegetable course that the *Colectivo Artesana* instated with the option of them being taught in the Kekchí language.

Imprisoned for a phone call

FES is a 25-year-old woman from the town of Garifuna, originally from Puerto Barrios, 300 kilometres from Guatemala City. One day she received a call from a friend asking for her bank account number so that they could deposit the money from a sale. Because she trusted her friend, she agreed. A few days later, when FES, two months pregnant at the time, was on her way to high school, she received another call from her friend asking her to withdraw the money she had deposited. At the bank she was informed that there were only 75 quetzals, equivalent to US\$ 9.75 in her account and when she left the bank she was arrested: she was charged with extortion and sentenced to six years in prison.

FES has suffered from diabetes mellitus since the age of 15. Throughout her sentence she has suffered serious health issues and was even hospitalised for a month and 15 days for an ulcer on the heel of her right foot. Despite medical efforts, her heel was amputated. Even though she has faced countless adversities, she completed her studies and graduated with a Bachelor in arts and sciences. She never heard from her friend again and all she wants is to restart her life and work to take care for her son, who was born while she was in prison.

A woman alienated from her community

VEQC is a 44-year-old Maya-Pocomochí woman, a leader in her community and representative of a social aid organisation. In her case, she was denounced for improper management of donations and was found guilty of committing fraud. Transferred to the *Centro de Orientación Femenino* (COF) in Guatemala City, the distance meant she was deprived of the support of her community and family, who were unable to pay for the cost of travel.

To generate income within the COF, she started sewing clothes and taught dressmaking classes to other women. She also learned how to make handicrafts out of synthetic material (*foamy*) and mesh. Years later, she was transferred to the Cobán prison, where she graduated

as a midwife in the Cobán prison. VEQC died inside the detention centre due to complications from diabetes.

From malpractice to being accused of infanticide

María FJ is a 31-year-old Maya-Kanjolab woman from the municipality of Santa Elena Barrillas. Incarcerated in the Cobán Penal Centre, she is 500 kilometres away from her community. María's face was marked with deep sadness and the *Colectivo Artesana* asked her if they could help her in any way. As she did not understand Spanish well, another female inmate helped her to communicate. When she was seven months pregnant with twins, she went into labour, so she was moved from San Juan Ixpatán to the health centre in Ixcán. There she was told that it was not yet time for the babies to be born.

When she returned to her village, she was seen by a private doctor, who told her that she had to wait two more months. At home, she went into labour and gave birth to her twins. But as she was not in the right conditions, the babies died immediately. María was charged with infanticide and blamed for the murder of her children. She was sentenced to 3 years and 7 months in prison and after the efforts of the *Colectivo Artesana*, the Public Criminal Defence obtained her release through an abbreviated procedure.

Racism and patriarchy in Guatemalan prisons

Mestizo, indigenous and foreign women suffer the discrimination inherent in the power mechanisms of racism and patriarchy. In addition to the injustices of their criminal proceedings and imprisonment, they must endure the lack of knowledge that the authorities and prison staff have, surrounding the specialised treatment that indigenous women in prison should receive.

Add to this, the discrimination due to their ethnic origin and the exclusion from the education system that they have suffered since childhood. Likewise, Spanish monolingualism further violates their human rights. They are subject to detentions, criminal proceedings and

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admission to the detention centres without understanding a word of what is being said. Finally, their identity is affected, which has a direct impact on their social reintegration once they have served their sentence.

The cases compiled as institutional experiences of the *Colectivo Artesana* represent a small outline of the reality experienced by indigenous women in Guatemalan prisons. Their biographies and testimonies represent their driving force to counter the silence and invisibility in and outside the prison walls. We recognise them as women who fight against the multiple inequalities, discrimination and stigmatization that are heightened in a state of confinement, beyond the inherent structural and historical problems.

These accounts should draw the attention of women's and feminist movements and organisations defending the rights of Latin American indigenous peoples to include women in incarceration in their demands for justice, since in most cases it was the violence perpetrated against them that led them to live in these conditions in the first place.

Today we want to become the voice that makes the support mechanisms inside and outside prisons become a reality, weaving networks of solidarity to make life a little fairer. We have taken small steps to defend women's rights in prisons and many challenges remain. However, our task is to continue to raise awareness and work together with state institutions to respect the rights of all human beings and to end discrimination and stigmatisation.

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