

Buenos Aires, June 30, 2020

Ms. Dubravka Šimonović

United Nations Special Rapporteur on violence against women, its causes and consequences

Ref: Call for submissions: COVID-19 and the increase in domestic violence against women

Dear Madam:

We are submitting this report in response to the call for information on gender-based violence and domestic violence in the context of the COVID-19 pandemic.

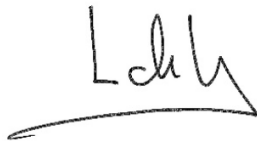
Started in 1979, the Center for Legal and Social Studies (CELS) is an organization dedicated to the defense and protection of human rights in Argentina, with a feminist transversal agenda to all areas of work.

This report covers different instances where social isolation impacts on greater rights violations of people who are already living under conditions of social inequality, i.e., women, lesbians, gays, transvestites, transsexuals, non-binary people, queers.

There is no official data that would enable us to measure the manifestations of gender-based violence, its scope, and modes. However, we do have information produced by civil society organizations and preliminary data from the State indicating that calls to helplines have increased. It is also possible to state that the first prevention measures in the face of the advance of the pandemic were not accompanied by public policies that addressed gender-based violence, but rather that these were developed after the dissemination in the media of cases of femicide and alarms raised on social media around these phenomena. Once again we can emphasize that homes are dangerous places for many women and, with isolation measures restricting their movement to their homes, the delay in the state's reaction was shocking.

We are available to expand or clarify anything you deem necessary.

Sincerely,

A handwritten signature in black ink, appearing to read 'L Litvachky', with a long horizontal stroke underneath.

Paula Litvachky
Directora Ejecutiva
Centro de Estudios Legales y Sociales

1. Legal framework and nature of gender-based violence

According to National Law No. 26.485 for the comprehensive protection of women passed in 2009, “violence against women is any behavior, act or omission, which either directly or indirectly, both in the public and private spheres, based on an unequal relationship of power, affects their lives, freedom, dignity, physical, psychological, sexual, economic or patrimonial integrity, as well as their personal safety. This includes those committed by the State or its agents.”¹

In 2012, Law 26.743 on gender identity was passed. This implies a transformation for the political and legal recognition of transgender, transsexual, and transvestite identities and bodies. Despite the law, as seen in the Special Rapporteur's report in 2016, “transvestites and transgender persons continued to be subjected to violence based on discrimination against persons with unconventional gender identities.”² And, her report cited an increase in police persecution of individuals based on racial profiling combined with transphobia, and their association with crimes such as selling of illegal substances or offering sex services in public, both of which were criminalized in some provinces.³

That same year, Congress passed Law No. 26.791, which introduces gender-based violence as an aggravating factor in homicides. The law establishes “the definition of crime as a social phenomenon linked to structural hatred toward women,” although it does not impact the traditional modes of legal resolution of the crime.”⁴

In December 2019, the current government took office and created the Ministry of Women, Gender and Diversity. The powers of the National Women's Institute (INAM) were transferred to it. The ministry's role is technical and political. It is a bridge between feminist and women's organizations and the State, in addition to its role in mainstreaming policies and generating affirmative action on the complex web of gender inequality and on ways to redress it.

Internationally, since the creation of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in the late 1970s, Gender-based violence was interpreted as an expression of power asymmetries and, therefore, of inequality. Violence is a way of expressing hetero-sexual oppression. At the same time, the international normative framework allows gender discrimination and violence to be conceptualized outside the narrow parameters of the heteronormative binarity. The Yogyakarta Principles describe how international human rights law should be applied to issues of sexual orientation and gender identity.

¹ Law No. 26.485, on comprehensive protection to prevent, punish and eradicate violence against women in the settings where they conduct their interpersonal relationships, Article 4.

² United Nations Special Rapporteur on violence against women, its causes and consequences, Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to Argentina, A/HRC/35/30/Add.3, April 12, 2017, paragraph 35.

³ United Nations Special Rapporteur on violence against women, its causes and consequences, Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to Argentina, A/HRC/35/30/Add.3, April 12, 2017, paragraph 35.

⁴ Trebisacce, Catalina, “Habitar el desacuerdo. Notas para una apología de la precariedad política”, en Revista Mora N° 24 Vol.I, 2018.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) said that homophobic and transphobic violence constitutes a "form of gender-based violence, driven by a desire to punish those seen as defying gender norms."⁵

The CEDAW Committee emphasized the importance of intersectionality given that "the discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity."⁶

2. Public policy implications of violence against women in the context of the pandemic

As we said in the section on the regulatory and institutional framework, the current Argentine government, upon taking office in December 2019, created for the first time the Ministry of Women, Gender and Diversity, which is now six months old.

On March 20, the government imposed mandatory preventive social isolation throughout the country, which stipulated that people should remain in their homes and move around as little as possible and only to stock up on essential items. People involved in service activities declared essential were exempted from the measure.

For people in situations of violence, the beginning of isolation and other measures to prevent contagion has meant a considerable loss of resources, both symbolic and material, for obtaining protection.

This whole new scenario modified the channels for reporting cases of gender violence. Once the health emergency was declared, access to public prosecutors' offices to file complaints was restricted. Almost all of the country's judicial authorities have observed an extraordinary judicial fair and the procedural deadlines for urgent cases were suspended, with the seriousness of the cases being determined by the judge in charge. A minimum number of people were kept on duty, a system of recess appointments and teleworking were established. All judicial protection measures for gender violence that were due to expire during the quarantine were automatically extended.

As the mandatory preventive social isolation was extended, some prosecutors' offices and courts changed their way of working. In general, they set up web systems or channels to file complaints by telephone or other forms of remote reporting. These schemes aimed to eliminate the need for people to travel.

Initially, the Ministry of Women, Gender and Diversity focused its policy on strengthening its helpline number (144),⁷ which provides interdisciplinary assistance in situations of gender

⁵ Office of the United Nations High Commissioner for Human Rights, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, A/HRC/19/41, November 17, 2011, paragraph 20.

⁶ General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, December 16, 2010, paragraph 18.

⁷ Argentine government, "Medidas en materia de género y diversidad en el marco de la emergencia sanitaria" [Gender and diversity measures in the context of health emergencies], online at: <https://www.argentina.gob.ar/generos/medidas-en-materia-de-genero-y-diversidad-en-el-marco-de-la-emergencia-sanitaria>, accessed June 15, 2020.

violence that do not require urgent intervention. This may explain the increase in calls to the telephone line described in this report. For more serious emergencies there is the helpline operated by law enforcement (911); statistics for the number of calls during the health emergency are not available.

Fifteen days after the start of the isolation, thanks to a ministerial resolution, those who had to go out to file violence-related complaints were exempted from the isolation measures on grounds of force majeure⁸. However, the Ministry implemented very few measures to publicize the exception, focusing on the possibilities of dissemination on social media, without considering the limits of these networks and issues related to access to network data and telephone credit, particularly amongst the most vulnerable women.

One of the most frequently heard complaints from the allied territorial organizations was the lack of campaigns in soup kitchens, primary health care facilities, public schools (food deliveries to schools were upheld), transport stations, and cultural centers. The tasks of prevention and containment fell, to a great extent, on activists and social militants, who were also in charge of the delivery of food and cooking in community kitchens, exposed to the contagion. On the other hand, journalists, cyber-activists, and organizations assumed the task of carrying out campaigns to publicize the telephone numbers and addresses available in each province, without any coordination with the ministry.

One positive measure is the ministry's collaboration with trade unions and university organizations, which have made hotels and other lodgings available to women in situations of violence for the duration of their isolation. However, we see the lack of any measures to ensure that those who must leave the family home are the aggressors and not the victimized women as a negative aspect. In the same regard, it would be important to monitor the experience in the provinces of Buenos Aires, Córdoba, and Catamarca of the telephone helpline for (potential) aggressors and prevention of possible violence, and to see a national helpline created if the evaluation is positive.

The government launched with Argentine pharmaceutical federation COFA, a campaign to make pharmacies available as places where women could go for assistance and contact the #144 helpline. The campaign was called *Barbijo Rojo* (Spanish for Red Face Mask). The campaign's core message was that women could go to pharmacies to ask for assistance by request a red face mask. However, those pharmacies that do not belong to the Confederation were baffled. Many called #144 to ask for advice, because they did not have tools to assist a woman who asked for help. On the other hand, those who can go to a pharmacy to ask for a "red face mask" have the symbolic resources to contact 144 by their own means. One indicator of the policy's effectiveness would be for the State to report how many women were assisted after asking for a red mask.

We did not observe any gender violence prevention campaigns targeting the transvestite and transgender population. The policies were aimed at material support, strengthening food assistance, and incorporation into the social programs of the Ministry of Social Development.

The Ministry of Social Development launched ReNaTEP, a registry of male and female informal workers. Its objective is to recognize, formalize, and guarantee the rights of workers⁹. As part of

⁸ Ministry of Women, Gender and Diversity, Resolution 15/2020 available at <https://www.boletinoficial.gob.ar/detalleAviso/primera/227462/20200405> (available in spanish).

⁹ <https://www.argentina.gob.ar/desarrollosocial/renatep> (available in spanish).

the registry, workers were given access to work, social security, and training programs as well as credit and financial inclusion tools. The registration form included the category "sex worker" among the possible occupations. On June 4, the day the registry was launched, 800 sex workers signed up. Later that same day, abolitionist sectors staged an attack on social media sites which led the government to block registration. As of June 24, registration is banned. No worker in the social economy is allowed to register.

The Ministry of Women, Gender and Diversity, working with the Ministry of Social Development, incorporated cis and trans women into *Hacemos Futuro*, a program to increase the economic autonomy and social integration of people in situations of social vulnerability.

In the case of cis and trans women deprived of their liberty—a group particularly vulnerable to the Covid-19 pandemic due to structural vulnerability and issues related to detention conditions and overcrowding—the courts released hundreds of incarcerated women, most of whom were detained for minor offenses or those with low chances of sentencing. Between March 12 and April 30, 278 women from the federal penitentiary service *Servicio Penitenciario Federal (SPF)*¹⁰ (including 17 trans women) were released. There was a 25% decrease of cis women incarcerated, 20% of trans women, 86% of pregnant women, and 20% of women in prison with children. Currently, 664 cis women, 28 trans women, 1 pregnant woman, and 12 women with children remain in SPF custody. In the Buenos Aires penitentiary service *Servicio Penitenciario Bonarense (SPB)*¹¹, there was a 15% decrease in women deprived of their liberty: 2,458 women in March versus 2,091 in May.

However, 62% of the women released were sentenced to home confinement. As we will see later on, this also brings with it a series of problems specific to detention, aggravated in the context of the health crisis and compulsory isolation. There has been a significant decrease in women detained with their children in recent months. Despite these improvements, the majority of the detained female population continues to endure poor conditions without adequate access to health care.

3. Gender violence in the context of COVID-19

3.1. Violence against cis women

Between March 20 and June 7, 2020, in the context of mandatory social preventive isolation, 63 femicides were committed in Argentina, according to data from the watchdog *Ahora que sí nos ven*¹² (Spanish for Now That They See Us). Twenty-nine of the femicides were committed in the province of Buenos Aires, the most populated in the country; seven in the smallest province, Tucumán; six in Misiones, five in Santa Fe, three in Córdoba; two cases in each of the provinces

¹⁰ The federal penitentiary service in Argentina—*Servicio Penitenciario Federal (SPF)*— has units distributed throughout the country and receives people who are accused or convicted of committing acts deemed federal crimes under the criminal code, such as violations of drug laws, frauds, crimes against humanity, tax evasion, etc. Persons who committed certain crimes within the jurisdiction of the City of Buenos Aires are also placed in this system.

¹¹ The penitentiary service for Buenos Aires—*Servicio Penitenciario Bonarense (SPB)*—receives people accused or convicted of committing a crime in the province of Buenos Aires. The two systems contain approximately 60% of Argentina's prison population.

¹² On Twitter: @ahoraquesinosv4.

of Entre Ríos, Salta, Jujuy, Santiago del Estero; and, one in each of the provinces of San Luis, Santa Cruz, Chaco, Mendoza, and Río Negro.

Of these women, 12 had filed reports against their aggressors and five had legal protection orders in place. Seventy-one percent of the femicides took place in the victim's home; 5% in the home of a family member, and 6% in the aggressor's home. In 13% of the cases, the femicide occurred in a public space.

There is a pervasive pattern in the femicide data collected pre-pandemic and during the COVID-19 prevention measures: the home is a dangerous place for cis women. Over 70% of the femicides were in their homes and about 90% of the victims had links to their killers.

Although there is still no official data on gender-based violence during isolation, some cases, like Claudia Repetto in the city of Mar del Plata and Camila Tarocco in Moreno, suggest that the police work priorities shifted and that there has been a change in criminal policy on gender-based violence. In both cases, the women had been missing for several days because the police failed to launch a search for them despite requests from their families. Their bodies appeared when their killers confessed, not at the State's urging.

According to the UNICEF "Survey of People's Perception and Attitudes. Impact of the COVID-19 pandemic and the measures taken by the government regarding daily life,"¹³ in 2.4% of cases (142,000 homes), women said they had been verbally assaulted. In 7,992 of those homes (72% of the cases), they reported physical violence by their partner. No action was taken in 86% of the cases.

While the figures remain at pre-pandemic levels, there has been a significant increase in calls to the 144 violence helpline (39%), according to the Ministry of Women, Gender and Diversity. This increase reflects the reduction in public resources to meet demand and the impact of measures to restrict movement. It is also notable that many of these calls do not result in complaints, making it difficult to measure the dimensions of the violence. The State must provide official data that enable an assessment of how gender-based violence manifested as a result of home stay orders. Men who kill women, we generally say, are the most visible manifestation of a past chain of violence and inequality that state institutions were unable to or did not know how to stop, despite the complaints made by the witnesses of such violence.

During the forced isolation we saw that many of the containment and prevention tasks were left in the hands of territorial advocacy groups—social movements and community and civil society organizations—and that there was less state presence in the neighborhoods to carry out prevention-related tasks in the many facilities available like health centers or canteens. Much of the face-to-face response was provided by advocates.

On March 29, the national government banned evictions and froze mortgage payments and rent prices until the end of September.¹⁴ Despite this measure, two non-government organizations Inquilinos Agrupados and Colectivo Ni Una Menos pointed out that economic precariousness and indebtedness in some cases were linked to situations of violence. Consequences of eviction or having to leave the rental home to avoid accumulating debt can include living on the streets,

¹³ Unicef Argentina, "Encuesta de Percepción y Actitudes de la Población. Impacto de la pandemia COVID-19 y las medidas adoptadas por el gobierno sobre la vida cotidiana" [Survey of People's Perception and Attitudes. Impact of the COVID-19 pandemic and the measures taken by the government regarding daily life], April 2020.

¹⁴ Decree 320/2020 accessible at <https://www.boletinoficial.gob.ar/detalleAviso/primera/227247/20200329>

moving back into violent homes from which they managed to leave, burdening family members, and producing situations of greater overcrowding and precariousness.

Emergency Family Income, Universal Child Allowance, and the Alimentar food card are programs that are addressing the demand for food. UNICEF's survey already cited indicates that 28.3% of households stopped consuming some food due to lack of income. This percentage reaches 45.3% in shantytowns and informal settlements. The report states that 31% of households headed by women stopped consuming food because they had no money. Although the results cannot be read in terms of violence, albeit in terms of inequality and autonomy, 51% of the women interviewed felt a greater burden of household tasks compared to the pre-pandemic context.

3.2. Violence against trans women

In the case of trans and transvestite women, exposure to violence is linked to a series of human rights violations and structural discrimination. In the context of the pandemic, we are seeing the aggravation of situations that were already dire. Institutional gender-based violence by security forces is the main violence to which they are exposed. The police do not usually show respect for their self-perceived identity nor do they adhere to the Gender Identity Law.

Research conducted by *La Revolución de las Mariposas*¹⁵ indicates that only 9% of trans people work in the formal job market and that the percentage of those who never entered the formal job market or even a job interview is very high. Sex work and prostitution are the most widespread activity, 90%, work that cannot be carried out in the current context of isolation. In Argentina, there is still no legal recognition of sex work, even though it is not criminalized. But, at the same time, 17 jurisdictions have misdemeanor statutes that criminalize sex work with fines or arrest (Tierra del Fuego, Santa Cruz, Chubut, La Pampa, Buenos Aires, City of Buenos Aires, Mendoza, San Luis, San Juan, La Rioja, Catamarca, Salta, Jujuy, Tucumán, Formosa, Chaco, and Corrientes). This situation exposes transvestites and trans women to ongoing police harassment.

During the pandemic, cases of police arbitrariness toward the transvestite and transgender population accumulated. Among the situations that were reported, the Asociación de Mujeres Meretrices de Argentina (AMMAR), the national sex workers' union, informed us of arrests for "quarantine violation" of trans people who were standing outside the hotel where they lived. Others faced similar situations of police harassment when they went out to buy food or medication. AMMAR's public statement indicated that transvestites and transsexuals were targeted by the security forces since they were the only ones to receive a warning or arrested out of all the people waiting to go into the store or pharmacy.

In the province of Jujuy, a young 19-year-old trans woman was arrested by four police officers—three men and one cis woman—with the excuse of the pandemic prevention measures in place. She reported being abused and was released the next day. The young woman filed a complaint with the Ministry of Security of the province, accompanied by Abogados y abogadas del

¹⁵Ministerio Público de la Defensa CABA, Fundación Divino Tesoro, Bachillerato Popular Travesti-Trans Mocha Celis, *La revolución de las mariposas*, Buenos Aires, 2017 (available in spanish).

Noroeste argentino en Derechos Humanos y Estudios Sociales (Andhes) and the LGBTIQ+ “Ailén Chambi” Movement.

Restrictions on movement also impacted access to health, which is already lacking in supplies, sufficient medical personnel, and drugs for transitional care. Many municipalities in the province of Buenos Aires closed their access roads and controlled them with police personnel. For example, the transgender population of the city of La Plata, which receives treatment in Ensenada, has to pass through various barriers. We received various complaints from young people who had been forced to get off public transport and return to their homes; they missed their doctors' appointments.

In addition, structural discrimination impacts a whole series of basic rights and economic and social violence. It has a multidirectional domino effect. Violations of economic and social rights expose even more women to violence, and this reality affects both cis and trans women. As we will see, in the case of the trans population these impacts are even more serious due to the particular vulnerability in which they find themselves.

Access to housing is one of the most frustrating challenges faced by the transvestite and transgender population. In general, they live in extended-stay hotels under precarious, unhealthy, and unsafe conditions. They do not have access to rental housing because they do not have the guarantees required by real-estate agencies or property owners or because they do not want to rent to transvestites or trans people. As we said, 90% of this population works in prostitution, which means that they earn a daily income, not have a fixed salary. The situation is worse for migrant women, who suffer additional problems of bureaucracy and discrimination. Despite the presidential decree 320/2020 banning evictions, there were numerous cases of effective evictions, threats, and harassment from hotel owners or physical violence to carry them out. We learned of such situations through AMMAR, from sources in the City's Ombudsman's Office, and the Bachillerato Popular Travesti-Trans Mocha Celis. The latter organization informed us that in some cases hotels retained national ID cards or passports. In the city of Buenos Aires, emergency housing stipends become an inaccessible policy for those who rent through the informal market. This is the case of trans people as most of their housing is in unlicensed establishments that do not give receipts, which they would need to qualify for housing aid to pay for their rent. In the rest of the country, there is no housing subsidy

This context leaves the transvestite and transgender population particularly exposed to situations of violence. A case we followed closely with AMMAR serves as an example of this. The owner of a hotel in the Buenos Aires neighborhood of Balvanera threatened to throw out eight trans women if they did not pay the cost of the room and wanted to force them to work, despite the health risk. Although the eviction of these eight women was avoided, it took a concerted effort: the case had to be followed up during the day with the Ministry of Women, Gender and Diversity; the Ombudsman's Office of the Argentine Federation of Lesbians, Gays, Bisexuals and Trans People; the gender program of the Public Ministry of Defense; AMMAR and the Bachillerato Popular Travesti-Trans Mocha Celis, which shows how difficult it is to ensure the rights of trans people.

One more domino piece is *access to food*. The Covid-19 health emergency revealed enormous sectors of the population in extremely precarious employment situations; they do not have a fixed income and live on what they earn each day. The need for food access plans is one of the priorities in this context, according to the organizations consulted, for example, not-for-profit organization Hotel El Gondolín. For the transvestite and transgender community, the lack of

inclusion policies or labor regularization means they do not have the means to access to food and are in a desperate situation.

Although social programs for the transvestite and transgender population have been strengthened, many social organizations have reported that aid is insufficient and they have been forced to do supplementary work collecting and distributing donations, and are consequently exposed to the contagion.

2.3. Women deprived of their liberty

People deprived of their liberty are particularly vulnerable to the Covid-19 pandemic. The health crisis created new problems for women in this situation. Their detention conditions make it difficult to implement preventive measures against Covid-19 (mainly social distancing and isolation measures for suspicious cases and close contacts). Not just the result of structural inequalities in society, but this also stems directly from the various forms of abuse and violence they are subjected to in confinement.

The number of women deprived of their liberty in Argentina has increased in recent years. This is in the context of the increase in the rate of imprisonment in the federal and Buenos Aires penitentiary services SPF and SPB, respectively, which represented a rise in overcrowding. Between 2008 and 2018, Argentina's incarceration rate rose by 55%, from 137 to 213 inmates per 100,000 inhabitants. Between 2000 and 2018, the population deprived of liberty increased 2.5 times. This represents a growth of almost 57,000 people. According to the National System of Statistics on the Execution of Sentences (SNEEP), there were 94,883 people incarcerated in the country in December 2018 (the latest data available).

The increase in the female population was even more pronounced. Prosecution of low-penalty crimes for drug violations caused the jump in the female population in the federal penitentiary service SPF. In 2015, there were 10,274 women in the federal prison system. In 2019, this number grew by 35% to reach 13,889 women deprived of their liberty. In the Buenos Aires penitentiary service (SPB), where the growth of the general population was very strong, the number of women grew by 30% in just two years, from 2,025 women in 2017 to 2,631 women in 2019.

For trans women, their high criminalization and deprivation of liberty is in itself the result of violent and discriminatory practices, such as constant harassment by the security forces. Keeping track of the total number of transgender women deprived of their liberty is difficult because they do not always appear in official records and oftentimes they are forced to hide their identity to avoid being victims of violence.¹⁶ In 2017, as Special Rapporteur, in your report about your mission to Argentina, you wrote: "91 per cent of transgender women and transvestites arrested had been accused of violating Law No.23.737"¹⁷ related to illegal substances. According to the Rapporteur, this was "one of the laws used to justify discriminatory police practices. The Protocol on conducting searches in facilities and of individuals, issued by the Ministry of Security, enabled security forces to stop and search individuals without a judicial order on the basis of their "police instinct", in violation of the Code of Criminal Procedure. (...)

¹⁶ A situation also highlighted by the United Nations Special Rapporteur on violence against women, its causes and consequences, Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to Argentina, A/HRC/35/30/Add.3, April 12, 2017, paragraph 37.

¹⁷ United Nations Special Rapporteur on violence against women, its causes and consequences, Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to Argentina, A/HRC/35/30/Add.3, April 12, 2017, paragraph 37.

Those arrested were charged with selling illegal substances — an offence for which no bail was allowed — based on the testimony of the arresting police officers.”¹⁸

With the development of the pandemic, women who formed a risk group for COVID-19 (women over 60 and/or with pre-existing diseases) as well as pregnant and nursing women and women with young children required swift prevention measures if the virus entered the prison. As of March this year, there were 141 women at risk of COVID-19 in the SPF (including 19 members of the trans community). Of these, 55.3% were in pretrial custody and 44.6% had been convicted; 58% were being held for drug offences.

Despite measures such as releases to reduce the number of detainees, women who remain in detention facilities report a lack of sanitation and disinfection supplies, as well as limited access to alcohol gels and face masks. In many of the detention facilities, regular access to handwashing is difficult. For example, in many of the police stations in the province of Buenos Aires, the detainee has to ask a police officer to take her out of her cell and to a bathroom to access to a water faucet. The lack of use of protective measures by female prison service officers is also reported.

In the Buenos Aires Penitentiary Service, the situation faced by women was further aggravated by the limitations on visits. This resulted in even less access to personal hygiene supplies and food, items largely provided by family members. The women housed in the SPB do not have access to medication or treatment, which aggravates pre-existing pathologies that could be fatal if they were to get the COVID-19 virus. Given the severely poor conditions of detention and the lack of access to freedom and release, the women detained in Unit 28 in Magdalena went on a hunger strike to make their claims heard. It lasted for approximately two weeks.

The violence exercised in all places of detention by prison service personnel, including violent repression, punishment by prolonged isolation, over-medicalization, degrading searches, constitutes one of the most serious violations of the integrity of women deprived of their liberty. These situations are often invisible because the situation of women deprived of their liberty is often covered up and the violence in these spaces naturalized.

The worst situation is that of women detained in police stations in the province of Buenos Aires. These spaces are not prepared to accommodate people for long periods. The conditions of detention are subhuman, the overcrowding is extreme, the cells are communal without any natural light or fresh air.

Despite the judicial ban on holding people in these spaces, 216 people were detained in police stations as of June 1, including nine with health problems. It is not feasible to implement the necessary measures for the prevention of COVID-19 in these spaces. Also, as a result of the restriction on the entry of new detainees to prison as a measure to protect against the spread of COVID-19, the number of women held in police stations increased by 9% in the last month, which further aggravated overcrowding.

As we said, most of the releases granted in the context of the pandemic, as a result of efforts to maintain isolation measures, resulted in home confinement. The federal and Buenos Aires penitentiary services have not released any public information about the total number of

¹⁸ United Nations Special Rapporteur on violence against women, its causes and consequences, Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to Argentina, A/HRC/35/30/Add.3, April 12, 2017, paragraph 37.

women in home confinement. There are currently 471 women under electronic surveillance in the province of Buenos Aires, a number that represents only a portion of the total number of women under house arrest. In any case, we have received information that shows that this condition also poses problems of serious vulnerability for these women and their children. The State does not have an active policy of social or economic support for these women. The only active agenda is to ensure they do not violate their house arrest.

One particularly noteworthy case is that of Claudia. She has been under house arrest since December 2019. She has four children and lives in a shantytown. Nine people live in her home. The entire family has been infected with the coronavirus. Her mother is in the hospital in serious condition. She was isolated with only two of her children in a hotel where there are other COVID-19 patients. She was separated from her younger children. No one could help her. There was no one to bring her food. She couldn't have contact with her other children. In addition, because she was under electronic surveillance, she could not go somewhere else to isolate herself. In this process, the only contact she had was with the monitoring system of her electronic bracelet; no other type of assistance was available. In her case, we can see how different problems intersect and an integral approach to reduce the sum of their effects is lacking.

4. Conclusions

Femicides are the most visible manifestation of a prior chain of violence and inequality that State institutions were unable to or did not know how to stop, despite the complaints made by the witnesses to such violence. As we have pointed out, even though the State implemented some policies to specifically prevent gender violence during the pandemic, it needs to release official data regarding the results of their actions that will make it possible to evaluate the response.

With regard to cis and trans women deprived of their liberty, their situation has been deteriorating in recent years, especially in the federal and Buenos Aires penitentiary services. This decline is illustrated by the worsening detention conditions: overcrowding, lack of or no access to health, lack of or no access to education and work. However, due to the influence of opinions against releases to prevent the spread of Covid-19, no women have been released from prison since the initial cases. Authorities in the executive and judicial branches continue to ignore their situation.

At this point, it is necessary to emphasize that the word violence is often imprecise for the linking of conditions that jeopardize the material and subjective conditions of existence, and for expressions emerging from patriarchy as a political and cultural system of oppression. In other words, the approach to femicide and gender-based violence cannot be exclusively focused on safety, nor exclusively judicial, nor strictly punitive; although these dimensions must be in place to minimize the risks in the emergency. Above all, there is a structural and cultural substrate in which work must be done to prevent violence in the long term. During the health emergency, we did not see measures of this type.

We see as positive the effort of the Ministry of Women, Gender and Diversity—after six months in existence—to mainstream the gender approach and to address gender as a guiding perspective of public policies. We believe that the prevention of violence and the breaking of the cycle of violence are based on different measures that contribute to the autonomy of women, lesbians, transvestites, transgender, and non-binary persons. In this regard, the CEDAW Committee, for example, highlighted the “limited access to employment opportunities for

women experiencing intersectional discrimination and social stigmatization, such as transgender women.”¹⁹ A comprehensive perspective must consider how different factors, in addition to gender, intersect.

In your report as Special Rapporteur on violence against women, its causes and consequences, you also expressed your concern about Argentina’s “lack of national statistics regarding (...) rape and hate crimes against lesbian, gay, bisexual, transgender and intersex persons, or on investigations, prosecutions and convictions of perpetrators of such crimes and redress provided to victims.”²⁰ These statistics are still missing and we did not find any specific data at the time of the pandemic.

Finally, we would like to stress that the declaration of emergency revealed the precariousness of vast social sectors, with no income or informal employment, or with a lack of labor rights because their work is not regulated. This has had an impact on their possibilities to find food and housing and exposed them to greater vulnerability and the real possibilities of contagion. Therefore, there is a need for comprehensive public policies, with the State taking an active role in redressing their rights.

As we said, physical violence and femicide are the last and most visible link in a chain of oppression and how hegemonic masculinity is ruthlessly validated. A pending element in the approach to this violence is the construction of alternative responses to punishment and different forms of reparation for those who were victimized.

¹⁹ CEDAW, Concluding observations on the seventh periodic report of Argentina, CEDAW/C/ARG/CO/7, November 25, 2016, paragraph 30.

²⁰ United Nations Special Rapporteur on violence against women, its causes and consequences, Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to Argentina, A/HRC/35/30/Add.3, April 12, 2017, paragraph 18.