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Alternative sentencing for female heads of household

Law 2292 of 2023: A path toward gender justice in drug policy in Colombia



INTERNATIONAL GUIDELINES ON
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Women's incarceration in Colombia has been growing at alarming rates, driven by harsh drug policies disproportionately affecting people with a marginal relationship to the business. This pattern is typical of many countries in the region and worldwide. This approach imprisons women who pose minimal risk to public safety and fuels poverty and family disruption, as many are primary caregivers. It also diverts limited resources away from addressing the powerful actors who drive crime and threaten public safety.

Law 2292 of 2023 takes into account the structural factors that drive women's participation in illegal economies and their caregiving responsibilities, providing alternatives to incarceration with a gender perspective.

1. What is Law 2292 of 2023?

Colombia's Law 2292, adopted in 2023, is a pioneering law that allows female heads of household who have committed certain crimes related to their socioeconomic vulnerability to replace detention with serving their sentence outside of prison and performing unpaid public service while remaining free.

The law includes drug-related crimes, which is considered a historic change:

- Colombian law, with some exceptions, limits or excludes alternatives to imprisonment for drug crimes.
- Nearly half of the female prison population is incarcerated for drug crimes.

The law offers an opportunity for reintegration and recognizes the disproportionate burden that incarceration places on women, especially mothers and caregivers living in vulnerable conditions.

Women are eligible if:

- They are heads of household, with emotional, economic, and social responsibility for children, adults, persons with disabilities, or others.
- They have been convicted of crimes listed in the law, including drug-related crimes, regardless of the length of the sentence, and other crimes if their sentence is eight years or less.
- They committed their crime in conditions of marginalization linked to their poverty, lack of economic or educational opportunities, financial, social, and emotional responsibilities as caregivers, and gender-based violence and discrimination.

For every 20 hours of community service per week, one month is deducted from the sentence. The service must be performed in public institutions, non-profit organizations, or non-governmental organizations.

2. A novel example for other countries

Law 2292 is a novel example for other countries about how to address the causes and consequences of women's incarceration, including in its development, its content and implementation. It aligns with broader efforts worldwide to address structural factors that put women in conflict with the law, and to provide alternatives to incarceration for minor and nonviolent crimes.

- **Co-developed by women with lived experience:** Mujeres Libres, a grassroots group of formerly incarcerated women, was part of the coalition of NGOs whose advocacy led to the adoption of the law and plays a leadership role in its implementation.
- **Protecting against arbitrary arrest and detention:** It includes drug offenses, which are normally excluded from alternatives to incarceration.
- **Focuses on socioeconomic and gender justice:** It targets women and includes drug offenses for which they are disproportionately incarcerated.
- **Shifts the focus** from punishment to social contribution, rethinking justice through service and support rather than confinement.

3. An example of the International Guidelines on Human Rights and Drug Policy in action

The law serves as a model for translating the Guidelines into practical national reforms.

The International Guidelines on Human Rights and Drug Policy highlight the measures that States should undertake or refrain from undertaking to comply with their human rights obligations, while taking into account their concurrent obligations under the international drug control conventions. Developed in partnership with the United Nations Development

Programme and the International Centre on Human Rights and Drug Policy at the University of Essex through a three-year consultative process with civil society, affected populations, international and regional organizations, and governments, the Guidelines harmonize States' international obligations with respect to drug control and human rights.

Key provisions of Law 2292 directly apply the International Guidelines on Human Rights and Drug Policy. The Guidelines, in line with Law 2292, also take into account empirical evidence that women's involvement in illicit drug economies tends to occur in those areas of the drug trafficking chain where there are low profits and high exposure to sanctions.

The Guidelines recommend that, in cases involving women and drug-related crimes, States should “[e]nsure that courts have the power to consider mitigating factors in light of women’s caretaking responsibilities, such as lack of criminal history and relative non-severity and nature of the criminal conduct” (Guideline III.2.2.vi) and “[m]ake available gender-specific interventions that aim primarily at diversion from the criminal justice system, and address the underlying factors leading to women coming into contact with the criminal justice system.” (Guideline III.2.2.iv).

The Guidelines emphasize that, with regard to women, drug-related crimes and dependence on illicit drug economies, “Women have the equal right to an adequate standard of living, including the right to food, clothing, and housing. This applies to women involved in the drug trade and dependent on illicit drug economies.” (Guideline III.2.2)

To this end, the Guidelines recommend, in line with Law 2292, that States should “[d]evelop specific, viable, and sustainable economic alternatives for women who are particularly at risk of exploitation in the illicit drug economy ...” (Guideline III.2.2.i) and “[t]ake all necessary legislative, administrative and policy measures to ensure that women’s specific needs and circumstances are taken into account in efforts to address involvement in the drug trade and dependence on illicit drug economies.” (Guideline III.2.2.ii).

The Guidelines also highlight the State’s obligations to take measures to address the negative human rights consequences of previous convictions (Guideline 1.4 iii)), which is essential to guarantee women’s rights to an adequate standard of living, participation, non-discrimination, and equality. (Guidelines II.3, 1.4, 1.3).

4. Challenges in implementing the law

Despite the expectations generated, implementation has been slow.

- According to the Ombudsman’s Office, an estimated 5,959 women are eligible to receive the benefit.¹ However, this figure is not accurate, and mechanisms need to be improved to better monitor the implementation of the law.
- As of August 2025, 183 women have been granted the benefit².
- Women find it difficult to combine unpaid public service with their caregiving responsibilities.
- There are no pathways from public service to employment, support for finding work is minimal, and the state has made no efforts to address the legal and social barriers to employment faced by women who have been deprived of their liberty.
- The definitions of “head of household” and “marginality” have been applied in a limited, restrictive, and exclusionary manner in relation to the specific realities of women, leaving out many who should be beneficiaries.

1 Defensoría del Pueblo, Resolución Defensorial No. 003 de 2024 (23 de diciembre de 2024).

2 <https://www.minjusticia.gov.co/programas-co/politica-criminal/Paginas/Seguimiento-implementacion-ley-utilidad-publica.aspx> (Data updated as of August 2025).

- Judges, prosecutors, and public defenders need more training and clarity.
- Women have difficulty gathering documentation while deprived of liberty and without State assistance.
- Public policy on employment and education has not yet been enacted.

5. How can the Guidelines be a tool for the development and implementation of progressive public policies?

The **International Guidelines** offer a rights-based roadmap to equip governments to align drug policies with human rights obligations. In Colombia, Dejusticia, Mujeres Libres, and the International Centre on Human Rights and Drug Policy are providing technical guidance to public authorities to strengthen such rights-based implementation efforts.

They can:

- **Guide judicial decision-making** by highlighting international legal obligations.

In collaboration with the National Gender Commission of the Judicial Branch, we have convened workshops with sentencing judges and their staff to present the the Guidelines as a tool to support the implementation of Law 2292, and to exchange about their experiences in reviewing women’s applications for the benefit, and challenges they faced to grant it. A judge who participated in the workshop noted, *“The guidelines have been extremely useful in understanding the purpose of the Public Utility Law in light of the application of human rights for women, taking a differential and gender-based approach”*.

- **Support strategic litigation** to create favorable precedents.

We are working with the Ministry of Justice to identify strategic cases to litigate, for example to clarify foundational legal concepts like “head of household” and “marginality.”

- **Foster international dialogue** in Latin America, particularly in jurisdictions that are developing or implementing alternatives to incarceration for women.

The Guidelines will be used as a convening tool to bring together national authorities, women who have been deprived of liberty, and civil society actors from Colombia and Mexico. Through this binational meeting, participants will share experiences on implementing amnesty-type laws and developing alternatives to incarceration to address the crisis of women’s incarceration driven by drug-related crimes.

By adopting the Guidelines, governments signal their willingness to move from punitive models to restorative, inclusive, and evidence-based approaches to justice.

6. The way forward: Building a fair drug policy ecosystem

Legal reform to prevent women’s incarceration and support their release from prison is an important first step. However, structural conditions of poverty, discrimination, marginalization, and lack of access to education, training, and economic opportunities that determine women’s decision to engage in criminal activities to support their families persist. For women in prison to have a real chance to move forward with their life plans, these issues must be addressed both from a legal standpoint and from a broader perspective.

The following steps are essential for Law 2292 to bring about meaningful change:

- **Expunging criminal records** and the penalties they entail, such as fines and disqualification from exercising public rights and functions, is essential to address the multiple forms of discrimination faced by people leaving prison when accessing employment, housing, the financial system, and even their rights to care for and custody of their children.
- **Ensuring the application of the public utility benefit at the time of sentencing**, so that women can avoid imprisonment altogether. More needs to be done to involve trial judges, as well as defense attorneys and prosecutors, so that trial judges can grant sentence substitution in the first instance.
- **Enacting the public policy on employability, education, and training** and ensure that women are accompanied in their transition back to the community, providing them with long-term support to address the root causes of incarceration and the barriers they face as a result.
- **Ensuring accountability and adequate and effective remedial action** by engaging actual and potential beneficiaries and other key stakeholders to monitor and research implementation of the law, providing data to calibrate efforts to support women to move forward with their life plans.
- **Ensuring the active, open, informed and transparent participation of women with lived experience in the implementation, monitoring, and assessment of Law 2292**, including by providing timely, accurate, and accessible information about decision-making processes and outcomes, and adequate funding to facilitate their meaningful participation in them.



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