

Should We Imprison Pregnant Women?

Policy alternatives to imprisonment for pregnant women deprived of liberty in the Philippines

Based on UP Center for Women's and Gender Studies Policy Brief No. 2026-0001

Nieva Jr., Atienza, Villaceran, Alonzo & Abesamis | February 2026

Up to 600 pregnant women are in Philippine detention at any given time.

Many in facilities running at 300–400% capacity. With no OB-GYN. With P23 per meal.

The Crisis at a Glance

16,000+

women in
Philippine detention
(2021)

9.8%

of total prison
population — above
global average

300–600

pregnant women in
custody at any
given time

300–400%

typical facility
capacity being
used

Context: Women now make up 9.8% of Philippine detainees — higher than the global average.

Drug enforcement campaigns between 2016 and 2018 drove a sharp spike in female incarceration. Punitive drug laws — including RA 9165 — have disproportionately affected women worldwide, including in the Philippines, pushing the total prison population from ~95,000 to 165,000+ between 2015 and 2021.

70%

of detainees are pretrial —
not yet proven guilty

6–12 mo

max time babies may stay
with mothers before transfer

P70 / day

food budget per detainee —
P23.33 per meal

0

binding laws mandating
non-custodial alternatives
for pregnant women

The Drug War Factor

RA 9165 (Comprehensive Dangerous Drugs Act, 2002) criminalizes possession, selling, and manufacturing. Its enforcement has disproportionately swept women into detention — many for minor, non-violent offenses, often as pretrial detainees waiting years for their cases to be resolved.

A System Built for Men, Pushed Far Beyond Its Limits

322%

pre-trial jail
congestion rate

2,748%

peak occupancy rate
(some individual jails)

296%

BJMP average
congestion (May 2025)

What conditions look like:

- Prisoners sleep on their sides in cramped dorms, often using neighbors as pillows — no mattress, no bed.
- Some facilities documented at 2,141% capacity. In some jails detainees sleep sitting or standing.
- Sanitation is dire: toilets that don't exist or are poorly maintained; one cell uses a hole connected to sewage.
- TB is 100x more prevalent in detention facilities than in the general community (ICRC/WHO).
- In 2024: only 19 doctors for 127,000+ BJMP detainees — 1 doctor per ~6,700 people (Prison Insider).
- 70% of Philippine jail facilities are congested, per the Commission on Audit.
- Manila City Jail was built in 1847 and is still in use. The system was designed for men, not pregnant women.

What Prison Does to Pregnant Women

Higher rates of preterm birth, low birth weight & miscarriage

Significantly higher anxiety & depression vs. general female prison population

Severely limited prenatal care: some women got only 1 visit total

The Resource Reality

P70 / day

total food budget per detainee

P23.33

per meal — for pregnant women too

P15 / day

medical budget per detainee

1 doctor

per ~6,700 BJMP detainees (2024)

0

OB-GYNs at the Correctional Institution for Women

37 of 84

women's dorms with a breastfeeding room

The consequences reach beyond the cell. When mothers are jailed, other children in the family are often displaced, creating what researchers describe as an intergenerational cycle of poverty. The government also pays more: managing a pregnant detainee — hospital escorts, medical security — costs far more than community-based monitoring would.

“

I had a miscarriage. No idea I was a high-risk mother. | In my previous pregnancies outside, I received at least 3 prenatal visits. Here, I got only one.

— Women detained in Philippine facilities, as quoted in the UPCWGS Policy Brief No. 2026-0001

CHR: only 37 of 84 women's dorms have a breastfeeding room. Prenatal services in many facilities are simply absent.

Why Is This a Human Rights Violation?

ICCPR 1986

Article 7: prohibits cruel, inhuman or degrading treatment.
Article 10: all detainees must be treated with humanity and dignity.

CAT 1986

The UN Committee Against Torture has explicitly applied its scrutiny to Philippine prison overcrowding and reproductive health.

CEDAW 1981

State must ensure women are not discriminated against in healthcare.
Detained pregnant women going without prenatal care violates this.

CRC 1990

The Philippines must prioritize the best interests of the child —
plainly at odds with conditions documented in this brief.

Bangkok Rules (adopted)

Non-custodial sentences shall be preferred for pregnant women.
This preference has NO binding legal counterpart in Philippine statute.

DOMESTIC LAW

Magna Carta of Women (RA 9710): humane treatment of women in state custody.
1987 Constitution: all persons deprived of liberty have the right to be treated with dignity.

Who Is Responsible?

CONGRESS

No law compels courts to treat pregnancy as a sentencing factor. No statute mandates non-custodial alternatives for pregnant defendants. Every other reform stays discretionary until this gap is closed.

KEY GAP

Key gap: Pending bills have addressed this only partially. Judges have no binding direction.

THE COURTS

Judges already have authority to grant probation, parole, house arrest, and community service. These tools are used inconsistently, with no binding instruction to prioritize them for pregnant defendants.

KEY GAP

Key gap: Without explicit judicial guidance, outcomes depend on individual judges — not the law.

DEPT. OF JUSTICE

Oversees both BuCor and prosecution. Pregnant women are routinely detained for non-violent offenses — often as pretrial detainees — reflecting prosecutorial and administrative choices, not just legislation.

KEY GAP

Key gap: Prosecutorial culture directly determines who enters detention, independent of legislation.

BJMP

Required by its own manuals to provide medical exams to every detainee upon admission — a standard it admits is not consistently followed. Now also bound by the December 2025 Joint Memorandum Circular.

KEY GAP

Key gap: Self-reported non-compliance with its own rules. Implementation of the 2025 JMC is untested.

LOCAL GOVTS

Under RA 7160, health and social welfare are devolved responsibilities. When pregnant women in local jails lack prenatal care, the host city or municipality shares the accountability.

KEY GAP

Key gap: LGUs rarely see themselves as responsible for conditions in jails within their territory.

PH COMM. ON WOMEN

Has a monitoring mandate over gender-responsive policies in government, including detention. Its own data — via the CHR — documents the deficiencies. That documentation has not yet produced systemic change.

KEY GAP

Key gap: Monitoring without enforcement authority means findings can be acknowledged and ignored.

What Needs to Be Done?

01

Institutionalize Non-Custodial Alternatives

Pass a law making house arrest, electronic monitoring, deferred sentencing, and community service the default for pregnant women convicted of non-heinous crimes. Brazil, Ukraine, Georgia, Ecuador, and China have already done versions of this.

02

Amend the Community Service Act

Revise the implementing rules of RA 11362 to explicitly identify pregnancy as a factor that tilts judicial discretion toward community service over imprisonment — even for offenses slightly above the minimum threshold for jail time.

03

Upgrade Conditions Where Detention Is Unavoidable

For women convicted of violent crimes, facilities must meet BJMP Memorandum Circular No. 122 and BuCor Manual standards — including dedicated mother-and-baby units and qualified maternal health staff. The CIW had no OB-GYN as of August 2024.

International Accountability Mechanisms:

UN Human Rights Committee (ICCPR) | UN Committee Against Torture (CAT) | CEDAW Committee | Universal Periodic Review (UPR)

Civil society can raise conditions of pregnant detainees through all four mechanisms — and hold the Philippine government publicly accountable.

THE BOTTOM LINE

The Philippines has the legal foundation. What it lacks is the political will.

Research Team

Romulo Nieva Jr.

Maria Ela Atienza

Marie Aubrey Villaceran

Gellyn Ann Alonzo

Luis Emmanuel A. Abesamis

University of the Philippines
Manila & Diliman

Imprisoning pregnant women in overcrowded jails without adequate prenatal care, nutrition, or qualified staff is not just a health failure. It is a documented breach of obligations the Philippines has freely assumed under four international human rights treaties.

Read the full policy brief:

UP Center for Women's and Gender Studies — cwgs.up.edu.ph

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