



Instituto Latinoamericano de las Naciones Unidas para la Prevención del Delito y la Justicia Penal

Instituto Latino Americano das Nações Unidas para a Prevenção do Delito e o Justiça Criminal

United Nations Latin American Institute for the Prevention of Crime and Criminal Justice

Regional Meeting Declaration

More prisoners or more Justice?

From the 20th until the 22nd of August 2018, ILANUD hosted the regional meeting “More prisoners or more justice?” in San Jose, Costa Rica. This activity brought together 52 representatives from the academy, international organizations, and judicial and penitentiary systems from 18 Latin American and 2 Caribbean countries.

The goal of this meeting was to analyze and debate the main challenges facing the countries of the region with regard to penitentiary matters, the projects implemented to solve them, and the best practices developed in the region.

Besides promoting a space for dialogue, the meeting allowed participants to establish collaborative networks and exchange experiences.

The proposed activities included the issuing of a statement highlighting some of the topics developed during the three-day discussion, the identification of pending tasks, and to call attention to priority actions needed to face regional penitentiary issues.



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More Prisoners or More Justice?

Regional Declaration

August 2018

Remembering and reaffirming the value of prisoners' rights, included on several international legal instruments from the universal and regional Human Rights systems and their jurisprudence,

Recognizing that as human beings, prisoners have rights and are only facing the restriction of some of them, in which their exercise is restricted by the law, based on reasons relating to the nature of the imprisonment,

Considering that prisoners suffer from being vulnerable and being imprisoned, that this limits the rest of their rights not restricted by their sentences, this situation is aggravated in those cases where people are affected by other types of discrimination,

Evidencing the characteristic role that the Government has towards people under its custody and its responsibility of protecting populations that have been historically discriminated,

Being conscious of the multiple variables that influence crime, but especially aware of social inequality and its impact on areas like housing, health, education, dignity and other social, economic and cultural rights whose absence could also increase some crimes and prison overcrowding,

Highlighting that instead of criminal law, Latin American societies need more social justice,

Warning about prison overcrowding due to the selective application of criminal law against marginalized and socially excluded people,

Recognizing that criminal law should be a tool for transformation by providing people who leave the prison system with improved abilities and social skills to avoid crime,

Clarifying that "social reintegration" should be understood as a process of "integration" for people, who have been socially excluded even before they were judged by criminal law,

Agreeing that the right way to design a social reintegration process includes interdisciplinary approaches,



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Reiterating that topics like the purpose of punishment, the diversity in crimes and the limitations of criminal law should not only be debated by experts, but shared in a clear and assertive way with the general population,

Observing that besides their specific issues, Latin American prison systems have common challenges in fulfilling the fundamental rights of incarcerated people,

Responding to the importance of generating regional and global forums for the exchange of experiences in order to establish professional networks between strategic experts on penitentiary matters,

It is hereby declared:

1. Alternatives to prison

- To expand the catalog of penalties in criminal law, to include alternative and substitutive actions for imprisonment according to the “United Nations Standard Minimum Rules for Non-Custodial Measures” (The Tokyo Rules)¹.
- To adopt the relevant legal improvements in order to strengthen decision-making and management capacity of sentence-executory judges, allowing them to modify detention conditions according to a broader notion of justice understanding it as social reparation and restoration, beyond the retributive trends.

2. Preventive detention and media power

- To implement educational processes focused on strengthening the popular juridical culture through social communication strategies that explain the contents of the judicial decisions, which increase transparency and promote the interaction between audience and mass media.
- To promote educative processes for empowered people, aware of their rights, the democratic values, strengths and weaknesses of criminal law, as well as the principles of liberty, equality and presumption of innocence.
- To strengthen training programs related to access to justice and communication skills within the justice administration, as a mechanism to bring judges and the community closer.

¹ United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules). Available on: <https://www.ohchr.org/Documents/ProfessionalInterest/tokyorules.pdf>



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- To promote trainings for mass media to understand the judges' role and the importance of judicial independence.
- To enhance the legal reforms needed to assure judicial independence according to the "United Nations Basic Principles of the Independence of the Judiciary"².

3. Vulnerable populations

- To promote periodical training for penitentiary workers related to Human Rights, focusing on gender and the differentiated and intersectional approach. The differentiated approach is understood as an analytical instrument to identify the infringement of rights and is a guide to establish attention and protection strategies according to the specific needs of the prisoners. The intersectional approach, on the other hand, recognizes the multiple vulnerabilities that could interfere with the prisoners' rights in each case. The "United Nations Handbook on Prisoners with special needs"³ offers a useful summary. Taking this into consideration, vulnerability conditions can change over time, and depending on particular contexts, it is important to define the concept. "100 Brasilia regulations regarding access to justice for vulnerable people"⁴ contains a relevant reference to this concept.
- To strengthen programs that support the reduction of imprisonment, paying attention to vulnerability conditions increased during jail time and those demonstrated when people regain their liberty.
- To develop monitoring and evaluation processes to review the protocols for the attention and protection of people under state supervision, recognizing that imprisonment is, in itself, a vulnerability condition.

4. Health care and Access to basic services

- To guarantee access to health services, including physical and mental care, to the prison population under the same conditions as the general population.
- To create support networks between different public, investigative and health institutions in order to promote better services for prevention, primary and

² United Nations Basic Principles on the Independence of the Judiciary. Available on: <https://www.ohchr.org/en/professionalinterest/pages/independencejudiciary.aspx>

³ Handbook on Prisoners with special needs. Available on: https://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf

⁴ Brasilia Regulations Regarding Access to Justice for Vulnerable People. Available on: <https://www.osce.org/odihr/68082?download=true>



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secondary attention, as well as high complexity health issues for the prisoners.

- To implement mental care for the prison population. To coordinate an institutional response with legal and penitentiary authorities so that the legal process considers mental care.
- To guarantee access to free-of-charge and appropriate attention to HIV patients in prison, respecting the confidentiality agreement.
- To promote training programs for health professionals about prisoners' special needs.
- There is an urgency for increasing the budgets designated for health care programs in the penitentiary system.

5. Penitentiary architecture

- To follow the recommendations given in the “Handbook on Dynamic Security and Prison Intelligence”⁵ in order to improve existing buildings and allot space to develop comprehensive programs focused on better attention.
- The special needs of women prisoners must be considered in the infrastructure with a gender approach, especially for pregnant women or mothers. It is recommended to follow the stipulations included in The Bangkok Rules⁶ and the “Handbook for Prison Managers and Policymakers on Women and Imprisonment”⁷.
- To prioritize attention, maintenance and adjustment of the existing infrastructure instead of building new prisons. In cases where new buildings are required, the construction must consider the diversity in prison population, to assess the geographical area, climate conditions, security and accessibility.

6. Post-prison process

- To assume the post-prison process as a fundamental aspect at the time of the sentence being enforced.

⁵ Handbook on Dynamic Security and Prison Intelligence. Available on:

https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Handbook_on_Dynamic_Security_and_Prison_Intelligence.pdf

⁶ The Bangkok Rules. Available on: https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf

⁷ Handbook for prison managers and policymakers on Women and Imprisonment. Available on: <https://www.unodc.org/documents/justice-and-prison-reform/women-and-imprisonment.pdf>



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- To strengthen or create a public institution that develops the correct follow-up process for social inclusion after prison.
- To promote legal reforms that eliminate criminal history information for misdemeanors in order to promote integration into employment.
- It is recommended to develop a public policy that will generate more employment opportunities with both the public and the private sector.

7. International legal framework

- To communicate the international penitentiary normative regulated by the Inter-American Human Rights System and the UN Human Rights System.
- To reinforce training programs on the fundamental rights of prisoners, prison officers and responsible authorities of justice systems.
- To discuss the advantage of a prisoners' convention, where social actors take part of it.
- To discuss and identify the priorities for a model of criminal policy for Latin America.

8. Relationship between Judicial Power and Penitentiary System

- To create an inter-institutional office in charge of coordinating with representative professionals from different areas of justice and criminal law.
- To promote the creation of an interdisciplinary group of professionals from the Judicial Power and Penitentiary System, in order to promote the right application of policies and actions as well as stimulate the exchange between these institutions.