

JUSTICE IS SETTING THEM FREE

WOMEN, DRUG POLICIES, AND INCARCERATION IN LATIN AMERICA

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**BRIEFING
PAPER**

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Illustration: Sergio Ortiz Borbolla

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“Justice condemns women with a double penalty for being a woman... especially as a low-income woman, you’re invisible in the system until you commit a crime. Then, they finally see you.”

Nora Laura Calandra, co-founder of La Rama de Libertadxs y Familiares

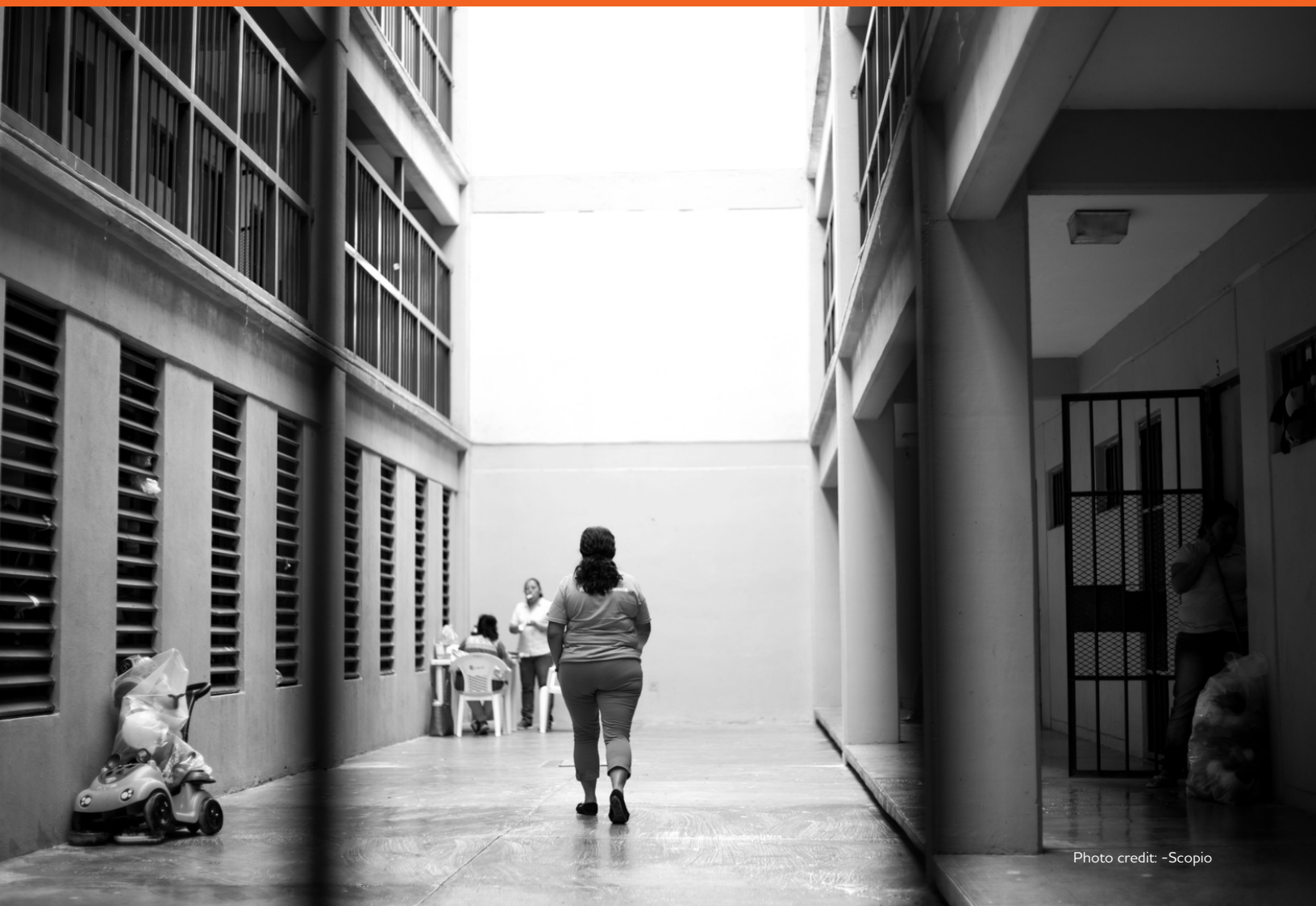


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Executive Summary

The incarceration of women is growing at alarming rates worldwide and in Latin America it is driven by strict drug laws, with devastating consequences for the women impacted and their families. Their stories unveil contexts of poverty, lack of opportunity, and physical and sexual violence, and also reveal the discrimination of unjust legal systems and societies plagued by stigmatization and patriarchal attitudes. But they are also stories of resilience, as women coming out of prison in Latin America today are organizing and fighting for their human rights and the right to live with dignity.

In response to the growing crisis of women's incarceration in Latin America, in 2015 organizations, experts and activists created a Working Group on Women, Drug Policies, and Incarceration, led by the Washington Office on Latin America (WOLA), the International Drug Policy Consortium (IDPC), and the Colombian NGO, Centro de Estudios de Derechos, Justicia y Sociedad – Dejusticia. Our objective is to significantly reduce the number of women deprived of liberty in Latin America, providing analysis and public policy recommendations and participating in advocacy initiatives at the international, regional, and national levels, based on an intersectional approach. The purpose of this report is to reflect on almost ten years of collective research and joint advocacy by the working group, its achievements and disappointments, as well as challenges and opportunities for the future.

The first effort was the publication and dissemination of “[Women, Drug Policy and Incarceration: A Guide for Policy Reform in Latin America and the Caribbean](#),” which provides a roadmap for reducing the incarceration of women. The working group later published additional research and reports, proposing sound and clear policy recommendations that were valuable inputs for advocacy. In nearly ten years of collective action, the working group has succeeded in placing this issue on the agenda of relevant UN and OAS bodies and in countries across the region, creating a propitious environment for carrying out reforms. Some countries have implemented promising reforms, such as the federal amnesty law in Mexico and a new law in Colombia that offers alternatives to incarceration for female heads of household. However, this success is tempered by the failure of governments across the region to do more to significantly reduce the number of women behind bars. The use of alternatives to incarceration remains woefully inadequate throughout the region, and governments have failed to put in place effective programs to support women leaving prison.

Along with advocacy efforts, the working group has sought to implement innovative communication strategies to transform the narrative about women behind bars and confront stigma and discrimination, showing the “human face” of women who end up in prison and the factors that contributed to their incarceration, and seeking to create spaces where women tell their stories in their own words. However, this provoked debate in the working group as to whether these efforts were reinforcing gender stereotypes, such as that of mothers in situations of poverty or that of women as victims of criminalization.

While these discussions continue, the emergence of organizations led by formerly incarcerated women, which eventually formed their own regional network, resulted in a fundamental transformation in the working group. Members recognized that it was the directly impacted women—including Black, trans and, Indigenous women—who should be the ones designing alternative approaches and engaging directly with decision-makers. The working group ended up playing an important role in opening doors for them and helping them to have a place at the table.

Looking ahead, the Working Group on Women, Drug Policies and Incarceration faces a number of challenges, including: the continued stigmatization of and discrimination against women in contact with the law, regional dynamics where both drug and prison policies have lost relevance, and the security-oriented discourse of many governments that allows a punitive culture to take root. Fortunately, these challenges go hand in hand with new opportunities, including in different spheres of the UN and the OAS. Some other areas for further work on this issue going forward include:

- Support and empower directly impacted individuals and communities.
- Change the narrative about women in prison.
- Continue research to inform the development of public policies.
- Conduct gender-sensitive training sessions for public defenders, judges, and others in the criminal legal system.
- Build South-South alliances, in Latin America and beyond.

The Working Group on Women, Drug Policies and Incarceration in Latin America is deeply committed to working to prevent women from entering prison in the first place and to promote the transformation of societies so that women have the opportunity to access the skills and resources necessary to live with dignity.



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Introduction

With far more men than women in prison around the world, discussions and debates on incarceration-related issues tend to focus on men. However, women's incarceration is on the rise at alarming rates, largely due to the "war on drugs." The [World Female Imprisonment List](#) published in 2022 shows that the number of women and girls in detention worldwide increased by 60 percent since 2000, while that of men rose by around 22 percent. Latin America fares particularly poorly, with egregious statistics for some countries, including El Salvador, Guatemala, and Brazil. Excluding the United States, an estimated 95,000 women are behind bars in the Americas, compared to 37,671 in the year 2000—an increase of more than 150 percent.

Moreover, the percentage of women in prison for drug-related reasons in Latin America is much higher than that of men. While rates vary by country, the percentage of women in prison for drugs can be anywhere from 40 to even 80 percent of the female prison population, whereas that of men tends to be significantly less. Data compiled for a 2020 Washington Office on Latin America (WOLA) [report](#) shows that in Brazil, Chile, Costa Rica, Panama, and Peru, the proportion of women incarcerated for drug-related reasons is at least 30 percent higher than in the case of men behind bars in those countries. WOLA's research also shows that a higher percentage of women than men are in pretrial detention for drug-related cases. In short, harsh drug laws, characterized by excessively long sentences and restrictions on the use of alternatives to incarceration and certain benefits such as early release, disproportionately impact women.

While some women attain leadership positions in criminal networks,¹ these examples are the exception. The vast majority of those in prison are not there for large-scale trafficking, nor are they leaders or protagonists in criminal organizations or networks. In drug markets, they are involved in low-level tasks that carry a high probability of being caught. Some women may also be coerced into drug dealing and trafficking by intimate partners or family members, or they may use drugs themselves. And many, if not most, have been driven to small-scale drug distribution or drug transportation as a way to survive situations of poverty and social exclusion.² Their arrests do not make a dent in the drug trade, as they are easily replaced. However, the consequences of being put behind bars is devastating for these women, as well as for their families and communities.

Behind the statistics cited above are human stories. They are stories that reveal the contexts of living in poverty, lack of opportunities, physical and sexual violence, the discrimination of unjust legal systems, and societies plagued by stigmatization and patriarchal attitudes. They are stories of children being torn from their mothers, losing their homes and even their families. But they are also stories of resilience, as women coming out of prison in Latin America are now organizing and fighting for their human rights and the right to live with dignity.

In response to the alarming increase in the incarceration of women in Latin America, organizations, experts, and activists came together in December 2014 to form a Working Group on Women, Drug Policies, and Incarceration, which was launched in early 2015. Led by WOLA, the International Drug Policy Consortium (IDPC), and the Colombian human rights NGO, Centro de Estudios de Derechos, Justicia y Sociedad – Dejusticia, the goal of the working group is to significantly reduce the number of women deprived of liberty in Latin America by providing analysis and public policy recommendations and engaging in advocacy in international, regional, and national level forums. While far more needs to be done to achieve that goal, the working group has played a significant role in putting this issue on agendas at the Organization of American States (OAS), the United Nations (UN), and at the national level.



Photo credit: -Scopio

The purpose of this briefing paper is to reflect on the working group’s nearly ten years of collective research and joint advocacy, its accomplishments and disappointments, and challenges and opportunities for the future. The title, “Liberarlas Es Justicia”—Justice Is Setting Them Free—is the name of a [campaign](#) launched in Mexico in 2019 by EQUIS Justicia para las Mujeres and WOLA to establish a legal mechanism for the release of women victimized by drug policies and implement social reintegration strategies so that women have more life options. This phrase captures well the spirit of our collective work, and we hope that this report will serve to keep this spirit alive and encourage the collective work in the coming years.

This report is not intended to be a summary of all the public forums and events sponsored by working group members, nor of the extensive research and analysis produced, as much of this material is available on the WOLA-hosted [microsite](#). As the working group is a collective effort, the methodology for producing this briefing paper was also collective, with group discussions and written contributions from working group members. We hope that it furthers our joint efforts to shed light on the disproportionate impact that current drug policies have on women in Latin America, promote gender-sensitive drug policies rooted in public health and human rights, and ultimately, significantly reduce the number of women in prison.



Photo credit: William Wroblewski

Propitious Timing for the Initiation of the Working Group

While debates on criminal justice reform have long centered on men behind bars, the years leading up to the formation of the working group witnessed increasing attention to the plight of women. In December 2010, the UN General Assembly adopted the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, commonly known as the [Bangkok Rules](#). Three years later, in 2013, the UN Special Rapporteur on violence against women presented the report, “[Pathways to, Conditions and Consequences of Incarceration for Women.](#)”

Failure to Implement the Bangkok Rules in Latin America

The [United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders](#), known as the Bangkok Rules, have been incorporated into public policies, with international support, for the development of a series of protocols focused on public defense relating to access to justice for juveniles and foreign women deprived of liberty in [Peru](#), promoting the human rights of women deprived of liberty in [Chile](#), and taking into account contexts of violence or vulnerability of women in contact with the law in [Argentina](#), among others. The Rules have also been incorporated into the national legislation of some countries in the region, as in the case of Mexico’s [Ley Nacional de Ejecución Penal](#) (National Criminal Enforcement Law). The Peruvian Ombudsman’s Office published [Guidelines for the implementation of the Bangkok Rules in the Peruvian prison system](#). And in Colombia, [Law 2292](#) of 2023 offers women heads of household in situations of socioeconomic vulnerability the option of serving their sentence outside prison via unpaid community service.

However, a few years after the tenth anniversary of the Bangkok Rules, states have largely failed to implement them, in part because of draconian drug laws that [hinder their effective implementation](#). This results in the over-criminalization of women prosecuted or sentenced for drug-related reasons. International standards are not sufficient to guarantee the human rights of women deprived of their liberty, especially in drug cases, given that the international drug control system focuses on punishment and incarceration as the main way to deal with “the global drug problem.” The failure to implement the Bangkok Rules in Latin America and the Caribbean highlights the need for changes in national norms and practices.

In Latin America, the relationship between the disproportionate incarceration of women and punitive drug policies is hard to ignore. In December 2010, a research team led by WOLA and the Transnational Institute (TNI) published the a landmark study, “[Systems Overload: Drug Laws and Prisons in Latin America](#),” which documented the link between the region’s prison overcrowding crisis and harsh drug laws and drew attention to the rapidly growing rate of female imprisonment for drug-related activities.³ In 2012, the Public Defender’s Office of the Judiciary (Defensa Pública del Poder Judicial) published a landmark study on women in prison (see below), sparking debate in that country. At the time, Costa Rica was presiding over the OAS’s Inter-American Commission of Women (known by its Spanish acronym, CIM). At the bi-annual meeting of the OAS’s Inter-American Drug Abuse Control Commission (known by its Spanish acronym, CICAD) in November 2012, the CIM president and Costa Rican minister of women’s affairs, Maureen Clarke Clarke, at the invitation of CICAD, gave a powerful presentation about the importance of incorporating a gender perspective into drug policies. She called on CICAD and member states to recognize the gender dimensions of what she referred to as the “feminization of small-scale drug trafficking,” encouraging a greater emphasis on conditions of vulnerability, violence, and social exclusion that often characterize women’s involvement in the drug trade.⁴



Photo credit: Jessamine Bartley-Matthews

In her remarks, the president of the CIM also recommended producing a hemispheric report on the gender dimensions of the drug trade and drug control policies. This mandate was entrusted to the CIM Secretariat, which published the report, “[Women and Drugs in the Americas: A Policy Working Paper](#),” in January 2014. Around the same time, IDPC published the first NGO report on the topic, “[Women, Drug Offenses and Penitentiary Systems in Latin America](#),” released in November 2013. These reports were presented together at the OAS in April 2014, as well as at other regional and international forums, with an overwhelmingly positive response from member states, media, and other stakeholders. The CIM report became the most downloaded CIM publication at the time. It led to a formal collaboration between the CIM, IDPC, and WOLA, and this collaboration eventually paved the way for the formation of the Working Group on Women, Drug Policies, and Incarceration in 2015.

The timing for the creation of the working group could not have been more propitious. Frustration was growing across Latin America with the failure of the prevailing prohibitionist drug control policies and the extremely high costs of implementing those policies in terms of violence and corruption, among other harmful consequences. At the summit of the region’s presidents in Cartagena in April 2012, the debate focused on drug policy and they tasked the OAS with analyzing present policies and exploring alternative approaches. That same year, at the 2012 UN General Assembly meeting, the presidents of Colombia, Guatemala, and Mexico issued a statement calling on the UN to organize an international conference on drugs. Before the end of the year, it was announced that a special session of the UN General Assembly on the “world drug problem” would be held in April 2016 (UNGASS 2016).⁵

The taboo on discussing drug policy that the United States had long imposed on the region had been smashed to pieces. The lead-up to the 2016 UNGASS was an unprecedented period of debate on all aspects of drug policies and at all levels, international, regional, and national. The working group succeeded in making gender considerations central to that debate.

Funding provided by the Human Rights Initiative at the Open Society Foundations (OSF) beginning in January 2015 allowed the working group to get off the ground. A lot of care was put into the composition of the working group, which was unique in that it brought together activists and researchers from drug policy organizations, feminist organizations, and more traditional human rights groups, as well as like-minded government officials participating in their individual capacity. Initially, eight Latin American countries and Puerto Rico were represented.⁶ Care was also taken to invite those known to be good collaborators, or those recommended by allies who were clearly committed to working on the issue. In short, the composition and quality of the members of the working group and the close relationships that developed were key to its first endeavor, “[Women, Drug Policies, and Incarceration: A Guide for Policy Reform in Latin America and the Caribbean](#),” and subsequent collaborative research and advocacy.

Working group members learned from each other's areas of expertise, and the work was strengthened through members' diverse areas of experience and points of view. This not only allowed for developing a regional vision, but also exposed people to different perspectives and ways of operating, as well as engaging with interlocutors outside of their normal orbits. Moreover, it led to critical thinking and ongoing discussions within the group, strengthening the positions adopted and contributing to the constant evaluation and evolution of methodologies and policy positions.

Luz Piedad Caicedo reflects that “For Corporación Humanas (Colombia), it was a very fortunate coincidence because our work on this issue had just begun. We hadn't even been working on it for a month when Dejusticia and WOLA invited us to be part of this group. This allowed us to familiarize ourselves not only with the discussion of incarcerated women, but also with drug policy debates.”⁷ Likewise, others learned about incorporating a gender perspective from the three key feminist organizations involved in the beginning, Corporación Humanas (Colombia), Corporación Humanas (Chile), and EQUIS Justicia para las Mujeres in Mexico. The participation of two of the region's most important human rights groups, the Centro de Estudios Legales y Sociales (CELS) and Dejusticia, also brought a wealth of knowledge to the group and was particularly important for the work done in international and regional human rights bodies. Both organizations have now fully incorporated this work into their institutional agendas. WOLA and IDPC brought expertise on drug policy and international advocacy, as well as the official connections needed to engage in advocacy on the issue.

Finally, the participation of government officials from numerous countries was crucial not only because of their expertise on the issues, but also because of their ability to engage a broader set of policy actors in their own countries and implement the policy recommendations developed by the working group. In the case of Argentina, the participation of the head of the gender unit of the Procuración Penitenciaria de la Nación (PPN), which functions as an ombudsman for the country's prisons, led to the creation of a specific program on drug policy and gender within the institution. Similarly, in Colombia, a new area of work on women and incarceration was initiated within the drug policy office at the Ministry of Justice and Law (Ministerio de Justicia y Derecho).



Working Group on Women, Drug Policies, and Incarceration in 2015

Bringing this diverse set of actors together also had a positive impact on the drug policy reform movement more broadly. First, it brought in new actors: human rights organizations and feminist groups. (With regards to the later, our allies within the feminist movement advocated from a position aligned with anti-punitivism and the anti-colonial struggle. As such, they did not receive support from more traditional feminist collectives skeptical of aligning with the drug policy movement and which endorsed, to some extent, a carceral paradigm.) It brought more women into a drug policy reform movement that, at that time, was neither inclusive nor equitable. As one colleague reflects, “For me, it was a very ‘machista’ movement, with an agenda dominated by men who made women invisible.”⁸ Second, it broadened the agenda of the drug policy reform movement. Corina Giacomello, an expert participating in the working group, pointed out that combining the issues of gender, incarceration, and drug policy brought a “novel approach.”⁹ Over time, the promotion of gender-sensitive drug policies became firmly entrenched in the drug policy reform movement, with important leadership provided by IDPC in its role as coordinator of that movement. In stark contrast to a decade ago, no organization advocating for transformative drug policy reform today would put out a platform that does not include a gender component.



Members concur that one of the greatest strengths of the working group was its regional perspective. First, this approach allowed for comparisons across countries and the identification of common challenges and opportunities, providing a more comprehensive vision for the work. It facilitated the sharing of best practices, or what came to be called **innovative approaches**, and other learning experiences. Second, participating in a regional platform helped validate the work at the national level, giving it greater credibility and legitimacy. It also allowed people to incorporate experiences from other countries into national-level debates, as well as the participation of experts from other countries in local forums.

In now nearly ten years of collective action, the Working Group on Women, Drug Policies, and Incarceration has successfully put this issue on the agenda of relevant bodies at the UN and the OAS, and in countries across the region. A particular group of women who were invisible for so long were finally given the visibility that they deserved. From an intersectional perspective, the work evolved to include a focus on trans women in prison. The working group shed light on the disproportionate impact of incarceration on all women who identify as such and the LGBTI+ population more broadly. However, that success is tempered by the failure of governments across the region to do more to significantly reduce the number of women behind bars. Sadly, the humanitarian crisis of women's incarceration in countries across Latin America continues unabated.

A Guide for Policy Reform in Latin America and the Caribbean

The working group's first collective effort was the preparation, publication, and dissemination of “[Women, Drug Policies, and Incarceration: A Guide for Policy Reform in Latin America and the Caribbean](#).” Every member of the working group at the time played a role in writing the guide and developing the policy recommendations, which were adopted by consensus. Two in-person workshops were held, the first in San José, Costa Rica in February 2015, and a second in Bogotá, Colombia in September of that year. In the interim, OSF and WOLA organized a workshop in Washington, D.C. to discuss the draft policy recommendations with a group of powerful women activists from the U.S., many of whom were formerly incarcerated. This included Andrea James, now head of the National Council for Incarcerated and Formerly Incarcerated Women and Girls, who would have a profound impact on the direction of the working group, as described below.

The first of its kind, the regional Guide provides governments with a road map for policy reforms from a gender perspective, primarily to reduce women's incarceration, but also with regards to social inclusion programs for those leaving prison and pregnant women and women with dependents.¹⁰ It became an important advocacy tool for working group members and civil society more broadly. In short, it became the working group's primary advocacy tool for engagement in international and regional forums, as well as in countries around the region.



Portrait of Lidieth
Centro de Atención Institucional “Buen Pastor”
women's prison (San José, Costa Rica).
Photo credit: Adam Schaffer

The regional Guide was launched at the OAS in February 2016 in an event attended by over 100 people, including ambassadors from many countries in the region. The OAS launch was made possible by the role of the CIM in the working group. Having the CIM logo on the first run of the Guide gave it regional weight and credibility. The newly elected OAS secretary general, Luis Almagro, attended the launch and asked for the OAS logo to also be included on the cover. Having the OAS “seal of approval” was tremendously useful for what followed, which were dozens of launch events at the UN headquarters in New York City, other UN platforms, and events around Latin America, often sponsored by government agencies.

For example, in Ecuador, the Guide was launched in an [international forum](#) organized by the Public Defender’s Office (Defensoría Pública), the Friedrich-Ebert-Stiftung Foundation (FES), and WOLA that was attended by over 500 people. In Argentina, an event was sponsored by the Federal Public Defender’s Office (Ministerio Público de la Defensa) and the PPN, and Argentina’s foreign ministry signed a declaration acknowledging the importance of the regional Guide on International Women’s Day. In Uruguay, it was launched at an Economic Commission for Latin America and the Caribbean (ECLAC) conference with the support of the country’s main drug agency, the Junta Nacional de Drogas (JND). The JND did perhaps more than any other government agency to implement the Guide, reducing the number of women in prison. The launch events were usually accompanied by private workshops or meetings with relevant government officials and key media outlets. One member of the working group, a Colombian government official at the time, shared that these events were even more important than the Guide itself in sensitizing government officials to the issue and exposing them to policy alternatives, motivating them to better understand the issue, and eventually to promote related actions.¹¹ The working group achieved its objective of utilizing the regional Guide as a point of departure to initiate discussions on the issue and policy alternatives with national governments.

The regional Guide was also published in Portuguese and widely disseminated in Brazil. National-level guides were developed in [Colombia](#), [Mexico](#), and [Uruguay](#). In the case of Argentina, various government bodies (at both the federal and provincial levels) created guides with general guidelines. For instance, the Ministry of Justice of the Province of Buenos Aires established a Guide for incorporating a gender perspective into drug-related investigations and trials.

The country that co-organized the most events was Costa Rica, and it was no coincidence that the first working group meeting was held there. At the time, the Costa Rican government, in large part due to the Public Defender's Office of the Judiciary, was at the vanguard of promoting gender-sensitive drug policies, as described in greater detail below. WOLA, IDPC, and other working group members organized events with the Costa Rican government, both in Costa Rica and at the UN Commission on Narcotic Drugs (CND). The Guide's 2016 launch in that country was sponsored by the Office of the President, which declared it to be of "institutional interest" for government offices seeking to develop and implement alternatives to incarceration for women imprisoned on drug charges. The then vice president, Ana Helena Chacón, presented part of the regional Guide at the April 2016 UNGASS. Also of note, in June 2017, MERCOSUR, led by officials from Brazil and Argentina, signed a declaration on "Women Deprived of Liberty for Drug-Related Offenses," which was based on the regional Guide.

The CIM was also crucial in disseminating the Guide in the region, and particularly in engaging with women's ministries. The CIM played a fundamental role in getting the working group off the ground and in drafting and distributing the regional Guide and related publications. Unfortunately, its funding for the work was coming to an end, and later, drastic budget cuts at the OAS in 2017 forced the CIM to significantly scale back its work on this issue. This had a detrimental impact on the group's work, as the CIM was planning to take the lead in promoting discussion with Caribbean countries.

The regional Guide was followed by an impressive body of research conducted by the working group over the next six years or so. One of the first initiatives was a series, “[Gender and Drug Policy: Exploring Global Innovative Approaches to Drug Policy and Incarceration](#),” which documented examples of promising reforms with a gender focus from across the region and other parts of the world. In addition, smaller groups were created to produce a series of collaborative reports on topics including [house arrest](#), [trans women deprived of liberty](#), [women coca and poppy growers](#), and [pretrial detention](#). Working group member organizations also produced their own reports, or collaborated directly, such as a joint report by WOLA and the Andean Information Network (AIN) on “[Promoting Gender-Sensitive Drug Policies in Bolivia](#).” Despite the difficulties of carrying out research during the COVID-19 pandemic, travel and other restrictions along with the resulting changes in organizational priorities did facilitate the completion and publication of several reports that were already in the works.

The methodology for these investigations relied on the collaborative use of participants’ strengths, ensuring that policy recommendations were thoroughly vetted. Sometimes, the research itself resulted in a different outcome than initially conceived. For example, in the early years of the working group, house arrest was put forward as an alternative to incarceration. However, research—particularly that carried out by [CELS and YoNoFui](#) in Argentina—showed that for women in situations of vulnerability, house arrest without guarantees that women could work and carry out their daily tasks, including caregiving responsibilities, could be as harmful as prison.

All of these reports provided the empirical research necessary to design sound public policies and clear recommendations. As highlighted by Teresa García Castro, who was involved in producing many of these reports, “One of the strengths of the working group was the collection of primary data and the development of regional comparisons. Without data, it’s hard to formulate public policies, and that was a significant contribution of the group, in addition to the specific recommendations. Combining research, advocacy, and communications increased the impact of our work. The group achieved a unique coordination of work at the regional, national, and local levels.”¹²

Finally, in reflecting on the evolution of this work, the policy recommendations put forward in the regional Guide would likely be more far reaching if written today. This is due both to the evolution of the drug policy debate and the growing influence of the prison abolition movement. The Guide’s policy recommendations also reflect a narrower focus on women in prison for drugs. Many organizations involved in the working group, particularly WOLA and IDPC, were calling for an end to the prevailing punitive drug policy paradigm. However, as one working group member points out, we focused on “the weak links in the chain and showing the impact of incarceration on a particular population. And that can be seen as a weakness—questioning drug policy without questioning the overall punitive policy.”¹³ Another member states, “What we were asking for was not that radical; we were not asking for regulation.”¹⁴ In focusing on women in prison, the policy recommendations in the regional Guide were oriented towards achievable reforms that would reduce women’s incarceration. In the end, this was both a weakness and a strength, as it facilitated sustained engagement with key officials.

Latin America: A Model for Reducing Women's Incarceration in Southeast Asia

The work in Latin America to address the increasing rates of women's imprisonment for drugs, utilizing advocacy informed by data and analysis, was the model for parallel IDPC efforts in Southeast Asia. Drug policies in Southeast Asia are even more punitive, given the frequent application of the death penalty for drug-related reasons in several countries, such as Singapore and Vietnam. In a context of limited civil society space to advocate for change on highly politicized issues, IDPC and partners considered it strategic to broach the possibility of drug policy reform—in particular, decriminalization and abolition of the death penalty—by focusing on the extremely damaging impacts on women.

From the beginning of IDPC's advocacy on this topic in Southeast Asia, the recommendations raised with policymakers were drawn from those put forward in Latin America. These included ensuring proportionate sentencing and taking into account mitigating factors in applying alternatives to incarceration. In fact, the recommendations made by IDPC in the [2014 seminar in Thailand](#) contributed to the subsequent adoption of a new [drug law](#) in 2021 that incorporated improvements towards ensuring proportionate sentencing for drug-related reasons in Thailand.

Inspired by the multi-country and regional nature of the work in Latin America, IDPC worked with partner organizations to develop guides for drug policy reform in [Thailand](#), [Cambodia](#), the [Philippines](#), and [Indonesia](#). As in Latin America, this involved research on women in prison, raising awareness of the increasing rates of incarceration of women for drugs and its individual and wider impacts.¹⁵ These recommendations were brought to the attention of policymakers in a [regional dialogue in Thailand in 2019](#). The work of partners in these countries has continued to evolve and led to a developing practice of [peer paralegal assistance for women who use drugs](#) in Indonesia and the Philippines. Additionally, it resulted in the establishment of the first networks of women who use drugs, including trans women and formerly incarcerated women, in Indonesia (Womxn's Voice)¹⁶ in 2020 and in Thailand in 2023.

Changing the Narrative About Women Behind Bars

An innovative communications strategy was integral to this work, as it was clear that the prevailing narrative of women in prison as “criminals” who “deserved to be there” needed to be changed in order to gain both more public and official support for alternative approaches. As is evident today, “mano dura” (tough-on-crime) policies tend to be supported by those who live in communities with high levels of citizen insecurity, and their fears are fanned by the media and certain political groups. Moreover, women in contact with the law face even more discrimination and stigma than men, as they are seen as defying traditional gender roles, such as that of caregivers—in spite of the reality that many women engage in the drug trade or other low-level transgressions as a way to put food on the table for their families. The working group sought to confront this stigma and discrimination head-on, and to show the realities, the “human face,” of the lives of women who end up in prison and the factors that led them there in the first place. Perhaps most importantly, the working group sought to create spaces for women to tell their stories in their own words.



Photo credit: -Scopio

According to Kristel Muciño, then WOLA’s communications director and leader of this effort, the communications strategy implemented built on a well-honed WOLA strategy of ensuring that the voices of those most directly impacted by U.S. policies are heard in the halls of power.¹⁷ WOLA and TNI had produced a series of videos of personal testimonies of those incarcerated for drugs in different Latin American countries, “[The Human Cost of the Drug War](#),” to coincide with the release of the 2010 report referred to previously. Building on that experience, the first major communications activity was the production of a series of [photo essays](#) with women in prison in Costa Rica, Colombia, Bolivia, and Argentina, with each one providing a unique insight into the deeply troubling cycle of poverty, low-level involvement, imprisonment, and recidivism in which women are too often trapped.

Scrolling through the photo essays, one tells the story of Sara, who started using drugs after being sexually abused and as a consequence, found herself in and out of prison for years. Another focuses on Liliana, who became a victim of human trafficking and was forced to transport drugs from country to country until she was finally caught. Another relates the story of Johana, who ended up in the family drug business out of economic necessity.



Portrait of Liliana
Photo credit: Nicolás Rapetti

Surprisingly, Johana was given permission to leave prison to attend the launch of the Colombian version of the regional Guide, sharing her powerful testimony with a room of government officials, many of whom were brought to tears by the end. The first in-person showing of the photo essays took place in Costa Rica during a forum organized by Costa Rican NGO, Asociación Costarricense para el Estudio e Intervención en Drogas (ACEID), and the government-affiliated Costa Rican Drug Institute (Instituto Costarricense sobre Drogas), with more than 100 officials from across the country in attendance. Attendees were visibly moved and the photo essays became one of the main topics of conversation in the corridors. They were also widely linked to in different media outlets. Muciño remembers that with the publication and reproduction of the photo essays and the videos, the comments were almost always empathetic towards the women, unlike articles or opinion pieces that also provoked a lot of negative commentary, in line with the stigma and discrimination described above.¹⁸



Portrait of Johana
Photo credit: Adam Schaffer

The second major undertaking was a [series of three videos](#) produced by WOLA, EQUIS Justicia para las Mujeres, and the production company, -Scopio. Getting permission to film in one of Mexico's women's prisons was no easy feat, and the original idea of going into the federal maximum security women's prison in Morelos was eventually abandoned for the Tanivet women's prison in Oaxaca. These videos brought visibility to the disproportionate impact of incarceration on women. Two focused on individual stories, one of an Indigenous woman with a child with disabilities and another of a Guatemalan woman who took the blame for her husband in transporting drugs between that country and Mexico, while a third provided a more general overview of the human cost of incarceration on women.

The videos were launched in November 2017 at an overflowing event at the Cine Tonalá in Mexico City, generating significant press coverage over the course of the following week. The media outlet Animal Político posted a link to the video on its website and got more than 20,000 views within just a few hours. The impact of efforts like the photo essays and videos varied by country, but in the case of Mexico, the videos seem to have played an important role in sensitizing public opinion and public officials about the impact of incarceration on women and their families. As the then-director of EQUIS Justicia para las Mujeres, Ana Pecova, points out, "In Mexico today, there is not a single person in the public sphere who does not understand that the issue of incarcerated women is a nuanced issue."¹⁹

Video still from "The Stories of Women
Incarcerated for Drug Offenses - Oaxaca Mexico."
Credit: -Scopio



The production of the photo essays and the videos raised significant debate within the working group on three topics. First, was showing the women's faces putting them at risk? Participants in the photo essays or videos had to sign consent forms for their images to be used, but it is one thing to sign a form and another to thoroughly consider the consequences. In the case of the videos, the final products were shown to participants in the Oaxaca prison and while the response was overwhelmingly positive about the content, some of those who appeared in the videos began to have second thoughts about appearing publicly and asked for their images to be removed. Despite the cost and delay this implied, their wishes were of course respected. One of the women featured in the Mexico videos, Gaby, who is now out of prison, said that in her case, being in the video "opened her mind" to understanding her situation and "opened the door... now I want to continue in the fight for incarcerated women."²⁰



Video still from "Orfa's Story: Women Incarcerated for Drug Offenses - Oaxaca Mexico."
Credit: -Scopio

The second issue of debate generated a more profound and ongoing discussion, which centers on whether these efforts are reinforcing gender stereotypes about women by focusing on those who are mothers in situations of poverty and victims of violence before and during their detention, thereby excluding experiences that do not fit this description, such as those who are not mothers or are drug users or sex workers. Are they being thrown under the bus? While acknowledging this dilemma, the reality is that the research carried out by the working group shows that the majority of women in prison fit this pattern: they come from multiple situations of vulnerability, are often mothers, and are criminalized by governments and society. Moreover, talking about women in situations of vulnerability was a very effective advocacy strategy; it was a way of opening the door to talk about broader policy reforms. As Ana Pecova notes, “It was a kind of Trojan horse. Given the advances of the feminist movement in advocating for the need to include a gender perspective in addressing issues, entering discussions with authorities was easier when we sought out spaces to talk about the situation of women in prison. This allowed us to address not only the impact of these policies on women, but also broader issues.”²¹ Nonetheless, the discussion continues as to how to ensure that our messaging does not further stigmatize women in contact with the law.



Video still from "Gaby's Story: Women Incarcerated for Drug Offenses - Oaxaca Mexico."
Credit: -Scopio

The third discussion, related to the previous one, concerns presenting women as victims of criminalization and hence taking away their agency. In fact, this was a critique of the videos from Mexico made by formerly incarcerated women connected to EQUIS Justicia para las Mujeres. Along those lines, Luz Piedad Caicedo underscores, “The importance of portraying women as having agency and not just as victims cannot be ignored. But a more interesting way to minimize gender stereotypes is to reconsider this dichotomy, which we only pose when it comes to women, not when it comes to men.”²² While this is still an ongoing issue of discussion, the evolution of the working group has given formerly incarcerated women a more prominent role in developing and implementing advocacy strategies and, in parallel, a visible role as agents of change.

Evaluating the Impact in Media Coverage

Around ten years ago, the efforts of civil society organizations and various academics in Latin America succeeded in capturing the media’s attention on women deprived of liberty for drug-related reasons, marking a new period in how these stories were told. This work has not been easy and has required the collaboration of various initiatives. Organizations such as WOLA, EQUIS Justicia para las Mujeres, Dejusticia, and CELS have employed advocacy strategies with journalists and media outlets. The launch of the regional Guide was significant for many media outlets, allowing them to contextualize the information that they regularly reported, leading to a shift in the narrative with variable effects depending on the type of media and its orientation.

According to Uruguayan journalist Guillermo Garat, a crucial aspect of these actions has been to sensitize the journalistic community to dispel prejudices related to gender and to drug consumption and selling, in order to encourage them to capture the complexities in the stories.²³ A broad analysis of the media narrative on incarcerated women in Argentina reveals differences between mainstream media and alternative media, the latter being more specialized and receptive to a human rights perspective.²⁴ The plurality of voices presented by the media is conditioned by their political stance and their position in the media ecosystem.

There are success stories, both at the editorial and individual levels, illustrating how to document the lives of incarcerated women beyond gender stereotypes and without replicating the myths of the so-called war on drugs. Media outlets such as Animal Político in Mexico, El Espectador in Colombia, and El País in its America edition stand out for their consistent coverage of this topic, including the work of organizations and the voices of those directly impacted. At an individual level, the work of Uruguayan journalist Victoria Fernández, who received the VI Marcelo Jelen National Press Award (VI Premio Nacional Prensa Escrita Marcelo Jelen) for two articles exposing the **impacts of microtrafficking penalties on women**, is noteworthy, as is that of Fernando Soriano, who captured the **complex story of a Bolivian woman** detained for drug trafficking on the border with Argentina, successfully positioning the case in the media and contributing to the dismissal of the criminal proceedings against her.

However, the experience is uneven in the region. Unfavorable conditions faced by the media industry, including a credibility crisis, lack of funding, and declining audience interest, have limited opportunities and openness to change. Significant progress is noted in Mexico and Brazil, while most media outlets in other countries maintain stigmatizing and simplistic coverage of stories about women incarcerated for drug-related reasons. Moreover, there is a worrying setback in the newsrooms of El Salvador, Guatemala, and Costa Rica, partly due to the rise of anti-rights discourses and the popularity of draconian measures implemented by their governments.



Photo credit: Adam Schaffer

Formerly Incarcerated Women Take Center Stage

In June 2017, the third working group meeting took place in Mexico City, in conjunction with a public event and an international expert's seminar with Mexican government officials. Andrea James, referred to above, was invited to participate. Andrea had been in prison in the United States and was organizing a network of formerly incarcerated women. At one point in the working group meeting, she looked around the table and said, "Where are the formerly incarcerated women?" And everyone knew that she had a very good point. The issue of engaging with directly impacted women had been discussed from early on. In fact, in 2014, CIM, IPDC and WOLA organized events at the OAS in Washington, D.C. and the UN in New York City that featured Rosa Julia Leyva, a Mexican woman who was featured in the "Human Cost of the Drug War" videos described above. Notes from the 2015 Bogotá meeting of the working group refer to the importance of incorporating formerly incarcerated women, but also to the difficulty of identifying women willing to become engaged and to be identified publicly. Andrea James made it clear that the discussion had gone on long enough, and it was time to take action.

This marked the beginning of a fundamental transformation in the working group at two levels. First, members recognized that directly impacted women should be the ones designing alternative approaches and engaging directly with policymakers. In other words, incarcerated and formerly incarcerated women—including Black, trans, and Indigenous women—should be at the center of the debate. An important role of the working group became opening doors, helping these women have a seat at the table, and lending the legitimacy and credibility of the organizations represented in the working group. The working group also played an important role in opening up spaces for other organizations to hear directly from women in and coming out of prison.

The second fundamental shift had to do with the focus on drug policy. Once the work shifted to empowering incarcerated and formerly incarcerated women more broadly, it became untenable to have a drug litmus test. In other words, the work evolved to encompass women in prison, regardless of the alleged transgression committed.

Both EQUIS Justicia para las Mujeres and Corporación Humanas (Colombia)—very much encouraged by OSF—made the decision to hire formerly incarcerated women to work on staff, Natacha Lopvet and Claudia Cardona, respectively. They formed small groups of formerly incarcerated women, including Mujeres Libres in Colombia and La Boussole in Mexico. Indeed, Mexico has had the most groups of formerly incarcerated women, as La Boussole was followed by Mujeres Unidas x la Libertad, Artículo 20, Mujeres Libres México and Casa de las Muñecas Tiresias, the latter led by prominent trans activist Kenya Cuevas. Chapters of Mujeres Libres were also founded in El Salvador and Chile. Mujeres Libres and other organizations of formerly incarcerated women received encouragement and initial small grants from OSF. In April 2018, EQUIS Justicia para las Mujeres organized the “First meeting among formerly incarcerated women: Building networks through the shared experience of imprisonment,” with formerly incarcerated women from Mexico, the United States, and Canada.

Then, in July 2019, Mujeres Libres Colombia, Corporación Humanas (Colombia), and WOLA organized the [first-ever regional workshop of formerly incarcerated women](#), with participation from Argentina, Brazil, Chile, Colombia, Ecuador, El Salvador, Mexico, and the United States. The aim of the workshop was to examine the situation of formerly incarcerated women in the Americas, identify the commonalities among them, and share strategies of organization and resistance. Some 66 participants were involved, including 45 formerly incarcerated women, several family members, and representatives from accompanying organizations.

The results of the workshop far surpassed the organizers' expectations and resulted in the formation of a network of formerly incarcerated women, the [Latin American Network of Women Resisting, Bringing Down Bars](#) (Red Latinoamericana de Mujeres Libertarias Fundiendo Rejas). While the COVID-19 pandemic disrupted plans for two additional annual regional workshops, the Latin American network had two virtual meetings. Additionally, the Latin American network has been at the forefront of establishing an [International Network of Formerly Incarcerated Women](#) (INFIW), which includes women previously incarcerated in the United States, Australia, New Zealand, and countries in Africa, Asia, and Europe. Launched also during the COVID-19 pandemic, the international network had two virtual meetings, involving about 200 women from over 20 countries. In May 2023, the [first-ever international convening of formerly incarcerated women](#) took place in Bogotá, Colombia with the participation of more than 60 women from 17 countries. Another recently formed network that, at least in part, also grew out of the efforts of the working group is the [Red Internacional de Mujeres Familiares de Personas Privadas de la Libertad \(RIMUF\)](#), a coalition of women-led organizations of family members of people deprived of liberty.

Claudia Cardona, who leads Mujeres Libres Colombia, affirms that, “One achievement of this working group is to have opened spaces for women who have been in prison to start working... doors have been opened for us at the Inter-American Commission on Human Rights, where we have participated in hearings. We learned a lot from Corporación Humanas (Colombia). We now work intensely at the national level and with Dejusticia. We are in this position because of your outreach to us and your reports have been our basis for learning about human rights. Our experience of deprivation of liberty, combined with the work that we have done, has helped us raise awareness of the problem and advocate for change.”²⁵

It is also important to highlight the work with incarcerated and formerly incarcerated trans women. Although the data is insufficient, trans women are overrepresented in prisons compared to other groups and are obviously much more likely to suffer from abuse and violence behind bars than other populations. Representing the working group, María Santos participated in the first international congress of [Corpora en Libertad](#), held in Montevideo, Uruguay in February 2019. Corpora en Libertad is a network of organizations and individuals working for the human rights of LGBTI+ people deprived of liberty, and an important ally of the working group. Maria's participation in the congress marked the beginning of significant collaboration in research and international advocacy strategies.

That same year, members of the working group and Corpora en Libertad launched [an investigation](#) into trans women deprived of liberty that was published in 2020. The research adopted a participatory approach in which formerly incarcerated trans women led the process. The report includes in-depth interviews with this group, as well as testimonials and documents from workshops, meetings, and focus groups conducted by organizations in the network. While the report focuses on trans women in prison, we recognize that LGBTI+ individuals deprived of liberty, including trans men and non-binary individuals, face complex challenges, and we hope the study has helped raise awareness of the need to promote public policy reforms that benefit this group more broadly. In addition to the report, we also coordinated a statement titled "[Promoting the Rights of Trans Women Deprived of Liberty in Latin America](#)" on the impact of COVID-19 on incarcerated trans women, and the author of this report, Coletta Youngers, participated in the second international congress of Corpora en Libertad in August 2023 in Mexico.



Claudia Cardona
Photo credit: Dejusticia

Advancing Debate and Reforms at the Regional Level

Among working group members, there is a general consensus that, in addition to supporting and empowering the work of formerly incarcerated women, their most important and successful advocacy work has been carried out at the regional and international levels. Some of the work within the OAS, and the important role that the CIM initially played, has already been described with regards to the Guide for Policy Reform and its subsequent dissemination. The working group also engaged systematically with the OAS's drug agency, the [Inter-American Drug Abuse Control Commission](#) (known by its initials in Spanish, CICAD), and its human rights body, the [Inter-American Commission on Human Rights \(IACHR\)](#), ensuring the participation of women directly impacted by these issues.

Following the presentation by the CIM president during the CICAD session in November 2012, the CIM and CICAD organized a side event on women, drug policy and incarceration at the 43rd Regular Session of the OAS General Assembly in Antigua, Guatemala in June 2013, the theme of which was, “For a Comprehensive Policy Against the World Drug Problem in the Americas.” The OAS Secretary-General, representatives from various member states, and renowned experts on the topic participated in the event, which was crucial in promoting a gender perspective in this space. Participants included two members of the future working group, Corina Giacomello and Marie Nougier, as well as the CICAD executive secretary, who committed to working with the CIM to ensure the mainstreaming of gender and human rights in drug policies in the region. Over the years, working group members carried out regular side-events at the biannual meetings of CICAD, taking advantage of having key drug policy officials from across the region in one room.

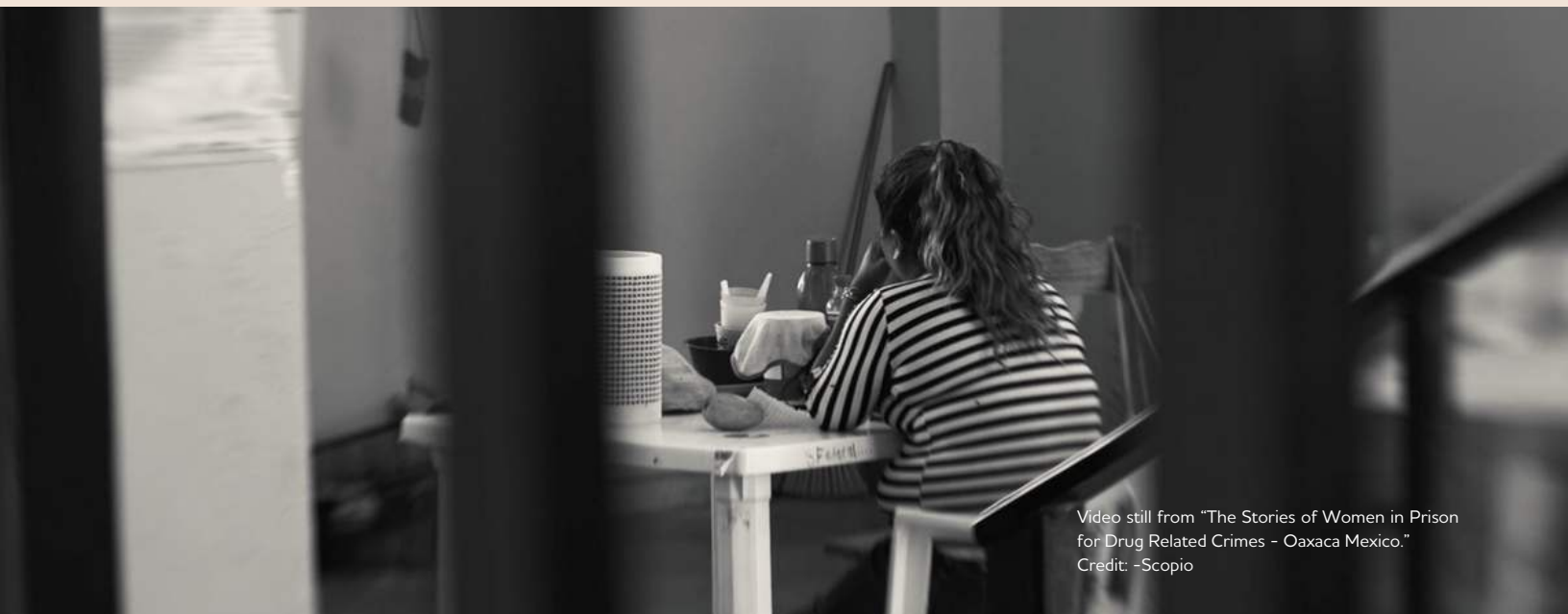
The first evidence of the incorporation of the gender issue was the [OAS’s Technical Report on Alternatives to Incarceration for Drug-Related Offenses](#). Eventually released in 2015, it was first proposed at the 54th Regular Session of CICAD in December 2013, which took place in Bogotá, Colombia, to identify and analyze different alternatives to incarceration using available evidence and examples of good practices. As Dejusticia was tasked with coordinating the production of the report, and Corina Giacomello joined the technical support group, a gender perspective was incorporated into the report, which was intended to be a policy tool for governments to reduce incarceration for drug-related reasons.

Gender was also mainstreamed into the hemispheric drug strategies and action plans. In the lead-up to the release of the [Hemispheric Plan of Action on Drugs, 2016-2020](#), the CIM provided inputs, including topics covered in the regional Guide for policy reform, to participating governments. The mainstreaming of gender into these regional documents continued with the subsequent [Hemispheric Drug Strategy 2020 and the Hemispheric Plan of Action on Drugs 2021-2025](#), aiming, among other things, to “Integrate a human rights, gender, and social inclusion approach, particularly with respect to at risk populations, in the process of formulating, implementing, and updating national drug policies, and/or strategies.”²⁶ In short, CICAD did move forward with mainstreaming gender into its strategies and programs, though what was laid out in principle was not always put into practice by Member States on the ground. Additionally, there have sometimes been substantial differences between the CIM and CICAD Secretariats and the member states in understanding what exactly is a gender perspective.

This was most evident in the first institutional project supposedly oriented towards gender implemented by CICAD. In January 2018, CICAD launched the Inter-American Program for Strengthening Gender Equality in Counterdrug Law Enforcement Agencies (GENLEA), which sought to increase women’s involvement in government’s drug-oriented law enforcement agencies in order to strengthen their capacity to counter drug trafficking. In the foreword to the [2020 GENLEA Handbook](#), Ambassador Adam E. Namm wrote that the manual “offers strategies and practical measures that the global community might consider in its efforts to achieving more inclusive and gender equitable law enforcement agencies to effectively counter drug trafficking.”²⁷ There is a certain irony in enhancing women’s involvement in policies that have a disproportionately negative impact on women themselves.

The second major institutional project launched by CICAD focuses on applying a gender focus in the criminal legal system, including looking at alternatives to incarceration and gender-oriented social reintegration interventions. Five national studies were conducted in Argentina, Colombia, Costa Rica, the Dominican Republic, and Jamaica, of which only the study on Colombia is available. The lack of official information on the project's results to date makes it impossible to assess the project's potential impact at the time of writing this report.

Regarding the Inter-American human rights system, collaboration with the IACHR resulted in a firm commitment on its part to address the disproportionate impact of incarceration on women, including the punitive drug laws that drive women's incarceration across the region. Its landmark 2023 study, "[Women Deprived of Liberty in the Americas](#)," states: "By preparing and publishing this report... the Inter-American Commission underscores its commitment to the treatment of this theme. In this sense, the IACHR hopes that this report will be able to contribute to the visibility of the general situation faced by women deprived of liberty in the region, and to the resulting protection of women's rights through the development of protection standards based on a human rights approach and a gender perspective."²⁸ It also provides important recommendations for [reducing](#) women's incarceration.



Video still from "The Stories of Women in Prison for Drug Related Crimes - Oaxaca Mexico."
Credit: -Scopio

The roots of this report go back various years. In 2016, the IACHR was preparing a [second report](#) on measures to reduce pre-trial detention in the Americas, eventually published in 2017.²⁹ Some working group members participated in expert meetings convened for that report, as incorporating a gender perspective was important to the IACHR staff. In April of that year, working group members³⁰ presented a joint testimony before hearings convened by the IACHR on pretrial detention. In addition to addressing that topic, we took advantage of the opportunity to present the regional Guide. This planted the seed for the IACHR to produce a report focused on women deprived of liberty in the Americas, which was eventually approved by the commissioners. Working group members took part in expert meetings to inform the writing of the report and ensured that formerly incarcerated women, including trans women, and family members of people deprived of liberty were included.

While the report was in the works, working group members participated in many IACHR activities and initiatives. Two highlights include the following. In 2020, the IACHR requested that the Inter-American Court of Human Rights issue an “Advisory Opinion on Differentiated Approaches with Respect to Certain Groups of Persons Deprived of Liberty,” regarding the application of gender-sensitive standards for pregnant or postpartum women, trans women deprived of liberty, and children living with their mothers in detention centers. In November of that year, a group of civil society organizations³¹ submitted comments and recommendations to the Court, much of which was incorporated into the Court’s eventual [advisory opinion](#) issued in May 2022. Working group members also participated in various hearings before the IACHR, including in April 2021, when the working group led an effort to present a detailed testimony on the impact of the COVID-19 pandemic on women in prison.³² While the working group took advantage of these opportunities in the Inter-American human rights system, it never engaged in strategic litigation, although some member organizations did so individually.

In July 2023, the IACHR launched its ground-breaking report, “[Women Deprived of Liberty in the Americas](#),” based on the premise that incarcerated women have rights; their basic human rights must be protected and promoted. While this may sound obvious, that is not the commonly held opinion among many in the region, and therefore, it is a significant contribution to changing the narrative about women in contact with the law. Most importantly, it provided a blueprint for policy reforms to OAS member states, many of which do pay attention to recommendations put forward by the IACHR. The report also provided civil society actors with a very important tool for advocacy efforts to reduce women’s incarceration across the region.

From the Regional to the Global: Putting the Issue on the UN’s Political Agenda

The work done by the working group in the OAS fed directly into the initiatives in the UN, where our advocacy has been instrumental in placing gender issues on its political agenda. This, in turn, enabled us to ensure that the issue was taken seriously by governments from Latin America, as well as open a dialogue between governments from Latin America and other parts of the world on what needs to change. It also ensured that the voices of civil society experts and directly impacted women were included and heard loud and clear in decision-making processes for the first time. Finally, UN-level engagement resulted in new tools to support national-level civil society advocacy.

Policy engagement and the presentation of the regional Guide in regional forums such as CICAD, the OAS and other mechanisms like [COPOLAD](#), enabled the working group to place the issues faced by women deprived of liberty for drug-related reasons on the political agenda of governments from across Latin America. It also led the working group to identify government champions willing to bring the issue to the UN. This included countries like Colombia, Costa Rica, Mexico, and Uruguay.

As mentioned above, the publication of the regional Guide coincided with the preparations for the 2016 UNGASS on drugs. Unsurprisingly, Latin American policymakers played a key role in shaping the UNGASS debates, opening up an opportunity for our working group to ensure that gender issues featured prominently at the UN. As the modalities for the Special Session were discussed, sustained civil society advocacy and strategizing with like-minded member states led to unprecedented discussions on the human rights and gender implications of drug policy. After countless rounds of negotiations and behind-the-scenes advocacy by civil society, it was decided that one of the five overarching themes of the UNGASS would be on “drugs and human rights, youth, children, **women**, and communities” (emphasis added on women). This gave us the ammunition needed to continue to highlight the disproportionate impacts of drug policies on women at the UN.



Portrait of Nayeli (name changed)
Photo credit: William Wroblewski

As the issue gained traction, in 2016, Mexico—encouraged by civil society colleagues and inspired by our regional Guide—introduced a [resolution](#) at the UN Commission on Narcotic Drugs (CND) entitled “Mainstreaming a gender perspective in drug-related policies and programmes.” The resolution incorporated the strongest consensus-based language to date on gender and drug policy, including a recognition of “the specific needs and circumstances of women subject to arrest, detention, prosecution, trial or the implementation of a sentence for drug-related offences.” The resolution also calls for non-custodial measures “when sentencing or deciding on pre-trial measures for a pregnant woman or a woman who is a child’s sole or primary caretaker.” Importantly, the resolution also encourages the participation of women in decision-making processes. The fact that the CND resolution was being negotiated in parallel with the [UNGASS Outcome Document](#) greatly contributed to ensuring that positive language on gender-sensitive policies—some of which was directly drawn from the regional Guide—was incorporated into both documents. These were important wins for the working group, as they have had a ripple effect on the CND debates and resolutions ever since, which placed stronger emphasis on the gender aspects of drug policy. This ensured that the issue continued to be prominent in drug policy discussions at national and regional levels.



Video still from “Gaby’s Story: The Stories of Women incarcerated for Drug Offenses - Oaxaca Mexico.”
Credit: -Scopio

Building on the progress made in 2016, various members of the working group, led by IDPC, WOLA, and CELS, started making statements in the plenary debates and holding [regular side events](#) at the CND and the UN Commission on Crime Prevention and Criminal Justice. Initially focusing on the Americas, the events gradually expanded in scope, thematic areas and regional outreach, providing space for women directly affected by criminalization and incarceration to share their lived experiences at the UN. These events and other meetings organized in Vienna, the headquarters of the CND, by members of the working group enabled us to garner support from like-minded States from other regions of the world, including countries like Canada, the United Kingdom, Norway, and various EU member states. IDPC, WOLA, and others leveraged key UN moments to systematically highlight the gendered impacts of drug policy, including the post-UNGASS 2016 implementation process, the 2019 Ministerial Segment and also with regards to [the UN Common Position on Incarceration](#), and the 10-year anniversary of the [UN Bangkok Rules](#) in 2020.

In parallel with advocacy in Vienna, the working group quickly recognized the need to mobilize the UN human rights system to push for system-wide coherence between human rights obligations and drug policy. Collaboration with feminist organizations such as CELS, EQUIS Justicia para las Mujeres and international NGOs such as AWID (Association for Women's Rights in Development) and IWRAW-AP (International Women's Rights Action Watch–Asia Pacific) helped us to target our efforts more effectively and opened doors for our advocacy.

Our initial outreach, only a few months following the 2016 UNGASS, targeted the [Committee on the Prevention of Discrimination against Women \(CEDAW\)](#), with an [event](#) co-organized with Colombia, Costa Rica and Uruguay. Once again, support from Latin American governments was essential in opening the dialogue, as the issue of women, incarceration and drug policy had so far been entirely absent from the human rights debates in Geneva. Following the event, in early 2017 members of our working group met with the [Working Group on the Issue of Discrimination Against Women in Law and in Practice](#) of the [UN Office of the High Commissioner on Human Rights \(OHCHR\)](#).³⁴ A year later, we were invited to present on this topic at the strategy meeting of the OHCHR Working Group, then chaired by Costa Rica. One of our key recommendations at the time was to urge the OHCHR Working Group to produce a thematic report on women and incarceration, which would inevitably touch on the need to reform drug policies.

Positively, only a few months after our meeting, the OHCHR Working Group issued a call for submissions for an upcoming report to be entitled “Women Deprived of Liberty.” Our working group mobilized behind a [submission](#), participated in an expert seminar held at the UN in New York, and stayed in regular communication with the OHCHR Working Group. Again, these efforts yielded positive results. The [final report](#) prominently features our data, concerns and recommendations on gender-sensitive drug policies.³⁵ Ahead of the report launch, and [encouraged by](#) NGOs, the OHCHR Working Group Chair also made her first ever [statement](#) at the CND, highlighting how drug policies had undermined women’s rights, in particular due to their over-incarceration for drug-related reasons. This unprecedented level of engagement at the CND provided added visibility to the issue, and increased pressure on decision makers in attendance.

Another example of successful advocacy of this nature relates to the [Working Group on Arbitrary Detention \(WGAD\)](#). In 2020, the WGAD issued a call for contributions for its first ever report on drug policy. Leveraging this opportunity, IDPC coordinated and facilitated submissions by a range of NGOs, including a [joint contribution](#) from members of our working group that included the latest data on women, drug policy and incarceration in Latin America and Asia. IDPC also held rounds of consultations with civil society and the WGAD, during which we ensured that the issues faced by women were underscored. In the end, the [WGAD report](#) places strong emphasis on the issue and provides various recommendations to end the arbitrary detention of women.³⁶

Working group members also contributed to various reports by the OHCHR, in particular those published in [2018](#) and [2023](#) focusing specifically on drug policy. Each time, the reports provided solid evidence of the human rights impacts of drug policy on women, as well as recommendations to reduce their incarceration. This, along with regular engagement with special procedures,³⁷ resulted in the first [joint statement](#) of Special Procedures on drug policy and human rights at the occasion of World Drug Day in 2022. The statement, among other topics, underscores the impact of drug policies on women's high rates of incarceration. Again in 2023, special procedures issued a similar [statement](#), highlighting the “poverty and coercion” and the “systemic gender inequality in society” which characterizes women's incarceration for drug-related reasons.

Implementing Reforms at the National Level

These efforts in regional and international forums greatly increased the ability to engage in effective advocacy in individual countries. It is well beyond the scope of this briefing paper to review all of the gender-related reforms that have taken place since 2015. Even if it were possible to do so, determining causality is, of course, difficult—if not impossible. What can be asserted is that the efforts of members of the working group and officials from like-minded countries were successful in ensuring that a gender perspective was incorporated into drug policy debates. Moreover, the work done at the international level resulted in very important tools for advancing reforms, including the 2016 CND resolution on mainstreaming gender into drug policy and the IACHR report on women deprived of liberty, both described above. In short, these collective efforts created a propitious environment for carrying out reforms to reduce women’s incarceration and provided governments with a policy blueprint for doing so. Some of the most important reforms carried out in the region are laid out below.



Photo credit: Scopia

Costa Rica and Uruguay Lead the Way

By 2011, Costa Rican government officials, as noted above, were already discussing ways to reduce women’s incarceration. A 2012 study of women in prison conducted by the Public Defender’s Office of the Judiciary found that most were mothers in situations of vulnerability and that a principle cause of their incarceration was smuggling drugs into prison. According to Zhuyem Molina, who was a key actor in the Public Defender’s office working on this issue, “It was from that analysis that we defined the clauses or requirements to apply the norms to women who smuggled drugs into penitentiary centers. It is one of the few laws that was backed by technical support in its drafting.”³⁸ Hence, in 2013, a legal reform promoted by that office was approved by the legislature. Commonly known as “77 bis,” for the article modifying the country’s drug law, it reduced the penalty for this from 8 to 20 years to 3 to 8 years, for women meeting certain conditions related to poverty and caregiving. The 3-year minimum meant that alternatives to incarceration could be applied. As it was retroactive, some 150 women were released from prison, and women are now rarely incarcerated for that offense. A subsequent court ruling determined that the application of 77bis should also extend to transgender women.³⁹



Photo credit: Jessamine Bartley-Matthews

In 2014, the Public Defender’s Office of the Judiciary also launched an “Inter-institutional Network for comprehensive assistance to women involved in a criminal justice process” to facilitate collaboration among a range of government institutions to support women who have come into contact with the law. The network sought to address the social and economic situation of these women in order to reduce the negative effects of incarceration on the women and their families, by connecting them to a variety of services, including provision of financial support and scholarships, job training, and assistance in setting up small businesses, as well as childcare support. Its “one-stop shop” approach made it easier for women to access services from different agencies. Unfortunately, over time the network had less and less resources, and basically discontinued functioning after a leadership change in that institution at the end of 2018.

Another important reform undertaken in Costa Rica was Law 9361, passed in January of 2017, that reformed the court registry in Costa Rica allowing judges, in certain cases, to [expunge criminal records](#), potentially removing a significant obstacle to finding employment for those coming out of prison. The opportunity to erase criminal records is based on criteria that takes into account the length of the sentence, the offense committed and, when relevant, the “situation of vulnerability” of the person. The debate around the law showed how a gender-focus can also lead to broader reforms. First proposed as initiative to benefit women in prison for drug-related reasons, during the legislative debate it was broadened to include other low-level transgressions and all of those in prison, regardless of their gender.

According to Zhuyem Molina, who now serves as a judge and Lecturer in Criminal Sciences at UNED, “As with the 77 bis reform, the process to eliminate criminal records is now institutionalized, that is, it does not depend on political decisions, and it is working well.”⁴⁰ She adds, “An important lesson from Costa Rica is that the change in legal frameworks or laws has been key for judicial officials to be able to take into account the vulnerable situations that can lead women to become involved in illegal activities.”⁴¹

The government of Uruguay was also one of the first governments concerned about the growing incarceration of women. Moreover, its drug policy was among the most progressive in the region, based on the principles of human rights and public health, with a gender perspective as a cross-cutting element. In fact, in 2013 Uruguay was the first country in the world to legally regulate the adult use of cannabis. The launch and subsequent implementation of the working group’s regional Guide had the full support of the JND. In addition to the launch event described above, the JND organized workshops with public defenders, prosecutors and judges. An inter-institutional group was formed to draft a national version of the regional Guide in collaboration with the organization Pro-Derechos.

According to Gabriela Olivera, who led the JND’s gender unit at the time and is a member of the working group, “The impact of the Guide in Uruguay was profound! It’s amazing how the number of women incarcerated for drugs decreased, and the main cause was the implementation and adaptation of the Guide.”⁴² Statistics provided by the Observatorio Uruguayo de Drogas show a steady decline in the number of drug-related detentions between 2012 and 2018.⁴³ In the case of women, it asserts, “In the total number of people prosecuted each year, the number of women prosecuted for drugs fell from 30 percent in 2010 to 20 percent in 2021. That is, in 2010, out of every 100 people prosecuted for drug offenses, 30 were women, while in 2021, out of every 100 prosecuted, 20 were women.”⁴⁴

Unfortunately, in 2020 a “[Law of Urgent Consideration](#)” (Ley de Urgente Consideración) was adopted, which, among other setbacks, eliminated the possibility of alternatives to incarceration for drug cases. (The Law of Urgent Consideration was the main legislative initiative of President Lacalle Pou’s coalition, including legislative changes related to education, security, housing, economy, and administrative issues.) As a result, women’s incarceration increased dramatically between 2020 and 2021.⁴⁵ Nonetheless, the Uruguay experience shows that when there is the political will to implement reforms, it can have a significant impact in reducing prison populations.

Reducing Prison Populations Through Amnesties and Pardons

The use of amnesties, pardons, and sentence reductions in various countries in Latin America has significantly reduced the prison populations in those countries, alleviating prison overcrowding and related issues. One of the first significant experiences was a [national pardon in Ecuador in 2008](#). Faced with a prison overcrowding crisis in the country, Ecuador’s Constituent Assembly passed a law granting a national pardon to individuals convicted of drug trafficking, transportation, acquisition, or possession.⁴⁶ The pardon benefited more than 2,300 people convicted of minor drug transgressions, 30 percent of whom were women, achieving a significant reduction in the incarceration rate in the country.⁴⁷ However, the positive impact was temporary, as there was no comprehensive drug law reform until 2014, followed by a counter-reform in 2015. While this initiative was implemented before the formation of the working group, the experience was taken into account in our advocacy work to reduce the number of incarcerated women.

In the case of Bolivia, WOLA and AIN, sometimes in collaboration with the United Nations Office on Drugs and Crime (UNODC), engaged in advocacy to shed light on the situation of incarcerated women in the context of a tremendous overcrowding crisis in men’s and women’s prisons in the country. In response to this extreme overcrowding, the government of President Evo Morales enacted six amnesties, sentence reduction, and pardon initiatives between 2012 and 2018, which were specifically designed to benefit women. These decrees placed particular emphasis on releasing individuals in prison on drug charges and prioritized pregnant women, heads of families, people with disabilities or illnesses, individuals who had served a significant portion of their sentences, and young people, among other criteria. These gender-focused amnesty, sentence reduction, and pardon initiatives contributed to an 84 percent decrease in the number of women incarcerated for drug-related cases between 2012 and 2017. As of September 2018, 6,452 people had benefited from the measures, including 1,555 women.⁴⁸



San Sebastián Prison (Cochabamba, Bolivia)
Photo credit: William Wroblewski

At the same time, the government was working on a new penal code with a gender focus that would have reduced sentences for drug-related reasons. While approved at the end of 2017, in the face of widespread protests, the Bolivian Legislative Assembly annulled the enactment of the new penal code in January 2018. Again, in December 2018, President Morales promulgated a decree granting amnesty and pardon to benefit 2,535 individuals in custody, including some in pretrial detention.⁴⁹ Bolivia is another example highlighting the need to accompany initiatives such as amnesties and pardons with more profound legislative reforms. According to Kathryn Ledebur, director of AIN, “efforts to promote these reforms came to a complete halt with the increase in incarceration as a result of the coup in 2019.”⁵⁰

Federal Amnesty Law in Mexico

Upon assuming the presidency of Mexico in 2018, the government of Andrés Manuel Lopez Obrador established that one of the paths for pacifying the country was the release of individuals unjustly incarcerated. With this in mind, a federal amnesty law was proposed to grant freedom to individuals belonging to groups in situations of vulnerability (women, youth, Indigenous people and those with disabilities, in situations of poverty and facing discrimination) who were being prosecuted or were sentenced for drug-related reasons (classified as “crimes against health” in Mexico), simple robbery, sedition, and abortion. In June 2019, EQUIS Justicia para las Mujeres and WOLA launched the [#LiberarlasEsJusticia](#) (Freeing Them is Justice) campaign, which gained significant presence on social media and in the media, a petition supporting the amnesty law with over one-thousand signatures, and, most importantly, support from some key senators. A few months later, in September, the government announced its support for the initiative.

With the momentum from this campaign and efforts by various other civil society organizations and activist collectives, the law was finally approved by both Mexican federal legislative chambers in April 2020. To implement it, the Ministry of the Interior (Secretaría de Gobernación) was instructed to create a commission to process amnesty requests and “coordinate actions to facilitate the social reintegration of beneficiaries.”⁵¹ However, there were multiple delays and challenges during the first year of implementation, exacerbated by the closure of communication channels with federal authorities and the devastating impact of the COVID-19 pandemic on prison facilities. Additionally, the process lacked transparency mechanisms and a means of involving the judicial system.⁵² The law has other gaps, such as not establishing a deadline to report the denial of amnesty to the petitioner, nor for tracking the progress of requests.⁵³ Furthermore, in the application of the law so far, the assessment of the applicant’s situation of vulnerability is based on prejudices or criteria that lack technical standards. Additionally, there continues to be a lack of clarity about the coordination mechanisms between authorities in the judicial system.



Video still from “The Stories of Women Incarcerated for Drug Offenses - Oaxaca Mexico.”
Credit: -Scopio

The ongoing advocacy efforts of organizations and collectives, including the establishment of the Amnesty Observatory and the creation of the “Libertad chatbot” to streamline the submission of requests,⁵⁴ has kept the issue on the public agenda and generated demands for action from authorities. This work succeeded in promoting reforms to the guidelines for implementing the law, clarifying criteria and procedures for handling requests, and pressuring the commission to meet more regularly to evaluate cases. As of July 2023, 2,327 amnesty requests had been submitted, with amnesties granted to 376 individuals. Among them, 127 are women, all processed for drug-related cases, including 10 Indigenous women, 7 foreigners, and 6 with permanent disabilities.⁵⁵ However, 11 women who were granted amnesty remain in prison because the federal court refused to grant amnesty for procedural or substantive reasons. At the state level, 13 of the country’s 32 districts have adopted their own amnesty laws; however, at the time of this writing, information is not available to assess their implementation.⁵⁶

The federal amnesty law’s impact has been less than hoped for by the organizations and collectives involved. Nevertheless, it is an innovative and permanent mechanism. Notably, the fact that the law expunges the criminal records of beneficiaries is also a significant step forward. The amnesty law is an act of justice and restitution of rights, by which the State has acknowledged the unjust punishment of historically marginalized sectors.⁵⁷ It is also the first legal recognition of the failure of the so-called war on drugs. Finally, the amnesty law has the potential to be a tool to mobilize and bring visibility to the demands of incarcerated individuals and their families. Hopefully, over time, the amnesty law will benefit many more people.

Focus on Incarcerated Women in Colombia

Colombia provides another interesting case study on the incorporation of a gender perspective into penitentiary and drug policies. [The Civil Society Follow-up Commission of Constitutional Court Judgment T-388](#) on the unconstitutional state of affairs⁵⁸ in the prison system is mandated to monitor compliance with the court's orders by relevant institutions. One significant achievement of this commission has been to focus attention on the deplorable situation of prisons in the country. The participation of Corporación Humanas and Claudia Cardona of Mujeres Libres Colombia has ensured special attention to the situation of incarcerated women and, at the same time, raised the profile of formerly incarcerated women in official debates related to the crisis in the penitentiary system.

Within the Ministry of Justice and Law, work on women incarcerated for drug transgressions has continued during presidencies with very different political perspectives and has gained even more importance under the current president, Gustavo Petro. In June 2022, the Colombian Congress passed [a law](#) guaranteeing timely and free supply of menstrual hygiene products to incarcerated women. This initiative resulted from an advocacy campaign conducted by Mujeres Libres Colombia, based on their experience of deprivation of liberty. More recently, the Ministry of Justice and Law has presented a bill for the humanization of the Penitentiary and Prison System, and in September 2023, it launched the [National Drug Policy 2023-2033](#), which includes a gender perspective as one of its action pillars.

Furthermore, an innovative new law promotes alternatives to incarceration for women in Colombia. After the law benefiting women heads of households was approved, then-President Iván Duque objected to its enactment. In a historic ruling presented in a [statement](#) on July 6, 2022, Colombia's Constitutional Court recognized the disproportionate impact of incarceration on women and declared that the president's objections lacked foundation. In March 2023, President Petro signed this pioneering law, which could serve as a model for reform, regionally and internationally. After working on the implementing regulations, the Ministry of Justice and Law launched its implementation on September 14, 2023.

To benefit from the new law, women must be heads of households, responsible for minor children or persons with permanent disabilities, and have come into contact with the law due to living in marginalized conditions. The new law allows women who meet these conditions to substitute a prison sentence with unpaid community service, which should not interfere with paid work or educational activities and should contribute to professional and/or educational development. In addition, the law can be applied retroactively.⁵⁹ This could result in a significant reduction in the number of incarcerated women in Colombia, while also decreasing the influx of women entering prison. Of particular importance, it can be applied to women accused of drug transgressions, representing around 50 percent of women currently in prison in Colombia.

The implementation of the law will undoubtedly be difficult and complicated. The community service is unpaid, and to benefit from it, women must have been convicted, which could create pressure to accept responsibility even if not guilty. Moreover, women who could benefit must demonstrate that they come from a situation of poverty, which will ultimately be determined by the judges. Achieving effective implementation by the judicial sector is an enormous challenge. However, if fully and effectively applied, the new law will greatly reduce overcrowding in women's prisons, allow families to stay together, and provide those who benefit from it with skills to improve their economic well-being. This can in turn contribute to reducing recidivism rates.

Moreover, as is the case with the federal amnesty law in Mexico, public policies or reintegration programs focused on women leaving prison or, in this case, for women who benefit from the alternative of participating in community service, are sorely lacking. Additionally, unlike Mexico, the law does not expunge criminal records, further limiting job opportunities. According to Claudia Cardona, "This lack of opportunities and the violations of rights upon release, in addition to the rupture of family ties, does not allow for a true reintegration of women into society."⁶⁰



Photo credit: Dejusticia

Finally, it is important to highlight the role that previously incarcerated women who are part of Mujeres Libres Colombia have played in advancing a gender-focused approach to incarceration-related issues. In just a few years, they have achieved an impressive profile and level of participation in discussions on this topic. From their experience of deprivation of liberty, they have been able to bring visibility to an issue that was once invisible and have put a human face on directly impacted women.

In addition to promoting the menstrual hygiene law referred to above, from the beginning, Mujeres Libres Colombia was part of the working group convened by the International Committee of the Red Cross (ICRC) to develop and promote the law on alternatives to incarceration for women heads of households. Since the law was adopted, the group has been attentive to the regulatory process, advising the Ministry of Justice and Law. At the time of this writing, Mujeres Libres Colombia is supporting the implementation of the law, visiting prisons across the country to conduct workshops so that women can fully understand how the law is being implemented, assess if they qualify, understand what documents they need to submit with their application, and receive information about community service opportunities. The organization has also created community service positions within its own organization. Claudia Cardona often says that while she was in prison, she was not familiar with the Bangkok Rules. Upon leaving prison, she was astonished that so many rights were violated. Now, she and Mujeres Libres Colombia are dedicated to promoting these rules and alternatives to incarceration in their country.

Disappointing Results: Alternatives to Incarceration and Social Reintegration

As noted at the beginning of this report, the Working Group on Women, Drug Policies, and Incarceration has made significant contributions to advancing the debate on alternatives to incarceration in Latin America. However, despite the adoption of the Bangkok Rules more than ten years ago, the use of alternatives to incarceration remains woefully inadequate and insufficient across the region. There are some important exceptions, such as the institutionalization of 77 bis in Costa Rica. And working group members played an important role in promoting the federal amnesty law in Mexico and the law on alternatives to incarceration in Colombia. However, some advances have been undermined by conflicting laws. In the case of Mexico, for example, both the 2014 National Code of Criminal Procedures (Código Nacional de Procedimientos Penales) and the 2016 National Law of Penal Execution (Ley Nacional de Ejecución Penal) allow for the use of alternatives to imprisonment for those accused of and sentenced for drug trafficking. This did lead to reductions in the number of women behind bars in Mexico between 2014 and 2019, but that trend was reversed following the adoption of a 2019 [constitutional reform](#) expanding the use of mandatory pretrial detention.



Video still from "The Stories of Women Incarcerated for Drug Offenses - Oaxaca Mexico."
Credit: -Scopio

The most common alternatives to incarceration implemented in Latin America today are house arrest and [electronic monitoring](#), often used in combination, and the use of the latter is growing rapidly. If given the choice, who would not prefer to be confined to their own home, if they have one, rather than remaining in squalid prison conditions? For those with more resources—including a comfortable home—these can indeed be a good alternative. But the experience of those impacted by its use differs greatly depending on the financial and other resources at their disposal. This includes, among other issues, having a home and a support network, something not always available to these women. Moreover, house arrest tends to be combined with other coercive monitoring measures that, when taken together, pose challenges for those detained, as well as for others in their household. [Research](#) conducted by working group has been critical in documenting these failings. Especially for low-income women, imposing strict house arrest without guaranteeing that women can be employed and able to carry out daily tasks, including caregiving responsibilities, reproduces many of the punitive characteristics of incarceration, ultimately constituting another harmful form of deprivation of liberty.

In the case of electronic monitoring, WOLA has [documented](#) the negative impact it can have on women's lives. Another common issue regarding the use of electronic surveillance is net widening; in other words, judges who may not typically impose pretrial detention on those awaiting trial are more likely to impose electronic monitoring, considering it a milder restriction. For instance, in the case of Brazil, official data indicates that between 2019 and 2022, the use of electronic monitoring increased by 448.3 percent for men and 403.8 percent for women.⁶¹

In addition, many countries do not provide statistics on the number of people under house arrest or with an electronic monitor. In the case of electronic monitoring, it is often managed by private companies, further complicating access to this data. This also makes it particularly difficult to evaluate the impact of such measures on the number of people in the criminal legal system. In other words, the number of people in prison may go down, while the number under the control of the criminal legal system goes up.

These measures can also go hand-in-hand with increasing prison populations. For example, Argentina has expanded the use of house arrest, particularly for pregnant women and mothers in charge of caring for a child under 5 years of age or a person with a disability; yet at the same time, women's incarceration in Argentina continues to grow. In 2015 at the federal level, there were 2,996 women in prison (of whom 33 were trans women). Of these, 37 percent were incarcerated for drugs.⁶² By 2022, the number of women in prison had increased to 4,391 women (of whom 135 were trans women), 38 percent of whom were behind bars for drugs.⁶³ In other words, over the last seven years, there was a 47 percent increase in the number of women in prison in Argentina and a 49 percent increase in the number of women in prison for drug-related reasons.

Finally, another "alternative" promoted by CICAD and the governments of the United States and Canada is [drug courts](#), which are intended to provide treatment to those in need, reduce the prison population, and limit the costs associated with incarceration. However, in practice, drug courts are a costly and cumbersome intervention that has not had an impact on reducing incarceration and may even be detrimental to the presumed beneficiaries. Drug treatment programs should be voluntary and conducted from a public health perspective.

In order to implement more effective and humane alternatives to incarceration, a fundamental shift is needed, from a punitive mindset to one based on restitution and providing women with the life skills and resources that can keep them out of the criminal legal system in the first place. The IACHR report on women deprived of liberty discussed above lists a variety of gender-sensitive options that are less harmful and potentially beneficial, including: non-onerous reporting requirements, suspended sentences, voluntary drug treatment, community programs and services, mediation, restitution or compensation to the victim, and restorative justice.⁶⁴ The new law in Colombia substituting prison time with community service also provides an alternative approach worth considering in other countries.

Finally, working group members agree that governments across the region have largely failed to put into place effective programs to support women coming out of prison. One promising exception is a program by the National Council of Justice supported by the United Nations Development Programme (UNDP) in Brazil called [Escritório Social](#), which provides access to a network of support services to those coming out of prison in areas such as professional formation, housing, documentation and health care. However, apart from a few examples like this, support for women coming out of prison is primarily provided by their peers. Organizations that are part of the Latin American network of formerly incarcerated women, such as [Mujeres Unidas x la Libertad](#) in Mexico, are the ones talking to women in prison about how to prepare for their release, helping to ensure that they have a place to go, and providing other forms of assistance—usually with very few resources.

Another interesting example is [La Rama de Libertadxs y Familiares](#), which works to support formerly incarcerated women and men in the province of Buenos Aires, Argentina, as part of the [Movement of Excluded Workers \(MTE\)](#), where thousands of women and men excluded from the traditional labor market come together to create employment opportunities. La Rama de Libertadxs y Familiares also focuses on supporting women under house arrest, most of whom have limited access to employment or basic resources, despite being the sole providers for their families. Nora Laura Calandra, one of the founders who was sentenced to 10 years in prison, [says](#): “Justice condemns women with a double penalty for being a woman... especially as a low-income woman, you’re invisible in the system until you commit a crime. Then, they finally see you.”

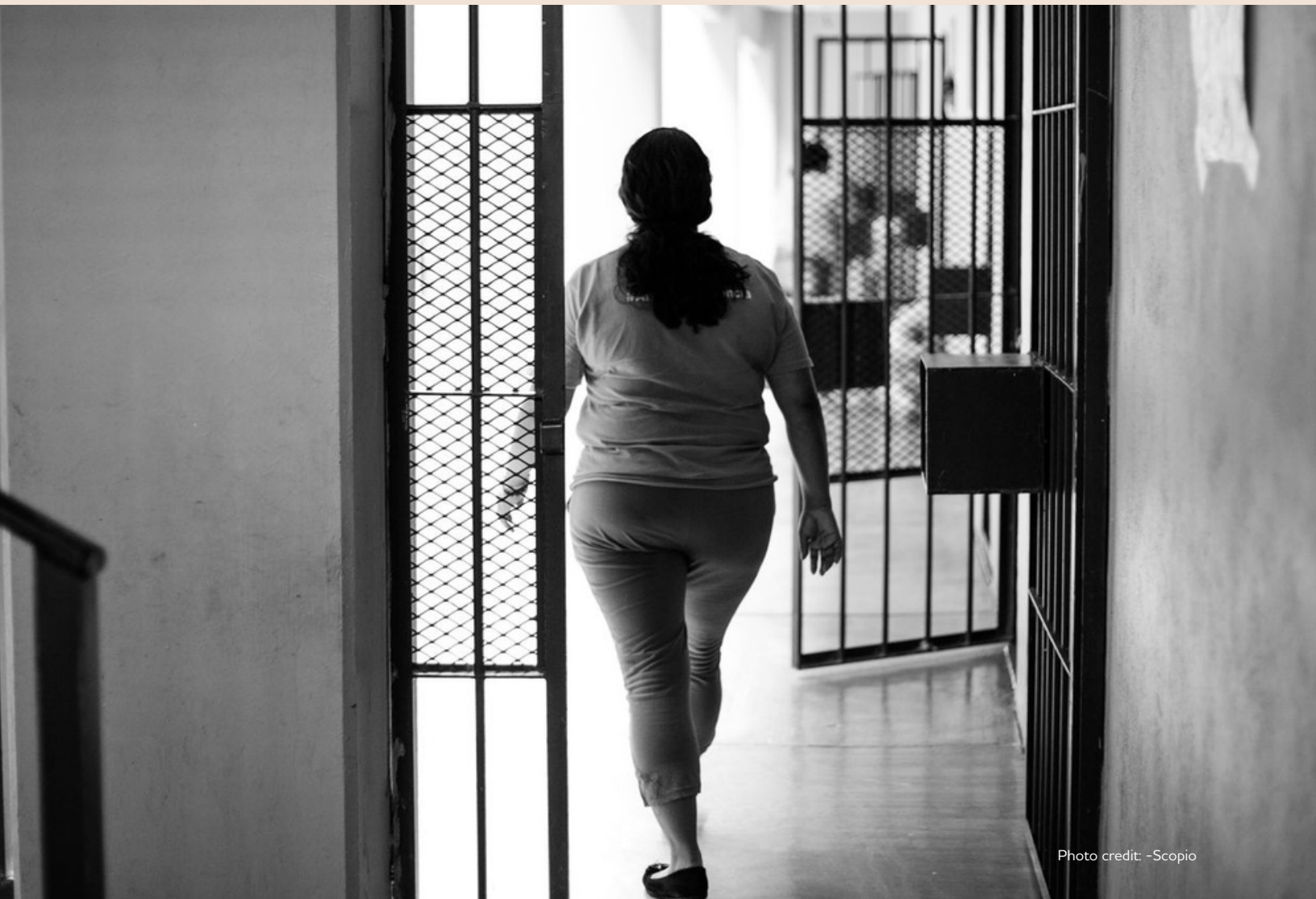


Photo credit: -Scopio

Looking Ahead: Key Challenges and New Opportunities

While much has been accomplished since the working group was formed in 2015, much more remains to be done to continue bringing visibility to the plight of women caught up in criminal legal systems across the region. Women in prison and those leaving prison continue to be stigmatized and discriminated against, especially if they have been involved in the drug trade. That stigma and discrimination extends to those in the justice sector, lawmakers, and other officials. This can lead to a greater tendency to incarcerate women instead of addressing the underlying issues that led them to enter the drug trade. While significant advances have been made in incorporating a gender perspective into international, regional and national-level drug policy debates and strategies, when it comes to implementing programs on the ground, punitive approaches continue to prevail.



Photo credit: -Scopio

Regional dynamics have also shifted over the last eight years. The economic impact of the COVID-19 pandemic means that government budgets are stretched thin, and prison infrastructure and policies remain at the bottom of the priority list. Drug policy has also dropped on the political agenda, with regional and international debates impeded by stalemates caused by strong ideological divisions and shrinking space for civil society participation. Perhaps of greatest concern is the security-oriented and militarized discourse of many governments and the way in which a punitive culture has taken root. “Mano dura,” or tough-on-crime, approaches are still the easiest to sell politically, though they fail to address the root causes of crime and citizen insecurity. The recent media coverage across the region of the propaganda disseminated by the Bukele government in El Salvador, commonly known as the “Bukele effect,” is particularly frightening and flies in the face of efforts such as that proposed by the Colombian government to “humanize” criminal legal systems. Confronting this punitive culture necessitates changing popular attitudes and perceptions; in other words, promoting cultural transformations that confront racism, sexism and the feminization of poverty, and support ending the use of incarceration to confront what are perceived as society’s ills.

This phenomenon can lead to situations where positive reforms are offset by counter-reforms, as described above in the cases of Uruguay, with the 2020 Law of Urgent Consideration, and in Mexico with the expansion of mandatory pretrial detention. This goes hand in hand with the failure to fully and effectively implement reforms that have been adopted. There is perhaps no better example of this than the federal amnesty law in Mexico. Often it is members of the justice system who thwart such efforts—in a context of justice systems that are already inefficient, slow and under-resourced. In summary, the implementation of meaningful reforms faces resistance and a lack of political will from some key actors in the justice system and society at large, hindering reform processes.

On a more practical level, a major impediment for developing and implementing sound public policies to reduce women’s incarceration is a growing and widespread lack of transparency and accessibility of data from prison systems, which is even more evident with regards to women’s prisons. This includes basic information on prison populations desegregated by gender and the charges against those behind bars, as well as lack of data collected from a gender perspective, including socioeconomic situation, caregiver status, number of children living with parents in prison, and the like. While this is not a new problem, since the onset of the COVID-19 pandemic, obtaining basic information about people in prison has been even more difficult.

Finally, obtaining sufficient funding for work related to women and incarceration in Latin America is an ongoing struggle. While OSF provided the funding needed for this work to get off the ground and thrive for many years, its priorities have shifted and other donors have not stepped up to the plate. This is particularly problematic for the organizations of formerly incarcerated women, which already operate in a precarious environment. The lack of funding for this work has also impacted the organizations which have largely led this work, WOLA and IDPC.



San Sebastián Prison (Cochabamba, Bolivia)
Photo credit: William Wroblewski

Thankfully, these challenges go hand-in-hand with new opportunities, at the international, regional, and national levels. Various opportunities have recently arisen in different spheres of the UN, where great strides have been made by civil society in incorporating gender and human rights concerns into drug policy debates. The first opportunity relates to the latest OHCHR report on drug policy, which provides a [powerful advocacy tool](#) for civil society to promote “transformative change in drug policy.” This report was produced as an official contribution of the High Commissioner for the next major UN event on drugs: the [2024 mid-term review](#) of the 2019 Ministerial Declaration on drugs. That declaration gives surprisingly little visibility to women deprived of liberty, and the mid-term review will therefore be an occasion to call attention to the issue. In addition, the Committee on Economic, Social and Cultural Rights is preparing a [General Comment](#) on drug policy. It is the first time that a UN human rights treaty body is dedicating an entire General Comment to the issue of drugs, and it will therefore be a special moment to advocate for strong recommendations on gender-sensitive drug policies and reforms, in particular as it relates to women’s right to health, housing, land tenure, education and employment, among others—issues that are particularly relevant for women deprived of their liberty in Latin America.

Moreover, the work to ensure more coherence within the UN system on women, drug policies, and incarceration is far from over. We have, for instance, faced major challenges in our engagement with the [UN Commission on the Status of Women \(CSW\)](#). Despite various statements made at the Commission (see [here](#) and [here](#)) and a successful [side event](#) held in 2020, discussions on women deprived of liberty at the CSW are nascent, at best.

At the regional level, the IACHR’s landmark report, “[Women Deprived of Liberty in the Americas](#),” provides both a blueprint for reducing women’s incarceration and a powerful advocacy tool for years to come. Working group members are supporting efforts to disseminate the report, bring it to the attention of government officials, and ensure that its recommendations are taken seriously. The reduction in the use of pretrial detention in some countries following the release of the two IACHR reports on that topic point to the positive impact that the IACHR can have in leveraging human rights improvements in the region. Continued working group engagement in both the IACHR and in CICAD is crucial for ensuring that efforts to reduce women’s incarceration remain a focus of concern within the OAS.

The challenges described above point to a range of additional opportunities for future collaboration between working group members and with other stakeholders. These include, but are not limited to, the following:

Support and empower directly impacted individuals and communities.

An exciting development in recent years is that the three populations most impacted by incarceration now have their own networks: the “Red Latinoamericana de Mujeres Libertarias Fundiendo Rejas,” the network of formerly incarcerated women; RIMUF, the network of women-led organizations of family members of people deprived of liberty; and the [Plataforma NNAPes](#), which is an alliance of Latin American and Caribbean organizations that works with and for children and youth with parents or other caregivers in prison. In October 2023, RIMUF and the Plataforma NNAPes met in person, along with members of Mujeres Libres Colombia, during coordinated retreats held in Bogotá, Colombia. Increased coordination and collaboration among these three networks will make for powerful advocacy on the importance of prioritizing the needs of families in designing public policies related to incarceration and prisons.

Another crucial area of support is identifying and addressing safety concerns for directly impacted women engaged in advocacy, providing spaces and support for women to address the trauma to which they have been subjected, and promoting self-care for all of those engaged in intensive advocacy work.

Change the narrative about women in prison.

Confronting stigma and discrimination and changing public opinion is crucial for building support for reducing women's incarceration. This includes both social media campaigns by working group members and other civil society actors, as well as continuing to influence the media. The latter involves influencing the way in which mainstream media portrays women in contact with the law and supporting alternative media outlets that are already sensitized to the issue, with directly impacted communities determining the messaging.

Continue research to inform the development of public policies.

One of the most important contributions of the working group has been region-wide research oriented towards elaborating sound public policies. The time is ripe for another deep dive into both quantitative and qualitative data on women in prison, both to pressure for the release of more official data and to analyze recent trends. Another area where research is especially needed is with regards to electronic monitoring, given its rapid spread across the region without any debate, along with other policy "alternatives" which have harmful consequences.

Conduct gender-sensitive training sessions for public defenders, judges, and others in the criminal legal system.

As noted, effective implementation of reforms can be undermined without the “buy in” from those responsible for doing so. Public defenders played an important role in disseminating and implementing the recommendations in the regional Guide and could be an important ally in this effort. Training to sensitize government officials and legislators is also fundamental for the successful implementation of meaningful reforms.

Build South-South alliances, in Latin America and beyond.

The working group’s unique composition of individuals and organizations coming from different areas of expertise—gender, human rights, and drug policy—illustrates the value of building alliances across sectors. Possible allies include feminist organizations that are part of AWID, groups working to advance the rights of the LGBTI+ community, and those working on issues related to the rights of caregivers. One interesting opportunity is the aforementioned International Network of Formerly Incarcerated Women, which is creating linkages between organizations of formerly incarcerated women in the global south, including Latin America, Africa and Asia. In addition, IDPC’s program in Asia is playing an important role in providing space for emerging organizations and networks working on issues related to women, incarceration and drug policy from an intersectional approach to mobilize and work together. This offers exciting opportunities for building solidarity, sharing experiences, and engaging in joint advocacy across regions.

Conclusion

It seems only fitting to conclude with the words of a woman forced to leave her children in precarious situations while she spent years in prison. One of the women in the photo essays described above is [Johana](#), who ended up in the family drug business out of economic necessity. In Johana's words:

The judge says, “You’re not fit for society, you’re not capable of living with your children...” But believe me, when you’re alone with your three children... you can’t say, “I’m sorry, I can’t feed you, I don’t have work”... You leave prison... and you want to do things right, and it turns out that the only way is to work in a restaurant. And you have three kids, and you have to pay rent and feed them... and they pay you \$100 a month. How do you do it? Tell me, as a mother, how do you do it? That’s where I say forgive me, but I’m going to go sell drugs one day, and that day I can go pay rent...Many of us are here for our children, how would it be (if we had) opportunities?

The Working Group on Women, Drug Policies, and Incarceration in Latin America is deeply committed to working to keep people like Johana out of prison in the first place, while also supporting those women who have been criminalized and put behind bars, while they are in prison and upon their release. We believe in transforming societies so that women like Johana have the opportunity to access the skills and resources needed to live lives with dignity.



Portrait of Johana
Photo credit: Adam Schaffer

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Organizations and Institutions Currently Participating in the Working Group on Women, Drug Policies, and Incarceration:

Andean Information Network (AIN), Bolivia

Asociación Costarricense para el Estudio e Intervención en Drogas. (ACEID), Costa Rica

Centro de Estudios y Acción por la Justicia (CEA Justicia Social), Mexico

Centro de Estudios Legales y Sociales (CELS), Argentina

Centro de estudios de derecho, justicia y sociedad – Dejusticia, Colombia

Centro de Investigación “Drogas y Derechos Humanos” (CIDDH), Peru

Corporación Humanas, Colombia

Corporación Mujeres Libres, Colombia

EQUIS Justicia para las Mujeres, Mexico

International Drug Policy Consortium (IDPC), United Kingdom

Procuración Penitenciaria de la Nación (PPN), Argentina

Washington Office on Latin America (WOLA), USA

Glossary

ACEID: Asociación Costarricense para el Estudio e Intervención en Drogas

AIN: Andean Information Network

AWID: Association for Women's Rights and Development

CEDAW: Committee on the Elimination of Discrimination against Women

CELS: Centro de Estudios Legales y Sociales

CICAD: Inter-American Drug Abuse Control Commission (by its acronym in Spanish)

CIM: Inter-American Commission of Women (by its acronym in Spanish)

CND: Commission on Narcotic Drugs of the United Nations

CSW: Commission on the Status of Women

ECLAC: Economic Commission for Latin America and the Caribbean

EU: European Union

ICRC: International Committee of the Red Cross

IDPC: International Drug Policy Consortium

INFIW: International Network of Formerly Incarcerated Women

IWRAW-AP: International Women's Rights Action Watch-Asia Pacific

JND: Junta Nacional de Drogas (Uruguay)

OHCHR: Office of the High Commissioner for Human Rights of the United Nations

OAS: Organization of American States

UN: United Nations

UNODC: United Nations Office on Drugs and Crime

OSF: Open Society Foundations

UNDP: United Nations Development Programme

PPN: Procuración Penitenciaria de la Nación (Argentina)

RIMUF: Red Internacional de Mujeres Familiares de Personas Privadas de la Libertad

TNI: Transnational Institute

UNGASS: United Nations General Assembly Special Session

WGAD: Working Group on Arbitrary Detention

WOLA: Washington Office on Latin America

1. See Deborah Bonello, “Narcas: The Secret Rise of Women in Latin America’s Cartels” (Beacon Press; Boston), 2023.
2. Caicedo, Luz Piedad, “Mujeres en prisión por delitos de drogas: Espejo de las fisuras del desarrollo” [Women in Prison for Drug Offenses: Mirror of Developmental Fissures]. (Corporación Humanas de Colombia - Centro Regional de Derechos Humanos y Justicia de Género), 2017, <https://www.humanas.org.co/mujeres-en-prision-por-delitos-de-drogas-espejo-de-las-fisuras-del-desarrollo-2/>.
3. The research team went on to become the Colectivo de Estudios Drogas y Derecho (CEDD) and produced a wealth of information and analysis, which can be found at <https://www.dejusticia.org/como-trabajamos/publicaciones/publicaciones-cedd>.
4. To consult the intervention, visit [CIM/OAS publications page](#) and scroll down to the “Other occasions” section.
5. For more information, see the IDPC briefing paper from August 2013, “[The drug policy reform agenda in the Americas \(Version 2\)](#).”
6. These are Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, and Uruguay. Peru was later incorporated into the group. Initially, three feminist organizations that are part of a coalition called Articulación Feminista became part of the group, Corporación Humanas (Chile), Corporación Humanas (Colombia), and EQUIS Justicia para las Mujeres in Mexico. However, Corporación Humanas (Chile) stopped participating after several years.
7. Virtual working group meeting, 3 August 2023.
8. Interview with Ángela Guerrero, 29 August 2023.
9. Interview with Corina Giacomello, 4 September 2023.
10. In coordination with the publication of the regional Guide, two additional resources were published: [Alternatives to Incarceration for Women Involved in the Drug Market and Generating and Collecting Data on Women Incarcerated for Drug Offenses](#).
11. Ana María Rueda, virtual working group meeting, 3 August 2023.
12. Virtual working group meeting, 3 August 2023.
13. Luz Piedad Caicedo, virtual working group meeting, 3 August 2023.
14. Interview with Corina Giacomello, 4 September 2023.
15. For example, see [this blogpost](#) on the work in Indonesia.
16. Womxn’s Voice became a legal entity in 2022 under the name Suar Perempuan Lingkar Napza Nusantara (SPINN).
17. Interview with Kristel Muciño, 22 September 2023.
18. Interview with Kristel Muciño, 22 September 2023.
19. Interview with Ana Pecova, 28 September 2023.
20. Interview with Gaby, 4 September 2023.
21. Interview with Ana Pecova, 18 September 2023.
22. Virtual working group meeting, 3 August 2023.

23. Interview by Geras Contreras with Guillermo Galat, 18 September 2023.
24. Interview by Luis Felipe Cruz with María Santos, 15 September 2023.
25. Virtual working group meeting, 3 August 2023.
26. CICAD, [Hemispheric Plan of Action on Drugs, 2021-2025](#), p. 3.
27. CICAD, [GENLEA Handbook](#), p. 9.
28. “Women Deprived of Liberty in the Americas,” p. 17.
29. The first report was published in 2013 and can be found [here](#).
30. These included ACEID, Dejusticia, EQUIS Justicia para las Mujeres, Corporación Humanas (Chile), Corporación Humanas (Colombia), IELSUR (not a member of the working group), Secretaria Nacional de Drogas/JND in Uruguay, the PPN in Argentina, and WOLA.
31. Participating organizations included WOLA, IDPC, Dejusticia, CELS, EQUIS Justicia para las Mujeres, as well as Elementa and the Plataforma NNAPeS.
32. Participating organizations included ACEID, CELS, Corpora en Libertad, Corporación Humanas (Colombia), Dejusticia, EQUIS Justicia para las Mujeres, Fundación Construir, Red Latinoamericana de Mujeres Libres, RESET, WOLA, and IDPC.
33. In particular, see sections 4(d), 4(g), 4(j), 4(k), 4(l), and 4(n), pp. 16–19. <https://www.unodc.org/documents/postungass2016//outcome/V1603304-S.pdf>.
34. The official name is now the Working Group on the Issue of Discrimination Against Women and Girls.
35. See, in particular paragraphs 32, 38, 39, 61, 62, 63, 69, 84f. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/139/30/PDF/G1913930.pdf?OpenElement>.
36. See paragraphs 56–59.
37. “Special procedures” refer to the list of mechanisms established by the UN Human Rights Council to report and advise on human rights from a thematic and country-specific perspective.
38. Written communication with Zhuyem Molina, 26 September 2023.
39. La Sala de Casación Penal, Resolution: 2021-00749.
40. Virtual working group meeting, 26 September 2023.
41. Email exchange, 17 October 2023.
42. Virtual working group meeting, 3 August 2023.
43. Observatorio Uruguayo de Drogas, “Mercado, Justicia y Convivencia II: Seguimiento de Indicadores, Serie histórica 2010-2021,” March 2023, pp. 7 and 30.
44. *Ibid*, p. 32.
45. *Ibid*, p. 33.

46. The criteria for individuals eligible for pardons were: being declared guilty; having no criminal record; being accused of a crime involving two kilograms or less of drugs; and serving at least 10 percent, or at least one year, of the prison sentence.
47. Paladines, J.V., “Cárcel y drogas en Ecuador: El castigo de los más débiles” [Prison and Drugs in Ecuador: The Punishment of the Weakest], CEDD, p. 15, <https://www.dejusticia.org/publication/carcel-y-drogas-en-ecuador-el-castigo-de-los-mas-debiles/>.
48. López, Jorge. “Síntesis de la Situación Actual de Personas Encarceladas bajo la Ley 1008” [Synthesis of the Current Situation of Individuals Imprisoned under Law 1008]. Régimen Penitenciario del Gobierno Boliviano. July 2016, p. 16 and “El indulto penitenciario benefició a 5,841 reos” [The Penitentiary Pardon Benefited 5,841 Inmates]. Página Siete. 22 February 2018
49. “Morales emite nueva amnistía e indulto para beneficiar al 15% de privados de libertad” [Morales Issues a New Amnesty and Pardon to Benefit 15% of Those Deprived of Liberty]. Página Siete. 3 April 2018.
50. Interview with Kathryn Ledebur, 14 September 2023.
51. Federal Amnesty Law, Mexico, 22 April 2020. Consulted at: https://www.dof.gob.mx/nota_detalle.php?codigo=5592105&fecha=22/04/2020.
52. Observatorio de Amnistías, “Ley de Amnistía: Un año de simulación” [Amnesty Law: A Year of Simulation], 2021. Consulted at: <https://equis.org.mx/ley-de-amnistia-un-ano-de-simulacion/>.
53. For more information, see: <https://equis.org.mx/amnistia-ya-publicacion/>.
54. EQUIS Justicia para las Mujeres, “Nace Libertad: La chatbot que ayuda a solicitar amnistías en México” [Freedom is Born: The Chatbot that Helps Request Amnesties in Mexico], 2 February 2021, <https://equis.org.mx/nace-libertad-la-chatbot-que-ayuda-a-solicitar-amnistias-en-mexico/> y CEA Justicia Social, “Se conforma Observatorio de Amnistías” [Observatory of Amnesties is Formed], 29 October 2020, https://assets.websitefiles.com/5ebc8ed4580afe20858a3b03/605923fc414de41303f0ab7_CEA-COMUNICADO-29OCT2020.pdf.
55. Secretariat of the Interior, “Beneficio de Amnistía” [Amnesty Benefit], 25 September 2023. Consulted at: https://justicia.segob.gob.mx/es/UASJ/Ley_de_Amnistia.
56. Secretariat of the Interior, “Beneficio de Amnistía” [Amnesty Benefit], 25 September 2023. Consulted at: https://justicia.segob.gob.mx/es/UASJ/Ley_de_Amnistia
57. EQUIS Justicia para las Mujeres, “Amnistía, ¿YA?” [Amnesty, NOW?] 2021, p. 4. Consulted at: <https://equis.org.mx/amnistia-ya-publicacion/>.

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58. According to the Constitutional Court of Colombia, a state of unconstitutional affairs is a legal status that arises from a series of factual assumptions in which there is a massive violation of fundamental rights, caused, among other things, by the prolonged omission of authorities in fulfilling their obligations to guarantee rights and requires the issuance of structural orders from the constitutional judge to the government. <https://www.corteconstitucional.gov.co/relatoria/2013/t-388-13.htm>.
59. For more information, see: [https://www.wola.org/analysis/colombia-law-alternatives-incarceration-women-heads-household/ara más información, consulte: https://www.wola.org/es/analisis/colombia-ley-alternativas-encarcelamiento-mujeres-cabeza-hogar/](https://www.wola.org/analysis/colombia-law-alternatives-incarceration-women-heads-household/ara_m%C3%A1s_informaci%C3%B3n_consulte_https://www.wola.org/es/analisis/colombia-ley-alternativas-encarcelamiento-mujeres-cabeza-hogar/).
60. Interview, 18 October 2023.
61. Data from the Ministry of Justice and Public Security of Brazil, shared by Valdirene Daufemback, 13 October 2023.
62. Informe 2015 Sistema Nacional de Estadísticas sobre Ejecución de la Pena 2015 (SNEEP), Dirección Nacional de Política Criminal en materia de Justicia y Legislación Penal, Subsecretaría de Política Criminal, Secretaría de Justicia, Ministerio de Justicia y Derechos Humanos. <https://www.argentina.gob.ar/justicia/politicacriminal/estadisticas/sneep/2015>.
63. Informe Sistema Nacional de Estadísticas sobre Ejecución de la Pena 2022 (SNEEP), Dirección Nacional de Política Criminal en materia de Justicia y Legislación Penal, Subsecretaría de Política Criminal, Secretaría de Justicia, Ministerio de Justicia y Derechos Humanos. <https://www.argentina.gob.ar/justicia/politicacriminal/estadisticas-e-informes/sneep-2022>.
64. Inter-American Commission on Human Rights, Women Deprived of Liberty in the Americas, pp. 161-162.



WOLA
Advocacy for Human Rights in the Americas

idpc
International Drug
Policy Consortium

Dejusticia