

May 13, 2015

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

In response to your inquiry of 16 April 2015, requesting input for the study mentioned in Resolution A/HRC/28/L.22, we are making available to you the research conducted by the Research Consortium on Drugs and the Law (*Colectivo de Estudios Drogas y Derecho*, CEDD), which is described below.

CEDD (<http://www.drogasyderecho.org>) is a collective of researchers—mainly lawyers—from nine Latin American countries: Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Mexico, Peru and Uruguay. The consortium was founded by two NGOs with extensive experience working on issues related to drug policies and human rights: the Washington Office on Latin America (WOLA) and the Transnational Institute (TNI).

The purpose of the consortium is to analyze the national and regional impacts of policy, legislation and legal practices related to drugs in the countries studied, which are subject to the United Nations' international oversight system. CEDD seeks to produce information about the characteristics and costs, whether social, economic or institutional, of drug policies in Latin America, as well as to understand the impact of these policies on human rights. Our goal is to encourage informed debate about the effectiveness of drug policies and recommend alternative approaches for achieving policies that are more just and effective, and that respect human rights.

The CEDD researchers meet periodically to address a drug-related issue and conduct national and regional studies of various aspects of the phenomenon. So far, three studies have been conducted, focusing on: drug laws and prisons; the disproportionate use of a criminal approach to drugs; and the legal situation of drug users. A fourth study, currently under way, focuses again on people imprisoned for drug crimes in the countries studied.

The first study, *Systems overload: drug laws and prisons in Latin America*, was presented in late 2012 (for the complete report, see <http://www.drogasyderecho.org/assets/so-completo.pdf>). The research shows that drug laws in the countries studied became harsher throughout the preceding decade, even in situations of relatively small drug markets. The study also shows how the severity of sentences, which generally do not distinguish among different degrees of harm caused by those involved in trafficking, has contributed to an increased prison population and overpopulation in those countries. This has exacerbated the already-inadequate conditions in prison systems across the region. The data show that people incarcerated for drug crimes tend to be small players in trafficking (involved in small-scale dealing or transporting), and sometimes users. Those incarcerated for drug offenses often do not have access to alternatives to incarceration and are more likely to be subject to pre-trial detention. In many cases, there are various—and sometimes

overlapping—situations of vulnerability. The study especially highlights the situation of women and foreigners, the largest percentage of whom are in prison for drug crimes; the problem is especially serious in the case of foreign female prisoners. The study, concluded with a series of interviews showing the human cost of present drug policies. These interviews are available at: <http://www.drogasyderecho.org/el-costo-humano-de-las-pol%C3%ADticas-de-drogas.html>.

The second study shows how penalties for drug crimes increased in the second half of the 20th century in the countries studied, sometimes exceeding penalties for other serious crimes, such as murder, rape or robbery. It also shows that penalties for drug crimes are not commensurate with the degree of harm caused by the punished behavior, and that drug crimes constitute a more punitive sub-system within the countries' criminal justice systems. This study carried out by the CEDD researchers was published in 2012 by the NGO *Dejusticia* (Colombia), titled, *Addicted to Punishment: the Disproportionality of Drug Laws in Latin America* (available here: [http://www.drogasyderecho.org/assets/proportionality-colombia-\(addicted-punishment\).pdf](http://www.drogasyderecho.org/assets/proportionality-colombia-(addicted-punishment).pdf)).

Other publications resulting from this study (by country and in comparative works), also show the disproportionality that exists in budget allocations for criminal punishment, as opposed to other state responses that would have a lower economic and social cost and better respect people's rights.

In 2014, the consortium completed the study, *In Search of Rights: Drug Users and State Responses in Latin America* (<http://drogasyderecho.org/assets/full-report-english.pdf>). It showed that although government rhetoric frames drug use as a health problem, in practice, users continue to be criminalized and drug use is addressed through criminal law. This is mainly because all of the behaviors necessary for consumption remain crimes. The criminalization of users has resulted in *discrimination and stigmatization*. This affects various rights of this population, such as self-determination and free development of personality, non-discrimination, health, information and due process. The study shows that social and health responses implemented by governments tend not to distinguish among different types of drug use and are based on models in which the only goal is abstinence, rather than management of risks and harm. Finally, the study shows that treatment is often carried out by private entities without due government oversight, and is usually mandatory or semi-mandatory, even in the case of non-problematic drug use.

The research currently under way seeks to update the situation of people incarcerated for drug crimes and to propose alternatives to the present approach based on incarceration. The data collected to-date show that in most countries studied, the number of people imprisoned for these crimes continues to increase, sometimes at a rate exceeding that of the expansion of the prison population as a whole. As noted, this aggravates conditions in prison systems, which are characterized by precariousness and violations of the fundamental rights of people who—in large part—are incarcerated without having been sentenced.

Sincerely,

The CEDD Research Team

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