



Executive Summary

REGIONAL STUDY

Childhood that matters

THE IMPACT OF DRUG POLICY ON CHILDREN OF INCARCERATED
PARENTS IN LATIN AMERICA AND THE CARIBBEAN

Original title: "Niñez que cuenta: el impacto de las políticas de drogas sobre niñas, niños
y adolescentes con madres y padres encarcelados en América Latina y el Caribe"

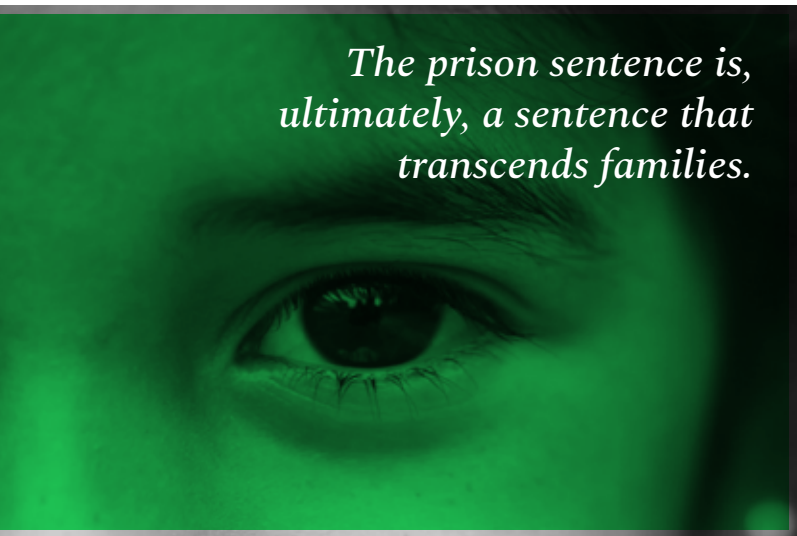


Executive Summary

“My mom did it because she couldn't read and she didn't have a job. Who would hire her like that? I promised her I would teach her to read so that she could get out of that.”

—Gabriela, 19 years old, caretaker and COIP, Panama.

This study places itself at a rarely-examined crossroads: drug policy, incarceration and the rights of children and youth. Its focus is the specific toll that having a parent in prison for a minor, nonviolent drug offense has on children and youth. The research is both qualitative and quantitative and comes from across Latin America and the Caribbean. The research for this study was conducted in eight countries: Mexico, Colombia, Chile, Costa Rica, the Dominican Republic, Brazil, Uruguay and Panama. Each study involved relevant experts on drug policy, the penal system and policies directed towards children. Some of the questions that guide this study are: How does drug policy affect children and youth when their guardians are in prison? What do children think of drug crimes and the authorities' response to them? What are these children's feelings, worries and experiences? In what way are international policies and agreements taken into account when designing, applying and monitoring public policies specifically oriented toward children and youth? In what way should public policies regarding children, drugs and incarceration inform and transform each other in order to ensure the most important factor, the child's ultimate wellbeing?



The prison sentence is, ultimately, a sentence that transcends families.

Through the voices of 70 girls and boys with incarcerated parents, as well as those of their caretakers, we offer answers to these questions. We also offer tools that may be useful for organizations working with children, attempting to influence drug policy in the region and creating or implementing public policies related to the rights of children, incarceration and drug legislation.

The predecessor of this report was the study *Invisible No More: Children of Incarcerated Parents in Latin America and the Caribbean. Case Study: Brazil, the Dominican Republic, Nicaragua and Uruguay*. As the title indicates, *Invisible No More* was an exploratory study on the impact

that a parent or relative's incarceration has on children and youth. It also reached a preliminary estimate of how many Children of Incarcerated Parents, or COIP, exist in Latin America and the Caribbean. It found the number at that moment to be between **1,500,651** and **1,868,214**.

This study updates the estimate and finds that between **1,710,980** and **2,307,048** children in the 25 countries in the region have at least one parent in prison. Of these children, between **359,305** and **484,480** have parents incarcerated specifically for drug crimes—a trend that, without profound and timely changes, will continue to increase.

In general terms, drug laws in the eight countries in this study share certain traits: the application of mandatory minimum sentences, the disproportionate use of criminal law and a preference for incarceration over other alternatives. There is also a tendency toward increased sentencing and, as a result, increased levels of incarceration.

This study summarizes and compares the information contained in the eight country reports. In each of these, we analyzed policies on children's rights and how these link to the Convention on the Rights of the Child. Despite any legislative progress, the problems identified in the region relate to the implementation of current provisions related to children. As well, we identified a lack of coordination between the agencies responsible for safeguarding children's rights. Another important problem is the inadequacy of quantitative data. There is a dearth of public information related to the numbers of children with incarcerated parents in all these countries.

“My family has been destroyed because of my dad's incarceration. My mother and the rest of us have had to work so hard, so much that we had to move from the town we lived in, because my mom couldn't support us... I wouldn't have gotten married as a teenager, but I didn't want my mom to be burdened by my brothers and me... I couldn't bear to see my mother with so much pressure and without any money.”

— Chanel, 17 years old, Dominican Republic.

The COIP testimonies are the heart of this study. These are organized into several key topics:

- A Violence.** COIP are surrounded by multiple forms of violence. In general terms, children and youth report that arrests and raids are profoundly violent experiences. They witness their spaces and possessions being destroyed and their mothers or fathers manhandled. Sometimes they themselves may be victims of beatings and threats. In addition to this violence from authorities, the children can experience violence in their neighborhoods stemming from rival criminal groups jostling for control of the drug market.
- B Impacts of incarceration on the daily lives of children and youth.** In regard to the roles and arrangements of caring for children, the detention of a guardian impacts the whole family. It affects the incarcerated person, his or her children and the people (usually women) who will now care for the children. The prison sentence is, ultimately, a sentence that transcends families. Both in cases where detention comes as a surprise, and in those where crimes and incarceration are routine experiences, COIP report feeling a certain hopelessness and resignation. They are faced with something out of their control but that they must helplessly suffer the impacts of.
- C Stigma versus support.** A child's feelings of loss, abandonment, sadness and rebellion can either be amplified by stigma or mitigated by support from his or her family, community and/or school.
- D Prison visits and security searches.** Children often have mixed feelings about prison visits. On the one hand, if the COIP has a good relationship with his or her imprisoned parent, the child will want to see and spend time with him or her. On the other hand, the time and costs that the visit entails, as well as the treatment of visitors—especially during examinations—discourages them from wanting to visit.
- E Perception of drug-related crimes.** Children and youth perceive drug crimes as a way to face poverty in a context of social exclusion. There is also criticism; selling drugs is seen as an activity that damages others and negatively affects the sons and daughters of the sellers. COIP also mention the normalization of this activity in certain places, and how it can increase a person's status within the neighborhood. They express ambivalent feelings, just as they do in most other categories of this analysis, that combine affection with anger for what their

parents have done.

- F **Perception of state authorities.** In regard to the authorities, the COIP mostly refer to the police and to raids. They perceive the police as a source of violence and corruption, where police officers detain only the minor players in the drug trade or even "plant" drugs to frame their victims, while drug trafficking leaders can act with impunity through corruption.

"I had to curtail everything. I had to leave school to start working, and in my personal life I left the girlfriend I had at the time. I had to make a lot of changes in my life."

How old were you at the time?

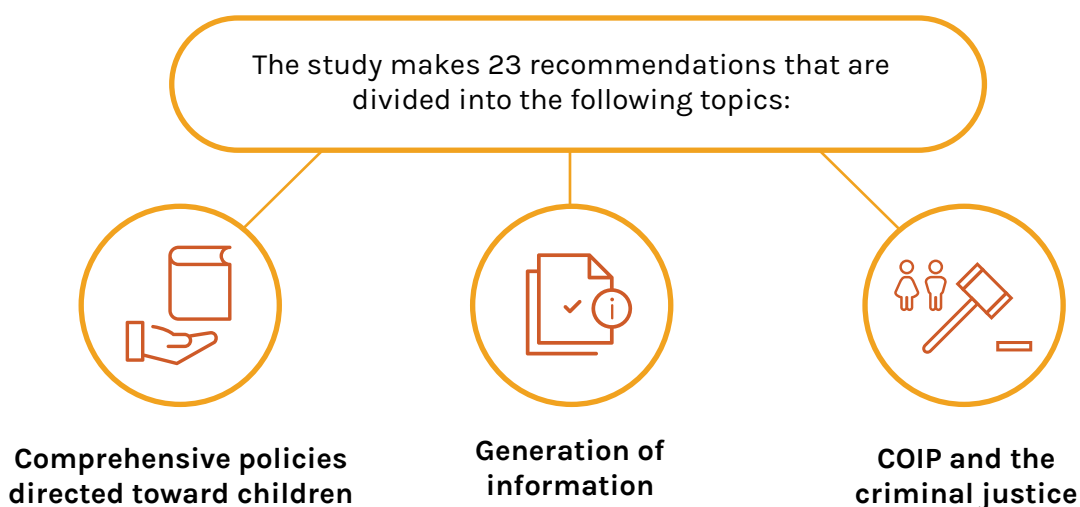
"I think I was 15 or 16."

— Pedro, 22 years old, caretaker and COIP, Mexico.

Key Findings and Recommendations

The study reaches the following findings:

- A Many COIP are exposed to multiple forms of violence, as well as to situations of social exclusion that are reinforced with the incarceration of a caretaker.
- B COIP are made invisible by drug policy, and their rights are not taken into account either by the judiciary system or by public policies.
- C The implementation of punitive drug policy directly impacts the increasing number of children with incarcerated parents in general. It particularly affects the children we refer to as "transnational COIP"—children who live in a different country than the one in which their caretaker is detained, or those who are born and/or grow up in the country where their parent (usually their mother) is detained instead of the country where their extended family lives.
- D The community and school should be places where COIP experience support and find opportunities for development. These should not be places where the stigma and discrimination associated with drug cases are reproduced.
- E COIP express their desire for change; however, without comprehensive public policies focused on the children, they may find themselves repeating their caretakers' stories and reliving their circumstances.
- F Gender perspective must urgently be incorporated into research on incarceration and its impacts.



“I left school when I was around 15 years old. I was almost 15, and I started to work at that age in jobs in cleaning, taking care of kids, anything I could do to help.”

— Ana, 20 years old, caretaker and COIP, Mexico.

All our recommendations seek to present a child-centric and responsible focus and can be found in their entirety in the regional study.

Some of the proposals include:

- A** **Involve children and youth**, including COIPs, **in all discussions on public policies, legislation and decisions that affect them either directly or indirectly**. Additionally, **ensure the participation** of children and youth in the design, implementation and evaluation of these policies. This must be achieved through processes of genuine listening, where the children's differences in gender, age, maturity and development are taken into account and where the voices of the children and youth are not manipulated, denigrated or used as mere rhetorical devices.
- B** **Guarantee that the sons and daughters of foreigners** who live in the country where their parent is incarcerated **do not lose their legal status**, and that they aren't discriminated against due to their caregiver's situation.
- C** In educational institutions, **include teams of psychologists**, social workers and intermediaries with state institutions, who are trained accordingly, and **can provide care for children and their families**.
- D** **Create listening spaces for children and youth** with incarcerated caretakers, based on trust and peer collaboration.
- E** **Implement participative social integration programs** focused on childhood and gender where **COIP are included**.
- F** In planning campaigns and programs, as well as in implementing advocacy initiatives, **ensure the active participation of affected communities** —in this case, COIP and their families— not as mere case studies or through testimonials, but as protagonists with full knowledge of the situation, participating in the creation of proposals.
- G** Consider the impacts of drug policy on COIP in **discussions and meetings** of international and regional drug-control bodies, thus ensuring the visibility of the children of incarcerated parents.
- H** **Develop and disseminate quantitative data** about children and youth with incarcerated caregivers, broken down by gender. Make this information public and accessible, setting out the facts of the case.
- I** Ensure that the **least damaging sentences or cautionary measures be applied, for the wellbeing of the children of the accused**, adopting a case-by-case methodology and favoring alternative measures to incarceration.
- J** **Ensure that the caretaker is held in the prison closest to where his or her children live**, according to Article 9 and Article 3 of the Convention on the Rights of the Child.

“I went from studying to having to work for my sisters, because if I didn't do it, they would have nothing to eat. ... My mother was the provider in our house and we really felt her absence, and then, I don't know, I was ... that's what my life was like then, studying, working, studying, working, studying, working...”

— Antonia, 17 years old, caretaker and COIP, Chile.



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Many COIP are exposed to multiple forms of violence, as well as to situations of social exclusion that are reinforced with the incarceration of a caretaker.

“Visiting is very hard. They pull your pants down, they turn the cameras on and the police see you. Once, on the first family visit I went to, they took my sweater off, my pants, my shoes, and they told me to kneel.”

— Elenis, 9 years old, Panama.

“Because they sometimes shout at me, from far away, that I'm a drug trafficker's daughter, because not only has my mom been a trafficker, but my whole family. And I feel rage when they say this, because it's nothing to do with me. I'm not the one who is a trafficker.”

— Luz, 14 years old, Chile.

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