

PRISONS IN LATIN AMERICA AND THE CARIBBEAN: WHAT TO DO, WHAT NOT TO DO

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Madam Tomoko Akane, Director, United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI);

Dear friends from so many countries of Asia and the Far East in attendance at this regional course:

I feel very much honoured and appreciative for this invitation that UNAFEI has extended to me to participate in the organisation of the workshop that shall be held on the occasion of the forthcoming Thirteenth United Nations Congress on Crime Prevention and Criminal Justice to be held in Doha, Qatar in 2015, as well as to deliver to you this lecture on the prison situation and outlook in the countries of Latin America and the Caribbean.

Many years after the establishment of the democracies that prevail in the countries of Latin America and the Caribbean and even being free as they became from military governments, there continue to be massacres, and massive violations of human rights at the very core of criminal justice systems, whose main function is, paradoxically, to do justice.

The situation of criminal justice and particularly that of prisons, with some exceptions, is serious at this time throughout the world, but it is notably worse in the middle and low-income countries such as all those of Latin America and most of the Caribbean. This study describes and proposes actions to correct the situation in the countries of these two regions. The officials of the criminal justice systems of Asia and the Far East may assess to what extent this could be valid also for their region.

I must express my recognition and that of ILANUD to UNAFEI and the Japan International Cooperation Agency (JICA), since, to a large extent, what I shall set forth in this presentation is the result of a valuable inter-institutional co-operation programme that we maintain with both institutions. Japan's co-operation with ILANUD and the countries of Latin America and the Caribbean has been very important and we are confident that we can continue strengthening it in the future.

It is important to analyse the prison situation as objectively and entirely as possible, and to foresee its evolution throughout the forthcoming years, in order to be realistic with respect to what must be done, what we can do, and also what we should not do. The analysis must not be limited to the prison subsystem. It must comprise the entirety of the criminal justice system, since the prison subsystem is almost at one end of it with little possibility to determine the nature and number of individuals that will enter into it.

In like manner, since the individuals who are overcrowding the prison systems are in them because they are being accused of committing crimes, it will be important to take into account the evolution of crime.

In order for prisons to function reasonably well they must meet two requirements anywhere in the world: to have room, and prison personnel. If there is not enough room there is overpopulation and overcrowding; and if there is not enough personnel there is anarchy and a vacuum for lack of authority which is filled by emerging leadership and by the surfacing of self-defence groups. International rules

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and the doctrine require a multitude of other conditions for prisons to be in good working order, but these two are indispensable and appropriate compliance with the other requirements depends on these two.

The following table shows that up to the year 2013 prison systems of the countries of Latin America were overpopulated, and that all of them, with only one single exception, suffered from critical overcrowding (a density of 120 per cent or more). For its part, the second table shows that most of the prison systems of the countries of the Caribbean were in a similar situation.

PRISON OVERCROWDING IN COUNTRIES OF LATIN AMERICA 2013			
COUNTRY	SYSTEM CAPACITY	CURRENT POPULATION	DENSITY PER 100 PLACES
El Salvador	8,090	27,019	334
Venezuela	16,539	52,933	320
Bolivia*	5,436	14,272	263
Peru	29,043	61,390	211
Nicaragua	4,399	9,113	207
Guatemala	6,492	12,303	190
Dominican Republic	12,207	21,688	178
Ecuador	12,170	21,122	174
Panama	8,033	13,720	171
Brazil	305,841	512,285	168
Colombia	75,726	114,872	152
Honduras	8,340	12,307	148
Chile	36,740	53,602	146
Costa Rica	9,803	13,057	133
Mexico	195,278	242,754	124
Uruguay	7,302	9,067	124
Paraguay	5,863	7,161	122
Argentina	58,211	58,810	101
Elías Carranza, ILANUD. Prepared with data provided by the authorities of each country. Data from Argentina, Brazil, Chile, Guatemala, Paraguay, the Dominican Republic, and Uruguay are for 2011. Data from Bolivia are for 2006.			

PRISON OVERCROWDING IN THE CARIBBEAN. 2014 OR CLOSEST YEAR			
COUNTRY	SYSTEM CAPACITY	EXISTING POPULATION	DENSITY PER 100 PLACES
Haiti	2,383	9,921	416
Antigua and Barbuda	150	361	247
Grenada	198	456	230
St. Kitts and Nevis	164	330	201
Martinique (France)	569	953	168
Anguilla (U.K.)	53	76	143
Guadeloupe (France)	634	887	140
Trinidad and Tobago	4,090	4,846	119
St. Lucia	500	587	117
Cayman Islands (U.K.)	179	185	108
St. Maarten (Netherlands)	135	180	104
Bahamas	1,348	1,433	98
Virgin Islands (U.K.)	120	119	98
Jamaica	4,402	4,201	95
Aruba (Netherlands)	310	240	89
Puerto Rico	15,034	12,244	88
Barbados	1,250	1,507	84
Dominica	300	251	84
St. Vincent and The Grenadines	488	460	84
Curaçao (Netherlands)	710	438	62
Source: Prepared on the basis of data from the International Centre for Prison Studies, King's College, London.			

In addition to the fact that prison overcrowding is in itself a form of cruel, inhuman and degrading imprisonment as expressed by the *United Nations Convention Against Torture*, it generates another type of violence and degradation inside prisons. To be sentenced to prison under the current conditions is, in most cases, to be literally sentenced to death. It is to be sentenced to prison with the accessory sentence of possible assassination.

The phenomenon of overcrowding occurs because of an accelerated growth in confinement rates, with the consequent increase in the number of inmates that overflow the lodging capacity. In the following table we see the evolution of prison rates for the countries of Latin America during the past twenty years (1992-2013). Rates rose in all the countries, exorbitantly in most cases, twofold, threefold, and in some cases nearing fourfold. The situation is most serious, and similar throughout the region.

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LATIN AMERICA: PRISON RATES PER 100,000 INHABITANTS																							
This includes federal and state systems and in some cases individuals being held in police precincts																							
COUNTRY	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	
Arg	63	64	68	74	97	96	99	106	118	126	141	157	163	164	152	149	152	163	161				
Bol						79	85	101	109	96					80	86	85			107		130	
Bra	74	80	81	107		119		131	133	132	133	169	182	193	211	219	226	238	247	253			
Col	92	96	97	98	120	129	128	139	157	170	157	178	199	207	179	174	188	158	169	193	227	232	
C R	104	105	109	121	133	160	162	169	168	183	187	190	196	196	191	186	189	191	211	238	264	313	
Chi	154	153	148	153	161	170	179	203	215	216	221	228	226	228	259	290	318	312	320	311			
Dom. Rep.	145	135	151	161	129	140	165	168				189	150	143	148	164	166	202	211	212			
Ecu	74	81	81	85	95	81	79	70	65	63	69	77	87	91	107	128	118	112	114	107		143	
El S	101	103	109	124	138	157	136	112	130	158	177	180	188	186	184	226	258	283	315	322	339	347	
Gua					62			75			101	101	96	87	84	83	88	71	78	84	91	98	
Hon	110	113	139	160	166	153	160	178			183			170	159	148	148	149	152	154		153	
Mex	101	104	97	101	108	116	127	142	152	163	170	177	185	196	200	200	202	208	203	203	213	214	
Nic	78	78	91	98	111	106	132	143	128	124	131	112	116	117	111	121	120	103	111	134		151	
Pan	176	215	221	229	269	282	292	294	293	320	341	361	360	359	356	342	275	298	347	378		404	
Par					70	75	74	78	67	74	85	92	107	109	105	99	100	96	96	109			
Per	77	80	83	88	96	100	105	108	108	104	104	108	116	123	136	149	153	155	160	181	208		
Uru	96	99	100	99	101	106	120	122	129	148	170	203	215	213	198	212	231	246	258	267			
Ven					101	112	106	97	85	104	104	103	98	76	96				149			176	
E. Carranza, ILANUD 2013. Prepared with official prison and police data from the countries and from population data of the Latin American and Caribbean Demographic Centre (CELADE)-Population Division of ECLAC, <i>Population Estimates and Projections</i> , 2008. The rates for Bolivia (2011), Peru (2011) and Venezuela (2010) were taken from ICPS, King's College.																							

In turn the table below shows the similar situation of high prison rates for the countries of the Caribbean, although the rising trend is not as defined as with the Latin American group since they have very small populations where the admission of inmates into, or their release from, the system causes sharp variations and changes in trends.

THE CARIBBEAN: PRISON RATES PER 100.000 INHABITANTS

Anguilla (UK)	2004 (315), 2007 (400), 2010 (387), 2011 (480)
Antigua & Barbuda	1995 (341), 1998 (278), 2005 (269), 2008 (262), 2010 (330)
Bahamas	1998 (478), 2002 (410), 2005 (460), 2008 (415), 2010 (382)
Barbados	1993 (238), 1998 (291), 2002 (317), 2005 (367), 2007 (408), 2010 (354)
Belize	1992 (310), 1995 (293), 1998 (448), 2001 (384), 2003 (420), 2006 (516), 2010 (446), 2011 (447), 2012 (452), 2013 (486)
Cayman Islands (UK)	1995 (546), 1998 (682), 2001 (539), 2004 (425), 2007 (409), 2010 (385)
Dominica	1992 (387), 1995 (392), 1998 (421), 2004 (418), 2007 (367), 2010 (431)
Grenada	1998 (352), 2002 (333), 2005 (265), 2008 (427), 2010 (423)
Jamaica	1992 (178), 1995 (171), 1998 (162), 2003 (176), 2006 (183), 2007 (174)
Puerto Rico (USA)	1992 (314), 1995 (310), 1998 (388), 2001 (377), 2004 (369), 2007 (330), 2008 (303)
St. Kitts & Nevis	1995 (295), 1998 (288), 2001 (441), 2004 (559), 2007 (452), 2010 (529), 2011 (603), 2012 (685), 2013 (670)
St. Lucia	1992 (210), 1995 (263), 1998 (216), 2001 (296), 2004 (294), 2008 (304), 2010 (323)
St. Vincent & Grenadines	1992 (294), 1995 (323), 1998 (390), 2001 (280), 2004 (337), 2007 (350), 2010 (379)
Trinidad-Tobago	1992 (269), 1995 (299), 1998 (353), 2001 (370), 2004 (302), 2007 (276), 2010 (276)
<u>Source:</u> Prepared on the basis of data from the International Centre for Prison Studies, King's College, London.	

The phenomenon is even more shocking when we find that it repeats itself not only in Latin America and the Caribbean, but in all regions of the world at the same time; in medium and low-income countries such as ours, as well as in high-income countries. It would be appropriate to point out that according to assessments by the World Bank and ECLAC there are no high-income countries in Latin America; all are middle-income countries, except for Nicaragua and Haiti, which are classified as low-income countries.

Let us look at prison growth in the countries of Europe. All countries included in the table below are high-income countries:

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INCREASE IN THE USE OF PRISON IN THE COUNTRIES OF WESTERN EUROPE

	Total of inmates and 1995 rates	Total of inmates and 2000 rates	Total of inmates and 2005 rates	Variation in prison population 1995-2005
AUSTRIA	6.180 (77)	6.896 (86)	8.883 (108)	+ 43,7%
BELGIUM	7.561 (75)	8.671 (85)	9.375 (90)	+ 24,0%
DENMARK	3.438 (66)	3.279 (61)	4.198 (77)	+ 22,1%
FINLAND	3.018 (59)	2.703 (52)	3.954 (75)	+ 31,0%
FRANCE	51.623 (89)	44.618 (77)	52.908 (88)	+ 2,5%
GERMANY	66.146 (81)	78.707 (96)	80.413 (97)	+ 21,6%
GREECE	5.887 (56)	8.038 (74)	8.760 (82)	+ 48,8%
HOLLAND	10.249 (66)	13.847 (87)	20.747 (127)	+ 102,4%
HUNGARY	12.703 (124)	15.110 (148)	16.543 (164)	+ 30,2%
IRELAND	2.054 (57)	2.887 (75)	3.417 (85)	+ 66,4%
ITALY	49.642 (87)	53.481 (94)	56.530 (97)	+ 13,9%
LUXEMBURG	469 (114)	394 (90)	653 (143)	+ 39,2%
MACEDONIA	1.132 (58)	1.394 (69)	2.256 (111)	+ 99,3%
MALTA	196 (53)	257 (65)	298 (74)	+ 52,0%
NORWAY	2.398 (55)	2.643 (59)	3.167 (68)	+ 32,1%
POLAND	62.719 (163)	56.765 (147)	80.368 (211)	+ 28,1%
PORTUGAL	12.343 (124)	13.106 (128)	12.929 (122)	+ 4,7%
SPAIN	40.157 (102)	45.044 (112)	61.246 (142)	+ 52,5%
SWEDEN	5.767 (65)	5.678 (64)	7.054 (78)	+ 22,3%
SWITZERLAND	5.655 (80)	6.390 (89)	6.111 (83)	+ 8,1%
U.K.. ENG. WALES	50.962 (99)	64.602 (124)	76.190 (143)	+ 49,5%
U.K. SCOTLAND	5.657 (111)	5.855 (116)	6.794 (134)	+ 20,1%

E. Carranza, ILANUD. Prepared on the basis of Roy Walmsley, *'International key issues in crime prevention and criminal justice'* HEUNI Publication Series No. 50, pages 161-167 (2006).

At first sight the phenomenon of the increase in the use of imprisonment in Europe is very similar to the same phenomenon in Latin America and the Caribbean, except that it is not as accelerated. But let us see another interesting table with the figures and percentages of foreign inmates in the same countries.

FOREIGNERS IMPRISONED IN THE COUNTRIES OF EUROPE, 2005*

COUNTRY	NUMBER	% OVER THE TOTAL OF INMATES
LUXEMBURG	495	71,4
CYPRUS	241	45,6
AUSTRIA	3.979	45,4
GREECE	3.990	41,6
BELGIUM	3.860	41,2
HOLLAND	5.818	32,9
ITALY	19.656	33,0
MALTA	91	30,5
SPAIN	18.436	30,1
GERMANY	22.095	28,0
SWEDEN	1.475	20,9
FRANCE	11.820	20,5
PORTUGAL	2.386	18,5
DENMARK	754	18,2
ENGLAND AND WALES	9.650	12,7
IRELAND	3.080	9,0
CZECH REPUBLIC	1.652	8,7
FINLAND	286	7,5
HUNGARY	631	3,8
SCOTLAND	71	1,0
POLAND	750	0,9
Prepared on the basis of "Foreigners in European Prisons" by Anton van Kalmthout, Femke Hofstee-van der Meulen and Frieder Dünkler (eds.), Chapter 1, Table 1, Wolf Legal Publishers, 2007.		
*«Inmates» includes the total number of inmates sentenced, those in preventive imprisonment, and those in administrative detention (rejected applicants for asylum, and irregular migrants awaiting deportation).		

The high number of foreigners in prison in the countries of Europe, the United States of America, and Canada is incredible. In the middle-income countries of Latin America and the Caribbean, Asia, Africa, and Eastern Europe prison rates rise at an accelerated pace; members of our excluded and low-class population groups who commit many crimes in the category that Luigi Ferrajoli has labelled «subsistence crime» are being disproportionately imprisoned.

In the high-income countries of Europe and North America imprisonment rates rise also at an accelerated pace; neglected and low-class individuals are being disproportionately imprisoned, but characteristically a large number of them are also Latin American and Caribbean, Asian, African and Eastern European who migrate in the most risky ways in search for work, many just to end up in prison; and others, many of them, thousands, to end up drowned in the oceans, asphyxiated in containers, or simply dead in the deserts along the border between the United States of America and

Mexico. A short time ago, in October 2013, the world was shocked by the case of 500 African migrants who drowned on their way to Italy when the barge on which they were being transported sank off the coast of Lampedusa.

The puzzle starts to come together as you gather information on the many regions of the world, and it is startling to see more clearly what it is that is actually occurring.

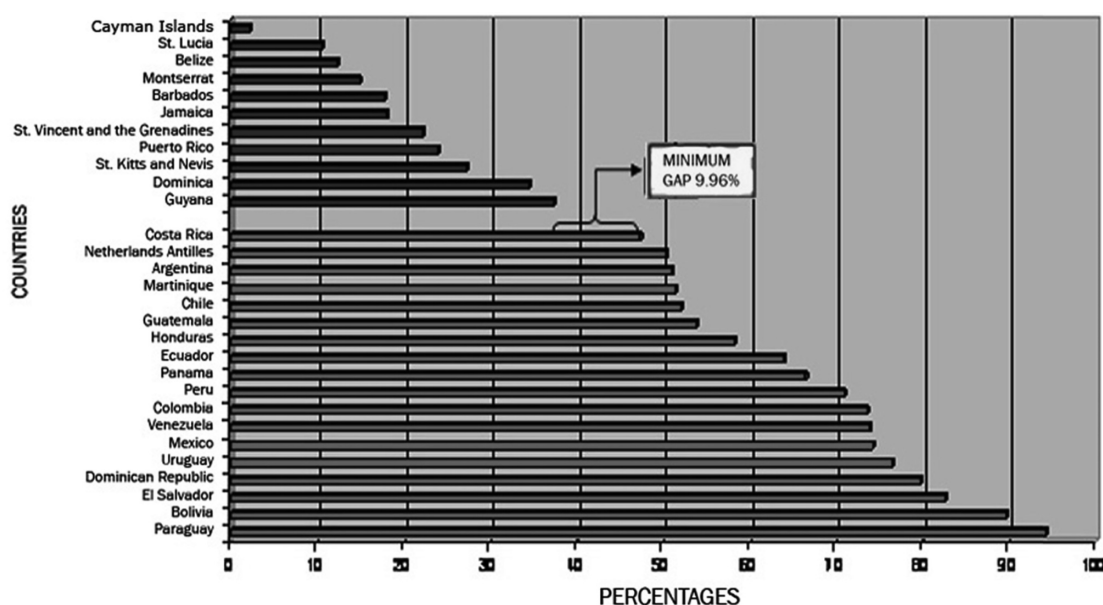
The crime situation, the increasing dissemination and multiplication of information with respect thereto by the media, and the consequent state of alarm on the part of society about the increasing use of criminal justice and imprisonment in all regions of the world simultaneously could hardly be a coincidence. This is a global phenomenon of globalisation which originates in variables common to the different countries, that act concurrently with other specific variables in each region or country.

Joseph Stiglitz, whom we mentioned before, named one of his books *Globalization and its Discontents*. In it he describes several problems or discontents that originate in the manner in which globalisation is “managed” by the countries and international organisations that have the power to decide or steer the world’s economy, which could and should be managed differently, with more equitableness and social justice in the exchange. And the title of Stiglitz’s latest book is *The 1% Has What the 99% Needs*, which is self-explanatory. In dealing with this subject I often think about the words of Jose Figueres, the founder of social democracy in Costa Rica, at a lecture at Stanford University referring to the high-income countries and to our trade with them. Figueres said: “No, please, don’t help us; just pay a fair price for our beans.”

One of the discontents to which Stiglitz refers—possibly the most important one—is the role of the financial economy and its effects which increases income distribution inequality among countries—between those of high income and the rest of the world—and inside the countries, in which the gap between the few who hoard much and the many who have very little becomes wider year by year.

One especially serious prison problem is that of unsentenced inmates, of persons who are in prison for long periods of time pending trial. We did our initial research on this subject 35 years ago, in 1980, at which time we found the interesting situation for our region that can be observed in the following graph:

GRAPH 1: COUNTRIES OF LATIN AMERICA AND THE CARIBBEAN, UNSENTENCED INMATES IN ONE AND ANOTHER GROUP OF COUNTRIES, YEAR 1981



In the small countries of the Caribbean under the Anglo Saxon model the percentages for unsentenced inmates were distributed in a range from some 2.18% in the Cayman Islands to some 37.44% as a maximum in Guyana.

For their part, and in contrast, the figures for our Latin American countries under a continental European or Romanic-Germanic criminal system, ranged from 47.40% in Costa Rica to 94.25% in Paraguay.

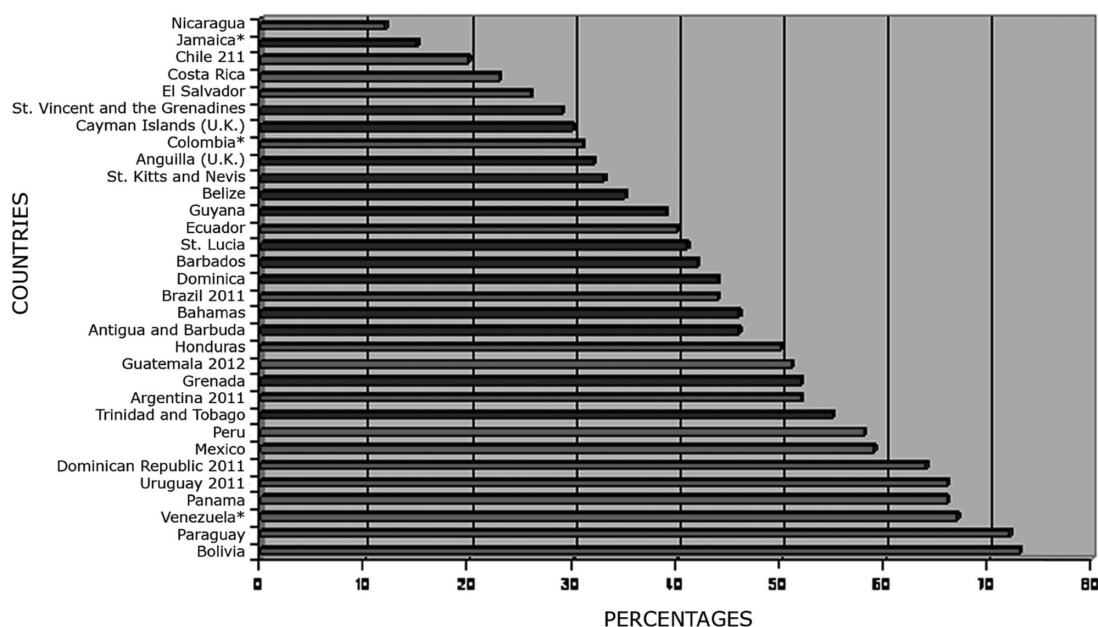
The gap between the country of the Caribbean under the Anglo Saxon criminal procedural system in the worst situation, with the highest number of unsentenced inmates, and the country of Latin America under the continental European system in the best situation, that is, with the lowest percentage of unsentenced inmates, was of ten percentage points in favour of the Caribbean country.

The influence that the “criminal procedural system” variable has on the determination of the number of unsentenced persons in one and the other group of countries was notorious.

Work began to be done in the nineties, and is ongoing, on the introduction of criminal procedural reforms in all countries of the region, which replaced the inquisitorial process with the accusatory process, thus establishing, among other things, the investigative stage conducted by the prosecutorial agency, the defence from the initial procedural action, orally instead of by written testimony, and reduction of secrecy in the investigation to a minimum. Such reforms had an effect on the number and percentages of unsentenced inmates.

As we can see, with the passing of time and with reformed procedural systems the countries of Latin America have been making progress reducing their percentages of unsentenced inmates, and now the difference in percentages between both groups of countries is not as defined as it was 30 or 35 years ago.

GRAPH 2: COUNTRIES OF LATIN AMERICA AND THE CARIBBEAN. UNSENTENCED INMATES IN ONE AND ANOTHER GROUP OF COUNTRIES. 2013 OR CLOSEST YEAR



However, in parallel to such progress made by the Latin American group, the figures for the countries of the Caribbean also indicate a certain reversal as compared to the excellent situation they reflected at the beginning of the eighties. Most possibly this should be due to the same phenomenon that is affecting the entire region of Latin America and the Caribbean and the world in general, which

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has to do with the way in which globalisation has been “managed”—as explained by Joseph Stiglitz—with great income-distribution inequitableness between the high-income countries and the rest of the world; also with great inequitableness inside the countries, which generates, in turn, inequitableness in the distribution of crime and criminalisation, the latter being excessively high in the medium and low-income countries—not only in those of Latin America—and multiplied by policies of “war” against crime and zero tolerance, when what our countries would need is zero tolerance to social exclusion instead.

The following table shows prison figures by sex. As we can see, the rates for women in the total prison-population figures range from approximately 3 percent in the Dominican Republic, to 12 percent in Bolivia; after a closer study of the figures we can see that for the most part they are related to drug trafficking as they participate as “mules” in the chain of this type of crime.

PRISON POPULATION BY SEX IN COUNTRIES OF LATIN AMERICA, 2013, OR CLOSEST YEAR					
COUNTRY	MALES		FEMALES		TOTAL
	number	%	number	%	
Argentina*	56,198	95	2,719	5	58,917
Bolivia	12,519	88	1,753	12	14,272
Brazil*	477,322	93	34,963	7	512,285
Colombia	106,293	93	8,579	7	114,872
Costa Rica	14,267	93	1,048	7	15,315
Chile*	48,777	91	4,825	9	53,602
Dominican Republic*	20,685	97	583	3	21,268
Ecuador	19,372	92	1,750	8	21,122
El Salvador	24,371	90	2,648	10	27,019
Guatemala	13,915	92	1,246	8	15,161
Honduras	11,851	96	456	4	12,307
Mexico	231,113	95	11,641	5	242,754
Nicaragua	8,667	95	446	5	9,113
Panama	13,720	93	1,030	7	14,750
Paraguay	8,441	93	632	7	9,073
Peru	57,971	94	3,419	6	61,390
Uruguay*	8,353	93	668	7	9,021
Venezuela	49,591	94	3,342	6	52,933
E. Carranza, ILANUD. Prepared with official data provided by the Government of each country.					

Because of the large percentage of men crowding the prisons, prison systems have traditionally been among the most evident examples of deviance and lack of gender equitableness in State systems and in our societies in general. This has to a certain extent been corrected gradually over the past few decades, but there is still much to be done. Specifically, on the prisons issue the United Nations General Assembly approved the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)* in March 2011, and also created, within the United Nations, an open working group to update the *Standard Minimum Rules for the Treatment of Prisoners*, approved in 1955; although they continue to be an important instrument in force, they are outdated and not gender-focused.

Now, why do imprisonment rates rise? Two classical answers have been given to this question:

- a) Because there is more crime. This answer considers prison rates as crime indicators;
- b) Because there are policies that lead to a greater use of criminal justice and imprisonment. This answer is the result of research that verifies that there is not necessarily a correlation between the rise in prison rates and crime rates, there being many cases that have been observed where the prison population rises in parallel to flat or even decreasing crime rates (Aebi 2003).

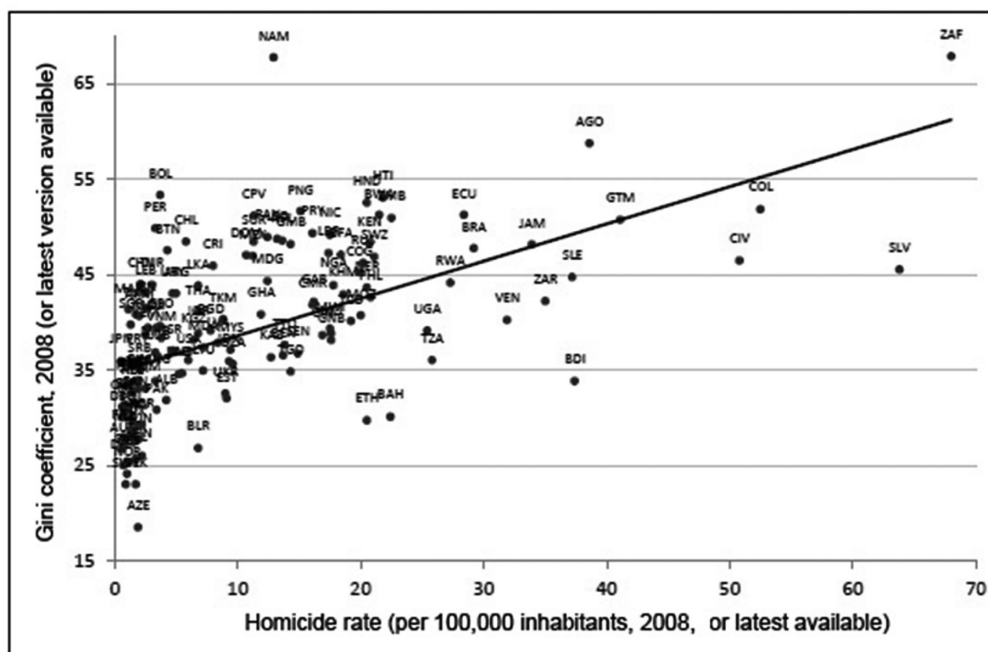
In the case of the countries of Latin America and the Caribbean ILANUD has found that both factors have an effect on the rise of imprisonment rates and that both provide feedback to each other. Crime rates are very high, and increasingly more severe criminal policies prevail.

The Latin America and Caribbean region holds two shameful world championships. In the realm of crime the region shows the highest homicide with intent rates in the world (UNODC 2011 and 2013), and with respect to per capita income it also shows the highest distribution inequality rates among all regions of the world (there is more poverty but less inequality in Africa) (UNDP 2011, ECLAC 2011).

Criminological research shows that there is a high direct correlation between income distribution inequality and the rates for homicide with intent and certain crimes against property (FAJNZILVER et al. 2002; Carranza E. et al., 2007).

Let us see the following table which shows the correlation between the Gini coefficient that measures income distribution inequality, and homicide rates for 138 countries of the world. The highest Gini scores (the cases of the greatest inequality), as well as the highest homicide rates correspond to the countries of Latin America and the Caribbean.

Graph 3: Income inequality and homicide in 138 countries, 2008



Sources: Calculations by the authors on the basis of Solt (2009) and the United Nations Office on Drugs and Crime (2008)

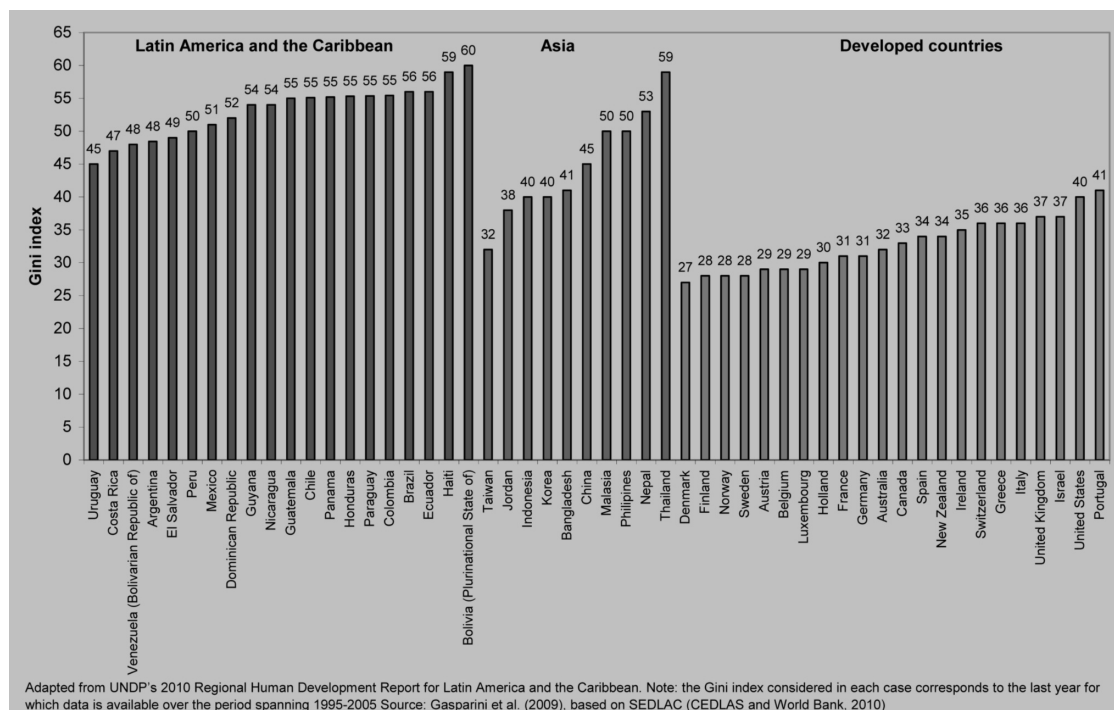
The variables or factors involved in the commission of crimes are frequently of multiple types: psychological, educational, family, social, gender, demographic (particularly those related to different age groups), occasional or circumstantial, cultural, economic, etcetera. This is why it is often said that crime is a multifaceted phenomenon.

But among so many factors that intervene, the effect of income distribution inequality is crucial, since it is related not only to crime rates, but to all or almost all other social variables, many of which contribute, in turn, to an increase in crime and prison overcrowding. UNESCO and UNICEF tell us that the higher income distribution inequality is, the worse education is; the World Health Organisation (WHO) and the Pan American Health Organization (PAHO) tell us that the higher income distribution inequality is, the worse health is; HABITAT tells us that the higher income distribution inequality is, the worse the housing and urban settlements situation is; the International Organisation for Migration (IOM) tells us that the higher income distribution inequality is, the higher the figures for migration towards the countries and regions that offer adequate work and living conditions; the International Labour Organisation (ILO) tells us that the higher income distribution inequality is, the worse the situation is in terms of labour relations, where we find more unemployment and informal work; and for its part the United Nations Office on Drugs and Crime (UNODC) and ILANUD report that the higher income distribution inequality is—both among as well as within the countries—the higher the rates for homicide and crimes against property are.

And the variables cited and others act not in an isolated but in a linked manner; they exchange a mutual feedback and produce a fatal crime and violence cocktail that is also a very fertile breeding ground for the development of other non-conventional forms of trans-national organised crime, trafficking in persons, migrants, drugs, and weapons, the proliferation of weapons, money laundering and other forms of economic crimes. To a greater or a lesser extent, all countries of Latin America and the Caribbean have had and are having a painful experience in this domain.

The need to reduce income distribution inequality was stressed by UNDP (2010) and ECLAC (2011); they devoted annual publications exclusively to this phenomenon. The following graph shows in a comparison between regions the incredible income distribution inequality that prevails in Latin America. As can be observed, not one country in Latin America had, up to the time when the data were released, an income distribution that would be at least equal to that of one of the countries with the most inequitable distribution among the high-income countries (Portugal, followed by the United States of America). The country with the lowest inequality in the Latin America group—Uruguay—appears on the graph four points behind Portugal.

Regions of the world. Gini index of per capita household income



It is appropriate to add that the latest reports by the Economic Commission for Latin America and the Caribbean (ECLAC) are positive and optimistic with respect to the countries of the region. They explain that as of the year 2002 there has been a notorious decrease in poverty mostly due to the noticeable reduction of poverty recorded in Brazil, and because by comparing recent results to those recorded for 2002 we can notice distributional improvements in most of the countries. It would appear, therefore, that the region is correcting its course and going the right way, although, regardless of the policies implemented, the region continues to hold the shameful world championship in terms of inequality and, consequently, also in greater violence as measured by homicide rates.

In sum, the countries of Latin America and the Caribbean have a hard task ahead but in general their economic and social policies are aimed in the right direction, and they should persevere and develop such policies further.

Taking into account the magnitude and trends of the rates relative to crime and persons in prison in the countries of the region, we cannot be excessively optimistic and bet on a reversal of the figures in the short or medium term ahead. Even if they were reversed—and there are countries that are making enormous efforts and obtaining interesting results—several years will still be required to reach reasonable levels. It is important to keep this in mind so as not to become discouraged and continue to respond to crime and to social alarm with more of the same: more preventive prisons, toughest punishment, higher numbers of persons in prison, participation of armed forces in the criminal justice systems, and multiplication of violence.

It is important to keep this in mind to project strategies that will require sustainability in time, and which should not be exclusively relevant to the prison situation but comprehensive, and that should include actions by other components of the criminal justice system, as well as social and economic policies specifically aimed at reducing income distribution inequality and at the attainment of the benefits that this would generate in terms of labour, education, housing, health, and in terms of a reduction of both, violence, and crime.

But this is, necessarily, a medium and long-term strategy. What do we do in the meantime with our overcrowded prisons? What shall we do with the prisoners that the other components of the criminal justice system, the police and the prosecution, continue to send to prisons where there is no more room? What to do with violence, death, and constant human rights violations committed in prisons for lack of room? These questions hurt us as human beings, as political beings, and as civil servants if we think that all those people are swarmed in such violent and unhealthy places under our responsibility.

Given the seriousness of the situation we would have to plan two strategies: a long-term one to reconstruct the prison system and re-establish it in accordance with the United Nations rights and obligations prison model; and another strategy to deal with the emergency on a daily basis. Both plans and their activities should start immediately, be sustainable in time, and provide for activities in the short, medium, and long terms.

The transformation will necessarily take time. It is for this reason that we must start today, and that all measures, whether short, medium, or long-term, should start to be implemented today. Otherwise we have to spend our time putting out fires that are bigger and bigger, and contributing to the deterioration of the system whose transformation becomes more and more difficult.

To a certain extent we will have to do emergency work since it is necessary to put out the fires, but we cannot permit this to distract us from the great transforming task which must have continuity. How, then, can we make compatible with each other the two tasks that we must perform with reduced human and material resources?

The experience accrued by ILANUD over the years has gradually convinced us of the need for a methodology that we shall try to explain.

Many countries of the region developed valuable prison experiences at different times that we would not be able to summarise here; but we will specify a number of characteristics of the Latin

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American reforms that were successful, comprehensive, and lasting in time. For this purpose we will cite the examples of Costa Rica and the Dominican Republic.

We feel it is useful to exemplify countries from our own region since, despite their individual uniqueness they also share many similar traits, middle incomes, the same language, a similar general culture, similar crime situations, and similar problems. If Costa Rica did it when it did, and the Dominican Republic is doing it now, other countries of the region could do it as well; and possibly also other middle and low-income countries in other regions of the world could do it. The latter is something that you could assess having more information and knowledge than I have about your countries.

1) The reforms started with political decisions at the highest governmental level: the office of the President of the Republic directly assisted by the Ministry of Justice in the case of Costa Rica, and the Prosecutorial Agency of the Republic in the case of the Dominican Republic. This was an essential requirement to bring about the reforms.

2) The key officials were very well chosen for their natural aptitude, preparation, knowledge of the subject matter, and full-time dedication to their functions. Thus were the director general of the system, the head of the prison training school and the directors of each prison selected. Save from some rare exceptions, in Latin America in general these officials do not arrive at such positions having had prison training, and ILANUD has found cases of great instability, with directors general and other officials being replaced on average every six months. This makes it impossible for the reform projects to have the necessary continuity.

3) Methodology is very important. In the case of the Dominican Republic two parallel systems were created: the “new” one that started out with one prison but that now has eighteen and is growing with the opening of new or refurbished units entrusted exclusively to the new officials that join the system after eight months of training; and the “old” system that still has 19 prisons but that gradually disappears as the new system evolves.

The method consists of ensuring that both systems function totally separated from each other. Neither the staff nor the facilities can be shared, and only teams of new officials selected, trained and prepared at the Prison Training School work in the new system prisons. If it is done differently both the situation and old practices shall prevail and we can obtain only more of the same.

3.1. It is very important to be strategic at the prison or prisons selected to start, which will enable us to have political success in order to be able to continue. (We suggest that this be done with not more than two prisons initially).

4) There was uninterrupted continuity in the reform programme. It is indispensable for the reform to go beyond terms in office of the administration, and that it have a duration equal to at least two administrative periods in order to consolidate itself, that is eight or ten years as a minimum¹.

5) The professional area of prison studies was created, together with social security and retirement benefits associated with it.² All leading officials of the change have maintained their stability from the start of the process. In most of the countries we don't have a truly professional prison career, and official appointments lack stability.

6) Prison functions are of a civilian, not of a military or police nature. The nature and objectives of the military function, as well as of the police function are not those of the prison function. Each of these three professions requires a specific selection, preparation and training of its officials. Excellent military officers or excellent police officers are not excellent prison officials.

¹In the Dominican Republic the process started in July 2003. A new administration took office in August 2004; it was reelected for the 2008-2012 term, and again for the 2012-2016 term.

²In Costa Rica technical and professional personnel are protected by the Civil Service system, and prison police by the General Police Act, and the General Police Regulations.

The Dominicans were categorical with respect to this requirement. It was established in the rules that police or military officers whether active or retired were not allowed to be members of the prison system.

7) A training school was created that selects and trains without exception all personnel admitted, and that continuously provides in-service training. All personnel are properly prepared here, and know and respect the institution for which they work. In addition to the initial training, all personnel, including cooks, drivers, etcetera, receive, as a minimum, a week of in-service training every year.

8) An important initial investment was made on the following: i) well-paid personnel at an adequate staff/inmate ratio; ii) facilities; neither a prison, nor a hospital, a school or any other institution can work adequately while the facilities are overcrowded; and iii) an annual budget for the appropriate performance of the system including salaries, food, health, education, etcetera.

9) Regular yearly investments continued to be made. Noncompliance with this requirement was one of the main reasons that caused the crisis of the Costa Rican system. However, since the system had been at a very good level its situation is still comparatively better than the regional average, and the Government intends to recover it.

Investing regularly is indispensable to maintain the level and push the reform forward. If the system crashes the cost of getting it back on its feet is very high, and there would be a loss of trust on the part of staff members and inmates who would then conclude that it was merely one more promise by politicians in the news, and that nobody was going to place her or his life on the line for it by opposing powerful and violent interests that would be affected by the reform;

9.1. As to investment in personnel, it is indispensable to establish an adequate inmate/staff ratio. The inmate/staff ratio of the new system of the Dominican Republic is 3.5. Although the number of staff members may seem excessive, it is not. Because of their nature prison systems require a large number of staff members if they are to operate adequately. Human beings need human interactions and even more so if they are confined and kept from socialising naturally in the community.

In the tables below we show the number of inmates per prison security staff members in the countries of Latin America and Western Europe. These staff members stay in the prisons day and night, and are those who are in greater and permanent contact with the inmates, for which reason selecting them adequately and training them comprehensively, not only in matters of security, is very important. It is for this reason that in some countries they are no longer regarded as “security or surveillance personnel;” for example in the Dominican Republic, where this task was entrusted to its new team of “PSTs” (prison surveillance and treatment officers—“VTPs” in Spanish—who are trained integrally).

For its part the administrative and technical staff (physicians, psychologists, lawyers, social workers, teachers, etc.) is smaller than the security staff and, in general, their presence in the prisons is not permanent.

As can be observed in the tables below, save for some exceptions, the inmate/staff ratios are generally very inconvenient in the countries of Latin America. In a previous study (Carranza E. et al., 2001:24 and fol.) we explained that in analysing the tables it is necessary to take into consideration that the optimum estimated ratio is of between one and not more than three inmates per security staff member on average. Although this may seem high, it is the numerical ratio that prevails in the countries of Western Europe and in some special prisons of Latin America such as, for example, the Almoloya de Juarez prison of the Federal Prison System of Mexico, and in those of the Federal Prison System of Argentina. This ratio is necessary in order to ensure that in practice there may be between four and not more than twelve inmates per staff member in effective compliance with her or his duties. In reality it is estimated that because of the necessary personnel shifts half of the security staff is at home and the other half at the prison facilities, and that 50% of this latter half is on active duty while the other 50% is getting ready for replacement, resting, sleeping or eating, whereby, if in a given country the ratio maintained by the existing staff is 2:1 in terms of actual service the ratio is 8:1.

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PRISON SYSTEMS OF WESTERN EUROPE, INMATE/STAFF RATIO UP TO SEPTEMBER 1, 2009			
COUNTRY	Total inmates	Total security staff	Number of inmates per security staff member
San Marino	2	6	0.3
Liechtenstein	7	15	0.5
Monaco	23	32	0.7
Northern Ireland	1,456	1,478	1.0
Ireland	3,919	2,960	1.3
Denmark	3,721	2,615	1.4
Italy	63,981	41,512	1.5
Norway	3,285	2,199	1.5
Sweden	7,147	4,351	1.6
Belgium	10,901	6,317	1.7
Finland	3,589	1,661	2.2
Luxemburg	679	292	2.3
Netherlands	16,284	6,777	2.4
Malta	494	199	2.5
United Kingdom and Wales	83,454	33,848	2.5
Germany	73,263	27,016	2.7
Portugal	11,099	4,148	2.7
France	66,307	23,088	2.9
Spain (Catalonia)	10,356	3,192	3.2
Spain (State)	67,986	15,652	4.3
Source: E. Carranza: Prepared on the basis of <i>Council of Europe/SPACE20</i> data.			

This indicates that the true inmate/staff ratio is obtained by multiplying by four the inmate/security staff figures shown on the last column of the table below. The ratio thus obtained for the countries of Latin America is very inadequate, with an excessively high number of inmates per staff member—in general living together in barns or large collective barracks—whereby in real life neither the prison authority, nor each inmate has immediate control over the actions and lives of inmates but depends, instead, on living, survival or self-defence groups that are necessarily formed inside prisons with a toll of violence and frequent deaths.

PRISON SYSTEMS OF LATIN AMERICA INMATE/STAFF RATIO 2013 OR CLOSEST YEAR			
COUNTRY	NUMBER OF INMATES	NUMBER OF STAFF MEMBERS	INMATES PER STAFF MEMBER
Panama	14,750	630	23.4
El Salvador	27,019	1,386	19.5
Peru	61,390	4,065	15.1
Ecuador	21,122	1,529	13.8
Colombia	114,872	11,206	10.3
Venezuela	19,257	1,900	10.1
Bolivia	14,272	1,525	9.4
Paraguay 2011*	7,161	801	8.9
Nicaragua	9,168	1,036	8.8
Honduras	12,307	1,573	7.8
Brazil 2011*	512,285	69,843	7.3
Dominican Republic	4,527	733	6.2
Uruguay 2011*	9,015	1,579	5.7
Costa Rica	15,315	2,813	5.4
Chile 2011*	53,602	11,347	4.7
Guatemala*	15,161	3,440	4.4
Argentina 2011*	59,227	32,412	1.8
E. Carranza ILANUD. Prepared with official data from each country.			

10) The prison reform did not focus exclusively on the problem of overcrowding, nor was it limited to the construction of one or several private maximum-security and high-cost megaprisons. Its objective was the system as a whole, and the establishment of dignity and quality for all inmates in all prisons, in observance of the principle that criminal justice must be the same for all.

11) Criminal justice is primarily a State function, and prisons are the places where prison sentences are carried out. The two countries we are using as examples established State prison systems and used public resources in a very prudent and intelligent manner.

In both cases private enterprises have been participating with the system in business transactions, such as construction of public works (prisons, other facilities, roads, etc.), and in purchase and sale activities involving furniture, security items, food, etc., but not replacing the State in the application of punishment such as the so-called private or franchised prisons do. This subject is very important.

Several arguments explain why prison systems must not be privatised or franchised; there are arguments from the ethical point of view, from the criminal policy point of view, and from the economic point of view. Because of time limitations I shall refer to them briefly.

The introduction of a private prison into a prison system that has many overcrowded prisons and serious material and personnel deficits as in the case of Latin America and the Caribbean, and of middle and low-income countries of other regions of the world, increases the deterioration of the other

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prisons of the country, in addition to the fact that it creates a situation of privilege for a small group at a very high financial cost. We will illustrate this with a model example:

One year ago countries "X" and "Y" built their newest prisons. Country "X" built a State prison; country "Y" built a private prison. Both countries have 10 prisons each with a capacity for 1,000 inmates per prison, and a total capacity of 10,000 inmates, but both have 15,000 persons in prison, which means that both operate at 150% of their capacity. Country "X" has 10 State prisons; country "Y" has 9 State prisons and one private prison. Let us see their situation on the following table:

EFFECT OF PRIVATE PRISONS ON PRISON OVERCROWDING IN THE COUNTRIES OF LATIN AMERICA AND THE CARIBBEAN	
COUNTRY «X» WITH A CAPACITY FOR 10,000 BUT WITH 15,000 INMATES	
10 PRISONS WITH 1,000 PLACES EACH	NUMBER OF INMATES FOR EACH PRISON
0 private prisons	0
10 State prisons	1,500 inmates in each prison
COUNTRY «Y» WITH A CAPACITY FOR 10,000 AND ALSO WITH 15,000 INMATES	
10 PRISONS WITH 1,000 PLACES EACH	NUMBER OF INMATES FOR EACH PRISON
1 private prison	1,000
9 State prisons	1,555 inmates in each State prison

As we can see, in country "X" the limited prison resources can be equitably distributed with better results. In opposition to this, in country "Y" overpopulation is progressively accumulated at the State prisons, while an unfair and probably unconstitutional distinction is established between those who are doing time in them and the few who are sent at a very high price to the private prison.

And in countries whose prison population grows at a high rate, such as in the case of those of Latin America and the Caribbean, overcrowding grows gradually in time causing those held in State prisons to be increasingly cramped together and making it impossible to alleviate the situation by distributing the excess of inmates among all the prisons of the country.

By definition, private enterprise does business for profit. And if the imposition of punishment becomes a business the criteria that govern the application of punishment (criminal law, criminal policy, ethics, even public opinion) shall be replaced by market results and the incentive of profit, and consequently selling and purchasing prison places shall raise prison rates even more. The countries which have been in the business of privatisation and franchising of prisons, and of more private prisons also show, comparatively, the highest inmate rates.

In contrast with this the countries of Northern Europe, Sweden, Norway, Denmark, Finland, and also Canada and Japan, which have the prison systems with the most reasonable rates and the highest record of observance of human rights as well, all have State prison systems. Worthy of mention is the fact that Japan introduced recently a private prison, and that Canada did the same in the State of Ontario, a facility that entered into operation in 2001; however, the bad results obtained with this latter experience caused the government to take charge of the prison in 2006 and not renew the contract. A similar case was reported in New Zealand.

Another important factor to be taken into consideration is cost. ILANUD analysed the costs for those countries of Latin America that introduced private prisons, and in all cases the comparison to State prison costs rendered very negative results. Using Costa Rica as an example, the cost ratio was of 9 United States dollars per day per capita in State prisons, versus 37 dollars for the private prison

that was proposed. The country made the right decision by resolving not to install it. ILANUD found similar figures for all the countries studied.

12) Both the Dominican Republic and Costa Rica established in their prisons excellent productive programmes, programmes of education at the three standard levels, and of labour training.

In the New Prison Management Model of the Dominican Republic there is zero leisure in prison. All inmates study, receive training, and work. Inmates who are illiterate at the time of admission know how to read and write three months later. The elimination of leisure is very effective also in terms of security.

13) NGOs, churches, the media, and the society in general participated substantially in the implementation of the reform. In the Dominican Republic a national sponsoring board was created by these entities, while a specific sponsoring board was created for each prison unit. The result was a broad consensus, transparency, and social support, which are so important in this domain.

Thus far we have seen essential elements that were required for the construction of the new comprehensive prison systems of Costa Rica and the Dominican Republic. We have seen a methodology of successive steps with two parallel systems, something advisable for countries that have many prison units. We have seen also that with limited human and material resources the construction of the new system will take much time. Now, then, in the meantime what can we do with our current voluminous and overcrowded systems that do not meet the two requirements of space and personnel? This question brings us to the “management of the emergency” issue.

We said that the situational analysis cannot be limited to the prison system since the “production” of inmates falls under the police, the prosecutorial agency, and the judges. Let us now add that a large part of the solution will also have to be up to them.

In this twentieth century, corporal punishment is no longer prescribed by the legislation of Latin America and the Caribbean. Nor is there in the codes—although it does exist in reality—the punishment of “confinement in conditions of overcrowding, violence, and unhealthiness.” The very serious situation of the region’s prisons is widely known and featured constantly in the media that report on deaths that occur in them. Public officials who have knowledge of such conditions and yet order the confinement of persons in those prisons should be liable in civil and in criminal court.

Generally prison directors have little authority to prevent the admission into prison of more persons in excess of the established capacity. But they and the ministers in charge of prisons can bring together the heads of all agencies of the criminal justice system to analyse the situation and determine which specific actions could be taken. There are positive experiences with this type of horizontal meeting for analysing problems and deciding on consensual solutions, instead of each organisation working on its own, and all blaming each other.

What else can the prison director’s departments do to cope with the emergencies inside the prisons while the structural solutions are found?

a) Reduce the number of deaths.

The first right we have is the right to life, and then come all other rights. The main objective with respect to overcrowded prisons with insufficient personnel and resources is to reduce the number of deaths and hopefully eliminate them completely. This requires reducing violence among inmates, and between inmates and the staff.

Our main instrument for this purpose is the classification and distribution of the inmates into groups. But in most cases we either do not have the technical personnel required to do the classification, or the space to lodge the classified persons. In an emergency condition we will have to forget about sophisticated classifications and do the job exclusively for the purpose of reducing violence and death, based on two main criteria: i) not putting enemies together, and ii) forming groups subject to the inmates’ capacity for interpersonal relations.

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b) Adequate distribution of the staff.

A good classification will also enable us to distribute our small staff with better results, by assigning more officers to the units or pavilions where conflictive inmates shall be lodged;

c) The right to health.

In an overcrowding situation health is in danger. Overcrowding is particularly serious if we speak about infectious diseases. This problem deserves special attention. In general the countries that best solve the problem of health in prisons are those that entrust it to the ministry of health. This has two advantages: i) that is the specialised ministry, and ii) this contributes to the transparency of the system.

d) The rights to study and work.

In an overcrowded and insufficient resource setting it is difficult to enjoy these rights. However, we must do everything possible to make them effective to the maximum extent possible: i) we must train the inmates by taking advantage of their time in prison in order to reduce to a minimum the probability of failure when they gain their freedom and return to the community, and ii) we must combat the deterioration and the violence that leisure produces in prison.

Lastly, and to conclude, let us talk about the dignity of human beings. Under any circumstances, even the worst ones, we have to ensure the prevalence of DIGNITY in the relationship with and the treatment of those in prison and the prison staff. An attitude of respect on the part of a staff member is anything but a sign of weakness or lack of authority; it strengthens her or him in the eyes of the inmate. The inmate realises immediately who is in charge and values her or his correct conduct, however strict in compliance with the regulations, but displayed with dignity. Therefore, we can always do something; even in the event that the prison system is not firmly supported by those in high office in the government, our attitude is very important to guarantee the existence of prison systems that are compliant with United Nations rules and where human dignity is respected.

Thank you very much for being here and I will now welcome your questions or comments that you may wish to make.

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