

“Drug Policy with a Gender Focus: Good Practices to Reduce Women’s Incarceration for Low-Level Crimes”

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Organized by: The Dominican Republic’s National Public Defense Office, the Center for Orientation and Integral Investigation (COIN), The Costa Rican Association for the Study and Intervention of Drugs (ACEID), the Inter-American Commission of Women from the Organization of American States (CMI-OAS), the International Drug Policy Consortium (IDPC), and the Washington Office on Latin America (WOLA).

Moderator: Ernesto Cortés (ACEID)

In the last few decades, Latin America has faced a concerning increase of penitentiaries. In general terms, this phenomenon has particularly affected social minorities, the increase of female imprisonment for drug crimes highlights the recent and stable acceleration. Due to evidence on the differentiated impact, it is urgent to rethink drug policies and in particular crime legislation, into a gender focus that makes an emphasis on the principles of equality and human rights. As guarantors for the right to defense, public defenders play an essential role in the improvement of the process. This is why this event, which was co-organized by the *Dominican Republic’s National Public Defense Office* and counted with around 35 participants (most of them public defenders), resulted to be particularly beneficial towards more fair models and practices.

Marie Nougier, from the International Drug Policy Consortium (IDPC), opened the event by introducing the Women, Drug Policies and Incarceration project, a joint effort from WOLA, IDPC, Dejusticia, and CIM-OEA. This initiative highlights the situation of thousands of imprisoned women in the region, focusing on how the excessive use of penal sanctions has intensified the vulnerable situations that have had a devastating effect on women, their families and their communities. With the objective of reducing these effects, we hope public authorities recognize the need to think of prison as the last option, to normalize the gender perspective within drug policies, and to include female prisoners in the design, implementation and evaluation of these policies. Based on this frame, we propose to develop strategies that eliminate penal sanctions related to drug use, increase the proportionality on sanctions through the consideration of extenuating circumstances, and find alternatives measures to imprisonment (in particular for pregnant women, and the ones who have dependents). The presentation ended by showing some of the resources developed in the project, including, photographic essays and a guide for public policies.

Luz Piedad Caicedo, from Corporación Humanas, continued by emphasizing the high potential public defenders have as inspirers of change, as well as referring to some of the challenges they face. In Colombia, like in most countries in the region, the penal system is oversaturated. Public defenders deal with around 500 cases per year, which limits their capacity to perform, and increases women’s likelihood to be influenced by vulnerable and adverse factors that ultimately push them into participating on illegal commerce. Caicedo was persistent on the traumatic and destabilizing effects of prison, and in the revictimization effect that results from imprisonment for most of these women.

Johanny Elizabeth Castillo Sabarí, from the Dominican Republic's National Public Defense Office, continued with an optimistic frame on the country's situation, stressing the achievements made by public authorities. The amount of women helped by the public defender's office on drug crimes varies significantly around the nation's territory. However, only 19.4 percent of the assisted women at the national level (a total of 2,221) had drug related crimes. The Defender added that the use of alternative methods to imprisonment is significantly benefitting accused women. The judicial system is taking into account decisive factors that help in the determination of sanctions, and the defending process is supported by social workers who demonstrate how negative impacts are held upon women and their families. According to the statistics, 71 percent of the women who enter the procedural system, do not end up in jail. Additionally, drugs only place 2nd or 3rd as a cause for imprisonment.

Zuyhem Molina Murillo, from San José's Public Defense Office in Costa Rica, he asked to avoid celebrations, since it is important to separate the statistics on gender terms. Murillo mentioned how women's cases represent less than 15 percent in Costa Rica, making it vital to unhide these cases since the impact of female sentences are radically different. In an energetic and motivational exchange with her Dominican counterparts, the Defender led them to take into account the responsibilities and vulnerable situations that women gather at the time of presenting their defense. From the most basic points, like the determination of the consultation hours, until the legal defense approach. Her presentation ended by mentioning the existing managing techniques that deal with vulnerable situations.

Maria Cristina Meneses Sotomayor, from Ecuador's Public Defense Office, explained the reforms made in Ecuador. In terms of advancements towards less repressive drug policies, what stood out the most was the decriminalization of drug use established by the Ecuadorian Constitution in 2008. Similarly, the inclusion of the Integral Organic Penal Code (COIP), which separates trafficking crimes into different types: 1) minimum, 2) medium, 3) high, and 4) great scale. It was also mentioned that as a "favorability principle" the new legislation also applies to previous sanctions, making a radical anti-punitive shift that resulted in the release of 2,300 people. Nonetheless, Meneses clarified how even though drug crimes put more men than women in jail, women tend to be more affected by low-level crimes. Lastly, it was discussed how a combination of factors, like the media attention towards "H" (heroin) consumption, led to the reduction of the thresholds previously mentioned.

The presentations led to an active session of questions that were mostly related to decriminalization. Based on this, international experiences were discussed, highlighting the Portuguese model; a debate about the relevance, design, application and determination of the different types of crimes; and lastly, a discussion on the police and judicial authorities' role of sole discretion at the time of determining crimes.