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IMPRISONMENT FOR DRUG OFFENSES. A READING BASED ON PROPORTIONALITY AND THE GENDER PERSPECTIVE IN COSTA RICA.

IMPRISONMENT FOR DRUG OFFENSES. A READING BASED ON PROPORTIONALITY AND THE GENDER PERSPECTIVE IN COSTA RICA

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- Profile of crack consumers: low schooling, 55% with only primary education and 96% not in school; 75% unemployment; average age at start of consumption: 15 years.
- In 2014, cocaine seizures at 93.74% and marijuana at 94.23%, in amounts of 0.5 g. In other words, they are users and/or small-scale traffickers, ranking low in the organization and easily replaceable.
- The areas where most seizures are made are also the poorest.
- **CONCLUSION:** Not all users commit crimes; but those who do commit crimes report past episodes of problem use, poverty, and social exclusion.





CRIMES AGAINST PROPERTY AND DRUG TRAFFICKING IMPACT OVERCROWDING...

 Crimes against property, followed by drug trafficking, account for most crimes committed by prison inmates.

Costa Rica. Tipo de delito cometido por la población privada de libertad del programa institucional.

Tipo de delito	%
CONTRA LA PROPIEDAD	39,01%
CONTRA LA LEY DE PSICOTROPICOS	19,68%
DELITOS SEXUALES	17,37%
CONTRA LA VIDA	13,16%
CONTRA LEY PENALIZACION DE LA VIOLENCIA CONTRA LAS MUJERES	2,07%
CONTRA LA LIBERTAD	1,28%
CONTRAVENCIONES	1,00%
CONTRA LA FE PUBLICA	0,55%
CONTRA LA AUTORIDAD PUBLICA	0,52%
CONTRA LA ADMINISTRACION PUBLICA	0,46%
CONTRA EL AMBITO DE LA INTIMIDAD	0,33%
CONTRA LA TRANQUILIDAD PUBLICA	0,21%
CONTRA LA SEGURIDAD COMUN	0,18%
CONTRA LOS DEBERES DE LA FUNCION PUBLICA	0,14%
CONTRA LA LEY DE ARMAS	0,12%
CONTRA LA FAMILIA	0,08%
CONTRA LA ADMINISTRACION DE JUSTICIA	0,05%
ADECUACIÓN DE CAUSA	0,04%
CONTRA EL HONOR	0,03%
CONTRA LA LEY DE MIGRACION	0,03%
CONTRA LA LEY DE CONSERVACION	0,01%
CONTRA LA LEY FORESTAL	0,01%
CONTRA LA BUENA FE DE LOS NEGOCIOS	0,01%
CONTRA LA LEY DEL ADULTO MAYOR	0,01%
CONTRA LA SEGURIDAD DE LA NACION	0,01%
UNIFICACIÓN DE CAUSA	3,34%
SIN DATOS	0,31%

Source: Report on Prison Population, December 2013. Prepared by: Ministry of Justice, Department of Investigation and Statistics, based on figures from the Prison Administration Information System (SIAP).



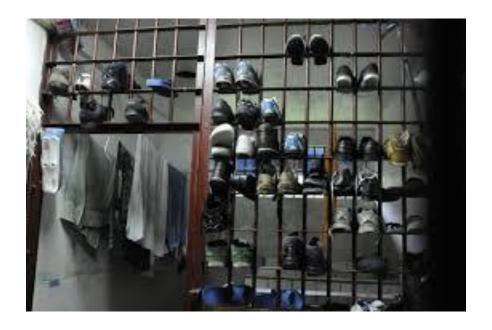
PRISON POPULATION IN COSTA RICA

64%

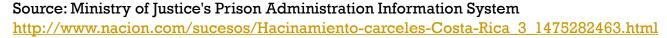
(male population convicted aged between 18 and 30)



Charged with crimes against property, and, in general, problem drug use is the catalyst.



With the program supported by CICAD/OAS and Costa Rica's ICD, we have taken steps forward for that population.





HIGH COSTS OF REGULAR CRIMINAL TRIALS AND INCARCERATION

12A DOMINGO 5 DE OCTUBRE DEL 2014 El País Sucesos Aldea Global El Mundo Opinión Obituario Puro Deport CESOS JUDICIALES

→ Código Penal castiga con cárcel este delito sin importar cuantía

Hurto de ¢5.000 en un 'súper' cuesta ¢7 millones al Estado



un proceso que incluye todas las einfuerza sobre las coas ni violencetapas (investigación, acusación, ciasabele las personas. Según ej pejulción, pielador y casación, compiedos, pielador y casación, compiedos de priedos preventiva,
qual duede del bien y tiene posibilque según el militario de Justiciacuestar al militorio.

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Substant 12 Listas de

Quisantes en Palí

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 Financial cost of a regular criminal trial, according to the Department of Planning of the Judiciary, is some 13,000 dollars.

- Cost of incarceration is \$48 a day.
- And incarceration increases levels of risk.



GREATER SOCIAL EXCLUSION LEADS TO MORE FEMALE IMPRISONMENTS FOR DRUGS OFFENSES...

- Costa Rica, between 2006 and 2011, reported an 189% increase.
- Colombia, between 2006 and 2011, an increase of 211%.
- Argentina, between 1989 and 2008, an increase of 271%.
- Bolivia, between 2003 and 2013, an increase of 114%.







PERCENTAGE OF PRISON POPULATION: WOMEN INCARCERATED FOR DRUG-RELATED OFFENSES:

- Costa Rica: 65% (Public Defense, 2012)
- Argentina: 68.2% (Anitua, G. and V. Picco, 2012)
- Colombia: 44% in 2009 (TNI and WOLA, 2011)
- Ecuador: 80% at El Inca Prison (2009)
- Mexico: 80% at federal prisons, compared to 57.6% among men (CIDE, 2012)
- Peru: 66.38% in 2006 (TNI and WOLA, 2011)



IMPACT ON CHILDREN...



- Between 70% and 75% of these people are parents, with an average of between 2 to 2.5 children.
- Today in the region there are some 2 million children and adolescents who have a mother and/or father in prison.
- In Costa Rica, estimates indicate that some 50,000 children are in that situation.

Source: Plataforma NNAPES, 2014



INTRODUCING DRUGS INTO DETENTION FACILITIES...



Defensa Pública

Estudio de la Defensa Pública sobre el perfil de la población femenina privada de libertad por introducir droga a los centros penales a abril 2012

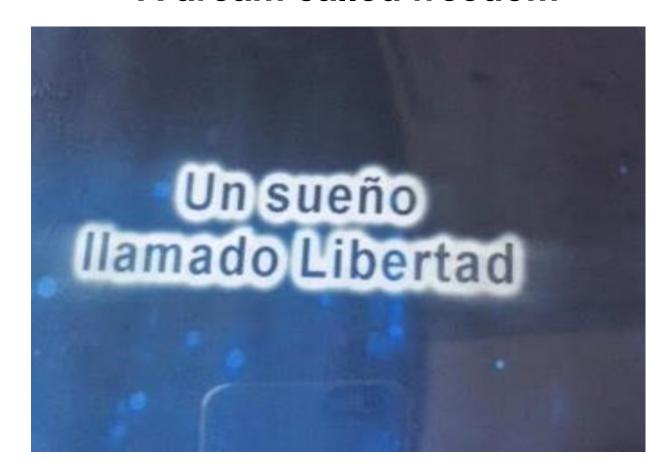


Dirección de la Defensa Pública Abril 2012

- Female breadwinners responsible for an average of between 3 and 4 children.
- Low levels of schooling.
- Unemployment.
- Victims of gender violence threats and coercion.
- In 98% of cases, they were sentenced in short trials to prison terms of between 5 and 8 years, rendering their circumstances invisible. Same punishment for international drug trafficking.



A dream called freedom





Law 9161

Amending Art. 77 of the Law on Narcotics and Psychotropics

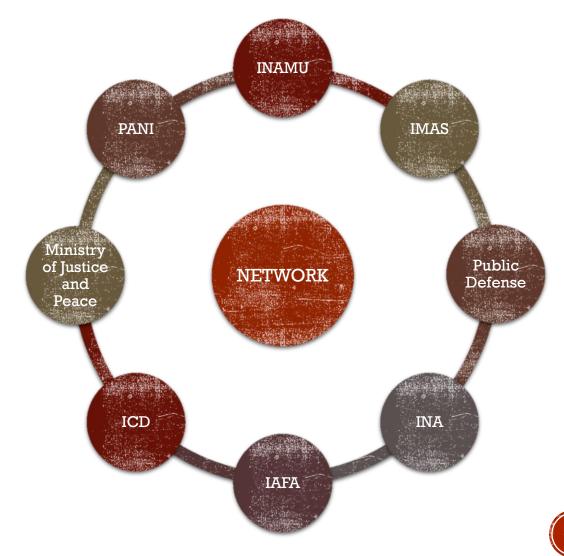
Women arrested for attempting to introduce drugs into a detention facility

- Introduced guidelines of proportionality and gender specificity (77-bis).
- Reduced 8-to-20 year sentences to 3 to 8 years.
- Allows alternative punishments to incarceration.
- Women must meet one or more of the following criteria:
 - Be in situation of poverty.
 - Be a breadwinner, in a vulnerable situation.
 - Be responsible for children, senior citizens, or people with any kind of disability that amounts to dependence.
 - o Be a senior citizen, in a vulnerable situation.



INTERINSTITUTIONAL COORDINATION FOR DEALING WITH CASES...





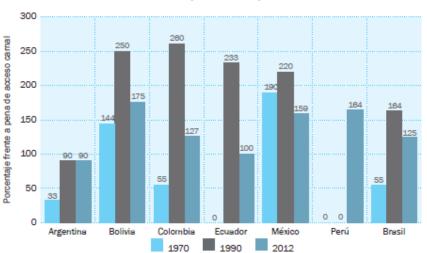
CHALILINGES...



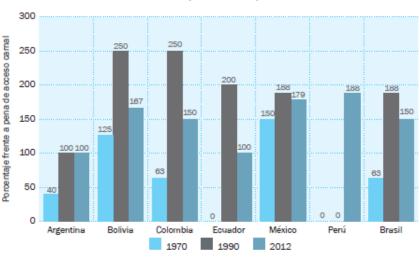
WE MUST OVERCOME (DIS)PROPORTIONALITY IN SENTENCING...

 In many of the region's countries, smuggling drugs carries a higher penalty than murder or rape

Porcentaje de pena promedio: tráfico vs. acceso carnal violento (1970-2012)



Porcentaje de pena máxima: tráfico vs. acceso carnal violento (1970-2012)





RAISE THE PROFILE OF INCARCERATED WOMEN AND YOUTH THROUGH STUDY

- "Women in prison for drug offenses share a similar sociodemographic profile: they are young, poor, single mothers, and breadwinners, with low levels of schooling, responsible for their children and other family members, and, frequently, they belong to vulnerable and excluded sectors."

Source: CEDD, 2015





Incorporate an approach based on human rights, proportionality, and gender-awareness into drug policies

- Establish proportionality in sentencing for:
 - People who are psychologically or socially vulnerable.
 - People with problem drug use patterns.
 - People at the lowest levels in the trafficking hierarchy.
- Promote reforms of criminal records following release from prison (records of convictions).
- Promote alternatives to mitigate harm, and treatment for people who commit crimes because of their drug use.
- Promote progressive and alternative measures to incarceration with the assistance of community and interinstitutional networks that attack the causes of poverty and social exclusion.
- We must continue talking!



Thank you for your time!

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