

INCARCERATION FOR DRUG OFFENSES IN LATIN AMERICA

Discourse – Reality – Options

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ASOCIACION
COSTARRICENSE
PARA EL ESTUDIO
E INTERVENCION
EN DROGAS



Discourse ≠ Reality

- In recent years, Latin America has been described as one of the regions of the world where globally designed drug policies are most frequently challenged.
- Questions have been posed regarding different matters, and some countries have made progress with limited reforms.
- However, those initiatives do not appear to have changed the strategy of using the penal approach as the main state response for dealing with drug-related problems.
- This has led to the incarceration of low-level, easily replaceable, vulnerable traffickers.



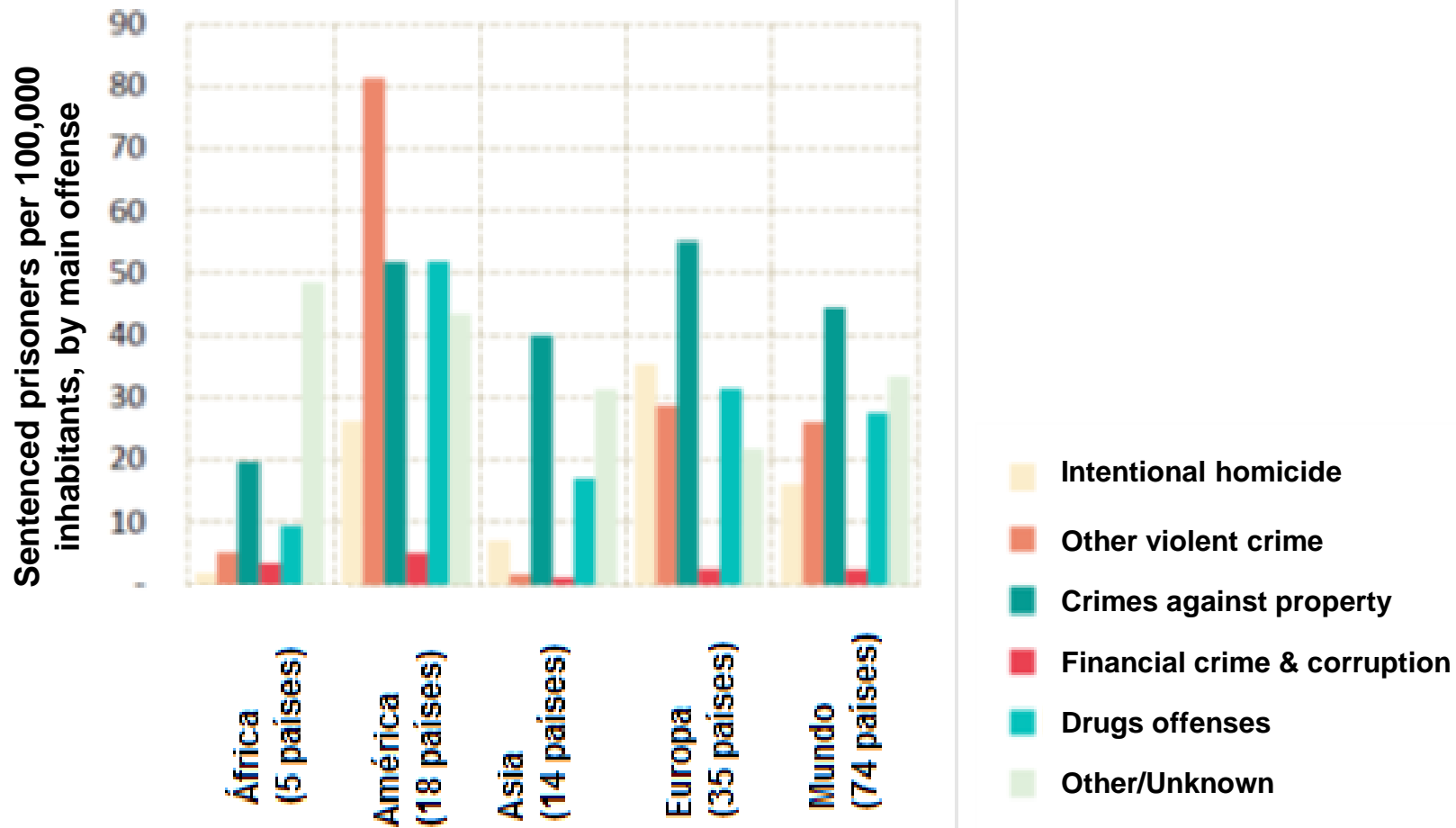
Organization of American States

“Another problem that affects many countries in the hemisphere is the increase in the prison population due to illicit drugs. Police action against drug-related offenders—users, small-time traffickers, and drug dependent offenders committing other crimes—has contributed to overloading judicial and corrections systems.”

(OAS 2013, p. 100)

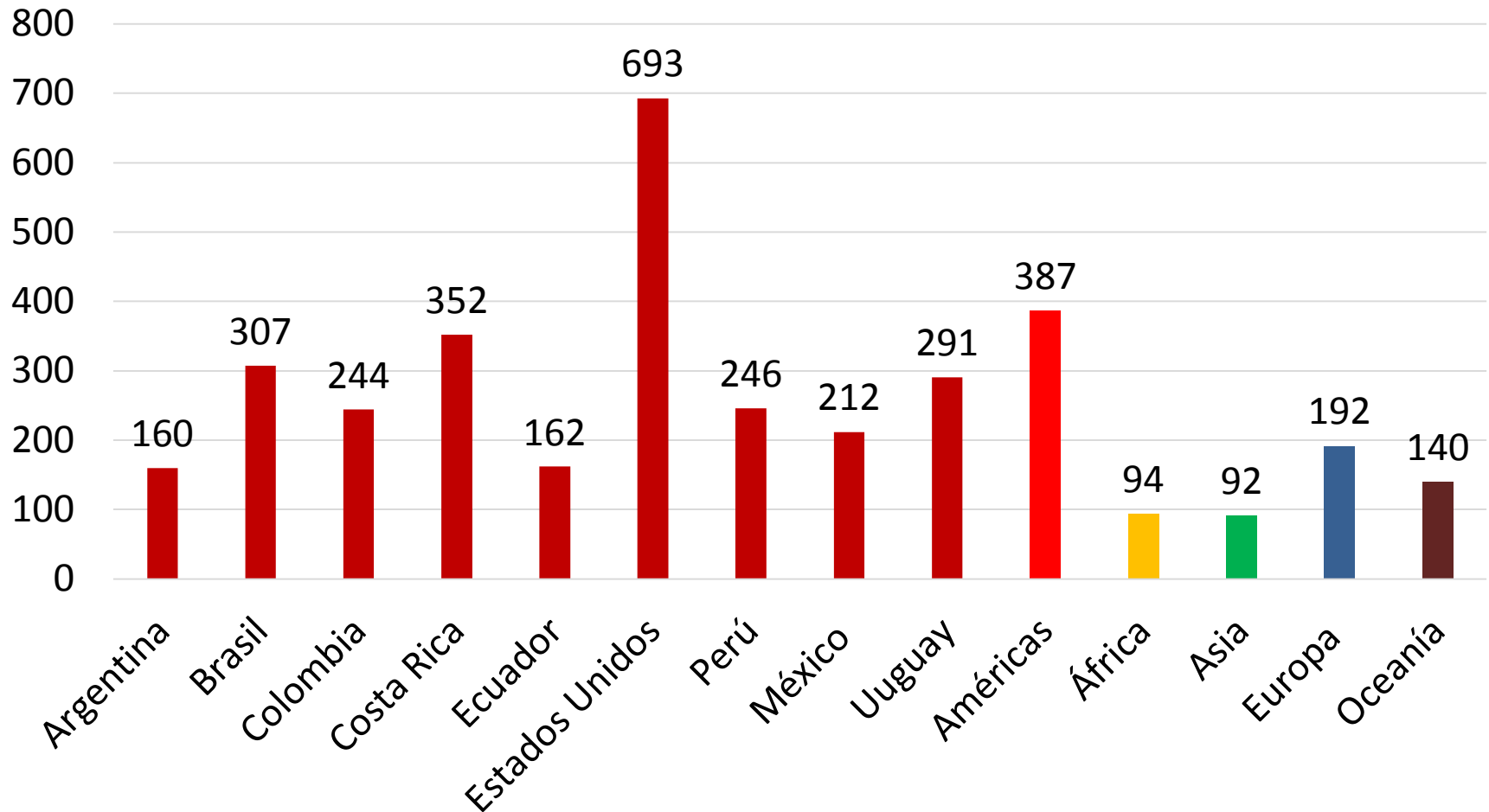


Incarceration rates (per 100,000 inhabitants) by regions of the world and type of crime



Source: UNODC (2016, p. 102)

Incarceration rates per 100,000 inhabitants in selected countries, compared to the rest of the world.



Source: Global incarceration rates by world regions taken from Coyle, Fair, Jacobson, and Walmsley (2016), p. 18. Country rates based on: ICPS, World Prison Brief, June 2016.



INCREASING PRISON POPULATIONS

Persons in prison by country, incarceration rate, and increase

	Prison Population	Rate per 100,000 inhab.	% Increase
CR	13.903 (2014)	291 (2014)	58 (2000-2014)
URU	9.771 (2013)	278 (2012)	42 (2003-2013)
BRA	548.003 (2012)	274 (2012)	135 (2000-2012)
COL	118.245 (2014)	245 (2014)	300 (1991-2014)
PER	71.596 (2014)	212 (2014)	195 (1997-2014)
MEX	257.017 (2015)	212 (2015)	25 (2005-2015)
ECU	26.591 (2014)	165 (2014)	110 (1990-2014)
ARG	64.288 (2013)	152 (2013)	155 (1996-2013)
BOL	14.415 (2013)	134 (2013)	158 (2001-2013)

Fuente: Elaboración propia con datos obtenidos por los investigadores del CEDD



POPULATION INCREASE FOR DRUG OFFENSES

Change in drug-related incarcerations, 2008-2014

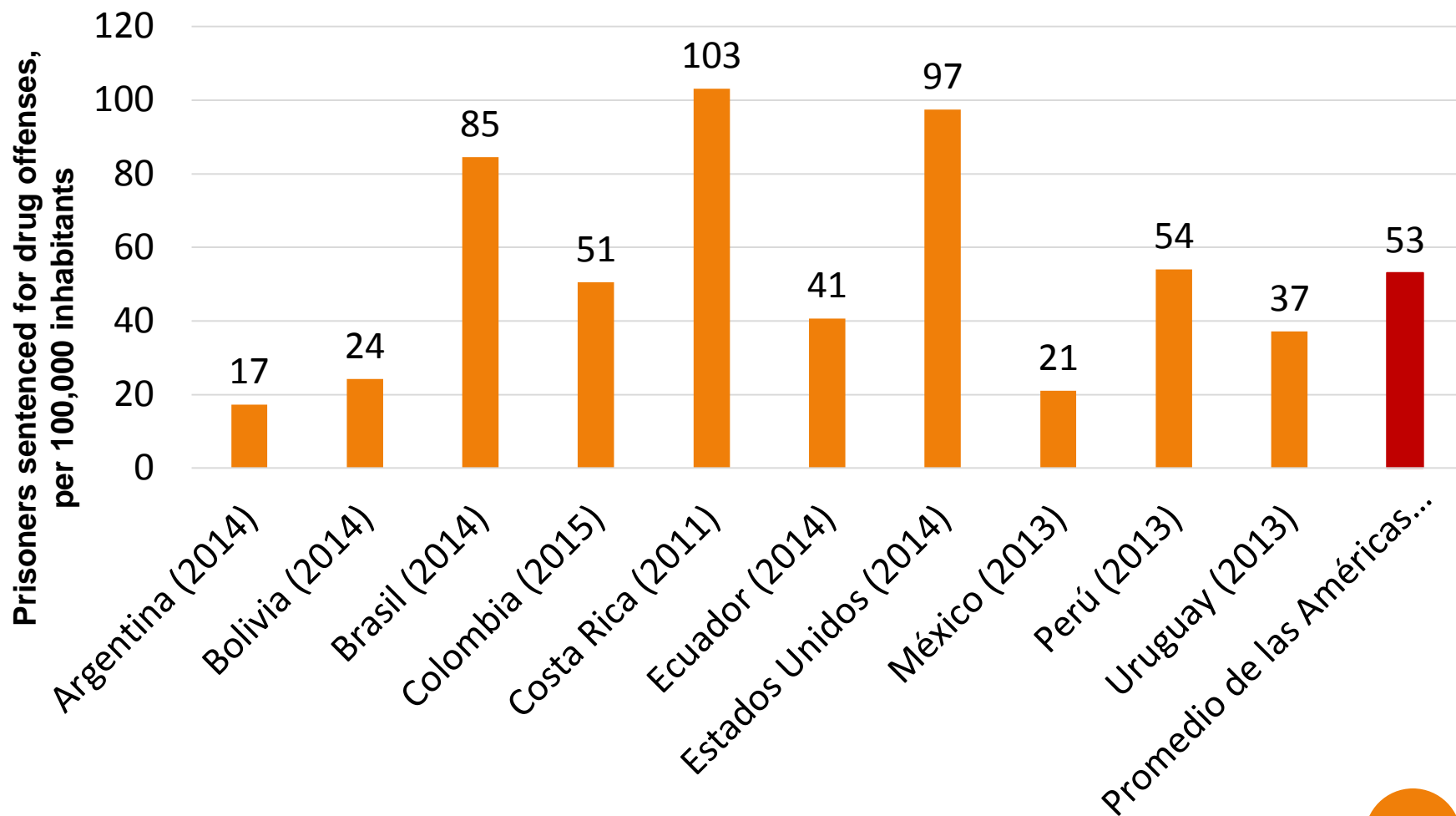
	2008	2009	2010	2011	2012	2013	2014
CR	2.283	2.503	3.805	4.745	N/D	N/D	N/D
ECU	7.679	N/D	3.975	N/D	N/D	N/D	6.467
BOL	2.794	2.522	2.741	3.205	3.787	3.939	N/D
PER	11.304	11.305	11.899	13.057	15.603	16.526	N/D
BRA	77.371	91.037	106.491	125.744	138.198	N/D	N/D
COL	11.808	12.616	15.872	19.534	23.004	25.258	23.141
URU	N/D	911	1.051	1.147	1.192	1.265	N/D
ARG	5.297	5.256	5.846	6.844	6.498	6.979	N/D
MEX ¹	N/D	N/D	N/D	22.015	23.613	26.098	N/D

Fuente: Elaboración propia con datos obtenidos por los investigadores del CEDD

¹ Datos correspondientes a cárceles federales

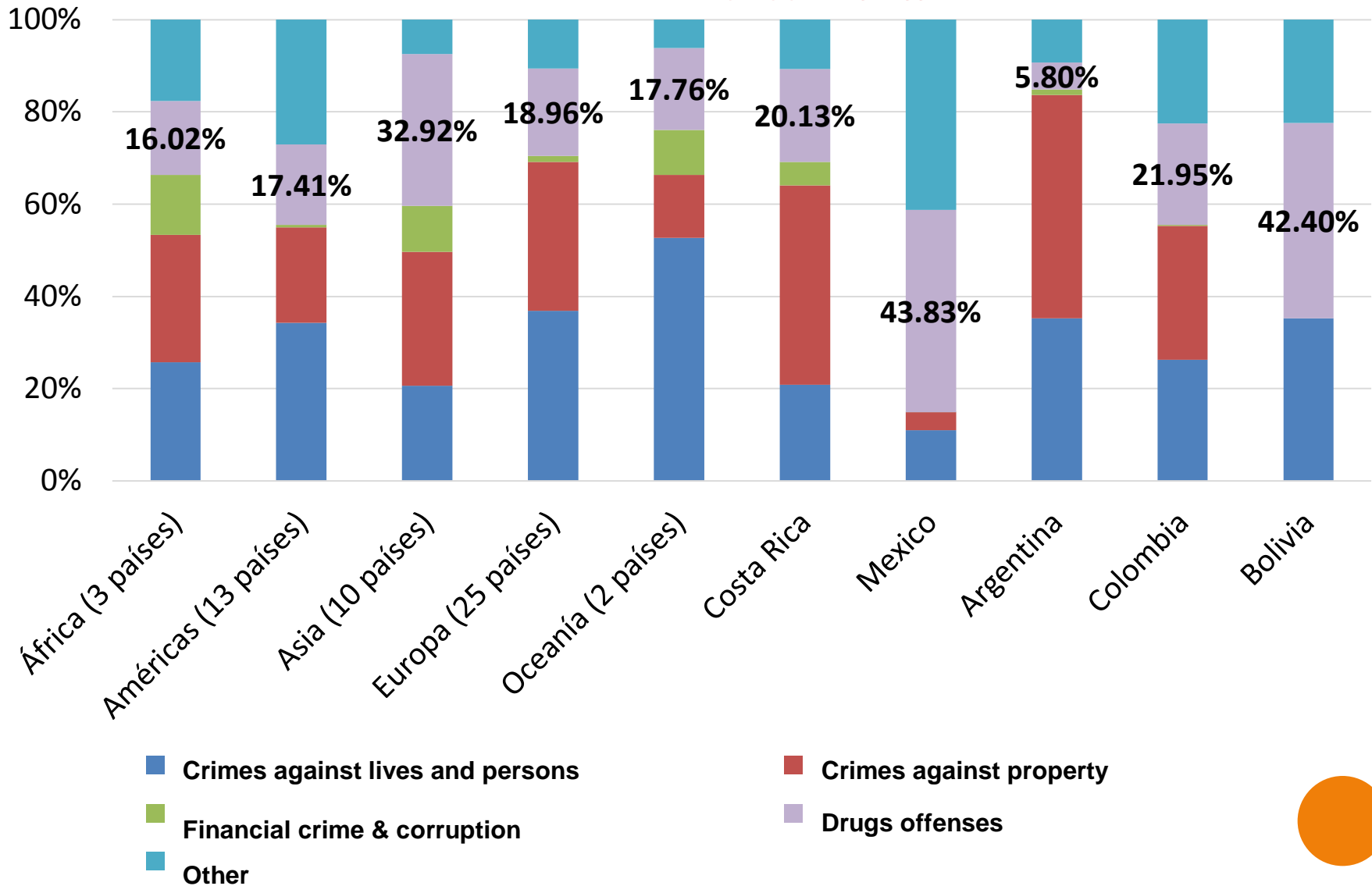


Incarceration rate for drug offenses (per 100,000 inhabitants) in selected countries, most recent data available



Source: Official figures for persons incarcerated for drugs in each country, collected by CEDD researchers. Population figures taken from the World Bank. [\[GCPC1\]](#) [\[IP2\]](#)

Distribution of the prison population in regions of the world and selected Latin American countries by type of offense



Source: (UNODC, 2016)



Prison Overcrowding Costa Rica

Distribution of Prison Population by Facility as of November 9, 2015	Actual Capacity	Current Population	Over-crowding rate
CAI San José	668	1252	87%
CAI Buen Pastor	622	582	-6%
CAI Pérez Zeledón	814	969	19%
CAI Gerardo Rodríguez E.	535	1579	195%
CAI Adulto Mayor	161	163	1%
CAI Reforma	2197	2894	32%
CAI San Rafael	704	1127	60%
CAI San Carlos	347	787	127%
CAI Cartago	296	455	54%
CAI Liberia	890	977	10%
CAI Puntarenas	598	735	23%
CAI Limón	488	564	16%
CAI Pococí	810	1326	64%
TOTAL:	9130 espacios	13.411 personas	47%

Source: Ministry of Justice and Peace, 2016.

Reforms in Costa Rica

- **Law 9161: Amendment of Article 77 of the Psychotropics Law**
 - Women sentenced for bringing drugs into a prison
 - Sentences reduced from 8-to-20 years to 3-to-8 years
 - Noncustodial alternatives
 - Conditions of vulnerability as mitigating circumstances
- **Law 9271: Electronic criminal monitoring mechanisms**
- **Law 9361: Amendment of the Judicial Records and Archives Law**
 - Cancellation of criminal record upon completion of sentence:
 - **Immediately:** Sentences of less than 3 years
 - **1 year:** Sentences of between 3 and 5 years
 - **3 years:** Sentences of between 5 and 10 years
 - **5 years:** Sentences of 10 years and more
 - **10 years:** Sentences for organized crime offenses, terrorism, sexual offenses against minors, aggravated homicide, femicide, and against the duties of public function.
- **Restorative justice program**
- **Program for Treatment under Judicial Supervision**
- **Productive Units – Ministry of Justice / IDB**





Public Defense informs user about program and its goals



Informed consent requested



Information collected from the diagnosis record



Case transferred to Network institutions



Urgent first actions to be taken by Public Defense identified and carried out



Conditions of vulnerability assessed



User informed of case's referral to the Network

Follow up on intervention and case management




**Interinstitutional network for the comprehensive attention of women involved in criminal trials
COSTA RICA**

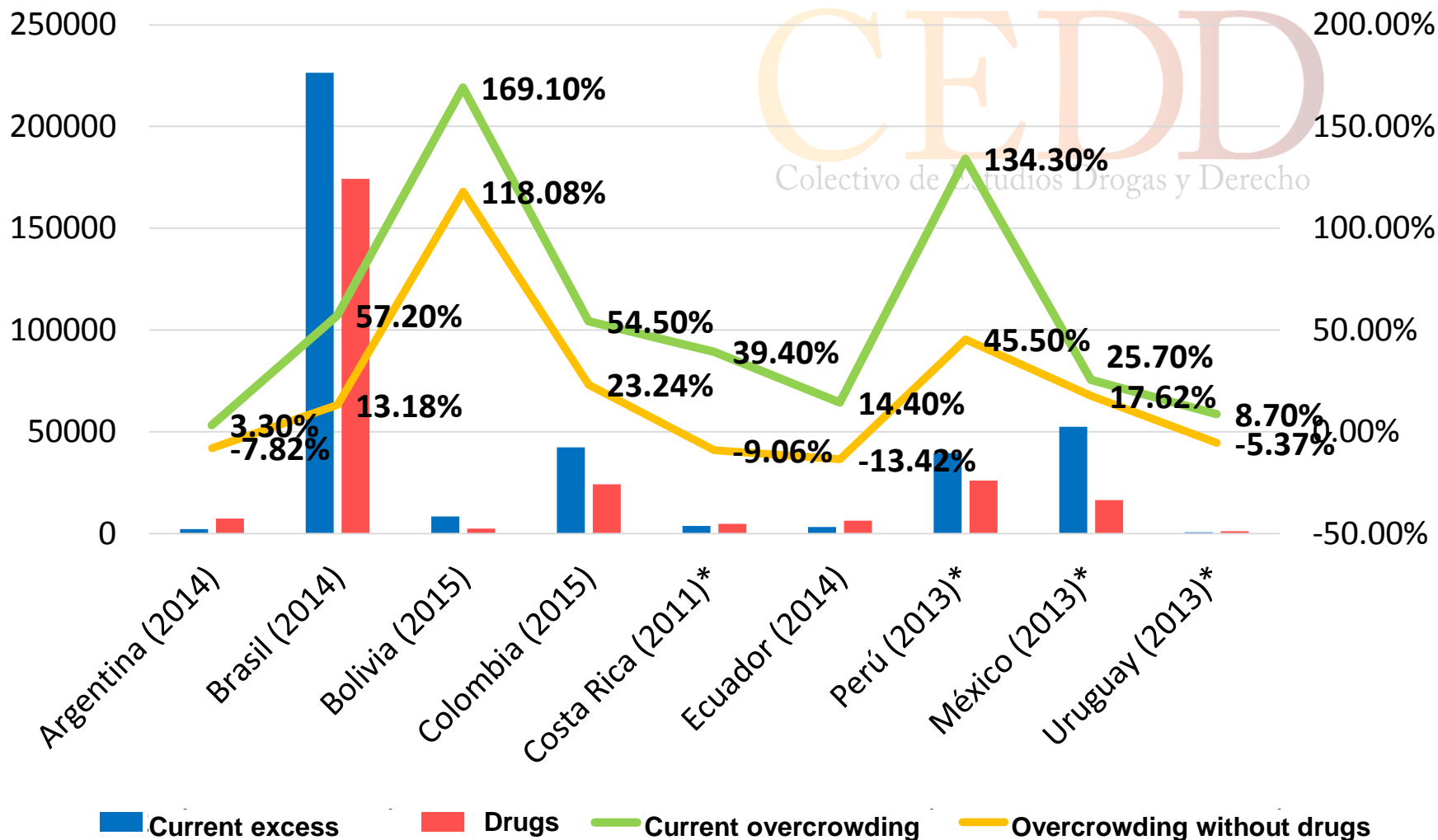
Proportionate and effective policies and responses, as well as legal guarantees and safeguards pertaining to criminal justice proceedings and the justice sector

(j) Encourage the development, adoption and implementation, with due regard for national, constitutional, legal and administrative systems, of alternative or additional measures with regard to conviction or punishment in cases of an appropriate nature, in accordance with the three international drug control conventions and taking into account, as appropriate, relevant United Nations standards and rules, such as the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(l) Promote proportionate national sentencing policies, practices and guidelines for drug-related offences whereby the severity of penalties is proportionate to the gravity of offences and whereby both mitigating and aggravating factors are taken into account, including the circumstances enumerated in article 3 of the 1988 Convention and other relevant and applicable international law, and in accordance with national legislation;



Excess prison inmate numbers vs. persons incarcerated for drug offenses (bars, left axis) and Overcrowding with or without drug offenses (lines, right axis). 9 countries.



Source: Prepared by CEDD.

* For Costa Rica, Peru, Mexico, and Uruguay, the overcrowding rate used was the most recent available in the World Prison Brief of ICPS, which corresponds to a more recent date than the one used by the drug offense incarceration figures.



CONCLUSIONS

- The numbers of prison inmates serving sentences for drug offenses continue to rise.
- In most of the countries examined, 1 out of every 5 inmates are in prison for drug offenses.
- In most of the countries, the numbers of drug offenders in prison are rising faster than the general population.
- Most drug convicts are low-level, easily replaceable players in the drugs trade, with ties to subsistence economies or other conditions of vulnerability.



RECOMMENDATIONS

- Cease all persecution of drug users. Drug use is a health problem, and not a matter of criminal law.
- Offer voluntary treatment services of the highest caliber using a public health approach and respect for human rights.
- Adopt the reforms necessary to allow alternatives to incarceration for minor drug offenses.
- Create support networks to prevent recidivism, using an approach based on human development and addressing the socioeconomic factors that led to the commission of these offenses.
- Implement prioritization programs to focus efforts on the most strategic cases to dismantle criminal structures and protect public security.



CEDD

Colectivo de Estudios Drogas y Derecho

THANK YOU VERY MUCH!

To see the full study, and other earlier studies, please visit:

www.drogasyderecho.org

