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Problems Widespread in Prisons Throughout Region

by Andrés Gaudín

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The Inter-American Commission on Human Rights (IACHR) released a lengthy study on the prison situation in Latin American countries, in which it condemns a critical reality characterized by overcrowding, a serious shortage of facilities, corruption, and, in general, state neglect and civil society apathy. These factors, says the IACHR, an autonomous body of the Organization of American States (OAS), have resulted in prisons becoming real dumping grounds for marginalized human beings whose most basic human rights have been violated.

The "Report on the Human Rights of Persons Deprived of Liberty in the Americas," released on May 10, courageously recognizes the existence of a dramatic situation, but it is not so much a report as a description of the sad reality lived by hundreds of thousands or people deprived of their liberty for having committed a crime. Although it identifies the causes of the violence to which prisoners are subjected, the study does not provide significant elements for analysis nor does it propose or suggest opening a debate on the issue.

"Overcrowding and overpopulation; the deficient conditions of confinement, both physical conditions and the lack of basic services; the high incidence of prison violence and the lack of effective control by the authorities" are the most serious and widespread problems in the prisons, the report says.

Inmates serving double sentences

"The absence of the state has meant that these brothers and sisters who one day were led to commit a crime are today serving two sentences, both equally dire: the privation of liberty for having committed a crime and the inhuman conditions to which they are subjected," said José Díaz, Uruguay's former interior minister.

The IACHR criticizes another situation common to all prisons in the region—the lack of work and educational programs. "In this regard, the fact that a state’s prison population is considerably young makes it all the more necessary to carry out effective rehabilitation policies that include opportunities for study and work, because this is a population of people who could have a productive life ahead of them. If this is not done, that population runs the risk of remaining in a cycle of social exclusion and criminal recidivism," says the study.

To better understand the message of the 238-page IACHR study, published "thanks to the support of the OAS Spain Fund," it is necessary to examine the report's biggest shortcoming: the absolute lack of statistical information.

In February 2012, amid a wave of violence that in just five days left the tragic toll of eight prisoners dead—two in Argentina, one in Chile, three in Uruguay, and two in Venezuela—the South American regional office of the UN Office of the High Commissioner for Human Rights (OHCHR) summarized the regional reality. "These events reflect an alarming pattern of prison violence throughout the region, which is a direct result of the general state of the situation," said the OHCHR...
regional representative Américo Incalcaterra. However, the situation becomes even more dramatic when it is examined country by country.

**Overcrowding the norm throughout region**

In Argentina, three prisoners are confined to a space adequate for one. Unconfirmed reports say that 30% of the prison population could have AIDS and that 43% have not received a final sentence after having spent two years in prison. The Argentine nongovernmental organization Centro de Estudios Legales y Sociales (CELS) says that the system is "especially violent and gradually developed as an extension of the state's repressive apparatus " during the dictatorships that existed during much of the first eight decades of the 20th century.

In Colombia, "40,000 prisoners are in jail who have not been sentenced, 400 are disabled but are held in prison, and more than 400 are suffering from a terminal illness," said the Movimiento de Víctimas de Crímenes del Estado (MOVICE) in late 2011.

Since April 24, 2009, Ecuadoran prisoners have been allowed to vote, but paradoxically they suffer the worst detention conditions: the country's 34 prisons were built to hold 6,000 prisoners, but today they house more than 15,000.

Chile has the highest incarceration rate in Latin America. With a population of 17 million, it has 318 prisoners for every 100,000 inhabitants. Its jails were built to house 33,800 prisoners but hold 107,935.

In Uruguay, increasingly repressive laws have resulted in facilities built to house fewer than 4,000 prisoners now holding 9,346. Sectors of the political right are proposing a referendum on a change to the Código Penal that would allow children of less than 16 years of age to be jailed alongside adults in some of the country's 53 prisons (NotiSur, Sept. 30, 2011).

With 54 prisons, Bolivia has 11,516 inmates in facilities built to hold 4,836. In Brazil, the Catholic Church's prison ministry (Pastoral Carcerária) has denounced the aberrant conditions in which prisoners live. Some 470,000 inmates have been "dumped" in prisons whose capacity is 300,000.

In Venezuela, the government admits that that the situation is out of hand, and the opposition, without presenting facts, estimates the number of prisoners at more than 45,000, putting overcrowding in the 35 prisons at 300%.

In addition to examining the central problems, the IACHR study looks at other factors such as "the use of torture in the context of criminal investigations, and the excessive use of force by those in charge of security at prisons; the excessive use of preventive detention, which has direct repercussions on prison overpopulation; the lack of effective means for protecting vulnerable groups; the lack of work and educational programs, and the lack of transparency in the mechanisms of access to these programs; and corruption and the lack of transparency in prison management."

**State neglect and public apathy**

For the IACHR team, this reality is the "result of decades of neglect of the prison problem by successive governments in the region, along with the apathy of societies, which traditionally have preferred ignoring the issue. Accordingly, detention centers have become areas that go unmonitored and lack oversight, in which arbitrariness and corruption have prevailed. The nature
of this situation points to the existence of serious structural shortcomings that gravely impair non-
derogable human rights, such as the right to life and to humane treatment of inmates."

Regarding the right to life, the study analyzes—without statistical support—the "deaths perpetrated
by state agents, those resulting from prison violence, and those that stem from the lack of prevention
and timely actions of the authorities."

As for the right to humane treatment, the IACHR says that "most acts of torture and cruel, inhuman,
and degrading treatment perpetrated against individuals in state custody take place during the
arrest and first hours of criminal investigation." Among the main causes for the persistence of
this practice, the report identifies the "existence of inherited institutional practices and a culture
of violence firmly rooted in the security forces of the state; impunity; the lack of funding, adequate
equipment, and technical training of security forces; the state’s repressive responses, such as 'iron-
fist' or 'zero-tolerance' policies; and the granting of probative value to confessions and information
obtained through torture or cruel, inhuman, and degrading treatment."

The IACHR concludes that, in penitentiary systems where such conditions exist, "any expectation of
personal rehabilitation and reintegration into society is impossible."

Days after the release of the study, IACHR Executive Secretary Santiago Cantón told the Uruguayan
weekly Brecha that "given their demands for hard-line policies, citizens have to understand that
these practices harm society."

That opinion had quick repercussions in the Uruguayan public debate, at a time when the rightist
political parties—the Partido Colorado and the Partido Blanco—took advantage of the "sense of
insecurity" to promote a reform of the penal code, using the backward thinking that attributes to
young people, merely because they are young, the characteristic of being the destabilizing sector of
society.

Cantón made an observation that applies to all countries but is especially relevant for Uruguay at
this time. "Throughout history," he said, "we have found ourselves with prisons, jails, and even
dungeons that hold prisoners, but as society has been changing the jails have also been changing to
practically become marginal societies, completely isolated from the cities."

The IACHR official then made a final observation, which is also a wake-up call for all governments
in the region. "Life in prison is very different from what we can have in a city, among other factors
because of the constant vigilance and lack of personal space. Prisoners who spend some time
incarcerated end up adapting to this situation and to the abnormal environment of being prisoners.
Thus, when they leave prison, they do not know how to behave, facing once again an inability to
adapt to the new situation."

For them, the prisons have been true schools for crime.

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