



REGIONAL JUVENILE JUSTICE OBSERVATORY

MONITORING REPORT ON JUVENILE JUSTICE SYSTEMS IN LATIN AMERICA



2014



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DCI Americas forms part of the global movement Defence for Children International (DCI) that works to defend the human rights of persons under 18 years of age, promoting changes in governments, laws and policies. The



Regional Juvenile Justice Observatory is a DCI Americas program ¹, headquartered in Bolivia and composed of the DCI Sections in Argentina, Bolivia, Brazil², Colombia, Costa Rica, Ecuador, Paraguay and Uruguay.

The quantitative and qualitative information collected in the framework of the Regional Observatory yields the following overview of the juvenile justice systems and the status of the human rights of the adolescents in conflict with the law:

I. STATISTICS

Adolescents in custody in the Juvenile Justice System, by country and gender.

Country	Total adolescents in custody	Male adolescents in custody	Female adolescents in custody
Argentina ⁱ	1,508	1,458	50
Bolivia ⁱⁱ	269 ³	252	17
Brazil ⁱⁱⁱ	20,023	19,063	960
Colombia ^{iv}	7,447	5,207	2,240
Costa Rica ^v	64	57	7
Ecuador ^{vi}	625	592	33
Paraguay ^{vii}	387	374	13
Uruguay ^{viii}	744	698	46
TOTALS	31,067	27,701	3,366

Adolescents in custody in the Juvenile Justice System by type of detention

¹ Juvenile justice, which is governed by the Convention on the Rights of the Child, handles cases of crimes committed by persons under 18 years old. In some countries it is called Criminal Justice for Adolescents.

² In Brazil, the system for holding adolescents who break the law (behavior equivalent to a crime or misdemeanor committed by an adult) is the responsibility of the justice system, but not a criminal justice system. Individuals under 18 years of age are not considered chargeable. Adolescents aged 12 to 18 are held responsible using socio-educational methods. The socio-educational methods are: warning; obligation to repair damage; community service; probation; "semi-liberty;" and imprisonment.

³ This figure only includes adolescents between 12 and 15 years of age, since as of August 2014, adolescents of 16 and 17 years of age were tried in the adult criminal justice system.



Country	Total adolescents in custody	Pretrial detention	Serving a sentence
Argentina ^{ix}	1,508	867	641
Bolivia ^x	269	162	107
Brazil ^{xi}	20,023	4,315	15,708
Colombia ^{xii}	7,447	4,030	3,417
Costa Rica ^{xiii}	64	32	32
Ecuador ^{xiv}	625	294	331
Paraguay ^{xv}	387	356	31
Uruguay	744	No data	No data
TOTALS	31,067	10,056	20,267

Adolescents serving a non-custodial sentence in the Juvenile Justice System, by country

Country	Total number of adolescents given non-custodial sentences	Probation	Community service	Damage repair	Other sentences
Argentina ^{xvi}	1,260	610	240	190	220
Bolivia ^{xvii}	96	12	3	0	81 ^{xviii}
Brazil ^{xix}	67,045	35066	30489	No data	No data
Colombia ^{xx}	9,115	3,040	598	801	4676 ^{xxi}
Costa Rica ^{xxii}	212	208 ^{xxiii}	3	0	1
Ecuador ^{xxiv}	136	135	1	0	0
Paraguay	No data				
Uruguay ^{xxv}	713	672	0	0	41



Costa Rica Young adults in custody in the Juvenile Justice System⁴, by gender

Country	Total young adults in custody	Male young adults in custody	Female young adults in custody
Costa Rica	211	203	8
Total	211	203	8

Source: DCI- Costa Rica. Data collected directly during local visits on June 4 and 5, 2014

Costa Rica Young adults in the Juvenile Justice System, by type of detention

Country	Total young adults in custody	Pretrial detention	Serving a sentence
Costa Rica	211	9	202
Total	211	9	202

Source: DCI- Costa Rica. data collected directly during visits on June 4-5, 2014

Costa Rica: Young adults serving a non-custodial sentence in the Juvenile Justice System

Country	Total number of young adults given non-custodial sentences	Probation	Community service	Damage repair	Other sanction
Costa Rica	393	373	10	0	10
Total	393	373	10	0	10

Source: DCI- Costa Rica. Data collected directly during visits on June 4 and 5, 2014

Bolivia: Adolescents age 16 and 17 in custody in the adult justice system⁵

⁴ Individuals over the age of 18 being prosecuted or sentenced for crimes they committed when they were adolescents, that is, younger than 18 years of age, are also part of the Juvenile Justice System.



Country	Total adolescents in custody	Male adolescents in custody	Female adolescents in custody
Bolivia	141	133	8
Total	141	133	8

Source: DCI- Bolivia. Data for six departments provided by officials from the National Prison System Directorate.

Bolivia: Adolescents age 16 and 17 in custody in the adult justice system, by type of detention.

Country	Total adolescents in custody	Pretrial detention	Serving a sentence
Bolivia	141	92	49
Total	141	92	49

Source: DCI- Bolivia. Data for six departments provided by officials from the National Prison System Directorate.

II. STATE VIOLENCE AGAINST THE ADOLESCENTS IN CONFLICT WITH THE LAW

The Juvenile Justice System suffers strongly from the effects of the increasingly punitive and repressive tendencies in the region, which lead to serious and repeated forms of state violence against the adolescents handled by the system. One fact evidencing this trend is the repeated emergence of initiatives to change the age of criminal responsibility in order to increase time in custody by lowering the minimum age of criminal responsibility for adolescents so that children under 12 years of age can be subjected to penal control, or adolescents 16 years or older enter the ordinary criminal justice system.

The Regional Juvenile Justice Observatory Systems, through monitoring carried out in 2014 in eight countries in the region, gives the following overview of the status of the human rights of the adolescents in conflict with the law:

⁵ As of August 2014, in Bolivia the Juvenile Justice System only includes cases of adolescents from 12 to 15 years of age, in violation of the terms of the Convention on the Rights of the Child. Therefore, adolescents aged 17 and 18 went on to be prosecuted in the criminal justice system for adults.



1. Use and abuse of prison

In the eight countries that form part of the Regional Observatory, there are currently more than 30,000 adolescents (individuals between the ages of 12 and 18) in custody. In general, the juvenile justice systems rarely follow the principle of using custody in juvenile justice only as an exception. Governments do not allocate enough resources to implement socio-educational non-custodial sentences or alternatives to a trial, such as restorative justice. For that reason, measures involving custody continue to predominate, in violation of the provisions of the Convention on the Rights of the Child and other international standards.

2. High rates of pretrial detention

The principle of presumption of innocence is violated by the startling rates of pretrial detention of adolescents observed in the region. In the eight countries monitored by the Observatory, there are national differences that have to do with the greater or lesser degree of precariousness of each juvenile justice system.

In the countries monitored in the region, almost all had a percentage of nearly 50% or more of adolescents in pretrial detention (Argentina 57%, Bolivia 60%, Colombia 54%, Costa Rica 50%, Ecuador 47%, Paraguay 91%). That is, more than half of the adolescents in custody in these countries still have not been sentenced but are in custody, in violations of the provisions of the Convention on the Rights of the Child and the constitutional principle of presumption of innocence. In Brazil, the percentage of pretrial detention is 21%, but this system is responsible for 42% of adolescents in pretrial detention in the region.

In Costa Rica, Law 9021 of January 3, 2012 amended Article 59 of the Juvenile Justice Law, raising the limit for pretrial detention from 2 to 3 months, with the possibility of extension at two junctures during the trial for a total of 9 months, which itself may be extended by the sentence.

In Uruguay, the new Juvenile Criminal Responsibility System (SIRPA for its acronym in Spanish) created by Law 18,771 of 2011, compounds the situation of adolescents in conflict with the law. It establishes pretrial custody as a cautionary measure until the judgment is handed down for certain types of crimes.



Ecuador, with the recent approval and enactment of the new Organic Penal Code (COIP for its acronym in Spanish)⁶, faces the possibility of overcrowding in the physical spaces in the centres for adolescent offenders due to the fact that custodial measures have become more rigorous in terms of grounds and prison time.

It should be noted that in most of the countries with pretrial detention times, practice exceeds those permitted by law.

In Bolivia, in addition to the worrying rate of pretrial detention, custody situations based on the concept of "guardianship" are noteworthy. In an investigation conducted by DCI Bolivia from October through December 2013, 17 adolescents were found to have been in custody situations based on the concept of "guardianship," a concept that does not exist in the juvenile justice system.

3. Strong sentences

In Costa Rica, the main regulatory problem found in the juvenile justice system is the maximum limit of prison time to which adolescents can be sentenced. The limits are 10 and 15 years. The first applies to the age range of 12 to 15 years, and the second to the range of 15 to 18 years. Since adolescents commit crimes, especially the most serious ones, between 16 and 18 years of age, custodial sentences of 10 or 15 years lead to a gradually increasing number of adolescents put in prison by the juvenile justice system that are now over eighteen, that is, young adults. Currently, in Costa Rica, the group of adolescents in custody constitutes 23.2%, while the group of young adults constitutes 76.8%. This trend also holds true for those serving non-custodial sentences, 35% are adolescents and 65% are young adults.

In Ecuador, the approval of the Organic Penal Code, a body of legislation which in some respects seems designed to provide a system that guarantees rights and which kept the age of criminal responsibility between 12 and 18 years of age, has made some aspects harsher, such as those related to the type of crimes to which custody will apply, that is, crimes for which the punishment under criminal law is imprisonment. In effect, the new COIP establishes an increase in custodial sentences from a previous maximum of four years to eight years; four years more than that established in the Code for Children and Adolescents. The situation is made worse by the provision establishing that (...) "in addition, and six months before concluding this socio-educational measure, a

⁶ COIP took effect on August 10, 2014. This body of legislation amended almost all aspects of Book IV of the Code for Children and Adolescents (2003) which addresses the "Responsibility of the Adolescent Offender"



comprehensive evaluation will be performed to determine the necessity of follow-up and control for up to two years after the sentence has been served"⁷. This means an adolescent could remain in the system for up to 10 years.

One of the consequences of this trend is that it completely undermines the special presuppositions on which juvenile justice systems are based, which are stated in Articles 37 and 40 of the Convention on the Rights of the Child. These presuppositions are based on early interventions in the criminal behaviors of adolescents so that the crime remains an isolated episode in their process of learning and growing and the adolescent is able to redirect his or her behaviour as they move toward adulthood, allowing them to achieve social inclusion.

4. Overcrowding

Overcrowding, a cruel, inhuman and degrading circumstance that damages the integrity of adolescents and young people⁸, is a serious problem in detention centres in all countries monitored by the Regional Observatory.

In Costa Rica, the problem of overcrowding is particularly severe due to the high number of young adults serving sentences in the criminal justice system. Since 1996, adolescents were sent to the Zurquí Juvenile Correctional Facility, and upon turning 18 they were sent to the Young Adult Center for young adults between the ages of 18 and 21 years old⁹. However, in February of 2010, the Juvenile Justice Sentence Enforcement Court established an upper limit for the number of inmates in the "Young Adult Center." For this reason, a temporary module was opened in the Zurquí Juvenile Correctional Facility, which currently houses 127 young adults (119 men and 8 women) living alongside the adolescents, which to date number 64 (57 men and 7 women)¹⁰. The module opened for young adults in the Zurquí Juvenile Correctional Facility was originally designed for 27 people. Then, due to the constant increase in incoming individuals, they moved into other spaces such as the classroom, meeting room, or main cafeteria, among others. These spaces are overcrowded with young adults, creating disputes over space and access to amenities. The overcrowding also wrongly limits all of their human rights, such as access to

⁷ Art. 385 - no. 3 of the COIP

⁸ CDIH, Report on the Human Rights of Persons in Custody in the Americas OEA/Ser. L/V/II. Doc. 64. December 31, 2011 par. 460

⁹ Article 2 of the Juvenile Justice Sentence Enforcement Law created the category of youth-adults from 18 to 21 years of age; individuals may enter this group upon turning 18, or when sentenced after they turn 18 for crimes committed when they were adolescents (12 to 18 years old).

¹⁰ Data taken directly from the table of the Zurquí Juvenile Correctional Facility during a DCI-Costa Rica visits on June 5, 2014.



health, communication, education, work and recreation, diminishing the specialized care that they need¹¹.

In Brazil, the capacity-to-occupancy ratio of detention centres shows an overcrowding of 119.2%. Of the regions in Brazil, most have an occupancy that exceeds the capacity of the detention centres, and those that do not exceed capacity have reached their maximum limit.

Region of Brazil	Capacity	Occupancy	% Overcrowding
West Central	1,325	2,217	167.3
Northeast	2,164	4,031	186.3
North	1,365	1,330	97.4
Southeast	8,588	8,966	104.4
South	1,972	1,834	93
Brazil	15,414	18,378	119.2

Relatório da Infância e Juventude –Resolução nº 67/2011: Um olhar mais atento às unidades de internação e semiliberdade para adolescentes. Brasília: Conselho Nacional do Ministério Público, 2013.

In Paraguay, it should be noted that in addition to overcrowding, the condition of the detention centre buildings are very poor and unhygienic, especially in the Itaugua Correctional Facility.

In Ecuador, despite significant progress, the National Committee for the Prevention of Torture, during inspections conducted this year, identified social rehabilitation centres and *Centers for Adolescent Offenders* housed in old building or buildings not originally designed as centres, which do not offer proper conditions for the imprisoned persons who live there. Limitations in the spaces for administration, professionals and internal security were also observed.

5. Deaths of adolescents in detention centres

In Paraguay, the situation in the Itaugá Correctional Facility, where four adolescents lost their lives this year, is cause for concern.

¹¹ Reports from the Juvenile Justice Division of the Public Defense- paragraph seven.



Last April 21st, according to the information collected, the adolescents of the Itaguá centre protested the reported physical mistreatment they received from one of the guard supervisors and the negligible quality of the food, in which they had even found worms. As they received no response, they decided to riot by burning mattresses. The guards fired metal pellets, killing two adolescents.

After the incident, they moved inmates as a form of punishment. The guards loaded adolescents into vans without giving them any indication of their destination. They were not allowed to call their families.

On July 31, there was another riot in the Itaguá Correctional Facility caused by a search ordered by the director of the institution. The adolescents tried to open the doors, and in the confusion around ten adolescents escaped. Two of them were electrocuted on the security fences and six more were admitted to the hospital for various injuries.

These incidents are not sporadic or isolated events in Paraguay. One of the most serious prior incidents occurred in 2000 in the juvenile correctional facility Panchito López. A fire broke out, taking the lives of 12 adolescents and seriously injuring an additional 42. The case was submitted to the Inter-American Court of Human Rights in 2004. It handed down a judgment¹² establishing reparations for the victims and also ruled that the Paraguayan government must create a public policy to address the issue of adolescents in conflict with the law. The policy still has not been completed. In 2013, the Human Rights Network of the Executive Branch summoned victims and their families in order to reach a consensus regarding the agreement that should implement the ruling of the international body. Various victims had already received some payments, however, the country still did not carry out all measures ordered by the Court. After the fire in the Panchito Lopez correctional facility, a new "Correctional Facility" was opened in the city of Itaguá; however, no structural changes to the policies governing the adolescent population and the juvenile justice system were observed.

In Brazil, 30 adolescents died in the Brazilian socio-educational detention system in 2012 according to the 2013 Report of the Secretariat of Human Rights of the Presidency of the Republic. This means that every four month there were (10) deaths of adolescents in custody or detention in the socio-educational system. The three main causes were: interpersonal conflict (eleven adolescents, 37% of the total), general conflict (nine adolescents, 30% of the total) and suicide (17% of the total, five adolescents).

¹² IHR Court, *Case "Juvenile Re-education Institute"*, Judgment of September 2, 2004, Series C, no. 112



In July of 2014, in the José Bezerra de Menezes Correctional Facility, a center for pretrial detention measures in the Brazilian state of Ceará, a triple homicide occurred. Three unidentified individuals entered the center at around 7:30pm, bound the center's personnel and executed three adolescents. The group escaped without being identified. The government has full responsibility for these murders, since it had custody of the adolescents when the crime was committed. This crime is still not solved, and its perpetrators have not been found.

In November 2014 in the Federal District (Brasilia), a 13-year-old adolescent was murdered in a pretrial detention center. The Center for the Defense of the Rights of the Child of the Federal District affirmed that this adolescent should not have been imprisoned, as his crime was not a serious threat. Another important factor of this case, regarding the government's responsibility, is the fact that the adolescent of 13 years was locked in a cell with two 17-year-old adolescents accused of serious crimes, in violation of Brazilian law and the Convention itself.

6. Torture and other cruel, inhumane, and degrading treatment

Instances of torture and other cruel, inhumane, and degrading treatment have been recorded, particularly in Argentina, Brazil, Bolivia, Uruguay, Colombia, and Paraguay.

In Uruguay, the new Juvenile Criminal Responsibility System (SIRPA), which replaced the System of Enforcement of Measures for Juvenile Offenders, which operated under the authority of the Institute for Children and Adolescents of Uruguay (INAU for its Spanish acronym). Within that context, there were various allegations of torture and other forms of abuse of adolescents in custody. Before this, there is record of other instances of torture that were even reported to international organisations that visited the detention centres. Meanwhile the INAU, which was interrogated and reported for justifying the abuse and denying the allegations of torture to protect its affiliates^{13,xxvi} made difficult and continues to make difficult the implementation of any measure that could mean a change in criteria for security measures in the detention centres, which currently take precedence over educational measures.

Halfway through the year, the National Human Rights Institution and Ombudsman (INDDHH for its acronym in Spanish) visited the detention centres of Colonia Berro and wrote a report that reiterated the same deficiencies

¹³http://www.uypress.net/uc_51075_1.html



confirmed by previous reports and other mechanisms, collecting allegations of beatings and other forms of torture. Uruguayan authorities, from both the Executive Branch and SIPRA, attempted to discredit the report and rejected the allegations.

In Argentina, the regular report produced by the Public Defense Office of the Appellate Court of Buenos Aires, as the body responsible, pursuant to Provincial Law 14211, for recording cases of torture and other abuse or cruel, inhumane, or degrading punishments, states that from March to June of 2014, the Provincial Public Defense Office recorded 100 cases of torture against adolescents.

Regarding the confidentiality of the accounts of torture and inhumane treatment, a large majority of the adolescent victims preferred to keep their suffering confidential; only 36% of them decided to air their grievances before any other court official.

Regarding the type of torture or abuse they had suffered, the adolescents primarily reported having been punched and kicked, in addition to being beaten with objects such as the barrels or butts of guns, sticks and pipes, or thrown against walls.

There is also record of a case of a 14-year-old who had been tortured with electric shock upon entering the police car, after already having been punched in the right eye and beaten on his back with a police club. This case was formally reported to the 8th District Attorney of Mercedes (PRINSI Form No. 11,723)

Also highlighted for their cruelty are the cases of the children from Lomas de Zamora (P.P. No. 11,473) and San Nicolás (PRINSI Form No. 11,712) who as they were beaten were tortured with boiling water, and the case of a child from San Martín who was savagely beaten with police clubs by police who then pretended to shoot him with their standard-issue pistols (PRINSI Form No. 11,723).

There were cases where children and adolescents reported having been falsely accused, such as the 16-year-old from Bahía who while “returning to his home along with his 15-year-old brother and another 16-year-old friend B., were intercepted by a police car that drove onto the sidewalk. Two agents got out of the car and yelled at them to get up against the gate and they began to search E. (...). A policewoman began to provoke E, punching him in the face. When he tried to turn around, she violently threw him to the ground, smashed his face into the sidewalk and twisted his arms behind his back. They put him in handcuffs and dragged him for several meters by the handcuffs, which resulted in injuries to his left temple, knuckles, wrists, and both knees. The



other youth screamed at them to stop hitting his friend, and the police officers threw him to the ground. The two boys E and B were taken to the police station without being told why they were under arrest; afterwards they were informed that it was for “resisting authority.” The police physician examined them and reported “no injuries” (PRINSI Form No. 11,946).

In Bolivia, during visits to juvenile detention centres in 2013, information was collected about various types of physical and psychological abuse, including torture, of youth between the ages of 12 and 15. The primary complaint in juvenile detention centres is abuse from the police and the obviously focus on concealing facts of the centres’ officials and workers. In addition to physical punishments, reports indicate that adolescents are often subjected to so-called “chocolateadas,” which consist of doing military exercises in adverse conditions for hours, exceeding the physical limits of the majority of the adolescents. The adolescents also reported physical abuse which they suffered upon, or just after, their arrest and arrival at the police station.

More specifically, in the Department of Cochabamba allegations emerged in the final months of 2013 of different kinds of abuse and intimidation in the juvenile detention centres under the authority of the Departmental Social Services Office of the Departmental Government. The Departmental Office of the Ombudsman is aware of these situations, and has begun an official investigation of the reports.

Visits to the Bolivian jails housing 16- and 17-year-olds, who are tried in the adult justice system, yielded several reports of how before their cases were presented to the prosecutors, the youth received brutal beatings and other abuse from different police officers, and were also threatened and intimidated, and even extorted to exchange money for their freedom. These 16 and 17-year-olds also reported experiencing discrimination in the prisons for adults and the submission that they were forced to show to inmates that control the power in each prison.

One aspect that should be highlighted in reference to the 12- and 15-year-olds in custody in the juvenile justice system is the difficulty of obtaining timely knowledge of these situations of abuse and torture. On the one hand, some centres are very difficult to access –only people who have been granted express authorization from the Departmental Social Services Office of each departmental government can enter. It can sometimes take weeks or even months to receive authorization. On the other hand, the authorities of some departments often use confidentiality and the privacy of the juvenile justice system as a reason to deny organizations defending children's right access to juvenile detention centres.



It is important to point out that there are no efficient channels for reporting torture and other abuse, and there is also no guarantee that the adolescents reporting mistreatment will be protected from reprisals.

In Colombia, adolescents in custody in Specialized Care Centres (CAE for its acronym in Spanish) reported punishment in cells where they were taken when there were brawls, when they smoked marijuana, or after an attempted escape. They would be locked up there for days and slept on the floor. Sometimes various adolescents were locked up together in a one-person cell. There was no bathroom and they were forced to relieve themselves in a pot and live with the smell of it. They were only allowed go outside for a half an hour.

In Brazil, the mechanisms to prevent torture are inefficient, ineffective, non-institutionalized, and are not specifically focused on juvenile detention centres. Even though there are movements conducting periodic inspections and monitoring of detention centres, they are not systematic and their focus is not always the juvenile justice system. Therefore, many cases pass by without any notification or inspection, even though it is common knowledge that torture and other cruel, inhumane, and degrading treatment is a daily occurrence in Brazil's juvenile detention centres.

According to the 2013 report of the National Council of the Prosecutor's Office of Brazil on the health conditions in the 287 detention centres that they visited, 108 were not suitable for housing adolescents. They were unhygienic and poorly maintained, with insufficient lighting and ventilation. When Brazil is broken down by region, the situation is seen to be worse in three regions (North, Northeast, and West Central); the majority of the centres are not a healthy environment for adolescents.

Additionally cases of torture in detention centres have occurred in many Brazilian states. In 2014, forty-six guards were suspended from their work at detention centres in the state of Alagoas, following reports of torture of adolescents in custody. This case was reported to the National Justice Council. According to judge Ana Cristina Borba Alves, "forensic reports were drawn up that demonstrated the use of torture by 18 of the 46 guards that worked at those units."

In another state in northeastern Brazil, Ceará, civil society has made several allegations of torture and abuse of adolescents held in custody in the centres. These acts were committed under the pretense of maintaining discipline and "order". This situation was actually reported during the institutional mission conducted in Fortaleza by representatives of the National Network for Defense of Adolescents in Conflict with the Law (RENADE) in October 2014. Among the numerous allegations of rights violations, the document noted:



- i) A high degree of failure to provide basic rights (in areas of education, health, mental health, culture, and professionalism);
- ii) The use of the completely illegal isolation procedure “*lockups* ”(performed by the security guards at the centers without respecting offender's rights to defense counsel or adversarial proceedings);
- iii) The method used to hire professionals, without regard to training, experience and suitability for the position;
- iv) Evidence of workers in the system organizing gangs at detention centers. Further investigation is needed from the intelligence department of Brazilian institutions. The victims are the adolescents and their families;
- v) Within the system, these criminal organizations commit crimes such as torture sessions, murders, incitement to suicide, injuries, drug trafficking, unlawful restraint, constant threats, theft, embezzlement, damage to public property, bribery, dereliction of duty, criminal indulgence, arbitrary violence, perjury, abuse of process, and abuse of power.

In October 2014, in the Federal District of Brazil, in the capital, a group of adolescents in custody were taken to a room and attacked by guards. They then were taken outside to the unit's patio and made to stand in the rain with no clothes from 10:00pm until 3:00am. According to the testimony of a parent, one of the adolescents had broken fingers and another suffered a blow to the neck. Relatives say that, after this incident, cases of torture have become frequent in the detention centre. These allegations led to the dismissal of 13 agents and further investigations by the Public Prosecutor and the Secretariat for Childhood.

7. The influence of drug policy and public safety

State violence against the adolescent population also increases due to the strong influence of public safety and drug policies. DCI has observed that tougher laws and enforcement actions under these policies, which should theoretically target organized crime, have a stronger impact on the most vulnerable sectors of the population such as small-scale participants or drug users. In this context, adolescents are most vulnerable because society still believes in the paradigm of the "dangerousness" of adolescents and the idea that they should be "subject to control". Social perceptions of adolescents are strongly negative and stigmatizing, especially toward those suffering from poverty and exclusion, who are conceived as prone to violence and crime. They are even blamed for the insecure environment itself. Therefore, adolescents are more likely to be harassed by the police, criminally prosecuted, and imprisoned.

The influence of drug policy is seen, for example, in the case of Costa Rica, where there was a decrease in the caseload of the Office of the Prosecutor



between the year 2011 (16,253 cases filed) and 2013 (11,118). The main explanation for this is that in 2012 and 2013 there was a major change in the prosecution policy of the Office of the Prosecutor General, which began operating based on the reasoning that the use of illegal drugs is not a crime. It implemented a guideline that such instances should not be registered as a criminal case when there is no initial evidence of the instance¹⁴.

Moreover, it is important to note that adolescents are often involved in the transport of drugs at the lowest level, i.e. as "mules" or as micro-traffickers. A large number are users selling drugs to support their own consumption, usually recruited by drug gangs seeking to expand their market.

In Brazil, according to latest data from the Secretariat for Human Rights of the Presidency of the Republic, 26.6% of adolescents in custody are detained for crimes related to drug trafficking.

In Colombia, in 2012, 31.1% of male adolescents and 25% of female adolescents held in custody were imprisoned for trafficking, manufacture or possession of drugs, according to the Colombian Institute of Family Wellbeing.

In Ecuador, during the first six months of 2013, the National Narcotics Division seized 3.6 tons of drugs destined for micro-trafficking operations and arrested 1,974 people, of which 254 were minors involved in the illegal sale of narcotics¹⁵.

In Paraguay, 85% of teens that enter the juvenile justice system enter due to the consumption of crack, according to data provided by the Juvenile Criminal Court of Lambaré. However, consumption of the drug is not classified as a crime. As for the crimes of robbery and theft committed in Paraguay, one theory holds that these crimes are a result of the need for drugs, but no actual research has been conducted, and the government has no data records that can be used to further examine the problem.

In Costa Rica, the 2012 Juvenile Justice System Assessment indicates that at least 80% of the populations of prisoners in the Zurquí Juvenile Correctional Facility have problems related to drug use.

With regard to the consumption of illegal drugs, whether habitual or occasional, in juvenile detention centres, the problem becomes compounded by the fact that detention centres in the juvenile justice system often fail to meet basic requirements for specialized health care, and therefore do not offer

¹⁴ 2013 Report of the Office of the Prosecutor General pp. 15 and 16 Web portal of the Office of the Prosecutor General at the website Poder-Judicial.go.cr

¹⁵ <http://www.telegrafo.com.ec/justicia/item/el-16-de-droga-incautada-es-por-el-microtrafico.html>



treatment for addiction recovery, or when they do offer it, the treatment is very poor.

8. Police violence and raids

The adolescent population is the main target of police actions during routine police raids carried out as part of public safety programs, which are heavily influenced by drug policy. While the raids are assumed, under the policy position held by other division of the government, to serve a preventative role, in practice the results of these raids, which are numerical, demonstrate instead the more obvious reality of state-sponsored violence.

During a police raid, adolescents are at greater risk than adults, because in many countries there are laws that authorize police to arrest minors merely for being out in public at certain times and also when they are using legal drugs, not to mention illegal drugs.

In a recent example in Cochabamba, Bolivia, in a single night up to 1,200 adolescents were arrested because they were consuming alcohol during a police raid as part of the public safety plan called "Chachapuma."¹⁶

In Argentina, 38% of the group of victims of the Buenos Aires Police Department are under the age of 18, which may help to explain the marked disparity between those who decide to lodge complaints and those who, due to the greater vulnerability of their situation, only refer to torture when assured of confidentiality¹⁷.

In Colombia, arrested adolescents who are transferred to the Specialized Center for Judicial Services for Adolescents (CESPA for its acronym in Spanish) are victims of various rights violations. A particularly serious situation was found in a visit to the CESPA by DCI Colombia. On the stairs of the judicial complex for adolescents, amassed in overcrowded and degrading conditions, were an average of 50 adolescents (males). They stayed there for weeks, enduring cold, hunger, abuse and sickness while their legal situation was being resolved. Another major concern is that many adolescents were released but not allowed to leave or were moved to other sites because they lacked the presence of a guardian.

Moreover, in interviews with adolescents who were taken by police to Immediate Care Centres (CAI), they said they were beaten and tortured with electric shocks and application of pepper spray. An estimated 90% of these

¹⁶ <http://www.hoybolivia.com/Noticia.php?IdNoticia=82475>

¹⁷ http://www.defensapublica.org.ar/BancodeDatos/2014/2_trimestre/Segundo%20Informe%20Periódico%202014.pdf



adolescents are no longer taken to CESPAs, because once beaten and tortured they are released with the threat that "next time will be worse".

Recently in Ecuador, the police have demonstrated repressive behaviour towards student protests consisting of adolescents not yet 18 years old. In these police actions, an increase in the use of violence in comparison to prior law enforcement interventions was noted. Recent events on September 17th and 18th, 2014 involved violent arrests of adolescents. Once they were released, a few hours after being arrested, parents of the students and a Red Cross committee observed and testified to the injuries that had been inflicted.

Since these events, there has been concern for the highly repressive interventions of the educational authorities against students from two public schools in Quito. According to a legal opinion commissioned by the official local body for the protection of human rights¹⁸ established by law, several rights were violated: the presumption of innocence; the restriction of the constitutional right to education; lack of proper grounds for sanctions within educational institutions; misapplication of educational regulations; the right to due process, dignity, reputation, and good name of innocent individuals; institutional psychological abuse; and mistreatment due to the lack of timely decision-making which has led to the suspension of educational services and unjustifiably long expulsions.

In Paraguay, there are cases of adolescents being arrested just for walking around at night or not carrying their ID card. On the other hand, there is a tendency to "mark or go after" adolescents that have committed some type of crime and are in home detention or have curfews, and are once again victims of police persecution when they leave to go to school or work. The adolescents themselves provided information about and identified which police officers were the most repressive.

In Brazil, violence in communities and streets is urban in nature, and its primary actors are the police and youth. The violence especially occurs in the outskirts large cities. Police tend to react in a violent and discriminatory manner in the poorest areas of the city, as revealed in 2005 in various reports on human rights in Brazil from the NGO Global Justice and the Social Network for Justice and Human Rights. Adolescents and youth, poor people, black people, and those involved with crime are all vulnerable to violent and disrespectful acts by authorities, including discrimination due to class, race, and social status. One of the factors responsible for the murders of adolescents and youth in urban areas is the socially constructed image, also supported by the media, that this population is dangerous just because they are young, male,

¹⁸ The Metropolitan Council for Comprehensive Protection of Children and Adolescents transitioning toward the Metropolitan Council for the Protection of Human Rights



black, poor, and live in the slums. Just for having that social background, they are treated without any guarantee of their rights. According to Amnesty International, 2,212 people died in confrontations with the Brazilian police last year. Of these, the majority were black youth and adolescents that are poor and living in the outskirts of the big cities.

São Paulo and the Brasília Federal District have prepared reports on the police violence in these capitals. In São Paulo, a study by the Center for the Defense of Adolescents of Interlagos (2006) demonstrated that of the 116 adolescents that served non-custodial sentences supervised by this centre, 95% of those interviewed said that there was violence involved when the police approached them. 51% was physical, 43% psychological, and 1% sexual violence. As for their arrival at police stations, 80% reported that their reception was unsatisfactory. One of the violations noted was that 44% of adolescents were put in cells along with adults. The data shows that 48% suffered from physical violence in the police station and 51% suffered psychological violence, such as threats to them and their families and humiliation.

In Brasília, the Socio-Educational Measures Division of the Federal District Court, responsible for supervising the status of adolescents in conflict with the law, whether or not in custody, investigated the police violence towards these adolescents and found evidence of violence and police torture of adolescents in rehabilitation. The 2011 report stated that, in terms of police actions, 70% of the adolescents said they had suffered physical violence, followed by 30% reporting psychological violence, and 1% reporting sexual violence. Also confirmed were brutal acts of violence such as electric shocks, fingernail removal, broken ribs, and choking; that is, practices that constitute torture.

In September 2014, the National Network for the Defense of Adolescents in Conflict with the Law began the process of drawing up a national report on socio-educative detention centres in 13 states in the country. Inhumane conditions such as unsanitary environments, poor diet, and a lack of access to education, sports and health were found. They also found allegations of various acts of violence and police torture during arrests, such as cases in which the police, after hitting adolescents, shot them in strategic places such as the hands, arms, feet, legs and shoulders in order to cause them serious injury and harm without killing them.

Another important example is the massacre that occurred in October 2014 in the city of Belém (in the state of Pará) on October 4, 2014. Masked men shot ten people to death after a policeman was killed. As Amnesty International states, this slaughter is representative of the larger problem of police violence in Brazil, because according to the annual data from the Map of Violence,



Brazilian police have killed 11,197 people between 2009 and 2013 while on and off duty.

9. A lack of specialization in judges and officials within the system.

In most of the countries there are no specialized courts for Juvenile Justice, and adolescents accused of a crime are handled by Family Services Judges that hear the different cases established in the national codes for children and adolescents. This situation also causes delayed justice in juvenile justice systems, which is reflected, for example, in high rates of pretrial detention. Lack of expertise is a problem not just for judges, but also in the other instances of the Juvenile Justice systems. In most countries, prosecutors, police, technical teams or personnel at detention centres do not usually have the expertise required to handle cases of juveniles in conflict with law.

10. The Right to Image in the Juvenile Justice Trials

Repeatedly the media, in publishing news about crimes, publishes information about or images of the adolescents involved, even though every national code or law on children prohibits this.

Following a series of events that occurred primarily between 2007 and 2013 in Costa Rica, where evidence of violations of the right to image by certain news outlets was presented, DCI Costa Rica filed petitions for constitutional relief with the Constitutional Law Division of the Supreme Court, thus contributing to the effectiveness of the Constitutional Law, which categorically affirms that the protection of the adolescents' right to image during juvenile justice proceedings is fundamental.

11. Lack of official data and records

One hurdle for the progress of reforms is the lack of reliable and systematic information that can be compared, and that helps illustrate the magnitude of the problem and how it impacts adolescents. The lack leads to harsher juvenile justice systems. In some countries there are no official records, or they are poor, lacking continuity. One governmental institution's figures may be different from another's for the same indicator.



Another situation observed in some countries while collecting information was the refusal of several governmental officials to give information, on the grounds of the right to privacy in the juvenile justice system. They therefore do not provide information on the number of adolescents in custody, and they prohibit entry into detention centres.

In Paraguay, information about adolescents and juvenile justice is very limited. In 2014, the Ministry of Justice made changes and the Criminal Policy Observatory was created. It works to collect, process and analyse data on public safety and its various stakeholders in order to prepare reports to help give an understanding of the current situation and developments in violence, social unrest, crime, the legal situation of persons in custody, public safety, as well as existing challenges and progress. These indicators serve as inputs when planning and making decisions regarding criminal policy and security. However, no concrete or specific data on adolescents and juvenile justice has been presented. Although the first census of adolescents in custody in Paraguay took place this year, the data is yet to be systematized.

In Ecuador, with the implementation of the new Organic Criminal Code, the challenge the court now faces is to create the entire computerized monitoring and follow-up system for the socio-educational measures used with adolescents who, for various reasons and to different degrees, are in conflict with the law¹⁹.

12. The role of the media

Media monitoring has allowed an analysis of the tendency of the media to sensationalize news regarding the cases of adolescents in conflict with the law without investigation, and usually with information from official sources only. While the format of some publications allows for debates between those who complain about the increasing intensity of the repression and those who argue for the need to implement preventive policies and ensure that institutions in the juvenile justice system are run properly, when analysis is introduced, it seems to depend on the availability of unofficial sources at the time that can contribute to a more in-depth reflection than the one provided by the news.

¹⁹ In compliance with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Punishment and the Optional Protocol of that Convention, which establishes countries' commitment to draw up annual reports, the **Ombudsman of Ecuador** created the National Mechanism for Prevention of Torture, and submitted its first annual report, for 2013, which contains and organizes detailed information regarding inspections and monitoring of detention centers, including four centers for adolescent offenders (CAI for its acronym in Spanish) conducted between January and October 2013.



The lack of sufficient analysis and the excessive circulation of tabloid news leads to a failure to consider the causes of crime and violence, and helps the government, society and individuals escape responsibility.

Since justice, the rights of children and adolescents, and freedom of expression are fundamental pillars of a democratic government, it is important to take into account the not just the size of the role of the different sectors of government and civil society, but also the large information systems, such as the media, for their undisputed ability to become a channel of social amplification.

In Ecuador, as part of the implementation of the new Communications Law (Official Journal Supplement No. 22 of June 25, 2013), in January 2015, the *'audience and reader ombudsman'* mechanism will be launched. It is seen as an opportunity to demand citizens' rights in the context of media, radio and television content.

The media also have a responsibility to contribute to building a more just society and promoting social integration processes that foster the full exercise of citizenship of adolescents who come into contact with the criminal justice system.

Regional Juvenile Justice Observatory website
www.orjpi.org

Regional Juvenile Justice Program website:
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Sources:

ⁱ This data was taken from the report Children and Adolescents in Conflict with Criminal Law / Virginia Vasile and Fabiana Reyes. - 1st ed. - Buenos Aires : Infojus, 2012. This data has been combined with the results of interviews conducted by DCI Argentina authorities with the National Secretariat for Children, Youth and Family in 2013.

ⁱⁱ Data collected during the first half of 2014 in six departments in Bolivia, provided by officials from SEDEGES – SEDEPOS and detention centers for adolescents in conflict with the law.

ⁱⁱⁱ Department of Human Rights: National Survey 2011 - Social and public health care for adolescents in conflict with the law

^{iv} Colombian Institute for Family Wellbeing Criminal Responsibility System for Adolescents (SRPA for its Spanish acronym). 2012.

^v DCI- Costa Rica. Data collected directly from the guard offices of the two centres on June 4-5, 2014

^{vi} DCI-Ecuador Chapter. Ministry of Justice, Human Rights and Religious Affairs of Ecuador. Sub-secretariat of Holistic Development for adolescent offenders. Information for the Regional Juvenile Justice Observatory Project. Cut-off date: July 27, 2014

^{vii} Directorate-General for Services to Adolescent Offenders. Year 2012. (DIGAAI-MJT)

^{viii} Centres authorized by the Legal Department of the Criminal Responsibility System for Adolescents- (SIRPA for its acronym in Spanish). 4/24/2014

^{ix} This data was taken from the report Children and Adolescents in Conflict with Criminal Law / Virginia Vasile and Fabiana Reyes. - 1st ed. - Buenos Aires : Infojus, 2012. This data has been combined with the results of interviews conducted by DCI Argentina authorities with the National Secretariat for Children, Youth and Family in 2013.

^x DCI- Bolivia. Data collected during the first half of 2014 in six departments in Bolivia, provided by officials from SEDEGES –SEDEPOS and detention centers for adolescents in conflict with the law.



^{xi} Department of Human Rights: National Survey 2011 - Social and public health care for adolescents in conflict with the law

^{xii} Colombian Institute for Family Wellbeing 2012

^{xiii} DCI- Costa Rica. Data collected directly from the guard offices of the two centers on June 4-5, 2014

^{xiv} DCI-Ecuador Chapter. Ministry of Justice, Human Rights and Religious Affairs of Ecuador. Sub-Secretariat of Holistic Development for Adolescent Offenders. Information for the Regional Juvenile Justice Observatory Project. Cutoff date: July 27, 2014

^{xv} Directorate-General for Services to Adolescent Offenders. Year 2012. (DIGAAI-MJT)

^{xvi} This data was taken from the report Children and Adolescents in Conflict with Criminal Law / Virginia Vasile and Fabiana Reyes. - 1st ed. - Buenos Aires : Infojus, 2012. This data has been combined with the results of interviews conducted by DCI Argentina authorities with the National Secretariat for Children, Youth and Family in 2013.

^{xvii} DCI- Bolivia. Data from six departments provided by officials from SEDEGES –SEDEPOS and detention centers for adolescents in conflict with the law, and, in the case of the department of Santa Cruz, by SEDEPOS and its PIDIC-ACL program.

^{xviii} "Other sentence" refers to the orders for guidance handed down for these adolescents, as per the Code for Children and Adolescents (Law 2026), and complemented by a request for therapy or psychological guidance.

^{xix} Department of Human Rights: National Survey 2011 - Social and public health care for adolescents in conflict with the law

^{xx} Supervisory Report on the Criminal Responsibility System for Adolescents- SRPA, National Attorney General's Office from 2011

^{xxi} This statistic is made up of rules of conduct 3057 and Imprisonment in a semi-closed prison 1619

^{xxii} DCI- Costa Rica. Data listed provided by the head of Statistics of the "Alternative Sanctions Program," part of the National Program for the Juvenile Offenders (PNAPP for its acronym in Spanish). August 27, 2014

^{xxiii} Probation is virtually never applied by itself, but is accompanied by guidance and supervision orders (OOS for its acronym in Spanish)

^{xxiv} DCI-Ecuador Chapter. Ministry of Justice, Human Rights and Religious Affairs of Ecuador. Sub-secretariat of Holistic Development for adolescent offenders. Information for the Regional Juvenile Justice Observatory Project. Cutoff date: Sunday, July 27, 2014

^{xxv} Centers authorized by the Legal Department of the Criminal Responsibility System for Adolescents- (SIRPA for its acronym in Spanish). 4/24/2014

*Cover drawing completed by Javier Larios