

PROPORTIONALITY AND ALTERNATIVE PENAL SANCTIONS:

Promoting a more humane criminal response that protects the rights of women and vulnerable groups linked to minor drug crimes

Criminal policy regarding drug trafficking is undergoing a process of renewal in Latin America and the Caribbean. Progress is being made towards new approaches that allow the impacts of the traditional punishment and prison-oriented response to be reversed, especially for minor drug crimes, a problem that affects vulnerable sectors of the population, with a particular impact on women. In fact, poverty, social exclusion, lack of access to services and opportunities are factors that drive many women to enter the lowest level

of drug trafficking as a means of subsistence. In this context, imprisonment does not address the structural causes that underlie the problem. On the other hand, the search for proportionality of penal systems and the application of alternative measures to imprisonment offer avenues for solutions in the field of restorative justice. Within the framework of the design of new criminal policy strategies, the COPOLAD III programme contributes to the generation of technical tools that allow judicial operators to advance in the application of proportional measures

and alternatives to prison. This makes it possible to apply a more humane punitive response, paving the way for women linked to minor drug crimes to fully exercise their rights.

1 implementing PARTNER: FIAAPP
(International and Ibero-American Foundation for Administration and Public Policies)



WHAT STRATEGY DO WE FOLLOW

MULTI-COUNTRY SCHEME

▶ A Working Group of 22 countries has been formed to generate debate and reflection, through:

- Webinars on key topics
- Online exchange of experiences

REGIONAL FOCUS

▶ Support for the development of instruments and standards in LAC regional organisations:

- COMJIB (Conference of Ministers of Justice of Ibero-American Countries)
- AIDEF (Inter-American Association of Public Defenders)

NATIONAL APPROACH

▶ Four national actions have been promoted, with goals and support routes to accompany national reform processes.



IN WHICH AREAS DO WE WORK



GENERATION OF REGIONAL STANDARDS ON PENAL ALTERNATIVES

As the **REGIONAL** level, the programme supports COMJIB and AIDEF in the creation of regional instruments and standards, in line with the human rights, gender and public health approach:

▶ COMJIB: Technical support for the design and implementation of a "Pact for the humanisation of

criminal and prison policy in Ibero-America", which aims to optimise the efforts of LAC countries to move towards the configuration of more humane and inclusive justice systems. The development of two instruments is included:

I. A diagnosis of the legal framework of a selection of LAC countries (Argentina, Colombia, Paraguay, Costa Rica) to identify the main regional problems in criminal and prison policy relating to drug trafficking crimes.

II. A document of Ibero-American Minimum Standards for the development of criminal policies consistent with the principles of proportionality and alternative penal approaches in relation to drug crimes. It is intended that the standards be used in the region (a first action to transpose the standards in Paraguay has been designed for this purpose).

▶ AIDEF: It is planned to provide technical assistance for the construction of a Regional Specialised De-



ALIGNED with REGIONAL POLICIES on alternative penal approaches

Hemispheric Plan of Action on Drugs 2021-2025, OAS/CICAD.

Pillar 1 on institutional strengthening, Objective 4: "Design, adopt, and implement alternatives to incarceration for minor or non-violent drug or drug-related offences, while taking into account national, constitutional, legal, and administrative systems, and in accordance with relevant international instruments."

EU Drugs Strategy 2021-2025, European Council.

Strategic priority 7: "Risk- and harm-reduction interventions and other measures to protect and support people who use drugs." (Priority area to address: 7.4: Provide alternatives to coercive sanctions)

fence Protocol for Women in conflict with the law due to the commission of drug crimes, with a focus on human rights, gender and public health. The Guide to Legal Tools for Criminal Defence “Women charged in contexts of violence or vulnerability” developed by Argentina’s General Defender’s Office (2020) with support from the EUROsocial programme (EU funds) has been taken as the basis.



PROMOTION OF PROPORTIONALITY AND ALTERNATIVE PENAL MEASURES WITH A FOCUS ON SOCIAL INCLUSION

With its **REGIONAL** work programme, COPOLAD III accompanies processes of reflection and exchange of experiences of technical teams from institutions involved in criminal and prison policy (for example, the Judiciary and Public Defenders). The following progress has been made:

► The four webinars of the Working Group (December 2022, April, May and July 2023) positioned the debate on proportionality and penal alternatives in the region’s penal systems. Participants’ awareness was raised as regards: a) challenges of penal response to drug trafficking in vulnerable populations (female offenders); b) legal diversification mechanisms for minor drug crimes;

and c) inclusive mechanisms to reduce the inequality gap in the population linked to minor drug crimes.



At the same time, a space for exchanging experiences was created, and has served to raise challenges, lessons learned and practical reflections. Several key experiences have been identified and shared:

- I. Specialised Criminal Defence Protocol with a gender focus, and balance of its use and impact with women linked to drug crimes (Argentina)
- II. Affirmative actions for women heads of family in matters of criminal and prison policy (Colombia)
- III. Restorative justice approach for women offenders bringing drugs into prisons (Costa Rica)
- IV. Decriminalisation and deterrence of consumption as a non-criminal approach to the consumer (Portugal);
- V. Crisálida Project, aimed at inclusion for women deprived of liberty with EU funds (Uruguay)
- VI. “Jóvenes con Rumbo” (Young People with Direction” Youth Centres, which offer education and personal development alternatives to at-risk youth (Mexico).

VII. Models for referral to non-criminal mechanisms (Portugal, Mexico and the Dominican Republic)

At the **NATIONAL** level, COPOLAD III provides technical support specifically to four countries in the region, according to different needs and demands. Support includes carrying out legal audits of criminal frameworks, proposals for legislative reform of the criminal framework to incorporate proportionality and alternative schemes, and the development of protocols to adopt alternative measures:

- **COSTA RICA:** Support for the development of the Restorative Justice Programme within the framework of the National Drug Strategy. Specifically, technical assistance is provided to the Judiciary of Costa Rica, the Costa Rican Drug Institute (ICD) and the Institute on Alcoholism and Drug Dependence (IAFA) to develop a “Protocol for Comprehensive Attention to Women in Conflict with the Criminal Law ” (under Article 77-bis of Law 8204). The added value of the protocol lies in addressing the specific vulnerabilities that women face from with an approach based on comprehensive response and restorative justice.
- **PARAGUAY:** Support to the National Anti-Drug Secretariat (SENAD) and the Ministry of Public Defence (MDP) in the design of criminal defence strategies with a gender fo-



The adoption of more proportionate penal frameworks for minor drug offenses offers a more effective response to protect public health and safety and reduces the social impact of incarceration on women and vulnerable populations.

cus. In particular, a “Defence Protocol for Women in conflict with the law due to the commission of drug crimes” is being developed, linked to the regional standards that are being developed in AID-EF. It is expected to conclude with training for public criminal defenders in the country and with a space for regional exchange of lessons learned between several countries.

- ▶ DOMINICAN REPUBLIC: Agreement is being reached on supporting the Judiciary in the development of Daily Justice programmes and/or programmes to optimise the Criminal Process. It is planned to develop a protocol for approaching criminal proceedings regarding drug crimes for legal operators.
- ▶ TRINIDAD & TOBAGO: Support to the National Drug Council for

the development of a regulatory proposal for the treatment of minor drug crimes. The “Deterrence Commissions” approach (Portuguese model) is adopted, based on comprehensive care for people who commit minor drug crimes through an articulated network of public services, as a model to decriminalise consumption, formulate alternatives to prison and offer social and health support.



COPOLAD BLOG

[Rethinking Justice with a Gender Approach: Women, Drugs and Penal Alternatives](#)

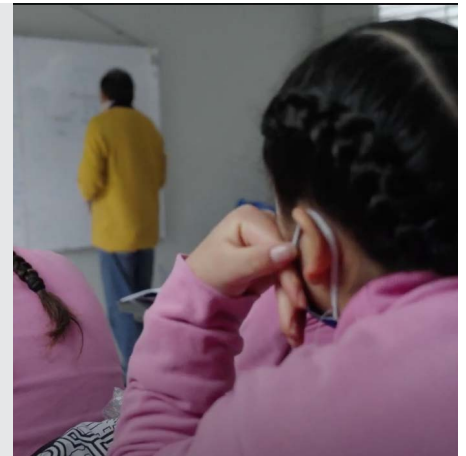


INTERVIEWS

[Alternatives to incarceration for drug crimes: the COPOLAD III approach](#)

[Adolescents and drugs: the need for proportional laws and effective policies.](#)

[Alternatives to incarceration for minor drug offences. Erenia's story](#)



MEETINGS

[Improvement of proportionality and penal alternatives for minor drug offences.](#)



COPOLAD III is a consortium formed by:

Collaborating partners:

