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## Responding to COVID-19 in Latin American Prisons: The Cases of Argentina, Chile, Colombia, and Mexico

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### ABSTRACT

The purpose of this paper is to identify and analyze how prison systems in Argentina, Chile, Colombia, and Mexico respond to the coronavirus disease (COVID-19). It explores the challenges these institutions face, the actions taken, the beneficiaries from such measures, and their immediate effect. We argue that governments and prison authorities struggle to put in place comprehensive measures to prevent and control the spread of COVID-19 within these institutions and that more concrete and swift actions are needed to address the magnitude and the consequences of the pandemic. This paper uses both primary and secondary data to describe the current prison situation and analyze institutional responses to the COVID-19 pandemic in these countries.

### KEYWORDS

Prisons; Latin America; COVID-19; Pandemic; Alternatives to incarceration; Early release mechanisms; Prison reform

## Introduction

The COVID-19 pandemic hit Latin American prisons in the midst of a decades-long crisis of mass incarceration, endemic overcrowding, violence, and lack of access to basic needs and services, including health care. Latin America as a region houses 12% of the world's total prison population (1.2 million, Walmsley, 2018). Moreover, the incarceration rate in the region has doubled from 118.8 to 241 per 100,000 inhabitants since 2000. This is one of the highest incarceration rates in the world, compared to the global average of 145 incarcerated individuals per 100,000 inhabitants (Bergman, 2018; Vilalta & Fondevila, 2019; Walmsley, 2018).

The rapid growth of the prison population is causing many institutions to operate on an average of 60% over bed capacity (Limoncelli et al., 2020). Overcrowding, poor hygiene, substandard living conditions, limited access to basic goods, insufficient health-care services, and lack of funding are common features of prisons in Latin America (Bergman, 2018; Carranza, 2009; Dammert & Zuñiga, 2008; Darke & Karam, 2016; United Nations Development Program [UNDP], 2013). These conditions make prisons vulnerable settings for outbreaks of significant illnesses and infectious diseases like COVID-19 (Kinner et al., 2020; Montoya-Barthelemy et al., 2020). It is virtually impossible for people in prison to

practice social distance and maintain basic hygiene to prevent the spread of the coronavirus. For these reasons, Latin American governments must concern themselves with the virus' presence in unsanitary prisons as a part of their efforts to address the pandemic within the larger community.

In this paper, we conduct a comparative analysis of how the COVID-19 pandemic has impacted prison systems in Argentina, Chile, Colombia, and Mexico and discuss governments' responses to address this health crisis. Our analyses focus on three core questions: How has the global pandemic affected the daily life of people inside prisons? How have these four countries responded and managed the pandemic inside prisons? What are the lessons learned from the variety of responses to the pandemic? In addition to addressing these questions, we consider the implications of COVID-19 for future preparedness in Latin American prisons.

We begin by providing an overview of the objectives and data sources used in this research. Then, we examine the current situation of COVID-19 in prisons in the four countries of study. In the third section, we describe the measures taken by correctional authorities to control the virus by releasing incarcerated individuals, reducing new admission to prisons, and implementing mitigation actions inside correctional facilities. Lastly, we conclude by comparing actions taken by governments and discussing opportunities for policy change and future research.

## The current study

The current study examines the COVID-19 outbreak in the corrections systems of four countries: Argentina, Chile, Colombia, and Mexico. These countries are among the top 10 Latin American countries with the highest prison population (Institute for Crime and Justice Policy Research [ICPR], 2019; see Table 1).

The study relies on three sources of information. The first source includes available databases, public and nonpublic reports from NGOs, governments, international organizations, and newspaper articles that discuss the response of prison systems to the pandemic.

The second source uses quantitative data collected from all Latin American countries,<sup>1</sup> except El Salvador, through an online survey. The regional survey includes both centralized (i.e., a single national correctional system), and decentralized correctional systems in the region. For the former group of countries (i.e., Argentina, Brazil, and Mexico), the survey counted in the federal prison system and one key state prison system.<sup>2</sup> The online survey was designed and implemented by one of the authors of this paper in collaboration with the Center for Latin American

**Table 1.** Top 10 Latin American countries with the highest prison population (2018–2020).

Country	Correctional system	Number of prisons	Total prison pop.	Prison pop. rate (per 100,000 inhabitants)
1 Brazil	Decentralized	2,608	755,274	357
2 Mexico	Decentralized	342	198,384	158
3 Colombia	Centralized	132	109,034	217
4 Argentina	Decentralized	308	103,209	230
5 Peru	Centralized	69	96,870	292
6 Venezuela	Centralized	58	57,096	178
7 Chile	Centralized	113	39,584	214
8 Ecuador	Centralized	52	39,251	224
9 El Salvador	Centralized	25	38,114	590
10 Guatemala	Centralized	21	26,160	146

Source: ICPR (2019).

Studies on Insecurity and Violence (Centro de Estudios Latinoamericanos sobre Inseguridad y Violencia, CELIV), and the Latin American Society of Criminology (Sociedad de Criminología Latinoamericana, SOCLA). The goal of the survey was to gather information about the initial responses of Latin American correctional systems to COVID-19 and its impact on incarcerated individuals and prison staff. The survey instrument consisted of 58 questions, mostly in closed-ended format, and divided into five thematic areas: 1) general information and data about the correctional system, 2) measures taken by correctional authorities to protect the prison population during the pandemic, 3) measures taken by each system to protect the correctional staff during the pandemic, 4) the incidence of COVID-19 within the system, and 5) possible justice reforms to help control the pandemic. The link to the online survey, using google forms, was distributed by e-mail to 31 Latin American prison scholars<sup>3</sup> on April 26, 2020. They collected data from official sources and when such information was unavailable, informants relied on personal reports from high-rank prison officials or from secondary sources such as the media or reports from NGOs. Data collection ended on June 1, 2020, and CELIV received responses from 27 prison systems representing 18 Latin American countries. The survey covered prison systems that house more than 90% of Latin American inmates (see Bergman et al., 2020 for survey details).

Lastly, the third source analyzes four semi-structured interviews with prison scholars and practitioners from Argentina, Chile, and Colombia. The interview instrument focused on: 1) a general overview of prisons in each country, 2) the incidence of COVID-19 in the prison system, 3) measures taken by each country to deal with the pandemic in correctional facilities, and 4) interviewees' perceptions of the potential short-, medium- and long-term impact of COVID-19 in the prison system. Interviews were conducted online, by one of the authors of this paper, each interview lasted approximately 25 minutes and was voluntary.

We caution the reader that our review and analysis are preliminary, as the pandemic situation is constantly evolving within each prison and country. In addition, our ability to document the situation varied across countries due to availability and reliability of the data.<sup>4</sup>

## **COVID-19 and prisons in Latin America**

Even before COVID-19, Latin American prisons were facing a serious crisis that the pandemic has exacerbated. While the situation varies from country to country, they share several characteristics: mass incarceration, endemic overcrowding, high levels of pretrial detention, poor infrastructure, scarcity of financial and human resources, shortage of basic goods and services, and increasing recidivism (Bergman, 2018; Carranza, 2009; Dammert & Zuñiga, 2008; Darke & Karam, 2016; UNDP, 2013). These structural conditions of confinement illustrate that correctional systems are ill-equipped and unprepared to respond accurately and effectively to a worldwide health crisis such as the COVID-19 and at the same time protect the fundamental rights of incarcerated people.

At the time of writing this article, Latin America is the region with the most confirmed coronavirus cases globally, surpassing the combined infections of the United States and Canada, and accounting for more than a quarter of global cases (Desantis & Leira, 2020). The group of countries under analysis are among the top 10 countries with the highest count of cases in the region, along with Brazil, Bolivia, Dominican Republic, Guatemala, Ecuador, and Peru (Horwitz et al., 2020).

The first case of coronavirus was confirmed in Mexico, on February 28, 2020. Shortly after that, COVID-19 landed in Argentina and Chile on March 3, 2020, and in Colombia on March 6, 2020. Since then, cases have grown exponentially. As of September 7, 2020, there were more than two million confirmed cases of COVID-19 in the countries under study (see [Table 2](#)). The country with the most reported positive cases is Colombia with 671,848 cases (Ministerio de Salud de Colombia, Reportes diarios sobre el Coronavirus, 2020), followed by Mexico (637,509, Gobierno de Mexico, 2020), Chile (425, 541, Ministerio de Salud de Chile, Cifras oficiales sobre el Coronavirus, 2020) and Argentina (268,574, Ministerio de Salud de Argentina, Reportes diarios sobre el Coronavirus, 2020).

Data from correctional authorities indicate that the first documented case of COVID-19 in prisons was reported on March 29, 2020, in Chile. By September 7, 2020, there were over 6,620 reported cases of coronavirus inside prisons, among a total of 450,211 incarcerated people in the four countries under study. In other words, this is equivalent to 1,470 cases per 100,000 prisoners, which is close to two times higher than the national case rate of 810 cases per 100,000 people. [Table 2](#) summarizes the dates and number of coronavirus cases in the general population and inside prisons.

The country with the highest number of COVID-19 cases and deaths in prisons is Mexico, with 3,055 infections (87% inmates and 13% correctional staff) and 285 deaths (79% inmates and 21% staff) (Asistencia Legal por los Derechos Humanos [AsiLegal], 2020). It is followed by Chile with 3,043 positive coronavirus cases (57% are inmates and 43% correctional staff) and 15 deaths (87% inmates and 13% staff) in prisons (Gendarmería de Chile, 2020a). Colombia reports 2,374 positive cases of COVID-19 (94% inmates and 6% staff) in 51 correctional facilities (Instituto Nacional Penitenciario y Carcelario [INPEC], 2020a). Lastly, Argentina's prisons report the lowest number of confirmed cases of COVID-19. At the federal level, 350 positive cases and 12 deaths have been reported (SPF, 2020). At the state level, each prison authority is responsible for reporting data on the pandemic. The Buenos Aires province prison system reported in early August the first seven cases of coronavirus. However, this information is unreliable as this low level of contagion is unlikely in one of the largest and overcrowded state prison system in the country.

In sum, available data suggest that the rate of COVID-19 cases in prisons is higher than national rates in most countries under analysis. However, it is important to recognize that correctional systems in the region often lack adequate information systems to gather and report systematic data (UNDP, 2013). Thus, data availability and reliability, as well as, limited testing constitute a challenge to estimate the real magnitude of the pandemic outbreak inside prisons.

**Table 2.** Reported cases of COVID-19 in general population and in prisons.

	General population			Prison population				
	Total population	Date of first case	Number of cases*	Total Prison population	Date of first case	Number of Cases*		
						Prison residents	Staff	Deaths
Argentina	44,938,712	March 3	268,574	103,209	April 19	350	N/A	12
Chile	18,952,035	March 3	425,541	39,584	March 29	1,745	1,298	15
Colombia	50,339,443	March 6	671,848	109,034	April 10	2,221	153	70
Mexico	132,829,000	February 28	637,509	198,384	March 31	2,654	401	285
Total	247,059,190		2,003,472	450,211		6,970	1,852	382

\*Cases reported as of September 8, 2020. Sources: Coronavirus cases in general population: Ministerio de Salud Argentina, Chile, Colombia and Gobierno de Mexico. Coronavirus in prisons: Argentina (SPF, 2020); Chile (Gendarmería de Chile, 2020a); Colombia (INPEC, 2020a); Mexico (AsiLegal, 2020). Total prison population: ICPR (2019).

## Responses and measures to address COVID-19 in prisons

The World Health Organization issued guidelines to address, prevent and control COVID-19 inside prisons and other detention centers (World Health Organization [WHO], 2020). In addition, several agencies from the United Nations system issued joint statements and guidance notes on the impact of COVID-19 on human rights (United Nations Office on Drugs and Crime [UNODC], 2020; Inter-American Commission on Human Rights [IACHR], 2020). These institutions urged governments to take measures to minimize the risk of contagion within prisons and to safeguard the rights of prisoners. Specifically, they state that governments must take actions to reduce overcrowding, guarantee the health, safety, and dignity of incarcerated people, ensure the continuity of access to health services, and respect human rights. Most of these guidelines can be grouped into three broad categories.

The first category involves *prison releases* to reduce prison population and prevent and control the spread of COVID-19. Examples include granting parole to people nearly the end of their sentences who committed low-level offenses, providing early release to individuals serving short sentences for nonviolent offenses, releasing vulnerable individuals (e.g., elderly inmates, pregnant women, women with children, and individuals with chronic diseases). In addition, they recommended providing alternatives to detention for people waiting for trial and implementing special mechanisms such as commutations, pardons, or suspension of sentences. Second, international organizations suggest to *limit new prison admissions*. Criminal justice systems are encouraged to consider reducing arrests, particularly for low-level offenses, set lower bail amounts, postpone the enforcement of sentences of up to 6 months, and convert sentences into fines. The third type of recommendations relates to *prevention and mitigation actions inside prisons* to manage the spread of COVID-19. These actions include temporary limitations on movement or visits, increase cleaning, infection control, testing, access to hygiene products, personal protective equipment, health care, and medical isolation of suspected cases.

Based on these categories, the following section identifies key characteristics of correctional systems pre-pandemic and details the actions taken by the four countries under study to prevent and control the spread of coronavirus in prisons.

### **Prison releases**

While conditions and circumstances of prison releases differ in each country, this measure is being implemented under the premise that early release is a suitable humanitarian act for some incarcerated individuals. Data from the regional survey show that most countries focused their releases on the elderly, people with mental and physical underlying medical conditions, pregnant women, women with children, and prisoners associated with non-violent, non-serious, nonsexual offenders (Bergman et al., 2020). Most countries struggle in conducting early releases that can make a meaningful contribution in reducing the prison population and alleviate the negative impacts of overcrowding. Results from the regional survey show that between March and June 2020, five out of the 26 prison systems included in the survey released less than 1% of their prison population and nine released between 1% and 5% (Bergman et al., 2020). Table 3 summarizes prison releases due to COVID-19 in the four countries under study.

**Table 3.** Releases from prison to prevent and control the spread of COVID-19\*.

	House arrest	Probation	Parole	Exceptional mechanisms**	Other	Releases (% prison population)
Argentina – Federal Prison System	735	84	242		841	Approx. 13%
Argentina – Buenos Aires Province Prison System	800					Approx. 2%
Chile	2,489	1,591		1,860		Approx. 14%
Colombia	20,910			889		Approx. 20%
Mexico – Federal Prison System				None		
Mexico – Mexico State Prison System						Approx. 2%
Mexico – Other States						

\*Data reported for Argentina and Chile as of June 1, 2020. For Mexico and Colombia as of July 15, 2020.

\*\*Exceptional mechanisms include: amnesties, pardons and commutations.

## Argentina

The incarceration rate in Argentina doubled between 2000 and 2019, from 102 to 230 incarcerated individuals per 100,000 inhabitants (ICPR, 2019). This increase resulted in occupancy levels that surpass official capacity. In 2019, the Argentinian federal prison system housed close to 14,000 incarcerated people (15% of the total prison population in the country) and operated 13% above its official bed capacity. At the state level, the Buenos Aires province prison system gathered over 49,000 people or 45% of the national prison population. The overcrowding rate was 71% (Centro de Estudios Legales y Sociales [CELS], 2020).

Most people in Argentinian prisons are young males, incarcerated for the first time, and serving short sentences for low-level offenses. In 2018, 95% of the total prison population were male, mostly adults between 25 and 44 years of age (62%) and first-time offenders (74%) (Sistema Nacional de Estadísticas sobre Ejecución de la Pena [SNEEP], 2018). In the Federal prison system, 28% of sentenced individuals were serving time for low-level drug-related offenses, and another 36% for property crimes. In the Buenos Aires prison system, 30% of people are in prison for theft and 11% for low-level drug crimes (CELS, 2020). Pretrial detainees account for almost half of the total prison population, 54% at the federal level and 49% in the Buenos Aires province (CELS, 2020).

The coronavirus pandemic increased the need to reduce the prison population to avoid an outbreak of the virus and a collapse of health systems inside and outside prisons. In April 2020, the Criminal Court of Appeals under the framework of a collective habeas corpus decided to grant house arrest to people considered to be at risk of contracting the virus and those arrested for the commission of low-level offenses. This measure benefited approximately 735 incarcerated individuals in federal prisons, which represents less than 2% of the prison population (Procuración Penitenciaria de la Nación [PPN], 2020). However, a month later this decision was revoked by the provincial Supreme Court of Justice, mainly in response to critics and opposition from citizens and politicians to prisoner releases. Ultimately, those cases were re-channeled to be dealt on a case-by-case basis and be resolved by judges of first instance (Bergman et al., 2020). Other early releases at the federal level have happened between mid-March and the end of May through probation, parole, or other mechanisms, benefiting 1,167 people in prison (PPN, 2020).

Releases made at the federal level have contributed to reduce overcapacity from 13% to 2% (CELS, 2020). While this new situation represents an improvement, it does not mean that prisons are better equipped to deal with the virus. The deficits in terms of living

conditions, health care, food, and shelter are still critical and remain far from meeting human rights standards. At the end of April, there were riots in one of the federal prisons, where inmates requested access to sanitary products to combat the virus and demanded better infrastructure. Currently, there are no individual cells, but community pavilions in which more than 100 people live (Angulo, 2020).

Any effort to decongest prisons is also needed at the state level. In the Buenos Aires province, there have been close to 800 releases directly attributed to COVID-19. This is not a very significant number as it represents 1.6% of the prison population of this jurisdiction (Bergman et al., 2020). Although the Buenos Aires province prison system reported a reduction of 3,500 people between December 2019 and May 2020, it is unclear whether this reduction was due to early releases in the face of COVID-19 or other measures (CELS, 2020).

### **Chile**

Since 2010 the incarceration rate in Chile has substantially dropped. From 320 inmates per 100,000 inhabitants to 215 in 2019 (ICPR, 2019). While there is no conclusive empirical evidence to explain the cause of this decline, a contributing factor was the measures taken by the government to address prison overcrowding after the dramatic San Miguel prison fire of 2010 where 81 people died (Tamayo, 2016). These included legislation to increase the use of alternatives to incarceration through the expansion of the catalog of non-custodial sanctions to include probation with intense supervision, parole, community service orders, and expulsion of foreigners. In addition to procedural reforms to grant parole that reduced bureaucracy in the decision-making process (Salinero & Morales, 2019; Godoy, 2016; Wilenmann, 2020).

In 2018, the majority of people in Chilean prisons were young males (88.8%) between the ages of 18 and 19 (43%) and 30 to 39 (33%). More than half (61.4%) were first time offenders and of those who were convicted, 58% were serving ten-year sentences or shorter (Gendarmería de Chile, 2018a, 2018b). Pretrial detainees account for 31.7% of the total prison population (ICPR, 2019).

In the face of COVID-19, the Chilean government took advantage of non-custodial sentences, already in place in the country to reduce its prison population (e.g., probation, parole, house arrest, suspended sentences, electronic monitoring, and work release). Between March and June 2020, probation was granted to 1,591 sentenced inmates (Gendarmería de Chile, 2020c) and 2,489 pretrial detainees with vulnerable health conditions were released under house arrest or other pretrial options (Defensoría Penal Pública, 2020). Also, a Presidential pardon benefited 1,860 sentenced people (280 in probation and 1,580 in prison) who were vulnerable to contracting COVID-19 and who were serving sentences for nonviolent offenses (Gendarmería de Chile, 2020c). There have been approximately 5,660 releases which represent close to 14% of the country's total prison population.

However, not every incarcerated individual is willing to accept early release, particularly those coming from and returning to marginalized communities. For instance, over 100 prisoners did not accept the President's pardon in response to the pandemic and opted to remain in prison. They expressed that in prison they have access to a secure job, shelter, food, and a salary to help their families, which might not be available in the community (Reyes, 2020). In many countries of the region, prison systems offer few options to support prisoner reentry and facilitate the reintegration process (Bergman, 2018), as in Chile, where



there are two main post-release programs with capacity for a thousand people. However, the demand for such services originates from more than 28,000 people being released from prison (Morales et al., 2018).

### **Colombia**

In 2019, the incarceration rate in Colombia was 217 inmates per 100,000 inhabitants and the occupancy rate was 135%. Pretrial detainees account for 33% of the total prison population (INPEC, 2019). As in other countries under analysis, people in prison are mostly young males (92.9%), around 39% of them are between the ages of 18 and 29 and another 31% between 30 and 39 years of age (INPEC, 2019). Incarcerated people are mostly serving short sentences, less than 10 years (59%), and for nonviolent offenses such as theft (15%), conspiracy to commit a crime (13%), and low-level drug-related offenses (13%). About 14% of the prison population is serving time for homicide, 13% traffic, or possession of firearms, 9% sexual offenses, and 23% for other crimes (INPEC, 2019).

Violent riots in several Colombian prisons pushed the National Government to take measures to deal with the pandemic inside prisons. On March 21, 2020, there were 13 simultaneous riots in prisons around the country that resulted in the death of 23 incarcerated individuals and over 80 officers and inmates injured (Bergman et al., 2020; Colectivo de Estudios de Drogas y Derecho [CEED], 2020). Prisoners expressed their outrage at the lack of response from the government to prevent and control the pandemic inside prison facilities. In mid-April 2020, the Ministry of Justice published Decree 546 granting release, under temporary house arrest, to vulnerable populations (e.g., elderly, pregnant women, women with kids, individuals with chronic diseases). Prison authorities estimated that this action could benefit 4,000 incarcerated people. However, between its publication and until mid-July 2020, only 889 individuals have been released under this measure. These releases represent less than 1% of the total prison population (INPEC, 2020b). This low level of releases can be explained by the extensive list of exceptions and limitations of the Decree 546. For instance, it excludes those serving sentences for nonviolent crimes such as theft (Ministerio de Justicia, 2020), which represents 15% of the total prison population. These restrictions constitute a limitation to its effectiveness in reducing overcrowding and in offering protective measures for the prison population (Hernandez, 2020). An additional group of 20,910 individuals have been released from prison under ordinary law since the end of March. This represents almost 18% of the total prison population (INPEC, 2020b). This group of people include individuals who were ordinarily granted house arrest or received their freedom because of other ordinary reasons such as completing or exceeding their pretrial detention.

### **Mexico**

Mexico's incarceration rate registered a clear decline since 2014, from 214 inmates per 100,000 inhabitants to 158 in 2018 (Instituto Nacional de Estadística y Geografía [INEGI], 2019; ICPR, 2019). This reduction can be explained, among other reasons, by the switch from an inquisitorial to an adversarial justice system that emphasized the presumption of innocence and the use of alternatives to incarceration for misdemeanor crimes (World Justice Project [WJP], 2018). The federal prison system reduced its occupancy rate to half of its operating capacity in 2017 (INEGI, 2019). At the state level, occupancy rates also decreased from 127% in 2011 to 103% in 2017. However, there

are still state prisons with high concentrations of prisoners, such as Nayarit (573 inmates per 100,00 inhabitants), Baja California (378), Sonora (367), Durango (329) and Mexico City (323) (INEGI, 2019).

Close to 14.5% of the total prison population are held in federal prisons, and 85.5% at state prison facilities. In total, the majority of the people in prison are males (94% of the total prison population), between the ages of 18 and 29 (32.4%) and are first time offenders (73.9%) (INEGI, 2019). Pre-trial detainees account for 34.6% of the population, while 65.4% have confirmed sentences: the majority for robbery (32.7%), homicide (17.9%), rape (8.4), drug dealing (5.9%), and 28.2% for a variety of other crimes (INEGI, 2019).

In September 2019, the President proposed an Amnesty Law as a measure to decongest prisons. Its rationale was that a large number of prisoners, especially first-time offenders, have been incarcerated because they committed crimes prompted by circumstances of extreme poverty and vulnerability (e.g., abortion, theft, political riots, treason, simple drug possession and low-level property offenses; Diario Oficial de la Federación [DOF], 2020). The Senate approved the bill in April 2020, in the midst of the pandemic furthering its rationale to mitigate the spread of coronavirus in prisons. The government estimated that this measure could benefit 1,589 people in prison, which represents about 7% of the total federal prison population (Angel, 2020). Although this measure seemed appropriate, it was flawed and it was implemented at a slow pace. First, the amnesty was restricted to prisoners in federal prison system, which does not suffer from extreme overcrowding and holds less than one-fifth of the total prison population in the country. Second, the crimes under the bill are not generally prosecuted at a federal level but at the state level (Órgano Administrativo de Prevención y Readaptación Social del Gobierno Federal [OADPRS], 2020). Third, the bill mandates that all potential cases for release should be reviewed and approved by an Amnesty Commission, that was formally established on June 18, 2020. At the time of writing this article, no releases have been made under the Amnesty Law. Currently, none of the states have declared a similar amnesty, but most have accelerated releases through ordinary mechanisms. As of July 15, 2020, approximately 3,718 individuals have been released on parole (AsiLegal, 2020) which represents 2% of the prison population at the state level. As shown above, and similar to Argentina, the real challenge of reducing prison population and preventing the spread of the pandemic in Mexico, lies at the state level.

### ***Limiting new prison admissions***

Equally important to prison releases are the measures taken by other criminal justice agencies to decongest correctional facilities, especially those related to reducing arrests and diverting pretrial detainees from prison. However, these actions have been limited and, in some cases, have caused negative collateral consequences. For example, in Argentina and Colombia restricting new entries to prisons has created overcrowding in temporary detention facilities. Simply moving the imminent threat of contagion and spread of the virus from the corrections system to police stations.

### ***Argentina***

According to the Secretary of Security and based on partial national crime statistics, the number of thefts, assaults and drug-related crimes decreased by more than 25% during the

first months of the strict national lockdown, imposed in March after the first confirmed cases of coronavirus, then slowly began to increase after the month of June, 2020 (Bajaron los delitos por cuarentena, dijo Frederic, 2020). A recent report for the Buenos Aires province suggests that criminal homicide investigations initiated between March 20 until June 25, 2020 declined 6% and theft investigations declined 37% when compared to the same time period in 2019 (Ministerio Público Provincia de Buenos Aires, Fuero Criminal y Correccional, IPP Iniciadas por Bien Jurídico Protegido Periodo 20 de Marzo al 25 de Junio años 2019 y 2020). These reductions in crime and in investigations have impacted new prison admissions since arrests substantially diminished. In addition, to reduce new prison admissions, arrested individuals were sent to temporary detention centers at police stations not suited to house large numbers of people for long periods of time. By the end of July 2020, close to 5,000 people were housed in these detention centers, causing overcrowding, and increasing contagion.

### **Chile**

While the government of Chile has taken specific actions to reduce the prison population, other measures might be threatening such efforts. For instance, the government recently passed a bill modifying the Penal Code to increase sanctions for crimes against public health (including prison sentences from 61 days to 3 or 5 years). These crimes include violations of stay at home orders, or the nonobservance of sanitary rules in place due to the pandemic (Londoño, 2020). Arresting and detaining people who do not comply with quarantine and lockdowns puts them at greater risk of contagion. Alternatively, enforcement could be done through citations, fines and fees, or community service orders.

### **Colombia**

One of the measures to prevent COVID-19 contagion focused on stopping new prison admissions. The booking facilities and the police stations in the country collapsed with this prohibition. Policymakers highlighted that what it seemed as steps in the right direction to decongest prisons, with the release of more than 20,000 individuals, was undermined by the crowding of police stations holding at least 12,000 people (Reyes, 2020). This means that even if there is a reduction of overcrowding in the correctional system, the problem moved from this system to the police stations. Also, measures taken by the Colombian police have not directly targeted the reduction of arrests or prison intakes. Instead, they focused on protecting police officials by providing biosecurity elements and limiting the number of officers on the field (Ministerio de Defensa, 2020).

### **Mexico**

Information on judicial measures that aimed at alleviating pressure on the correctional system is scarce. At the federal level, the Ministry of Interior called on federal and local congresses, as well as on the Executive and Judicial branches, to not use the criminal law to confront the health emergency. This means desisting from criminally pursuing individuals for not complying with lockdown orders. Additionally, courts adopted informal measures to manage the pandemic. For example, the Mexico City Supreme Court of Justice reported the suspension of 1,788 transfers of sentenced individuals to prison and 1,537 transfers of defendants to court through the use of videoconferencing during the pandemic emergency (Tribunal Superior de Justicia arranca programa justicia virtual ante COVID-19, 2020).

Lastly, it is not clear if any measures have been put in place by police departments at the federal, state, and municipal level to reduce arrests of minor offenses and avoid increasing the number of people in prisons. The only known action coming from the police relates to ensuring the safety of its personnel by providing biosecurity equipment and by exempting at-risk police officers from service in the field (Despliegan militares en Ciudad de Mexico tras retirar policia por COVID-19, 2020).

### ***Prevention and mitigation actions inside prisons***

Results from the regional survey show that Latin American prison authorities have mainly locked down prisons and restricted contact between incarcerated people and the outside world as a mechanism to deal with the pandemic (Bergman et al., 2020). Ninety-six percent of prison systems included in the survey, limited visits, 52% curtailed work, and 90% restricted educational activities. These measures have increased tensions and violence, as more than half of the surveyed prison systems experienced violence inside prisons (Bergman et al., 2020). Restrictions have also put people in prison at greater risks of deprivation, since they heavily depend on relatives to provide food, hygiene products, clothes, and other basic goods. Governments have failed to implement other critical measures such as ensuring mass testing for people behind bars, providing protecting equipment for inmates and prison staff, and guaranteeing access to health-care services. Table 4 summarizes information on these measures in the countries under study.

### ***Argentina***

The Federal system and the Buenos Aires Province prison system have put in place several measures to prevent the spread of the coronavirus inside its facilities. First, educational and work programs were suspended. This measure is estimated to impact over half (57%) of incarcerated people who regularly participate in educational activities or work inside prisons (Bergman et al., 2014). Second, all in-person visits were temporarily restricted. This measure affects 74% of the total prison population who frequently received family visits and 40% of prisoners who received conjugal visits (Bergman et al., 2014). Incarcerated individuals and families reacted negatively against this action because people in prison rely on family and friends to have better access to food and basic goods. An inmate survey in Argentinian prisons showed that 85% of respondents depended on their families to access basic goods such as food and clothes and 35% to have access to medications (Bergman et al., 2014). As a safeguard to supplement the loss of in-person visits, the judiciary authorized the possession and use of cell phone devices inside prisons, despite its prohibition stipulated in prison regulations. Videocalls and videoconferences have allowed people to keep contact with families and lawyers. However, it is still unclear what procedures were put in place to facilitate access to cell phones, how often people are able to communicate with their families and at what cost if any. No safeguards were identified to enable family members to continue to provide food and other supplies.

Prison authorities also restricted movement within prisons, and transfers to and between prisons. Including the number of professional staff (e.g., psychologist, social workers, health workers, etc.) entering the facilities. This measure reduced access to health care which was already a scarce service for people in prison. For instance, the inmate survey showed that more than half (55.5%) of incarcerated people reported being ill during their incarceration,

**Table 4.** Measures taken inside prisons to prevent and control the spread of COVID-19.

	Prevention measures						Identifying, assessing, and controlling cases				
	Suspension of educational activities	Suspension of work activities	Restriction on-site prison visits	Restriction on staff per unit	Restriction of transfer btw prisons	Vaccination campaign against influenza	Educational campaigns	Clinical controls for at-risk groups	Testing incarcerated individuals and staff	Health kits/PPE for incarcerated individuals and staff	Designated area for isolation
Argentina – Federal Prison System	X	X	X	X	X			X	X	X	X
Argentina – Buenos Aires Province Prison System	X	X	X	X				X		X	X
Chile	X	X	X	X				X	X		X
Colombia	X	X	X	X	X				X	X	X
Mexico – Federal Prison System	X	X	X				X		X		X
Mexico State Prison System	X		X	X	X				X		X

and one-third did not receive medical attention (Bergman et al., 2014). Lastly, efforts to provide testing to people in prison have been limited. As of early August 2020, less than 4% of the total population at the federal prison system had been tested (SPF, 2020).

### **Chile**

The Chilean correctional system restricted in-person visits, suspended educational and work activities, and designated spaces inside the prison for medical isolation. Additionally, prison authorities conducted preventative information campaigns about the contagion of COVID-19 and implemented a massive vaccination campaign against the influenza for prison residents and staff (Gendarmería de Chile, 2020a). It is still unclear if and how the last two measures contributed to prevent the spread of the virus inside prisons.

Respondents to our interviews view these institutional responses undesirably as they can “accentuate the dramatic situation inside prison, especially in terms of subsistence. While these [measures] are taken to protect the inmate, they can also aggravate and make the prison experience more complex.” As in Argentina, 84% of Chilean prisoners receive food and other basic goods from family members. In a recent inmate survey, 95% of respondents reported that the institution provided them with a mattress, but other basic goods (e.g., sheets, clothing, shoes, toilet paper, soap, toothpaste) are provided by family members (Sánchez & Piñol, 2015). In order to compensate for the lack of in-person visits, alternative methods were provided by prison authorities to maintain contact with families and lawyers. Cellphones and other technological tools were allowed inside prison facilities to have video calls. Additionally, family members were allowed to continue to deliver food and other goods, without entering the prisons, and on specific dates and times established by prison authorities (Gendarmería de Chile, 2020b).

However, prison authorities have failed to provide mass testing for people in prison (Colegio Médicos de Chile, 2020). Close to 5,792 COVID-19 tests have been conducted in correctional facilities, of those, half were used for staff and the other half for incarcerated individuals. This measure benefited only 7.2% of people in prison and more than 14.3% of prison staff (Rochow & Mateo, 2020). Limited availability of testing for people in prison means that infections and deaths among this population can be much higher than reported. This situation reflects both the lack of resources of correctional institutions as well as the low priority of prisons and prisoners for governments and politicians.

### **Colombia**

The Colombian correctional system took very similar measures to the other countries under study. These included restricting all in-person visits, limiting the number of non-essential staff or individuals that work in the facilities, and the suspension of all educational and work activities. These actions impacted the daily lives of approximately 81% of the prison population who work or study (INPEC, 2020b).

In addition, the correctional administration put in place strict sanitary protocols to protect both staff and inmates, including the distribution of personal protective equipment and hygiene products, and establishing regular cleaning and disinfecting procedures in the prisons and jails (Medidas complementarias al plan de contención del COVID-19 en centros penitenciarios y carcelarios del país, 2020). However, reports from people in prison suggest that access to protective equipment through the prison administration is still very limited. For this reason, inmates organized themselves to buy or to request from

family members face masks, hand sanitizers, and cleaning products (¿Como se vive la pandemia en la cárcel la Picota? Un preso lo cuenta, 2020). Inmates have also pressured correctional authorities to ease the restrictions on movement and on visits for doctors and nurses to be able to access health services inside prison. Prison administration was already deficient in guaranteeing health care for incarcerated people and COVID-19 only aggravated this situation. A recent study found that, prior to the pandemic, 78% of the people who enter a prison will get ill, of which 9% reported that they were never assigned a medical appointment and 32% mentioned that it took 1 month to see a doctor (Riaño & Mora, 2019).

Moreover, respondents to our interviews expressed concern over overcrowding facilities and the “continuous challenge of ensuring social distancing and quarantine spaces.” While the prison administration designated special accommodation sectors for those who contracted COVID-19, it is unclear how and under what conditions people are being isolated (e.g., ventilation, access to toilets, water, medicine, sanitary items, and contact with health professionals and the outside world). Inmates from La Picota, one of the largest prisons in Colombia, operating at 53% over capacity, report that isolation is partial due to the limited space available and infected people are kept in places where there is high traffic of people (¿Como se vive la pandemia en la cárcel la Picota? Un preso lo cuenta, 2020).

### **Mexico**

At a federal level, in March 2020, the Ministry of Health approved a protocol for dealing with COVID-19 inside prisons. It established a mechanism for early detection, isolation, identification of severity, and policies for the evacuation of the seriously ill (Secretaría de Seguridad y Protección Ciudadana [SSPC], 2020). This measure solely applied to federal prisons and not to more than 300 state prisons. As a result, measures by federal prison authorities have taken the form of prohibiting or limiting in-person visits. Federal prisons have approximately 3,500 visitors a day (e.g., lawyers, employees, suppliers) of which approximately 400 are family members (SSPC, 2020).

State prisons have taken alternative approaches to in-person visits. Some have reduced the frequency of visits by half, from four weekends to two weekends per month, and have implemented sanitary protocols to monitor and detect symptoms of visitors before entering the facilities. Others, allowed families and visitors to leave food, clothing, and personal hygiene products in a special distribution area outside prison facilities. In addition, prisons have restricted movement of people and staff inside the facilities, as well as suspended work and/or educational activities. These actions impact the daily lives of close to 51% of the prison population estimated to perform some occupational activity and 29% who either study or participates in some form of training (INEGI, 2019).

### ***A window for bold action***

Efforts from correctional systems have fallen short in their response to the pandemic. Under the three groups of measures analyzed, governments and correctional systems have limited themselves to adopt the easiest and least demanding actions to alleviate overcrowding, improve sanitation conditions of prisoners, and provide access to goods and health-care

services. This section examines opportunities and obstacles for more comprehensive and decisive actions in the face of the pandemic.

### **Prison releases**

There is international consensus that to confront the pandemic, prison decongestion is an urgent matter. One route, undoubtedly controversial and difficult, is to reduce the prison population through releases. Our analysis shows that the number of releases vary across the region and the four countries under study. In general, most Latin American countries have released less than 5% of their prison population (Bergman et al., 2020). In particular, Colombia has released the highest percentage of prisoners since the start of the COVID-19 pandemic, with approximately 20% of its total prison population. On the other side, Mexico, the country with the largest prison population has released only 2% of its total prison population. In Argentina, close to 2% of the prison population has been released from the Buenos Aires province prison system, while close to 13% have been released from federal prisons. Chile has released close to 14% of its prison population. Worldwide prison releases account for approximately 639,000 people or merely 5.8% of the global prison population (Penal Reform International [PRI], 2020). Chile, Colombia, and the Argentine federal system seem to be over the regional and global average but way below the releases in other countries in the world. For example, Iran and Turkey have released large numbers of inmates accounting for 35% of their total prison population (PRI, 2020; Pakes, 2020).

These efforts are steps in the right direction, but more needs to be done to have a real impact on crowded prisons. There are concrete opportunities to increase the number of releases, which until now have mostly focused on incarcerated people at risk of contracting COVID-19. For instance, the release of people on pretrial detention, who significantly contribute to prison overcrowding. Pretrial detainees make up one-third or more of the prison population in most of the countries under analysis. Detainees are often housed in the same facilities as sentenced inmates and spend long periods of time, usually years, in detention before trial (Bergman, 2018; Schönsteich, 2014; UNDP, 2013). It is also important to recognize that most of them are held in prison under charges for low-level offenses, such as theft and nonviolent drug-related offenses. Thus, governments, prison authorities, and the judiciary should prioritize reviewing the cases of people held in prison unnecessarily while awaiting for trial as a way to help decongest prisons. For example, in Colombia, there are close to 65,000 people in prison waiting for trial on charges related to low-level crimes such as conspiracy to commit a crime (17%), drug-related offenses (13%), and theft (12%) (INPEC, 2019). In Argentina, people in pretrial detention account for 49% of the Buenos Aires prison system and most are in custody for low-level crimes involving theft and drug-related offenses (CELS, 2020).

Second, the use of alternatives to incarceration that allows individuals to serve their sentences and seek treatment in the community is another avenue to reduce incarceration and recidivism rates (Byrne et al., 1992; Morris & Tonry, 1990; Taxman, 2012). However, with the exception of Chile, the availability and use of these alternatives in the countries under study are very limited. Governments have mostly relied on the use of prison as the sole form of punishment rather than using it as a measure of last resort. The current public health crisis provides a unique opportunity to drive reforms in the way punishment is delivered. Alternatives to incarceration can allow governments to protect both public health and public safety at the same time. However, there is an associated risk with



implementing such practices. Notably, widening the net of State social control (Cohen, 1979) through punitive and intensive supervision that instead of preventing incarceration can increase it (Klinge, 2013; Phelps, 2013). Governments should ensure that alternatives are conceived and implemented in a way that promote greater emphasis on social support to help formerly incarcerated people with their needs rather than on creating additional burdens (Durnescu, 2011; Payne & Gainey, 1998), or on emphasizing penal control (Rhine & Taxman, 2017). Providing the necessary dosage of state supervision and increasing opportunities for treatment and support in the community (Byrne et al., 2015; Georgiou, 2014; Hyatt & Barnes, 2014) are key elements in ensuring successful reintegration.

It is important to emphasize that releasing people from prison while maintaining public health and public safety conditions is easier said than done. To begin with, governments face numerous obstacles and challenges while embarking on such unpopular endeavors. Inevitably, the decision to release inmates under extraordinary circumstances requires strong political will from policymakers. Even if releases and community corrections are a cost-effective alternative to incarceration, such measures are not usually welcomed by the Latin American citizenry that is used to a tough-on-crime, penal populism discourse and commonly favors harsh prison sentences (Iturralde, 2019; Latin America Public Opinion Project [LAPOP], 2019; Müller, 2012). Moreover, policymakers might be reluctant to apply these measures due to negative media coverage that can portray judicial lenience and highlight sensationalist accounts of crimes committed by those released under special conditions. Thus, media can further exacerbate the fear of crime and encourage public opinion support for tougher laws to punish crime (Bonner, 2018). For example, public protests took place in Buenos Aires against the releases of incarcerated individuals under house arrest due to fear of crime and spread of the virus in the community (Cacerolazo: Fuerte protesta contra la excarcelación de presos, 2020). Respondents to our interviews coincide that “there was a strong negative social reaction to releases from prison, which ultimately limited their implementation. But what they [the citizenry] do not realize is that at some point people in prison are going to return to the community. If they are at greater risk of becoming ill inside, they will be spreading the coronavirus in the outside [community].”

Another challenge relates to the lack of reliable and easily accessible prison data (UNDP, 2013). In the wake of the pandemic crisis, these deficiencies have become more notorious. There is scarce information on the number of COVID-19 confirmed cases, on people in isolation, recovered patients, or tests performed. There are also limited disaggregated data by gender, age, or prison institution. The lack of reliable data represents an obstacle for evidence-informed decision-making that can result in negligence, corruption, and opacity in the process of releasing people from prison and the provision of health care and access to goods. For instance, respondents to our interviews highlighted this challenge, “we need to improve data collection, academia and universities should support governments in this effort.”

### ***Prevention and mitigation actions inside prisons***

Governments and prison authorities in all countries under study opted for quick and easy fixes to deal with the pandemic by locking down prisons and restricting contact between incarcerated people and the outside world (i.e., limiting visitation, suspending educational and work activities, and reducing the in-person presence of health professionals, therapists,

and social workers in prison). At the same time, they refrained to take major measures to actually decrease the transmission and contagion of the virus. They have failed to provide mass testing, guarantee unlimited and free access to personal protective equipment, implement clinical controls, and warrant access to health personnel for the at-risk groups. It is still unclear for how long restrictive measures will be in place and what their long-term consequences will be. But at first sight, they have increased conflicts and exacerbated the utterly poor living conditions of inmates.

Suspending in-person visits is particularly troublesome in Latin American prisons. First, incarcerated individuals in the countries under study receive visits frequently, as they depend on relatives to provide food, clothes, hygiene products, and other basic goods during imprisonment that are not supplied by prison authorities. Overcrowding, harsh prison conditions, lack of programming, and limited access to basic goods can aggravate material deprivations that can later lead to misconduct and violence (Byrne et al., 2008; Steiner et al., 2014; Sykes, 1958). As seen above, the pandemic has brought situations of violence in prisons in several countries. If in times of “normality” prisons represent spaces of violence, COVID-19 has worsened these risks and further exposed the fragility of the prison population. In the short term, correctional management must take concrete actions to provide alternative ways in which people in prison can access their basic goods and can attend programs. In fact, Chile and Mexico are allowing relatives to deliver goods in prison at specific times and places. In the long term, prison authorities have the opportunity to revamp prison conditions and push for additional resources to guarantee access to basic goods and services to prison residents. It was not possible to identify alternative strategies to provide prison rehabilitation programs to inmates during the pandemic.

Second, lack of meaningful contact with family members can further hinder the strength of social bonds while in prison, which has been found to be a key element in the process of rehabilitation and reintegration (Bales & Mears, 2008; Casey et al., 2020; Duwe & Clark, 2013; Mitchell et al., 2016). The Province of Buenos Aires, Chile, and Colombia has facilitated communication through video conferencing, but with the massive interest from inmates and loved ones, this strategy has already resulted in significant scheduling delays. Again, prison authorities should set limits to measures restricting contact with the outside world and find ways to resume in-person visits in open-air spaces that can provide a safe environment for visitors and prison residents.

Finally, prison authorities are legally obliged to guarantee the same quality of health for incarcerated individuals, as the rest of the citizens, as established by international treaties and covenants. However, as seen above, all prison systems in the countries under analysis have great deficiencies in guaranteeing a universal right to health for persons deprived of liberty. COVID-19 has exacerbated these deficiencies and has shown that health care in prison is not equipped to deal with the threat of this infectious disease. Thus, the pandemic brings an important opportunity to revamp health services, as well as prison conditions for health reasons in ways that otherwise would be politically impossible to carry out.

### ***Future research***

COVID-19 is eliciting enormous opportunities for correctional research and for researchers from the Global North to learn from more dramatic prison experiences in Latin American countries. First, it is necessary to examine the politics and economics of decision-making processes about prison population levels and prison conditions. Second, it is important to

explore the long-term effects of restrictive measures for incarcerated people, their families, and the prison environment. Third, governments, prison authorities, and scholars have a strategic opportunity to strengthen mechanisms to collect reliable prison data. Fourth, it is important to further study the perspectives and experiences of inmates during COVID-19, whose voices are often absent from policy discussions. Lastly, community corrections constitute a key area of research to better understand the criminal justice system response to the pandemic.

## Conclusion

While there is great variability across Latin American prisons, we examined the critical situation of these institutions in Argentina, Chile, Colombia, and Mexico when facing COVID-19. This study provided a detailed description of the actions and measures taken by government officials in each of these countries to slow the spread of COVID-19 inside prisons. We argued that while government officials have undertaken efforts to implement guidance from international agencies (e.g., WHO, UNODC, IACHR) these measures have not been enough to alleviate overcrowding, to improve prison conditions, to strengthen the prisons' health system or to stop the rapid spread of the disease. On the contrary, in many instances, these actions have increased the burdens of incarceration because the deprivations and vulnerabilities of people in prison have been accentuated. More needs to be done and there is a bold opportunity to rethink the use of imprisonment, and to implement the necessary actions to enact policy change.

## Notes

1. Argentina, Belize, Bolivia, Brasil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Nicaragua, Mexico, Panama, Paraguay, Peru, Republica Dominicana, Uruguay and Venezuela.
2. For the case of Mexico, we focus on the Mexican federal prison system and the State of Mexico (which is the most populous state and where Mexico City is located). Similarly, in Argentina, we focus on the federal and the Buenos Aires Province prison systems (one or the largest state and where the capital of the country is located).
3. There was one local informant per prison system. Informants were selected by the leaders of the survey based on academic or public service trajectory. All informants are scholars specialized in correctional issues.
4. In general, data on COVID-19 (e.g., confirmed cases and deaths in the community and in correctional systems, as well as, prison releases) is scattered across multiple sources, it is often not publicly available or regularly updated. In particular, data from state-level prison systems in Mexico and Argentina was difficult to gather. We report the most up-to-date information that we were able to collect until the manuscript was submitted for publication.

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