



Inter-American Commission on Human Rights

Organization of American States

Rapporteurship on the Rights of Persons Deprived of Liberty

Questionnaire for governments and civil society organizations in the context of the thematic report on Persons Deprived of Liberty in the Americas

Introduction

Since the beginning of its operations, the Inter-American Commission on Human Rights has paid particular attention to the situation of persons deprived of their liberty in the Americas. In this regard, from its first country reports (Cuba 1962 and 1963; Dominican Republic 1965 and 1966) the IACHR has consistently addressed this issue. Later, in the context of its 119th period of sessions (March 2004) the IACHR formally appointed the first Rapporteur on the Rights of Persons Deprived of Liberty in the Americas. The Rapporteurship performs various functions, including the specific mandate entrusted by the OAS General Assembly on continued reporting on the situation of persons deprived of liberty in the hemisphere. This mandate has been expressed in Resolution AG/RES. 2510 (XXXIX-O/09) and previous resolutions.

This questionnaire has been prepared by the Rapporteurship on the Rights of Persons Deprived of Liberty of the IACHR, and it is presented as a part of the project of *Promotion of the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas*. The information provided will be analyzed in a thematic report aimed at providing specific recommendations and to promote the implementation of the international standards for the protection of the human rights of persons deprived of liberty.

The data collected through this questionnaire will be one of the sources of information for the preparation of the first draft of the thematic report. This first version will be discussed in the context of national and regional meetings that the Rapporteurship is planning to organize during the year 2010. This consultation process encompasses governments, regional organizations, scholars, civil society organizations, and other stakeholders engaged in promoting respect for and defense of the rights of persons deprived of liberty.

Questionnaire

1. Legal and Institutional Framework

1.1 What are the main constitutional and legal norms that regulate the fulfillment of custodial sentences? In the case of Federal States, please reference the pertinent federal and state legal sources.

- 1.2 What are the specific laws and norms that regulate the activity of the prison system? In the case of Federal States, please reference which matters are regulated by the states and which are reserved to the federal jurisdiction.
- 1.3 Please indicate if any internal regulations or specific directives exist that regulate the activity in particular penal institutions.
- 1.4 Which are the authorities (judicial and/or administrative) in charge of administrating all matters related to the fulfillment of the custodial sentences? Include high-level officials of the main branches of government; penal institutions; criminal enforcement judges. If the State does not utilize criminal enforcement judges, please indicate the authority which exercises equivalent functions.
- 1.5 What are the major challenges in penitentiary management nationwide?
- 1.6 Are there any policies or national action plans oriented to improve penitentiary management? What are the components of such policies and/or action plans, besides the rule of law and the maintenance of public safety?
- 1.7 What are the major developments that have been accomplished in the last five years on prison management?
- 1.8 Include a detailed account of the best practices that have been implemented over the past five years in prison management.
- 1.9 What state branches or authorities are in charge of supervising and monitoring the respect for the human rights of persons deprived of liberty?
- 1.10 What is the percentage of the national budget allocated to the penitentiary system?

2. Prison Staff and Facilities

- 2.1 How many penal institutions are in the country and what are their locations?
- 2.2 Indicate the characteristics of each penal institution (i.e., if they are of maximum, medium or minimum security / for inmates of federal or common law / if they are for those charged or convicted / if they are for men, women or minors).
- 2.3 Indicate the year in which each penitentiary system was built, and specify which centers were built to be a penitentiary center, and which were transformed or remodeled from the original structure that originally served another purpose.
- 2.4 Which authority is responsible for monitoring and evaluating of the adequacy of the prison infrastructure?
- 2.5 What is the capacity of accommodation of each prison facility, and what is the actual population?
- 2.6 Describe the health care personnel in prisons. That is, how many doctors, specialists, or nurses are working in each prison facility?
- 2.7 Identify the security personnel embodied in penal institutions.
- 2.8 Specify which security institution (ie. police / military / civil guards), is in charge of maintaining security in prisons. In the case of two or more bodies, please indicate what specific role each has and how they interact.
- 2.9 Indicate whether the State has schools for the training of prison staff, and what body or institution is in charge of these schools.

3. Persons detained on remand and prison benefits

- 3.1 What is the constitutional and legal framework governing pretrial detention? Indicate in which cases pretrial detention during criminal proceedings is available, and what are the legal requirements for the authorization of pretrial detention.
- 3.2 In which cases may pretrial detention be ordered and what are the grounds on which it may be granted and maintained?

- 3.3 What percentage of the total prison population is on remand?
- 3.4 What are the legal rules governing the granting of early release or other similar programs, and which authorities can decide to grant it?
- 3.5 If possible, present comparative statistics indicating the number of applications for granting early release or other similar programs that are received each year, the percentage of the processed applications, and the percentage of those that are granted.

4. Protection of life and personal integrity

- 4.1 What are the judicial remedies to protect the life and physical integrity of persons deprived of liberty?
- 4.2 What are the rates of prison violence in the country? How many acts of violence have occurred in prisons over the past 5 years? How many people have died in prisons in the last 5 years?

5. Other matters

- 5.1 Indicate whether the detainees have conjugal visits. If so specify what the applicable regulation is and which prisons have implemented this system of visits.
- 5.2 Specify if conjugal visits are limited to those married couples under the civil or family law, or if they are also available for people in union or common law marriage. Also, indicate if conjugal visits are allowed to same-sex couples.
- 5.3 Indicate whether there are institutional mechanisms or channels through which prisoners can lodge complaints concerning their conditions of detention, and indicate how these mechanisms work.
- 5.4 What work-study programs (intramural and extramural) does the national prison system provides, as well as in the states and provinces? What is the specific regulation of these programs? And, what percentage of the prison population participates in them?
- 5.5 Are there programs for post-prison assistance to facilitate the social reintegration of persons who have completed prison sentences?
- 5.6 How do civil society organizations participate in the formulation, implementation, monitoring and evaluation of programs and prison management policies?
- 5.7 How is the participation of civil society in the supervision and monitoring of the respect for human rights of persons deprived of liberty?

6. Study Presentation

In addition to the answers to the questions provided, all reports and specialized studies that have been prepared in relation to the situation of the individuals deprived of liberty would be greatly appreciated.

Answers Presentation

Answers from the governments of the States should include the following information:

- a) The institution and the official(s) in charge of the response; and
- b) Institutional contact information.

The answers from the agents of the civil society should include the following information:

- a) Name,
- b) Profession/occupation,
- c) Position,
- d) Organization, and
- e) Address, telephone, fax (optional) and e-mail.

Written responses to the questionnaire should not exceed 30 pages single-spaced, not including attachments and annexes.

The answers must be sent before June 21, 2010: *

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Notice: all the documents may be sent by email.

For any questions or doubts, please send it to the following address:
apizarro@oas.org

*The deadline to send answers was originally May 21, 2010. On May 28, 2010, the IACHR published June 21, 2010, as the new deadline.