

Digital Mapping Findings Report
**COVID-19: Justice and Deprivation of
Liberty in Latin America and the
Caribbean**
March 2021



COVID-19 Digital Mapping Findings Report: Justice and
Deprivation of Liberty in Latin America and the Caribbean

This document's content was prepared by the APT for the UNDP as a result of the Development of a regional platform by the consultancy on the prison system in Latin America and the Caribbean.

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Introduction

*In December 2020, the United Nations Development Program (UNDP) and the Association for the Prevention of Torture (APT) launched the **COVID-19 Digital Mapping: Justice and Deprivation of Liberty in Latin America and the Caribbean**, which collects official data on the measures implemented by 31 countries in the region to respond to the pandemic.*

This project supports the data collected in the Latin America and the Caribbean report: Effective Governance, beyond recovery, presented by the UNDP in January 2021, which established that effective governance is required to achieve development in the region. 8 governance principles are proposed in report, two of which are directly related to the Digital Mapping:

- **Principle 6:** Eliminate the use of violence as a negotiation mechanism between social and political actors.
- **Principle 7:** The law and equal access to justice for all citizens.

Digital Mapping is an innovative tool that seeks to promote the exchange of practices and lessons learned, between actors in charge of designing and implementing measures that respond to the public health crisis impacting the justice and penitentiary sectors. This report is based on the analysis of the Digital Mapping data and identifies trends, presents relevant practices and provides recommendations.

Digital Mapping has identified more than a thousand official documents related to access to justice and the deprivation of liberty. Particular consideration has been given to groups with a higher risk of vulnerability and their situation, given that their rights and guarantees should be managed with special care in the face of the pandemic outbreak. Furthermore, Digital Mapping has integrated the vision of the 2030 genda Sustainable Development Goals.

ESPAÑOL

COVID-19 DIGITAL MAPPING : JUSTICE AND DEPRIVATION OF LIBERTY

The Covid-19 Digital Mapping : Justice and Deprivation of Liberty is a joint initiative of the Association for the Prevention of Torture (APT) and the United Nations Development Program (UNDP) that allows monitoring and accessing updated information on the measures adopted and the information published by State institutions to address the challenging situation of persons deprived of liberty in the context of the COVID-19 pandemic and its repercussions in the countries of the region. Information can be found using the search engine or by browsing the interactive map. The Resource Center is based on official information issued by state institutions, publicly available, and data provided by UNDP in some cases.

Click on the icons to find information related to specific SDG concerning access to justice and deprivation of liberty.

Search KEYWORDS :

Search CATEGORY OF INFORMATION :

Search DETENTION PLACES :

Search PERSONS IN SITUATION OF VULNERABILITY :

Country	Date of Issuance	Category of information	Issuer	Name of the Document
Antigua and Barbuda	20/03/2020	Government or Executive Order	Government Agency: Health	Declaration of a Dangerous Infectious Disease Order 2020 No. 13
Antigua and Barbuda	07/04/2020	Legislation and other regulations	Government Agency: Health	Public Health Act (Dangerous Infectious Diseases) (Amendment) No. 2 Regulations 2020
Antigua and Barbuda	25/05/2020	Press release	Caribbean Community (CARICOM)	CARICOM Implementation Agency for Crime and Security and The United Kingdom Step Up The Fight Again
Antigua and Barbuda	09/04/2020	Press release	Executive Branch	Curfew imposed from 6 a.m. April 9 to 6 a.m. April 16 2020 Official Guidelines
Antigua and Barbuda	02/04/2020	Press release	Government Agency: Health	2 Additional Confirmed Cases of COVID-19 April 2nd 2020



This report aims to:

- Provide a regional overview of the main trends identified in the official documents compiled in the COVID-19 Digital Mapping: Justice and Deprivation of Freedom in Latin America and the Caribbean.
- Identify recommendations for preparedness, as well as response and recovery measures to implement.

Brief overview of the prison sector in Latin America and the Caribbean.

The region's prison sector has been facing significant challenges since before the pandemic, such as overcrowding, excessive use of pre-trial detention, precarious detention conditions, a lack of basic services, violence and in some countries, forms of self or shared governance. In addition to this, few penitentiary sectors provide differential attention to women, LGBTI people, people with disabilities and the elderly, among others.

*The aforementioned challenges have been caused mainly by the population increase in the region's penitentiary sector, which has increased by **120%**, whereas in the rest of the world it has only increased by **24%**.¹ Additionally, there is a worrying trend in incarceration rates, which in the case of women has increased by **52%**² and the pre-trial detention population, increased by **22.9%** between 2000 and 2019.³*

- **Brazil, Mexico and Argentina** are the countries with the highest number of people in prison in the region.
- **El Salvador, Cuba, the Bahamas, Grenada, and Panama** have the highest prison population rates per 100,000 inhabitants in the region.
- **Paraguay** has the highest percentage of people in pre-trial detention, which represents **77.3%** of the prison population.
- **Guatemala** has the highest number of women incarcerated in the region, who make up **11.2%** of the prison population. In the rest of Latin America this percentage is **5%**.
- **Guatemala** and **Bolivia** have the highest prison occupancy levels. **Guatemala** has an occupancy level of **372%** and **Bolivia** has a level of **363.9%**.⁴

¹ Inter-American Development Bank, Inside the prisons of Latin America and the Caribbean: a first look at life behind bars, 2020. Available at: <https://publications.iadb.org/publications/spanish/document/Dentro-de-las-prisiones-de-América-Latina-y-el-Caribe-Una-primer-mirada-al-otro-lado-de-las-rejas.pdf>

² Ibidem

³ World Prison Brief, World Pre-trial / Remand Imprisonment List, Fourth edition. Available at: <https://www.prisonstudies.org/sites/default/files/resources/downloads/world-pre-trial-list-4th-edn-final.pdf>

⁴ World Prison Brief, Highest to Lowest - Occupancy level (based on official capacity). Available at: https://www.prisonstudies.org/highest-to-lowest/occupancy-level?field_region_taxonomy_tid=All



This fragile situation raises concerns that merit special attention, one of which is the need to continue responding to the health crisis caused by COVID-19. On the basis of this vision, Digital Mapping has enabled the identification of the following trends:

Trend 1. The pandemic has catalyzed the use of alternative measures to deprivation of liberty and the use of prison benefits.

Trend 2. The institutional transformation of the penitentiary sector has optimized its capacity to respond to the outbreak of COVID-19.

Trend 3. The monitoring bodies for deprivation of liberty have demonstrated their ability to adapt.

Trend 4. Data and information systems are important for designing comprehensive evidence-based public policies and promoting informed decision-making.

Trend 1. The pandemic has catalyzed the use of alternative measures to deprivation of liberty and the use of prison benefits.

In the penitentiary sector, one of the first impacts of COVID-19 was the urgent need to reduce the population to prevent massive outbreaks of the disease, through the application of alternative measures to deprivation of liberty and prison benefits.

Several countries were already addressing their criminal laws for release schemes and alternative measures to pre-trial detention before the pandemic. Some common measures in the region are related to the restriction of free movement, such as, a ban on travelling abroad, periodic appearances before the authorities and the use of electronic surveillance devices⁵. It is also common for prison systems to offer prison benefits⁶, where the regulations relating to the execution of sentences consider the possible benefits for early release or non-custodial sanctions. These measures are complemented by the president's power to grant amnesty or pardons.

The public health crisis has prompted both the implementation of pre-existing release schemes and the adoption of measures aimed at reducing the prison population, focusing on:

a. The enactment of laws aimed at reducing the prison population in the face of

In **Chile**, Law 21 228 was published, which grants a general commutative pardon due to COVID-19 and considers full 24/7 home confinement. 9,936 people accessed this scheme, from April to November 2020⁷ 11% of them were women.⁸

⁵The National Assembly of the Republic of Ecuador, Comprehensive Organic Criminal Code, Article 60 (2014). Available at: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ECU/INT_CEDAW_ARL_ECU_18950_S.pdf

⁶Chamber of Deputies, National Law on Criminal Enforcement, Title 5, (2016). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/LNEP_090518.pdf

⁷National Congress of Chile, Law 21228 Grants Commutative General Pardon due to the COVID-19 Disease in Chile (2020). Available at: <https://www.bcn.cl/leychile/navegar?idNorma=1144400>

⁸The Chilean Penitentiary Administration, Statistics of the Population currently Served Closed Monthly Subsystem Reports 2020. Available at: <https://www.gendarmeria.gob.cl/estadisticaspp.html>



In **Mexico**, the promulgation of the Amnesty Law⁹ was accelerated, which decreed federal amnesty for crimes such as abortion, kinship homicides, and for certain health crimes, among others. A commission was also set up to receive amnesty requests.¹⁰

b. The application of figures provided for in the law before the pandemic such as pardons, amnesties and commutations of sentences.

According to the constitution, the President of the Republic in **Panama** has the power to decree sentence reductions for persons deprived of their liberty. Since the beginning of the pandemic, the Presidency has issued Executive Decrees more frequently to reduce penalties and grant freedom.¹¹

According to the Political Constitution in **Peru**, presidential pardons, such as amnesties and commutation of sentences can be granted. In the context of the health crisis, Supreme Decree No. 004-2020-JUS¹² was published to establish the special circumstances, so that the Presidential Pardon Commission could evaluate the granting of pardons and commutations of sentences. Supreme Decree No. 006-2020 JUS¹³ was also published, which establishes criteria and a special procedure for the recommendation of presidential pardons for adolescents deprived of liberty due to the health emergency caused by COVID-19.

In **Bolivia, Colombia, Panama** and **Peru**, presidential decrees were issued to promote the granting of freedom in the context of the health crisis. In **Bolivia**, the Presidential Decree No.4226¹⁴ of amnesty and pardon for humanitarian reasons and of a national health emergency against the contagion and spread of COVID-19 was published. In **Colombia**, Legislative Decree No.546¹⁵ was published, granting home confinement to avoid contagion.

The above-mentioned release schemes were mainly aimed at those in certain circumstances, such as:

- People suffering from chronic diseases (**Bolivia, Colombia, Peru**).
- People considered to be vulnerable to COVID-19 (**Peru**).
- Women with sons or daughters in a prison establishment (**Colombia, Peru**).
- Pregnant women (**Bolivia, Colombia, Peru**).
- Breastfeeding women (**Bolivia**).
- People over 58 or 60 years old (**Bolivia, Colombia, Peru**).
- People with reduced mobility due to disability (**Colombia**).
- People with a disability considered serious or very serious (**Bolivia**).
- People convicted or in pre-trial detention for culpable crimes (**Colombia**).
- People who have served a certain percentage of their custodial sentence (**Colombia, Peru**).

⁹Chamber of Deputies, Amnesty Law, (2020). Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/LAmn_220420.pdf

¹⁰ Secretary of State; the Secretary of State fulfilled the mandate established in the Amnesty Law; creating and holding a meeting with the commission that would receive applications (2020). Available at: <https://www.gob.mx/segob/prensa/cumple-secretaria-de-gobernacion-mandato-establecido-en-ley-de-amnistia-instala-y-sesiona-comision-que-recibira-solicitudes>

¹¹The Ministry of Interior; President Cortizo Cohen granted sentencing reductions, as a humanitarian measure for COVID-19 (2020). Available at: <https://www.mingob.gob.pa/como-medida-humanitaria-por-covid-19-el-presidente-cortizo-cohen-concede-rebajas-de-pena/>

¹²El Peruano Diario Oficial de Bicentenario, Supreme Decree that establishes special circumstances for the evaluation and recommendation of Presidential Pardons, and determines the procedure to be followed, within the framework of the COVID-19 health emergency (2020). Available at: <https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-establece-supuestos-especiales-para-la-e-decreto-supremo-n-004-2020-jus-1865717-3/>

¹³El Peruano Diario Oficial de Bicentenario, Supreme Decree that establishes criteria and special procedures for the recommendation of Presidential Pardons for adolescents deprived of liberty, in the framework of the COVID-19 health pandemic. Available at: <https://busquedas.elperuano.pe/normaslegales/decreto-supremo-que-establece-criterios-y-procedimiento-espe-decreto-supremo-no-006-2020-jus-1865974-2/>

¹⁴Presidential Decree No. 4226 of Amnesty and Pardon for humanitarian reasons and the national health emergency throughout the territory of the Plurinational State of Bolivia (2020). Available at: <https://www.lexivox.org/norms/BO-DP-N4226.xhtml>

¹⁵ Presidency, Legislative Decree No. 546 by means of which measures are adopted to replace prison sentences and the measure ensuring pre-trial detention in penitentiary and prison establishments with home detention and temporary home detention, (2020). Available at: <https://dapre.presidencia.gov.co/normativa/normativa/DECRETO%20546%20DEL%2014%20DE%20ABRIL%20DE%202020.pdf>



c. The issuance of agreements by the Judiciary for the implementation of alternative measures to deprivation of liberty.

In **Argentina**, the Chamber of Criminal Cassation published Agreement No.9/2020¹⁶, in which it recommends that the courts adopt alternative measures to the deprivation of liberty, such as home confinement, for people that are in pre-trial detention for minor crimes or non-violent people, people sentenced to imprisonment for up to 3 years, pregnant women and / or those incarcerated with children, among others.

In **Brazil**, the National Justice Council published the recommendation,¹⁷ calling on the courts to reevaluate the use of pre-trial detention for pregnant women, those who are breastfeeding, or those who are in charge of caring for children or persons with disabilities. Older people are also considered, as well as indigenous people or those belonging to indigenous communities.

d. Judiciary Reviews.

In **Guatemala**, the General Directorate of the Penitentiary System (GDPS) expedited the review of case no.¹⁸ Of persons deprived of liberty and processed early release procedures. This required the presentation of 545 records before the Institute of Public Criminal Defense.

Actions have been taken by institutions to reduce the prison population, for example, in the **Dominican Republic**, criminal enforcement judges were granted the right to hear requests to change prison sentences to house arrest, for example, periods of 60 days, for people over 60 years of age or for those with high-risk health conditions in the face of Covid-19.¹⁹ In **Panama**, the Ministry of Government announced the possibility of implementing a system for receiving data on persons deprived of liberty to send alerts to Technical Boards and Compliance Courts when a person completes half of their sentence, so that they can start the process to commute their sentence.²⁰ In **Guyana**, the Directorate of Prisons reported that people who served a third of their sentence with good behavior would be released.²¹

It is also important to highlight **criminal policy actions to reduce arrests, indictments and deprivation of liberty** for criminal and administrative offenses derived from the violation of pre-trial and mitigation measures of COVID-19, such as isolation and quarantine.

¹⁶The Federal Chamber of Criminal Cassation, Agreed 9/20 of the Federal Chamber of Criminal Cassation (2020). Available at: <https://www.cj.fed.ar/nota-37089-Acordada-9-20-de-la-C-mara-Federal-de-Casacion-Penal.html>

¹⁷National Council of Justice, Recommendation No. 62 on 03/17/2020, (2020). Disponible en: <https://atos.cnj.jus.br/atos/detalhar/3246>

¹⁸The Ministry of Interior expedites inmate records to opt for their freedom in accordance with the law, (2020). Available at: <https://dgsp.gob.gt/agilizan-expedientes-de-reos-para-optar-por-su-libertad-apegados-a-la-ley/>

¹⁹The National Attorney General's office, Requests that it is provisionally and remotely informed of any prison sentences to be changed to house arrest, (2020). Available at: <https://pgr.gob.do/procuraduria-solicita-al-cpj-habilitacion-jueces-para-conocer-cambios-provisionales-en-cumplimiento-de-penas-de-adultos-mayores-y-enfermos-riesgo-coronavirus/>

²⁰Ministry of Interior, the Ministry of Interior seeks to implement a system that expedites the commutation of sentences for those deprived of liberty, (2020). Available at: <https://www.mingob.gob.pa/ministerio-de-gobierno-busca-implementar-un-sistema-que-agilice-la-conmutacion-de-penas-a-los-privados-de-libertad/>

²¹Department of Public Information, Inmates to be released in light of COVID-19 pandemic, (2020). Available at: <https://dpi.gov.gy/inmates-to-be-released-in-light-of-covid-19-pandemic/>



In **Aruba**, penalties for non-compliance with quarantine and isolation only carry fines of up to \$500. In **Argentina**, the Public Prosecutor's Office created an orientation guide for the functional intervention of the Public Prosecutor's Office in cases involving children and adolescents who violate criminal laws related to the COVID-19 pandemic,²² which reminds people that minors under 16 years of age and adolescents between 16 and 17 years of age cannot be punished for breach of isolation. Also, in some cases related to the violation of isolation measures, these are resolved through alternative solutions to criminal proceedings and the use of plea bargains.²³

In **Paraguay**, an investigation plan for pandemic-related criminal cases was created that forms “investigative courts” to resolve matters related to the violation of sanitary quarantine measures. The procedural expenses include the purchase of supplies or materials required to fight against the pandemic.²⁴

In the first instance, the data collected by the States reveal a certain impact on the population decline in the prison sector between February and December 2020, as shown below:

- **Table 1.** In the first 10 months of the pandemic, there was a decline in the percentage of the prison population. Prepared using available information from official State sources.

Nº	Country	Percentage of decrease	Population penitentiary before COVID -19 (Feb 2020)	Prison population recent (Nov/Dec 2020)
1	Argentina ²⁵	18%	14,157	11,624
2	Chile ²⁶	10%	42,202	38,176
3	Colombia ²⁷	21%	122,820	97,301
4	Ecuador	3%	39,743	38,729
5	El Salvador ²⁸	2%	37,773	37,190
6	Paraguay ²⁹	14%	15,755	13,821

²² The Public Prosecutor's Office, Guide for the functional intervention of the Public Prosecutor's Office in cases involving children and adolescents who violate criminal laws linked to the COVID-19 pandemic, (2020). Available at: <https://www.mpf.gov.ar/covid/files/2020/04/Gu%C3%ADa-orientativa-para-NNA-COVID-31.3.pdf.pdf>

²³ The Public Prosecutor's Office, Mar del Plata: alternative solution for the case involving a van driver, transferring people from the AMBA, (2020). Available at: <https://www.fiscales.gov.ar/fiscalias/mar-del-plata-solucion-alternativa-para-el-caso-del-chofer-de-una-combi-que-trasladaba-personas-desde-el-amba/>

²⁴ The Supreme Court of Justice, Investigation Plan for Criminal Cases opened during the sanitary quarantine, (2020). Available at: <https://www.pj.gov.py/contenido/1851-plan-de-depuracion-de-causas-penales/1851>

²⁵ The prison population recorded in this document only takes into account the population housed in the Federal Prison System, from February to November 2020, according to the Statistical Report of the Prison Obudsman's National Office No. 8.

²⁶ The prison population was recorded taking into account the Closed Control Regime, only for the period between February 28 and December 31, 2020, according to the Penitentiary Statistics published by the Chilean Gendarmerie.

²⁷ The prison population recorded in this document only takes into account the population classified as intramural, for the period between February 28, 2020 and December 31, 2020, according to the INPEC Penitentiary Statistics.

²⁸ The data correspond to the period between February 24 and December 28, 2020 according to the Penitentiary Statistics Published by the General Directorate of Prisons.

²⁹ The data correspond to the statistical reports made by Paraguay's National Mechanism for the Prevention of Torture and correspond to the period from February 28 to December 31, 2020.



In other countries, there has been a population increase, caused by legislative reforms that promote the use of informal pre-trial detention, as is the case in **Mexico**, where the prison population increased by 5%. In **Panama**, there was a slight increase in the prison population of 0.3%.

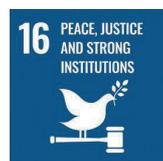
In the case of women deprived of liberty, **Colombia** has recorded a decrease of 21% in the female population and in **El Salvador** this figure is 8%. In **Mexico**, the population of women deprived of liberty has increased by 11%.

These variations in the prison population demonstrate the potential of increasing the use of alternative measures to deprivation of liberty and show that new approaches can reduce pressure on the justice system and the prison sector. It also shows that there is still a need to promote the application of measures that make it possible to sustainably reduce the population in the prison sector in some countries.

Recommendations

- *Ensure inter-institutional dialogue between judicial powers, legislative powers and governments for the effective application and evaluation of measures aimed at reducing pressure on the prison sector.*
- *Perform an impact or cost-benefit analysis that assesses the impact of the use of measures implemented to decongest the prison sector in the context of the pandemic, from a gender perspective and from the perspective of those in vulnerable situations. Identify whether there are measures that can reduce the admission of people into the prison sector.*
- *Promote the collection of sufficient and quality statistical data on the number of people benefiting from the measures implemented to reduce pressure on the prison sector. This data must be gender disaggregated.*
- *Develop comprehensive plans for prisoners returning to society, aimed at people benefiting from the measures developed to take pressure off of the penitentiary sector.*
- *Expand efforts to promote the use of alternative conflict resolution methods, plea bargains and the implementation of prison benefits as measures to reduce the prison population.*

Related SDG:





Trend 2. The institutional transformation of the prison sector has optimized its capacity to respond to the COVID-19 outbreak.

COVID-19 has challenged the prison sector's institutional capacities in Latin America and the Caribbean, generating dissimilar impacts throughout the region. The most obvious impacts were the increase in riots and strikes, as well as the huge number of infections in the prison population registered in practically all of the countries.³⁰ There is also the emotional impact caused by the suspension of visits and the lack of information provided about COVID-19.

This unprecedented situation has meant that the authorities face new challenges and are forced to rethink their responses and response strategies to COVID-19, as they go along. However, in the context of the crisis, an opportunity has been provided to identify new ways of acting and responding to the pandemic. Here are some of the lessons learned:

a. Contact with the outside world: challenges and the search for innovative responses.

The suspension of visits was the most common preventive measure among Latin American and Caribbean countries to avoid infections in the prison sector. For example, **Dominica** and **Barbados** have suspended visits indefinitely since March 2020. In **Argentina**, visits in the federal prison system were initially suspended from March 20 to March 31, including ordinary visits, extraordinary visits and those between inmates from different establishments. In **Guatemala**, visits were suspended from March 14 and in August 2020, it was reported that their reinstatement was being considered. In **Panama**, visits were suspended from March, but in September 2020 they started to be reinstated. Visits from the criminal defense were reinstated first and they had to submit a request via email to schedule a date and time for any visits. In the **Dominican Republic**, visits and educational activities were suspended in March 2020, however, the families of persons deprived of liberty, were allowed to bring food and medicine to prisons without physical contact. In **Uruguay**, it was established that visits would not be suspended and that one visit from an adult was allowed per inmate.³¹

In this context, some countries sought to guarantee contact with the outside world through the use of technology with video calls. For example, in **Argentina** as a result of a collective habeas corpus³² a court ordered, in favor of detainees, that the Federal Penitentiary Service form at least five video-calling teams so that persons deprived of liberty could communicate with their families. For its part, the Chamber of Criminal Cassation of the Province of Buenos Aires authorized the use of cell phones by people deprived of liberty as a measure to maintain ties with the outside world.³³

³⁰The UN. Prisoners must also be protected from the coronavirus pandemic, May 5, 2020. Available at: <https://news.un.org/es/story/2020/05/1473862>

³¹Ministry of Interior, INR: the implementation of the coronavirus protocol has begun (2020). Available at: <https://www.minterior.gub.uy/index.php/unicom/noticias/7573-inr-comenzo-a-aplicarse-protocolo-por-coronavirus>

³²The Public Prosecutor's Office, Order to install video call equipment in Unit 5- Penal Colony of General Roca, (2020). Available at: <https://www.fiscales.gob.ar/fiscalias/ordenan-instalar-equipos-de-videollamadas-en-la-unidad-5-colonia-penal-de-general-roca/>

³³National Committee for the Prevention of Torture (CPT), The National CPT celebrates the authorization of the use of cell phones for people deprived of liberty, (2020). Available at: <https://cnpt.gob.ar/el-cnpt-celebra-la-autorizacion-para-el-uso-de-celulares/>



To continue with the aforementioned case in **Argentina**, the Directorate for Visits, Family and Social Relations, in conjunction with the Information Technology Department of the Federal Penitentiary Service created a section on their website to report the latest developments regarding visits in the federal prison sector. Furthermore, in January 2021, the **Argentinian** Federal Prison System issued preventive and action guidelines to elaborate specific protocols for prison establishments to gradually authorize social visits.³⁴

In **Chile**, the Gendarmerie permitted the use of cell phones in seven prisons, as an exceptional measure, so that people deprived of liberty could use them to make video calls to their families.³⁵

In **Paraguay**, the Ministry of Justice allowed tablets to be used³⁶ in the National Penitentiary and in the "Casa del Buen Pastor" Penitentiary Center for Women, so that people deprived of liberty could communicate with their families through video calls. These were also used to communicate with the Public Defender's Office.³⁷ Video calls were also permitted in some prisons in **Colombia**.³⁸

Other measures that were created to promote contact with the outside world in the penitentiary sector were the issuance of regulations and the adaptation of the prison infrastructure to allow visits. For example, in **Ecuador**, the Regulations for the Progressive Return of Visits for persons deprived of liberty in detention centers of the National Social Rehabilitation System were published nationally. These regulations cover visit obligations, temporality, criteria on the early termination of visits, among others.³⁹ In the **Dominican Republic**,⁴⁰ the Attorney General's office of the Republic set up a room for visitors with booths made with glass, in an isolation center where older people were transferred to, in the National Penitentiary of La Victoria. In **Puerto Rico**, family visits were restored in October 2020, allowing two family members to visit at a time, including one person under the age of eighteen.⁴¹

b. Strengthening of capacities and the improvement in working conditions of the personnel in the security forces and prisons.

The health crisis put both people deprived of liberty and the security forces at risk, the police as much as prisons, where the work they carried out to prevent and contain infections was done so, in confined spaces.

³⁴ Federal Penitentiary System, Preventive and action guidelines for the elaboration of specific protocols of prison establishments of the Federal Penitentiary Service on the gradual authorization of social visits within the framework of "Social, Preventive and Compulsory Isolation" (SPCI) AND "Social, Preventive and Compulsory Distancing" (SPCD). Available at:

<https://www.argentina.gob.ar/noticias/protocolo-de-visitas-en-el-marco-de-la-pandemia-por-covid-19>

³⁵ Biobiochile Gendarmerie authorizes the use of cell phones in some prisons in cases of isolation due to COVID-19, (2020). Available at:

<https://www.biobiochile.cl/noticias/nacional/chile/2020/05/13/gendarmeria-autoriza-uso-de-celulares-en-algunas-carceles-ante-aislamiento-por-covid-19.shtml>

³⁶ Ministry of Justice, Persons Deprived of Liberty communicate with relatives through video calls, (2020). Available at:

<http://ministeriodejusticia.gov.py/noticias/ppl-se-comunican-con-familiares-mediante-videollamadas>

³⁷ Ministry of Justice, Ministry of Justice, prevention of COVID-19 through video calls with public defenders, (2020). Available at:

<http://ministeriodejusticia.gov.py/noticias/mj-refuerza-prevencion-de-covid-19-mediante-videollamadas-con-defensores-publicos>

³⁸ National Penitentiary and Prison Institute, Virtual visits COIBA, (2021). Available at:

<https://www.inpec.gov.co/web/guest/sala-de-prensa/noticias/2021/enero/visitas-virtuales-en-coiba>

³⁹ Ecuador Communication, SNAI (Ecuador's prison service) will implement a pilot project for the progressive return of visits to the country's Detention Centers, (2020). Available at: <https://ecuadorcomunicacion.com/2020/10/22/snai-aplicara-un-plan-piloto-para-el-retorno-progresivo-de-visitas-en-los-cpl-del-pais/>

⁴⁰ Attorney General's Office of the Republic, the Attorney General's Office provides a new visiting room in the isolation center where older adults were transferred from La Victoria prison, (2020). Available at:

<https://pgr.gob.do/procuraduria-habilita-moderna-sala-para-visitas-en-centro-de-aislamiento-donde-fueron-trasladados-adultos-mayores-del-penal-la-victoria/>

⁴¹ Administrative order to restore family visits to members of the correctional population during the state of emergency period caused by COVID-19, (2020). Available at: <http://dcr.pr.gov/wp-content/uploads/2020/10/ORDEN-ADM-RESTABLECER-VISITAS-FAMILIARES-MPC-PERÍODO-EMERGENCIA-COVID19.pdf>



Police and prison personnel had central roles in managing the pandemic, and some countries implemented measures aimed at meeting health care needs and preventing contagion.

In **Argentina**, special benefits were issued for personnel in various sectors, including personnel in the armed forces, and security personnel in the face of the pandemic. The benefit provided an ex-gratia life pension for the family members of staff in the event of death due to COVID-19, for the period between March 1 to September 30, 2020.⁴² Additionally, in **Argentina**, a space for communication via telephone and email was opened to assist the Federal Security Forces, where they could rest, reflect and talk when they were stressed due to the work they were carrying out in the context of the pandemic.⁴³ In **Uruguay**, COVID-19 medical certificates⁴⁴ were issued for the police service.

In **El Salvador**, a security bonus was awarded to security, medical and administrative personnel who were confronted with the crisis in the prison sector. In **Peru**, an extraordinary bonus was authorized for personnel working in the National Penitentiary Institute⁴⁵ (NPEI), including the personnel of juvenile rehabilitation centers.⁴⁶ Also, in **Peru**, the Ministry of Justice and Human Rights opened a dialogue with representatives of the NPEI workers' unions to hear their requests and respond to the pandemic in the prison sector.⁴⁷

Specialized periodic training, with an emphasis on the social character of the security forces, was transformed to adapt to the new reality, using technology. In **Guatemala**, the School of Penitentiary Studies continued to teach courses through digital platforms, covering the management of emotions in times of COVID-19 and information related to the implementation of biosafety protocols.⁴⁸

c. Development of measures to address the health crisis in the prison sector.

One of the first measures implemented in the peninsula sector to address the crisis was the establishment of contingency plans. In **Chile**,⁴⁹ **Colombia**,⁵⁰ **Costa Rica**,⁵¹ **Ecuador**,⁵² **Mexico**, **Puerto Rico**,⁵³ and **Uruguay**⁵⁴ protocols or guidelines were established to prevent, control and manage COVID-19 cases in the prison sector.

⁴² Official Gazette of the Argentine Republic, Law 27549 Special Benefits for Health Personnel, Armed Forces, Security and others in the face of the COVID-19 pandemic, (2020). Available at: <https://www.boletinoficial.gob.ar/detalleAviso/primera/230243/20200608?busqueda=1>

⁴³ Ministry of Security, COVID-19: Help the security forces, (2020). Available at: <https://www.argentina.gob.ar/noticias/covid-19-ayuda-las-fuerzas-de-seguridad>

⁴⁴ Ministry of Interior, Certifications Sector in the Montevideo Action Protocol against the health emergency, (2020). Available at: <https://www.minterior.gub.uy/index.php/unicom/noticias/7576-certificaciones-medicas-por-covid-19-para-los-funcionarios-policiales>

⁴⁵ General Directorate of Penal Centers, Bonus for security personnel in the face of COVID-19 alert, (2020). Available at: <http://www.dgcp.gob.sv/?p=6355>

⁴⁶ Ministry of Justice and Human Rights, Government approves bonus of 720 soles for workers of the NPEI and youth rehabilitation centers, (2020). Available at: <https://www.gob.pe/institucion/minjus/noticias/148811-gobierno-aprueba-bono-de-720-soles-para-trabajadores-del-inpe-y-de-los-centros-juveniles-de-rehabilitacion>

⁴⁷ Ministry of Justice and Human Rights, Minister of Justice hears proposals from NPEI workers to tackle COVID-19, (2020). Available at: <https://www.gob.pe/institucion/minjus/noticias/112202-ministro-de-justicia-escucha-propuestas-de-trabajadores-del-inpe-para-enfrentar-covid-19>

⁴⁸ Ministry of Interior, School of Penitentiary Studies trains operational and administrative personnel virtually, (2020). Available at: <https://dgsp.gob.gt/escuela-de-estudios-penitenciarios-capacita-al-personal-operativo-y-administrativo-de-forma-virtual/>

⁴⁹ Chilean Gendarmeria, Comprehensive action plan for COVID-19 contingency, (2020). Available at: https://html.gendarmeria.gob.cl/doc/141_plan_accion_coronavirus.pdf

⁵⁰ Ministry of Health, Guidelines for the control and prevention of COVID-19 cases for the population deprived of liberty in Colombia, (2020). Available at: <https://www.minsalud.gov.co/Ministerio/Institucional/Procesos%20y%20procedimientos/GIPSI0.pdf>

⁵¹ Ministry of Health Costa Rica, LS-SI-006. General guidelines for the management of COVID-19 in Penitentiary Centers within the framework of the Covid-19 health alert, (2020). Available at: https://www.ministeriodesalud.go.cr/sobre_ministerio/prensa/docs/lineamiento_centros_penitenciarios_V4_22072020.pdf

⁵² Health, Inter-institutional guidelines for the prevention of transmission of COVID-19 in detention centers, (2020). Available at: <https://www.salud.gob.ec/wp-content/uploads/2020/04/LINEAMIENTO-INTERINSTITUCIONAL-PARA-PREVENIR%20LA-TRANSMISION%20DE-COVID-19-EN-LOS-CENTROS-DE-PRIVACION%20DE-LA-LIBERTAD-1.pdf>

⁵³ Department of Correction and Rehabilitation, Coronavirus Response Protocol 2019, (2019). Available at: <https://dcr.pr.gov/wp-content/uploads/2020/04/Protocolo-de-respuesta-Coronavirus-1.pdf>

⁵⁴ National Rehabilitation Institute, NRI issues action protocol against coronavirus, (2020). Available at: <https://www.minterior.gub.uy/index.php/unicom/noticias/7571-instituto-nacional-de-rehabilitacion-emite-protocolo-de-actuacion-ante-el-coronavirus>



The proposed measures in the contingency plans were the use of face masks, constant hand washing, the provision of personal protective equipment (PPE), induction talks on COVID-19, the cancellation of transfers, disinfection of spaces, among others. Some contingency plans were more specific in terms of the distribution of responsibilities among the authorities, as in the case of **Costa Rica**. In other instances, such as **Colombia**, detailed information was presented on how to address cases that may appear related to COVID-19, for example, asymptomatic cases, and probable deaths from COVID-19.

The plans developed in the prison sector to prevent and respond to COVID-19 were, generally designed in conjunction with the health sector authorities.

In addition to the above, tests were carried out in the prison sector of some countries to identify coronavirus cases. This was the case in **Panama**, where swab tests were performed in the women's center on both the population deprived of liberty, as well as on prison sector personnel.⁵⁵ In the **Dominican Republic**, testing for COVID-19 cases was a joint effort between prison authorities and the Ministry of Public Health. In **Guyana**,⁵⁶ testing campaigns were conducted to identify coronavirus cases in Lusignan prison. In **Argentina**,⁵⁷ from March to October 2020, 783 swabs were taken in the federal prison system.⁵⁸

A new normal begins and with the emergence of the vaccine against COVID-19 comes the task of prioritizing who should receive it first among the sectors of the population. In many countries, the prison sector was the epicenter of the pandemic, which resulted in the case fatality rate being higher in the prison sector than in the general population, hence the importance of including the prison sector population in vaccination programs against COVID-19.⁵⁹ In order to achieve this, some countries included the prison sector in their vaccination plans, for example:

- In **Argentina**, the Strategic Plan for COVID-19 Vaccination includes prison service personnel (considered as strategic personnel) and persons deprived of liberty, as a priority population.⁶⁰
- In **Chile**, prison staff and persons deprived of liberty are included in the first stage of the vaccination process (stage 1f).⁶¹

⁵⁵ Ministry of Government, Mass swab testing is carried out at CEFERE, (2020). Available at: <https://www.mingob.gob.pa/realizan-pruebas-masivas-de-hisopado-en-el-cefere/>

⁵⁶ The Attorney General's Office of the Republic, Authorities implement new measures in La Victoria prison and announce they will install a system of periodic tests to detect coronavirus cases, (2020). Available at: <https://pgr.gob.do/autoridades-implementan-nuevas-medidas-en-penal-la-victoria-y-anuncian-instalacion-sistema-de-pruebas-periodicas-para-deteccion-casos-coronavirus/>

⁵⁷ Department of public information, 140 inmates at Lusignan Prison test positive for COVID-19, (2020). Disponible en: <https://dpi.gov.gy/140-inmates-at-lusignan-prison-test-positive-for-covid-19/>

⁵⁸ The Prison Obudsman's National Office, Deaths in custody during the pandemic, (2020). Available at: <https://www.ppn.gov.ar/images/blog/PPNMuertespandemia3110.pdf>

⁵⁹ UCLA, Recommendations for prioritization and distribution of COVID-19 Vaccine in prisons and jails, (2020). Available at: https://justicelab.columbia.edu/sites/default/files/content/COVID_Vaccine_White_Paper.pdf

⁶⁰ Argentine Ministry of Health, Strategic Plan for Vaccination against COVID-19 in the Argentine Republic, (2020). Available at: <https://bancos.salud.gob.ar/sites/default/files/2020-12/Plan%20Estrategico%20Vacunacion%20COVID-19%20%28final%29.pdf>

⁶¹ Ministry of Health, Coronavirus Action Plan targets Groups for vaccination against SARS-COV-2, according to the supply of vaccines, (2021). Available at: <https://www.minsal.cl/wp-content/uploads/2021/02/Grupos-Objetivos-para-vacunaci%C3%B3n-SARS-Cov-2-10.02.2021.pdf>



- In **Costa Rica**, prison personnel are included in the first group to be vaccinated, and persons deprived of liberty in the fourth group.⁶²
- In **Colombia**, the population deprived of liberty and custodial personnel from the prison sector were considered for phase 2, stage 4, of the National Vaccination Plan against COVID-19.⁶³
- In **Peru**, the personnel of the National Penitentiary Institute (INPE) and persons deprived of liberty are considered for Phase II of the National Plan against COVID-19.⁶⁴
- In **Paraguay**, people deprived of liberty were considered for the last phase of vaccination.⁶⁵

Recommendations

- *Adapt the established contingency plans to the particular needs of each situation, based on the lessons learned and the information gathered throughout the months of the pandemic.*
- *Promote official communication channels in the prison sector for the exchange of practices and learning, generating spaces to learn about positive experiences and continuous improvement.*
- *Identify mechanisms that enable the financial sustainability of the measures to prevent, respond to and recover from the health crisis in the prison sector.*

Related SDGs:



⁶² Ministry of Health, Prioritization of groups to be vaccinated against COVID-19, (2020). Available at: <https://www.ministeriodosalud.go.cr/index.php/centro-de-prensa/noticias/741-noticias-2020/2013-adultos-mayores-y-trabajadores-de-centros-de-larga-estancia-asi-como-personal-de-primer-respuesta-seran-los-primeros-en-recibir-vacuna-contr-covid-19>

⁶³ Ministry of Health Colombia, Phase 2 - 2021, (2021). Available at: <https://www.minsalud.gov.co/salud/publica/Vacunacion/PublishingImages/fases-vacunacion-covid-19/280121Fase4-vacunacio%CC%81n.png>

⁶⁴ Unique Digital Platform of the Peruvian State, National Vaccination Plan against COVID-19, (2021). Available at: <https://www.gob.pe/11796-plan-nacional-de-vacunacion-contr-la-covid-19>

⁶⁵ Ministry of Public Health and Social Welfare, Government presents National Vaccination Plan against COVID-19, (2020). Available at: <https://www.mspbs.gov.py/portal/22424/gobierno-presenta-plan-nacional-de-vacunacion-contr-el-covid-19.html>



Trend 3. The monitoring bodies for deprivation of liberty have demonstrated their ability to adapt.

Deprivation of liberty is monitored by various bodies in the region, such as the National Human Rights Institutions, the National and Local Mechanisms for the Prevention of Torture, and, in some countries, by civil society organizations, among other actors of judicial and executive power.

Access to places of detention was suspended, as a measure to prevent infections, in many countries, due to the pandemic. Therefore, monitoring bodies had to adapt to this situation quickly, for example, through the articulation of coordinated responses.

In **Chile**, the National Institute of Human Rights (NIHR) and the Human Rights Department of the Medical College continued visiting prison complexes with the required sanitary measures to attend to the demands of the prison population in the context of the pandemic.⁶⁶ In **Panama**, the Ombudsman's Office and the National Prevention Mechanism carried out joint inspections of the Women's Rehabilitation Center to identify the measures implemented by the authorities to prevent contagion.⁶⁷ In **Paraguay**, in order to carry out monitoring visits, the National Mechanism for the Prevention of Torture was provided with COVID-19 training, accompanied by the Paraguayan Red Cross, had individual personal protective equipment (PPE) and prepared a technical manual for monitoring detention in times of pandemic.⁶⁸

The demands to prevent infections and their increase led to the adaptation of other places such as hotels and hostels so that people infected with COVID-19 could quarantine there, measures that de facto constitute a deprivation of freedom.⁶⁹ Given this scenario, it was important to recognize that these types of accommodation are places of deprivation of liberty and can therefore be monitored. In **Paraguay**, the National Mechanism for the Prevention of Torture carried out inspections in accommodations that were to receive patients from abroad with a confirmed diagnosis of COVID-19.⁷⁰

The pandemic impacted the way detention monitoring was carried out. As a result of this, most of the monitoring bodies in the region had to adapt their methodologies to the new reality. In **Mexico**, the National Human Rights Commission created a General Guide for the Supervision of the COVID-19 Sanitary Emergency and carried out virtual training on the use of personal protection supplies.⁷¹ Other monitoring bodies strengthened their work in compiling data related to the incidence of COVID-19 cases in the prison sector, for example, in **Argentina**, the National Committee for the Prevention of Torture frequently issued a report with information on the situation regarding COVID-19 in different types of places of deprivation of liberty, including mental health institutions and institutions for the elderly.⁷²

⁶⁶ National Institute of Human Rights, During a visit to the Puente Alto prison, NIHR finds that 149 inmates and officials are infected with COVID-19, (2020). Available at: <https://www.indh.cl/en-visita-a-carcel-de-puente-alto-indh-constata-que-149-internos-y-funcionarios-estan-contagiados-por-covid-19/>

⁶⁷ The Ombudsman's Office, the Ombudsman's Office and the MNPT carry out an inspection at CEFERE in the event of any detected COVID-19 cases, (2020). Available at: <https://www.defensoriadelpueblo.gob.pa/defensoria-del-pueblo-y-mnpt-realizan-inspeccion-en-del-cefere-ante-la-deteccion-de-casos-de-covid-19/#more-6384>

⁶⁸ MNP, MNP conducted monitoring of National Police Stations, (2020). Available at: <https://www.mnp.gov.py/index.php/comunicacion/2015-08-23-04-11-31/152-mnp-realizo-monitoreo-de-comisarias-de-la-policia-nacional>

⁶⁹ SPT, Recommendations of the Subcommittee for the Prevention of Torture to States Parties and national preventive mechanisms related to the coronavirus pandemic, paragraph 10 (5).

⁷⁰ National Mechanism for the Prevention of Torture, Reports on Sanitary Isolation Accommodation, (2020). Available at: <http://www.mnp.gov.py/index.php/repository/informes-de-monitoreo-y-seguimiento/albergue-sanitario/>

⁷¹ CNDH, Third General Inspection Unit's Special Report on COVID-19 in Penitentiary Centers, (2020). Available at: https://www.cndh.org.mx/sites/default/files/documentos/2020-07/IE_COVID19_Penitenciarios.pdf

⁷² National Committee for the Prevention of Torture, Report on the situation of persons deprived of liberty during the COVID-19 health emergency period as of December 28, 2020, (2020). Available at: <https://cnpt.gob.ar/wp-content/uploads/2020/12/Reporte-Estado-de-Situacion-PPL-Covid-al-28-12-20.pdf>



Recommendations

- Strengthen the monitoring bodies' role and give them the due importance in the support they give to the prison population.
- Establish mechanisms, processes and strategies to integrate monitoring bodies in the design of prison policies.
- Guarantee unrestricted access to places of deprivation of liberty for monitoring bodies, including places that were created as a result of the pandemic.

Related SDGs:



Trend 4. Data and information systems are important for designing comprehensive evidence-based public policies and promoting informed decision-making.

The production of data and access to information is relevant to two aspects. The first is related to its contribution to detecting trends and behavior patterns of the virus in places of deprivation of liberty in order to predict future situations. The second aspect is linked to citizens taking an active part in the formulation of measures and public policies to tackle the health crisis.

Collecting sufficient and quality information on the behavior of the virus in places of confinement directly strengthens the assessment stage or structuring of the problem, so that public policy instruments and measures can be designed for their implementation based on this information. A fundamental aspect to include is the preventive approach, which assumes that State governments not only act in the face of events that have already occurred and generated crisis situations but that they are also encouraged to adopt measures to avoid risks, including risks of contagion or outbreaks in places of deprivation of liberty.

Argentina, Brazil and Chile have published public data regarding this and the number of COVID-19 cases in the prison sector on the web. In **Argentina**, the Federal Penitentiary System has issued a report on the epidemiological situation in which information is recorded regarding the number of swabs carried out, cases discarded, confirmed, active and recovered, discharges and deaths.⁷³ In **Brazil**, the National Penitentiary Department publishes updated data on the number of infections, recoveries, tests and deaths on a digital platform.⁷⁴

⁷³ Argentine Federal Penitentiary System, Daily COVID-19 Report, (2021). Available at: <https://reportecovid.spf.gob.ar/>

⁷⁴ National Penitentiary Department, Measures against COVID-19, (2021). Available at: <https://app.powerbi.com/view?r=eyJrJoiYThhMjk5YjgtZWQwYS00ODlkLTg4NDgtZTFhMTgzYmQ2MGVlIiwidCI6ImViMDkwNDIwLTQ0NGMtNDNmNy05MWYyLTRiOGRhNmJmZThlMSJ9>



In **Chile**, up until June 2020, daily reports of infections in people deprived of liberty and prison staff were issued. These data identified that up until that date there were 1,663 infections, 893 people had recovered, 9 had died and 32 people had been vaccinated against influenza.⁷⁵

In **Panama**, the prison system frequently reported, through press releases, the number of people in the prison sector that had tested positive, had recovered or were hospitalized, and information regarding deaths was also included.⁷⁶

Additionally, the monitoring bodies played a more active role in the generation and publication of information related to the COVID-19 situation in places of deprivation of liberty. This is the case of the National Mechanisms of **Argentina** and **Paraguay**, and the Prison Ombudsman's National Office in **Argentina**. In **Argentina**, the National Committee for the Prevention of Torture developed a database that records COVID-19 cases in different places of deprivation of liberty.⁷⁷ In **Argentina**, the National Penitentiary Office records information on people who have died from COVID-19 in the federal penitentiary system.⁷⁸

Regarding the data related to the people deprived of liberty who during the health crisis had access to different forms of freedom, the Prison Ombudsman's National Office records data related to the number of discharges during the pandemic in the federal penitentiary system,⁷⁹ and in **Chile**, the Gendarmerie has published preliminary figures regarding the effects of the measures taken to decongest the prison system.⁸⁰

Recommendations

- *Design methodologies, appropriate to the reality of each country, to generate and provide useful data for decision-making regarding interventions on COVID-19.*
- *Promote efforts to ensure that prison sector data is produced from a gender and diversity (age, ethnicity, disability, among others) perspective.*

Related SDG:



⁷⁵ Chilean Gendarmerie, Information confirmed by the COVID-19 health authority, (2020). Available at: <https://www.gendarmeria.gob.cl/corona2020.html>

⁷⁶ Ministry of Government Panama, Penitentiary System reports 501 deprived of liberty have recovered, (2020). Available at: <https://www.mingob.gob.pa/sistema-penitenciario-reporta-501-privados-de-libertad-recuperados/>

⁷⁷ National Committee for the Prevention of Torture, About the Report on the Situation of COVID-19 in places of confinement in Argentina, (2021). Available at <https://cnpt.gob.ar/banco-de-datos/>

⁷⁸ The Prison Ombudsman's National Office, Deaths in custody during the pandemic, (2020). Available at: <https://www.ppn.gov.ar/images/blog/PPNMuertespandemia3110.pdf>

⁷⁹ The Prison Ombudsman's National Office, The situation of the population deprived of liberty in the face of the health emergency due to COVID-19 statistical report No. 7, (2020). Available at: <https://www.ppn.gov.ar/pdf/boletines/ReporteestadisticoPPLCOVID19-7.pdf>

⁸⁰ Chilean Gendarmerie, Preliminary figures on the Effects of measures taken to decongest the prison system, (2020). Available at: https://html.gendarmeria.gob.cl/doc/Cuadro_Resumen_Prensa.pdf



United Nations Development
Program in Latin America and
the Caribbean



United Nations House,
City of Knowledge, Building 128
Box 0816-1914,
Panama, Republic of Panama

 <https://www.facebook.com/pnudlac>

 <https://twitter.com/PNUDLAC>

 <https://www.instagram.com/pnudlac/>



Association for the Prevention of Torture (APT)

Center Jean-Jacques Gautier
10, route de Ferney
CH - 1202 Geneva, Switzerland

 <https://www.facebook.com/apt.geneva>

 https://twitter.com/apt_geneva

 [association-for-the-prevention-of-torture-apt/](https://www.linkedin.com/company/association-for-the-prevention-of-torture-apt/)