Latin America is facing a prison crisis. As crime has risen in the region over the past few decades, incarceration has become the response of choice for policy makers reacting to public outcry over deteriorating public safety. Facilities have quickly become overcrowded while correction programs have been poorly run. As the number of inmates has increased, crime continues to rise and rehabilitation fails. This book is about the rapid growth of imprisonment in Latin America and the shortcomings of this massive incarceration policy. Using original data specially collected for this project, this volume examines the prison humanitarian crisis, studies the adverse effect of Latin American correctional efforts to reduce crime in the region, and analyzes the close link between waves of incarceration and rising crime rates.

Over the last two and a half decades, the number of inmates in Latin America has almost quadrupled from 408,000 in 1992 to 1,519,000 in 2017. While large countries such as Brazil and Mexico have been at the forefront of this significant increase, all eighteen countries in the region have at least doubled their number of prisoners during this period. This mass incarceration process has impacted millions of households, depleted public resources, and created a plethora of social problems. However, despite the large incarceration trend, property and violent crime rates continue to grow.

Prisons in the region are mostly overcrowded and social rehabilitation has seldom been achieved; for most inmates, crime is “taught” inside the prison, and they reoffend rapidly upon release. Families are affected by imprisonment of a household member and thus conditions of poverty and marginalization are both bred and reproduced. In this book, we show that
prisons in Latin America do not deter most potential offenders and do not incapacitate them in sufficient numbers to reduce crime as arrested individuals are quickly substituted by a new cadre of offenders, particularly in drug and property crimes. Over the past few decades, governments have spent millions building prison facilities to respond to overcrowding (hardware) but have severely underspent on creating the necessary conditions for effective social rehabilitation and to make reentry into society successful (software). That is, by privileging “hardware” the outcome of mass incarceration has been very ineffective and crime has continued to rise.

Using administrative data from all the countries involved in the study, together with inmate surveys conducted by the authors of this book in eight of these, we analyze the state of Latin American prisons, and we describe the type of population that inhabits the region’s prisons and the social milieu from which they come. Several chapters study the type of crime these inmates have committed and their criminal record and trajectories, while other chapters analyze the actual performance of criminal justice institutions. We delve into the deteriorated prison conditions, and we study prison violence, rehabilitation programs, recidivism, gender issues, and offenders’ links with the outside world, showing that, in many cases, prisons have actually become drivers of criminality.

Beginning in the 1990s, there has been a significant growth of criminal activity in the region (Beato, 2012; Carranza, 2012; UNDP, 2013; Ortega et al., 2014; ICPS, 2015; Vilalta, 2015). Although mass incarceration has become the standard reaction, the following pages will show that this policy has not turned prisons into effective institutions for crime suppression in the region. Far from solving the crime threat, prisons have accelerated social problems and have created new challenges for Latin America countries (Ungar, 2003; Dammert and Zuñiga, 2008; Salla et al., 2009; CELS, 2011; WOLA, 2017). Our work presents the central hypothesis that the current wave of imprisonment has ultimately contributed to producing more crime in Latin America. We will provide evidence to support this hypothesis.

This book answers several important questions regarding the most severe problems facing Latin America: Who are the inmates who inhabit the penitentiary systems? What are governments doing to address the problems created by the growing prison population? To what extent has mass incarceration contributed to more criminality in the region? Under what conditions does violence spread?

Our main argument is that waves of incarceration in the region over the last few decades have had little success in containing criminality, in
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deterring large numbers of new delinquents, and in rehabilitating inmates. On the contrary, given these failures, prisons may have endogenously contributed to more thefts, illegal drugs offenses, and violence. Instead of reducing criminality, prisons have accelerated offending rates, while some crimes have even been orchestrated from within prison walls. To support this claim, in the following chapters we show that:

1. Correctional facilities in the region house a high percentage of inmates who committed petty crimes. Authorities, legislators, and judges have opted to impose harsh penalties for micro-trafficking and low scale thefts, which has significantly contributed to the current prison overcrowding. Yet, after serving their sentences, these large numbers of low-end offenders are released and many of them rapidly recidivate.

2. Prisons have become a “familiar space” for the vast majority of inmates, a place where inmates’ family members, friends, or acquaintances may have spent time in the past, and where inmates or relatives expect to return and live at some point in their lives. This “familiarity” with jails has diluted the correction’s general deterrence effect as many offenders, with first-hand knowledge of what goes on inside, no longer perceive the undesirable effects of prisons, as many family members and friends have also spent time locked up. Mass incarceration in Latin America has paradoxically reduced the dissuading effect of imprisonment.

3. Despite the great variance within detention centers by country, most prison facilities have poor and inadequate living conditions, they are severely underfunded, and their rehabilitation programs and addiction treatments are highly deficient. In particular, many inmates live under severe threat of violence, while several prisons are self-governed by groups and gangs who do not hesitate to use extreme brutality in order to exert control and reap profits. Failed rehabilitation, violence, and criminal governance in prison facilities have fostered crimes from within prisons (drugs, extortion, kidnapping, and so on) and have hindered the chances of individual desistance upon release.

4. Criminal investigations are poorly executed. Most arrests result from offenses detected in flagrancy, while very few sophisticated and professional offenders are arrested and prosecuted. Thus, despite large workloads, prosecution and sanction institutions have had a limited impact on crime reduction in the region.
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5. The female prison population has grown dramatically. Similar to the situation with men, most women have been incarcerated for crimes involving drugs and theft. The earning opportunities from illicit markets have equivalent effects on both females and males, inducing many women to incur in drug and property crimes. In addition, violence in women’s correction facilities has increased.

This book contributes to the growing literature that has shown the limited effects of prisons on crime reduction (Young and Brown, 1993; Tonry, 1999; Blumstein, 2005; Travis and Visher, 2005; Alexander, 2010; Aebi et al., 2015). We use new evidence for Latin America that supports the general trend of limited success of mass incarceration policies, and also present two new insights: (a) we look specifically at how property crimes (and other “crimes for profit”) have not been contained by the large imprisonment waves, and (b) we show how a particular social mechanism that is very prevalent in Latin America prevents prisons from effectively reducing crime.

In summary, we argue that policies of incarceration based on deterrence and incapacitation have not reduced criminality in the region, and propose several causes for this failure.

We begin this chapter by highlighting the contribution made by this book, followed by a brief introductory overview in Section 1.2 of the prison crisis in the region. In Section 1.3, we discuss a central topic of this book: how prison and crime intertwine. Sections 1.4 and 1.5 make brief remarks on prison and violence, and the problem of fear of crime and punitiveness. Section 1.6 develops our main hypothesis, working propositions, and social mechanisms, followed by a description of methods, including an initial explanation of the surveys in Section 1.7. Section 1.8 reviews each chapter’s core argument.

1.1 A NEW, LATIN AMERICAN PERSPECTIVE OF THE PRISON CRISIS

Over the course of the last decade, the study of prisons in Latin America has benefitted from new scholarship (Dammert and Zuñiga, 2008; Vilalta and Fondevila, 2013; Hathazy and Muller, 2016; Sozzo, 2016a). Most of the research has used ethnographic and anthropological approaches to highlight the malfunctioning of corrections, the violation of human rights, and the problems of overcrowding (Carranza, 2012; OAS, 2017). Other studies focus on gangs, self-government, and violence (e.g., Brazil—
1.1 A New, Latin American Perspective

Dias and Salla, 2013; Biondi, 2010; El Salvador – Dudley and Martinez D’Aubuisson, 2017; Venezuela – Antillano et al., 2015; Honduras – Insight Crime, 2017 and others that cover various countries, Skarbek, 2014; Lessing, 2017), while a few scattered studies examine specific topics such as women in prison (CELS, 2011; Cardenas, 2012; Espinoza, 2016; WOLA, 2017; CELIV, 2018) or the politics of massive incarceration (Ungar, 2003; Macaulay, 2006, Overprisiones, 2018). This book extends the scope of research by offering three new significant additions to the study of prisons and crime in Latin America. First, using similar surveys across various countries, we provide measurements of these problems, setting benchmarks or precise measures for a wide range of topics such as prison services, levels of violence, drug circulation, inmate family ties, human rights and due process, rehabilitation programs, and many other variables that allow for comparisons between countries. Second, we show how imprisonment has impacted criminality, demonstrating the myriad of ways that these interplay. Third, we delve into the study of prisons as an institution fully integrated with the outside world, showing that, in Latin America, the complete separation between convicted felons and society is far from real.

The new evidence we present includes information from inmate surveys that the authors coordinated in eight countries (8,000+ randomly selected respondents from Argentina, Sao Paulo (Brazil), Chile, Costa Rica, El Salvador, Honduras, Mexico City and the State of Mexico, and Peru). The survey data provide comparative statistics between countries based on the “voice” of inmates rather than official statistics that are often skewed and incomplete. Section 1.7 and the Appendix describe the design, method, and information collection process of these surveys. We also use other data sets specially collected for this project. Despite the abundance of information, the arguments are presented simply so that the reader can easily grasp the concepts and the stories behind the data. We use this evidence to exemplify trends and to provide insight into the complexities of the problems.

However, our most important contribution is that our central argument advances the debate and provides a new perspective on the Latin American prison crisis. As shown by other researches in the USA and Europe, we argue that rather than reducing the scope of crime, prisons have become drivers for higher criminality in the region. Instead of being a solution, corrections has become an integral part of the crime problem in Latin America. In this book, we examine the limited effect of mass incarceration on the growing crime “for-profit” business in the region (thefts of consumer goods and illegal drugs trade, as well as highly predatory crimes such as
kidnapping and extortion). We argue that the poorly designed policies of mass incarceration in these countries have bred a prison crisis that has encouraged inmates to return to crime, to organize criminality from within prisons, to recruit family and networks for profitable criminal activities, to engage in highly violent enterprises, and so on.¹ These mass incarceration policies have facilitated the consolidation of gangs and networks, the development of new criminal enterprises, and the growth of corruption. In summary, the failure of incarceration policies has been instrumental to the crime problem for most countries in the region.

We develop a theory of endogenous acceleration, stating that prisons drive up crime because they breed the conditions for offenders to continue with their criminal careers, within the context of deficient policies to address the social and economic conditions that drove offenders to crime in the first place. We contribute to an understudied topic in the literature: the link between property crime and mass incarceration, a key characteristic of the current Latin American imprisonment wave. We will show that, annually, half of the new admissions are petty crime offenders lured by profits to be made in the illegal markets of stolen and/or illicit goods. The imprisonment of some offenders has created opportunities for new ones to profit from these markets.

There is no evidence to suggest that prison has been effective in preventing people from seeking profits from the business of crime. Our hypotheses predict that massive incarceration in the absence of effective rehabilitation, true deterrence, and policies that reduce opportunities for crime, actually worsens the living conditions of inmates, and facilitates the “easy” recruitment of first-time delinquents into consolidated gangs and illegal networks. The next chapters provide a comprehensive explanation as to how massive incarceration has become another living testimony of the poor state capacities in Latin America.

1.2 DEPTH AND SCOPE OF THE PRISON CRISIS

Why have incarceration rates exploded? What is the extent of such growth? The standard argument is that the rise in crime triggered a punitive reaction in the region. Governments have doubled or tripled

¹ Although some recent publications, particularly in Brazil, show that inmates exert some control of criminal activity outside the prison walls, these studies focus only on gangs and drugs and on the PCC-gang of Sao Paulo (Biondi, 2014; Denyer Willis 2015; Lessing, 2017; Paes Mansio and Nunez Dias, 2018). There is a need to transcend single countries or a particular case because a larger regional trend is observed.
1.2 Depth and Scope of the Prison Crisis

the number of police officers; have dramatically increased the number of courts, judges, and prosecutors; and have built or expanded prison facilities. Yet the number of prison admissions has outpaced the growth of the criminal justice systems. Overcrowding is severe in all eighteen countries of Latin America, varying from 117 per cent in Argentina, to 375 per cent in Bolivia. Many inmates sleep on the floor, some cells intended for four inmates house more than eight individuals, and most people have limited access to water, food, and medicines.

Almost half of the inmate population in Latin American has not been sentenced. Pre-trial detention (PTD) or remand is extreme, and accounts for one third of the inmates in Chile, Argentina, and Brazil, to almost two thirds in Paraguay, Uruguay, and Venezuela. Community corrections (i.e., alternatives to prisons, supervised programs, and house arrest arrangements), are extremely deficient. Moreover, there is an alarming lack of reentry programs throughout the area.

Every year, approximately 350,000 new inmates are admitted to the region’s penitentiary systems. While sentences have lengthened in most countries over the last decade, many inmates still benefit from early release or short sentences. The average serving time in prison is 4.1 years, meaning that there is a very high rotation of inmates. This implies that more than 300,000 inmates are released every year from Latin American penitentiaries.

Most prisoners are male (ranging from 92 to 95 per cent) although the female prison population has grown rapidly during the last decade. Most inmates serve time for robberies or drug related crimes (almost two out of three). However, since severe predatory crimes carry long sentences (particularly homicides, rape, and kidnapping) the true number of new admissions for property and drug-related crimes are much higher. Every year, three out of four admissions were people arrested for theft or drug dealing, most of them low-end delinquents.

This book documents the growing prison crisis. The initial indicators cited show that the explosion of incarceration resulted from a surge in arrests for property crime and illegal drugs. Despite the increase in homicides and other violent crimes in the region, these do not explain the mass incarceration wave. However, despite the rise in the number of arrests, as

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2 Occupancy level is estimated as the ratio between official capacity of the prison system and the actual number of inmates. Any percentage above 100 per cent means overcrowding.


4 This is estimated from the inmate surveys. See Chapter 3 for details.
the demand for drugs and stolen goods has risen or at least remained constant, and prison incapacitation has not reduced the supply of offenders willing to commit to highly predatory crimes such as kidnapping and extortion, and so on.

1.3 Why mass incarceration has not reduced crime?

According to different theoretical perspectives, prisons could have an impact on crime reduction. This section briefly examines these theoretical perspectives and the nature of crime in the region, and presents initial remarks on the limited effect of corrections in containing crime in the Latin American context.5

1.3.1 Prisons and Theories of Crime Reduction

Prisons serve four different goals: Rehabilitation, punishment, deterrence, and incapacitation. Rehabilitation is the stated goal in most constitutions and emphasizes the role of corrections as resocialization centers mainly through work and education programs. According to this perspective, successful rehabilitation can reduce crime because rehabilitated offenders will desist from criminal careers (Andrews and Bonta, 2010; Day et al., 2010).

Punishment, on the other hand, is the “retribution” approach whereby felons who have committed crimes “pay” for them by being isolated from society and losing their right to freedom. “Justice” in many cases is construed as vindication and/or sanction for those who infringed on others’ property and safety rights.

Incapacitation and deterrence are conceived as the key goals for crime prevention. Incapacitation seeks to physically separate criminally active individuals from society, and to inhibit their proclivity to commit crimes or at least reduce the frequency of offending of these “professional felons” (Blumstein, 2005; Travis and Visher, 2005; Western et al., 2015).

5 A very important methodological note that will be further developed in Chapters 2 and 3 relates to counterfactuals. Despite the growing rate of criminality and incarceration, one can argue that without the high imprisonment trend, crime could have been even worse. This is hard to prove but remains a possibility. We will provide partial support to show that it appears that prisons have aggravated the situation, but we cannot prove the counterfactual. Therefore, throughout this book, we emphasize that no proof was found that higher incarceration rates have reduced crime. We will provide strong evidence for the plausibility of the hypothesis that prisons have not reduced criminality.
However, as will be shown in this book, successful incapacitation for crime aversion is linked to the types of prisoners incarcerated rather than the high rate of incarceration itself.⁶

Deterrence, conversely, seeks to reduce the incentive for potential offenders to commit felonies by instilling a sense that sanctions outweigh the subjectively perceived benefits of committing crimes. Prisons can effectively deter potential offenders if they perceive that detection is likely and that the punishment is severe.⁷ The effectiveness of prisons as deterrents is dependent on the extent to which (a) crimes are reported to authorities, (b) offenders are charged successfully by prosecutors and/or police, and (c) courts render effective prison sentences. As the following chapters will show, there are severe limitations in these three areas in Latin America.⁸

We argue that of the four general goals, only the “just desserts” goal is partially met. Inmates who live under very poor prison conditions most likely survive the high degree of inflicted pain mainly because they have developed strategies of adaptation and adjustment (Dhami et al., 2007).⁹ On the other hand, the constitutionally mandated goal of rehabilitation is nothing more than a wishful desire within the deteriorated, underfunded, and under performing current conditions of prisons in the region.

This book focuses mainly on deterrence, rehabilitation, and incapacitation and discusses whether these have gained any traction (i.e., if they have achieved a meaningful reduction of criminality). We review the literature, assess qualitative evidence, and analyze new data in order to address the effective scope of these guiding theories for the region. We have found no evidence to suggest that Latin American prisons have averted much crime through either deterrence or incapacitation.

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⁶ Incapacitation of frequent career criminal offenders prevents more crime than the lock up of first-time delinquents and low-frequency offenders.

⁷ From the early writings of Beccaria (2000) and Bentham (1781), to more recent works by Becker (1974), Nagin (1998 and 2013) or Paternoster (2010), the threat of punishment might be effective only if the probabilities of detection are sufficiently high.

⁸ Deterrence is subjectively perceived. Each individual may have different perspectives and risk-taking approaches. Theories concur however that perceived certainty of detection is the most important criteria for effective deterrence. Following this, the celerity or “swiftness” of sanction imposition and the severity of punishment become important subjective considerations.

⁹ The classical literature on prisons has identified this process and its short- and long-term effects. See Clemmer (1940) and Sykes (1958).
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1.3.2 Pattern of Rise in Crime in Latin America

Since the 1990s, all Latin American countries have experienced rising rates of criminality (Gaviria and Pagés, 2002; Cavallaro, 2008; UNDP, 2013; CAF, 2014; Dudley, 2014; Bergman, 2018; Yashar, 2018). Most countries have seen the number of crimes double and even triple. Yet most of this increase does not result from homicides or other very violent crimes, but rather from a large increase in property crimes. Many consumer goods such as cars, auto-parts, mobile phones, digital goods, gasoline, minerals and metals, clothing, food, and even pets, are stolen every day for the purpose of resale in secondary markets that have proliferated in all major urban areas of Latin America. The appetite for consumer goods at much lower retail prices sold in makeshift markets has contributed to this steady demand for illicit goods.

A second driver of offending has been the booming domestic illegal drug market (Tokatlian, 2010; Bergman, 2016; Gaviria and Mejia, 2016; OAS, 2019). Although during the second half of the twentieth century, Latin America was the world’s producer of cocaine and an important supplier of opiates and cannabis to the USA, domestic markets remained small during most of this period. However, since the late 1980s and 1990s there has been a growing local demand for these drugs. This has resulted in a push to establish supply chains and conflicts between rival organizations for the control of these growing markets. In addition, large quantities of illegal drugs have moved into cities and barrios. In short, the development of the domestic drug market has provided earning opportunities for young people, and is the driving force behind a large number of offenses.

Although homicides and other predatory crimes have also increased and are indeed connected to these two large processes of rising consumption of illegal goods and the surging domestic drug markets, the most noticeable rise in crime in the region is shown by the dramatic rise in victimization (thefts) and of drug offenses (for details and data, see Bergman, 2018, chs. 2 and 4). The demand for these illicit goods has created strong incentives for developing illegal markets, while the large supply of foot soldiers created by the economic transformation of the 1990s, as well as poor state capacity to control this situation, have contributed to the consolidation of these illegal markets (Bailey, 2014, Dewey, 2015, UNDP, 2013), and high criminality rates throughout the region. In sum, the major drivers of criminality in the region are offenses motivated by earnings. We refer to these as “crimes for profit.”