

CASE STUDY

COSTA RICA

Restorative Justice Approach

Summary

Costa Rica's prisons are above capacity by 27%, making it the second worst for prison overcrowding among OECD countries. Many people are imprisoned due to the criminalisation of drugs. In 2020 alone, 114,090 arrests were made for drug-related offences. Yet Costa Rican prisons provide no access to harm reduction and very little access to health services. At the same time, distrust in public institutions is growing, with only 29% of citizens expecting public officials to turn down bribes. In response, in 2012, the judiciary approved a restorative justice pilot programme. Under the initiative, if both parties consent, an agreement is made which is designed to repair the damage caused to individuals and the community. If the person who has been charged with the offence uses drugs, they are offered access to a voluntary, tailored treatment plan as part of the agreement, which includes psychological and social support. In 2020, 141 people participated in the restorative justice programme; this alone saved Costa Rica over USD 590,000. The pilot's positive results led to the programme being expanded. In 2023, around 2,250 restorative justice meetings were held. Of the agreements reached, 94% were fulfilled in their entirety. Research into the drug treatment plans offered through the process found participants reported significant and positive changes in one or more areas of their life, including social reintegration.

Key statistics

114,000

In 2023, more than 17,500 people in Colombia were imprisoned for drug-related offenses.

27%

In the same year, Costa Rica's prison system surpassed capacity by 27%, making it the second worst for prison overcrowding among OECD countries.

\$4,211

Research suggests the use of restorative justice procedures could save Costa Rica up to USD 4,211 for each criminal case.

94%

Of all the agreements reached under the country's restorative justice procedures, 94% were fully actioned.

The punitive approach

In the past ten years, there has been a 31% increase in homicides related to gang violence.¹ The Costa Rican Violence Observatory links most of these homicides to organised crime and drug trafficking. In 2020, prisons in Costa Rica surpassed their capacity by 27%, making it the second worst for prison overcrowding among OECD countries. Research suggests that, while 15% of men arrested for drug-related offences are incarcerated, among women this figure is 57%, highlighting a huge gender disparity in the impact of drug criminalisation.²

In 2020 alone, 114,090 arrests were made for drug-related offences, with 112,810 people arrested for drug possession and 49 people for drug trafficking.³ These figures are particularly concerning given that Costa Rican prisons provide no access to harm reduction and very little access to health services.⁴

Challenging the punitive approach

Distrust in public institutions is growing in Costa Rica (only 29% of citizens expect public officials to turn down bribes),⁵ especially among younger generations.⁶ This distrust extends to the criminal legal system. In response, members of the Supreme Court, along with the Public Prosecutor's Office, the Office for Assistance to Victims of Crime, the Public Defence and the Criminal Court of the First Judicial Circuit of San José, began advocating for a restorative justice approach within the criminal legal system. In 2011, the Supreme Council of the judiciary stated that a restorative justice programme was of 'institutional interest'.

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Instigating change

In 2012, the Court Plenary, by initiative of justice Dra. Doris María Arias Madrigal, approved a pilot project called the Restorative Justice Program, to be applied in the judicial branch of Costa Rica in matters of criminal law and juvenile law and in Drug Treatment Courts.⁷ The

project's main aim was to improve social cohesion by reaching an agreement between the parties (offender and victim) involved in a case. Its secondary aim was to reduce court delays and costs by using alternative mechanisms for conflict resolution. Both parties must consent to participate in a restorative justice process. If they do, agreements are built that will restore damages caused to the victim and the community. The agreement is then followed-up by a team which provides psychological and social support and ensures the reparation plan is carried out in full.

The pilot's positive results led to the judicial branch extending the programme to more judicial circuits in the country, in coordination with the Prosecutors' Office and the Public Criminal Defenders' Office. By 2018, seven new interdisciplinary restorative justice mechanisms were operating under guidelines provided by the Supreme Court of Justice.

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Investing in community, health and justice.

The actions of the judiciary were essential for the approval of the Restorative Justice Act (Nº 9.582)⁸ by the Legislative Assembly of Costa Rica in 2018. In Article 3 of the law, the main goal is to improve the situation of the parties involved by reaching restoration agreements and promoting mutual understanding. The use of restorative justice procedures can save the state up to CRC 2,162,281 (around USD 4,211) for each criminal case. This is because ordinary legal procedures cost much more on average, in terms of time and material and human investment, than the restorative justice procedure.⁹ In 2020, 141 people participated in Costa Rica's restorative justice programme; this alone saved the state over USD 590,000.

Among other restorative procedures and measures, this law includes a process called the Drug Treatment under Restorative Justice Supervision, which combines justice with a health-based approach. Through this process, once it is established that the person who has been charged with an offence uses drugs, they are offered access to a voluntary, tailored treatment plan. This includes support from a psychosocial team that considers three dimensions throughout the treatment: person, family and community.¹⁰ The Drug Treatment under Restorative Justice Supervision program does not have a specific budget allocation, rather it is financed by different participating institutions, including the judiciary and the National Drug

Institute. It also gets significant support from international bodies, such as the Inter-American Drug Abuse Control Commission and the European Union's Adelante Programme.¹¹

“The use of restorative justice procedures can save the state up to USD 4,211 for each criminal case.”

Impact

During 2023, under the Restorative Justice Act, over 2,258 restorative meetings were held. Of the agreements reached under restorative justice procedures, 94% were fulfilled in their entirety, according to figures from the judiciary.¹² Of the 16 people who participated in the Drug Treatment under Restorative Justice Supervision process, 11 were surveyed, and all reported significant and positive changes in one or more areas of their life as a result of the programme. Participants also showed high levels of satisfaction with the treatment received from the interdisciplinary team (psychologist, judge and defender), stating that they felt the team genuinely cared about their wellbeing.¹³ Participants also reported being satisfied with the ways the programme aided social reintegration.

Sources

- 1 Costa Rican Violence Observatory, 'Homicidio doloso' [webpage], Costa Rican Violence Observatory, San José. Available from <https://observatorio.mj.go.cr/tipo-de-hecho-violento/homicidio-doloso>.
- 2 Costa Rican Drug Institute, (2015), Drug consumption and drug/crime relations in the Penitentiary System for adult men, ICD, San José. Available from https://icd.go.cr/portalicd/images/docs/uid/investigaciones/CR_Estudio-CarcelesVarones_2015_ICD.pdf.
- 3 The additional arrests related to other types of drug offences, such as drug smuggling and drug trading.
- 4 Costa Rican Drug Institute, (2021) Consumption profile of psychoactive substances in the prison population of adults in Costa Rica, ICD, San José. Available from www.icd.go.cr/portalicd/images/docs/uid/investigaciones/Informe_Varones2021.pdf.
- 5 Chamber of Commerce and Industry in Costa Rica, (9 September 2024), 'Trust in public institutions in Cost Rica below OECD average', CAMACOES, San José. Available from <https://camacoecr.com/eventos-y-noticias/confianza-en-las-instituciones-publicas-en-costa-rica-por-debajo-del-promedio-de-la-ocde/>.
- 6 Arias, D., (2018), Judicial Branch of Costa Rica, Restorative Justice Program, San José. Available from <https://justiciarestaurativa.poder-judicial.go.cr/index.php/documentos-de-interes-penal>.
- 7 Ibid.
- 8 Costa Rican Legal Information System, (2024), Restorative Justice Act, SCUJ, San José. Available from www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=86883&nValor3=0&strTipM=TC.
- 9 Supreme Court Secretary General, (5 February 2021), Planning Directorate. Report 2052-PLA-PP-2020, Supreme Court Secretary General, San José. Available from https://justiciarestaurativa.poder-judicial.go.cr/images/documentos/Costo-procesos_JR-Ordinario.pdf.
- 10 Segura, R., (2021), 'The treatment procedure for drugs under restorative judicial supervision in Costa Rica', Revista Digital de Ciencias Penales de Costa Rica, vol. 32, no. 1, p.13. Available from <https://revistas.ucr.ac.cr/index.php/RDMCP/article/view/49526/49620>
- 11 Restorative Justice Program, (2018), Execution Report of the Regional Restorative Justice Project, Restorative Justice Program, San José. Available from <https://justiciarestaurativa.poder-judicial.go.cr/pdf/informes/2018/Informe%20Anual%202018%20PR%20Fortalecimiento%20JR.pdf>.
- 12 Restorative Justice Program, (2023), Restorative Criminal Justice, Restorative Justice Program, San José. Available from <https://justiciarestaurativa.poder-judicial.go.cr/index.php/documentos-de-interes-penal>.
- 13 Cárdenas, P., (2019), Evaluation of processes of the Drug Treatment Program under Judicial Supervision (PTDJ) and the immediate effects on the beneficiary population, Costa Rican Drug Institute, San José. Available from <https://icd.go.cr/portalicd/images/docs/upp/Evaluacion-de-Procesos-PTDJ-CICAP-UCR.pdf>.

This is one in a series of case studies which captures the experiences of governments and donors around the world divesting from punitive approaches to drugs, and investing in programmes which prioritise community, health and justice. These case studies are not meant to be comprehensive but provide examples of effective divestment and investment, and related advocacy strategies.

**DIVEST FROM
THE UNJUST
DRUG WAR.**

**INVEST IN
JUSTICE.**