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**Decree 546 and Female Imprisonment in Colombia:**

Considering the Impact of Empty Policy on Institutional Trust

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## **Abstract**

What happens to institutional trust when fundamental human rights are not respected by the laws meant to protect them? The social and political environment spurred by the Covid-19 pandemic proved difficult for policymakers and the public alike, but perhaps those with the least agency fared the worst, prisoners. This thesis theorizes the concept of loss of institutional trust as a consequence of “empty policies”, through a feminist constructivist grounded theory study of Decree 546 and its effect on female detainees in Colombia. Intended as a decarceration measure to reduce the rate of Covid-19 transmission among inmates as a means of protecting the rights and health of detainees, few were eligible for release under the law due to a lengthy list of exclusions. The exclusion of drug-related offences had disproportionate impacts on female detainees, whose demographic makeup represents one of the most vulnerable groups in Colombian society both inside and outside the carceral system. An exploration and analysis of Decree 546 and responses to it, underpin the theoretical assumptions made in this thesis, where then, parallels are drawn to the wider context of the Colombian government’s responses to issues facing the country’s most vulnerable groups.

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*“Injustice anywhere is a threat to justice everywhere.”*

--Dr. Martin Luther King Jr.

## **List of Abbreviations and Common Names**

**Bangkok Rules** – The United Nations Rules for the Treatment of Women Prisoners and  
Non-Custodial Measures for Women Offenders

**ConGT** – Constructivist grounded theory

**Covid-19** – SARS-CoV-2

**FARC** – Revolutionary Armed Forces of Colombia

**GDP** – Gross domestic product

**GT** – Grounded theory

**IACHR** – Inter-American Court of Human Rights

**INPEC** – National Penitentiary and Prison Institution (English translation)

**(Nelson) Mandela Rules** – The United Nations Standard Minimum Rules for the Treatment  
of Prisoners

**OAS** – Organization of American States

**PIC** – Prison industrial complex

**PRI** – Prison Reform International

**UN** – United Nations

**UNHCR** – United Nations Human Rights Council

**UNOCD** – United Nations Office on Drugs and Crime

**UNOCH** – United Nations Office for the Coordination of Humanitarian Affairs

**US** – United States

**USPEC** – Unit of Jail and Penitentiary Services (translated)

**TNI** – Transnational Institute

**WHO** – World Health Organization

**WOLA** – Washington Office on Latin America



# 1 Introduction

No demographic of society has been left unaffected by the impacts of the Covid-19 pandemic. Yet, while earnest attempts at harm reduction for the most vulnerable populations have been made by decision-makers, these efforts have fallen short (as in pre-pandemic times) of adequately meeting the needs of society's castaways—prisoners (Penal Reform International, 2021: 13). In Colombia, this has been clearly evident in the outcome of Decree 546, passed in April 2020 as a measure to reduce the transmission rate of the virus in the prison population. Problems that have long persisted throughout criminal reform systems across the globe have been greatly exacerbated under the pressures of the novel virus. While the resulting gap between practice and compliance with human rights standards has widened for most of the global prison population, this research narrows in on the case of female prisoners in Colombia, as female detainees have consistently seen this measure even further distanced due to their distinctive needs and circumstances. As the recognition and response to these problems evolved, a unique opportunity was presented to evaluate policy changes that came into effect, many of which have been long sought after by abolitionist ideologues.

Pressure from intergovernmental agencies such as the United Nations and World Health Organization to promote better practices and elevate living conditions for prisoners is nothing new. Backed by scholarship focused on the complexities of growing prison populations in a variety of contexts, such pressure emerged in the form of established normative frameworks that detail the goals and expectations for governments to meet a baseline standard of treatment toward detainees. These frameworks, grounded in the concepts of fundamental human rights and human dignity and backed by international human rights law, dictate that every human being has the right to the highest attainable standard of physical and mental health. Furthermore, they indicate that when a state deprives an individual of their liberty, it assumes the duty of care to provide medical treatment and to protect and promote the physical and mental health and well-being of the detainee (United Nations Standard Minimum Rules for the Treatment of Prisoners, 2015: 3, 8). Subsequently, these standards also provide reference points by which achievements and failures in compliance can be contextualized and understood at varying positions, from the individual to the institutional, community, and societal levels.

From the earliest stages in the pandemic, public health experts stressed the significance of social distancing and sanitation measures as key means of reducing the rates of transmission

among the population. As a result, many countries adopted similar strategies aimed at achieving this reduction. While practicing such measures proved difficult in many ordinary social situations, it was recognized that the difficulty would be even greater in prison settings, which are often under the strain of overcrowded facilities (Iturralde, 2020: 11). Based on a body of evidence indicating higher infection rates of communicable diseases amongst prison populations due to overcrowding, in March of 2020 the World Health Organization published a document highlighting the increased vulnerability of inmates to Covid-19. The document also urged the implementation of swift actions to address these concerns (WHO, 2020: 2-8). Almost simultaneously, the United Nations High Commissioner for Human Rights also called for rapid action to protect detained persons, given the heightened threat of human rights violations posed by the virus and prison conditions (PRI, 2020: 2). Following these behests, many governments and criminal reform institutions passed temporary legislation and policy changes that attempted to meet these criteria and stem infection rates amongst the detainees under their charge.

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The means taken to address the unprecedented circumstances brought about by the pandemic were manifestations of policy reforms and alternative sentencing measures advocated for by abolitionists for decades, as meaningful steps toward abolition (Davis, et. al., 2021: 36-39). Like many other countries, the legislation passed in Colombia to reduce Covid-19 transmission laid out guidelines for the decarceration of inmates that met certain criteria, assuming the obvious first step of reducing overcrowded prison system. The target groups were primarily those perceived to have the highest health vulnerabilities in addition to those posing the ‘least risk’ to society upon release. Women, the fastest growing demographic entering the Colombian prison system, were a focal point of the legislation. According to the Colombian government and the Instituto Nacional Penitenciario y Carcelario (National Penitentiary and Prison Institute—INPEC), Decree 546 would grant the opportunity for decarceration for roughly 5,000 detainees for a period of six months (Hernandez-Jimenez, 2020: 4). This temporary law provided the opportunity to evaluate its efficacy in achieving its purpose, particularly given its short timeframe, by identifying its impact and providing insights toward the implementation of abolition and reform-based legislation.

## **1.1 The Problem**

There is a vast body of evidence demonstrating that prisons fail by their own standards—meaning detainment as a punitive measure does not correlate with reductions in crime rates (Gilbert, 2021: 26). On the contrary, studies spanning most countries and cultural contexts show that prisons are criminogenic spaces, with some scholars even referring to prisons as ‘crime universities.’ This evidence has largely motivated the abolition movement, which seeks to address the underlying structural issues often at the core of criminality. Yet, for as much scholarship as there is regarding abolition and associated themes, there is even more pushback toward its ideas at nearly every level. Research has shown that many individuals fear the idea of abolition for lack of understanding what the objectives really are, and the dread of having ‘undesirables’ released into their communities (Davis, 2003: 9, 10). Criminal reform practitioners themselves are often so deeply embedded in the prison industrial complex that a clear vision of alternative punitive measures is obscured. Policymakers have little empirical evidence at the scale needed to influence, initiate, and pass significant legislative changes in deeply rooted systems. Furthermore, neoliberal economic policy continues to be the behemoth that perpetuates prison-for-profit schemes and wins facility development contracts across the globe (Gilbert, 2006: ??; Iturralde, 2019: 471; Wacquant, 2009: 408). These considerable obstacles have been actively working against abolition efforts since scholars and activists began advocating against the growing carceral state.

Although there has been increasing movement in the sphere of abolition activism, there has been a lack of opportunity to study broad impacts of alternative approaches because progressive policy changes have been disparate at best. This landscaped was changed, however, with the widespread adoption of Covid-19 transmission reduction measures across the globe. For the first time, researchers had the opportunity to analyze these changes while simultaneously comparing research around policy outcomes in a variety of political and cultural settings. It is here that this research seeks to make its contribution.

### **1.1.1 Research Objectives**

Given the limiting scope of this project and the dynamic nature of the topics in focus, this research seeks to fulfill two main research objectives. First, to contextualize the sociopolitical landscape that served as the backdrop for the implementation of Decree 546. Second, to draw out and analyze the themes that have resulted from its passing. It was in this

process of thematic mapping, analysis, and subsequently theoretical grounding, that the emergent theory of *loss of institutional trust through empty policy* is based.

### **1.1.2 Research Questions**

The methodological approach taken in this research reflects a long-standing interest in the subject matter, with the novelty of Covid-19 ultimately acting as the catalyst for homing in on these specific topics. This is a necessary articulation to make when addressing the central research questions, as the methodology employed accounts for the inductive process that has continually shaped this inquiry along the way, including through the pre-pandemic period. Therefore, before presenting the final research questions that serve as the cornerstones for this study, I will first orient the reader to my line of inquiry by giving a brief overview of some of the key questions that led me down this path.

My initial questions centered around women involved in the penal system for drug-related crimes and how their involvement may in fact perpetuate cycles of structural violence. How are vulnerabilities being identified both in confinement and in the wider community that women come from? How are these vulnerabilities being addressed as strategies to prevent criminal engagement and potential incarceration? How is gender perspective being incorporated in policymaking, and has it proven to be effective in the reduction of incarceration rates and crime? These questions, along with others, began piecing together the foundations of this research, which will be reflected on in the coming literature review. Answers to these questions also provide the basis upon which to juxtapose the analysis of the decree implementation and related data in this study and serve as a backdrop for parallels drawn toward broader issues facing Colombian society. Thus, the previously stated research objectives are explored through the following research questions:

*-How may have Decree 546 impacted trust in institution/policymakers?*

*-How may those types of effects impact wider peace objectives?*

### **1.1.3 Relevance to Peace Studies**

There are many evident connections between the topics covered in this thesis and the academic field of peace studies. To establish one basic congruency, we can look to the Encyclopedia Britannica, which states that the role of the prison: “aims to deter those who

would otherwise commit crimes,” and that its use in some cases, “is necessary to protect the public from those who commit crimes—particularly from those who do so persistently” (Coyle, in E.B., 2021). Based on this definition it *could* be argued that the role of prisons intends to create more peaceful societies by removing criminals from the general population. However, despite their inconspicuousness, prisons still remain in the public sphere and they embody virtually every characterization of violence. Galtung theorizes three types of violence in his Conflict Triangle: direct, structural, and cultural<sup>1</sup>. Linking these to the concept of peace, he regards peace as the ‘absence of violence’ (Galtung, 1969:165-168). If we think about the role of prisons in the community, their role in making violence absent is only surface level. They certainly do not ensure peace, they simply move the offenders and violence elsewhere, out of the public eye. What results from this is a concentration of violence and a reinforcement of criminogenic spaces (Iturralde, Santamaria, and Uribe, 2020: 5). The latter point is a central argument for the abolishment of prisons and a key fact that will interlace this thesis.

A more theoretical connection to peace studies acknowledges the role of the prisons in perpetuating cycles of structural violence. While Galtung coined the term, Farmer’s expansion on the concept befits this thesis topic even more. He suggests that:

*“Structural violence is the imposition of unequal risk for disease, injury, and death by social, political, institutional, and economic configurations and policies on identifiable population groups. This violence is structural because it results from durable systemic inequality produced by large-scale social forces, including racism, gender inequality, poverty, and harmful public policies rather than from isolated actions or serendipity”* (Farmer, 2006: 444).

This definition of structural violence encompasses many of the interrelated issues which peace scholars study that are often linked in various ways to prisons and/or criminal reform apparatuses.

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<sup>1</sup> Galtung’s definitions of violence: Direct violence represents behaviors that serve to threaten life itself or diminish one’s capacity to meet basic human needs. Structural violence represents systematic ways in which some groups are hindered from equal access to opportunities, goods, and services that enable the fulfillment of basic human needs. Cultural violence represents the existence of prevailing or prominent social norms that make direct and structural violence seem “natural” or “right” or at least acceptable (Galtung, 1990: 295).

Another way in which this research relates to peace studies is that it focuses on key events shaped by supranational normative frameworks that also largely inform the academic field. The concepts of fundamental human rights, the right to health, and the right to dignity, which are defined by such frameworks, are critical to the arguments made in this thesis. They also serve to articulate observable social phenomena and offer lenses under which intersecting phenomena often reviewed by peace scholars, can be studied.

Lastly, this study intends to make some contributory knowledge to these topics and issues, however small. Galtung suggests peace research should promote social action that fights against social injustice (Galtung, 1969: 186). In alignment with Galtung and the feminist stance of this researcher, a desire to promote social justice by shedding more light on the topic, motivates this inquiry.

#### **1.1.4 Motivation and Rationale**

I applied for this master's program knowing full well the area of research I wanted to focus on for this thesis: prison populations. Yet while some of the particulars have changed with Covid-19 and opened new avenues of research, my motivation remains the same. I have had friends in prison for drug-related crimes. I have seen how absence can destroy families and livelihoods and make people feel invisible and forgotten. I have seen how poverty can lead to criminal behavior out of sheer necessity, with those behaviors in some cases becoming patterned. When I started to pay attention to these things and educate myself about them, a dark world was revealed to me. One where the system works against you instead of supporting you. One where needs are met with barriers. Where escaping the cycle of perpetual poverty and violence can seemingly only happen through miracles. Simply put, the current criminal justice system is not a just way of dealing with society's most vulnerable.

Later, when I moved to Colombia the first time I was involved in work with displaced persons. In their stories I began to hear similar patterns to those from the United States, from where I had come. The most downtrodden and powerless seemed to frequently engage the criminal justice system, often due to criminal behavior spurred by poverty and necessity. I became deeply interested in what drives these processes and engrossed by the scholarship investigating this very question. Over the years, what I have learned has shaped my views on criminal reform. But more importantly, it has influenced my view that society can and should

address the underlying structural issues driving the growing rates of incarceration around the world. Prisons should not be the catch all solution, as they tend to avoid the real problems.

Recognizing my perspective and position on these topics from the beginning was fundamental to my pursuit of transparency in conveying this research process. Indeed, these views cannot be extracted from this research as they have largely guided it along the way. However, I have endeavored to be forthright and honest about how these assumptions engage with the data and chosen a methodology that allows the flexibility and space to do so.

## **1.2 Outline for Thesis / Mapping of Project**

The following is a brief overview of the remaining chapters of this thesis:

**Chapter 2:** The Sociopolitical Landscape presents the contextual background leading to the problems of overincarceration in Colombia under which prison policy has developed.

**Chapter 3:** The Methodological Framework is presented in this chapter along with a discussion of challenges, reflexivity, and data collection and analysis methods.

**Chapter 4:** The Literature Review, in part used as data...

**Chapter 5:** Data and Data Analysis

**Chapter 6:** Discussion

## 2 Background

### Introduction

The Colombian prison system reflects the conflicts that have plagued the country for nearly a century and the social problems either created or exacerbated by those conflicts (Iturralde, 2016: 137-139; Woods, 2016: 535). Present in this reflection is the recurring theme of foreign intervention, with many scholars acknowledging the consequential role the United States has had and continues to have in the country (Davis, Woods, 2016: Iturralde, 2019: 471-473; Wacquant, 1999: 207; Pearce, 1990: 115)<sup>2</sup> This chapter briefly identifies key aspects of the Colombia-US relationship as it plays a critical role in structural issues that drive inequality and the illicit drug trade—factors that pervade any discussion of the Colombian penal system (Davis, 2011: 1). It also draws connections between the effects of harsh criminalization for drug-related offences at various levels, and how these effects have coincided with the challenges presented by the Covid-19 pandemic.

### 2.1 Colombia and the United States

US involvement in Latin America has followed the historical pattern of resource interest that led to the colonization of the Americas (Mahon, 2003: 60-64). But while the latter aspect predates the modern Colombian state, the colonial legacy embodies features that still largely characterize Colombian society today. Lasting artifacts of racial and socioeconomic entrenchment have been amplified under the auspices of direct foreign investment, the War on Drugs<sup>3</sup>, and neoliberal economic policy (DeSchutter, 2021: 3). Historians such as Pearce

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<sup>2</sup> Also see “US-Colombia Relations” presentation by the Council on Foreign Relations for a timeline of key influential events. <https://www.cfr.org/timeline/us-colombia-relations>

<sup>3</sup> The War on Drugs was a series of policy measures enacted in the US in 1971 under President Nixon, then greatly expanded under President Reagan. The aim was to curtail drug abuse in the wake of the North American crack epidemic. Measures included increasing criminal punishment for non-violent drug offences, leading to a massive increase in incarceration and the expansion of the carceral system in the US (Encyclopedia Britannica <https://www.britannica.com/topic/war-on-drugs>). With the US being the world’s largest consumer of cocaine, and Colombia accounting for two-thirds of global production (Felbab-Brown, 2009: 70), the counternarcotics agenda under the War on Drugs extended to Colombia as a means to increase national security in both countries (as well as many others). However, research has shown that the policies did little to reduce the narcotics trade, curb usage, or lower crime rates.



largely credit this favoritism toward market liberalization over social interventions as the root cause of the ongoing conflict in Colombia, throughout its many chapters (Pearce, 1990: 34-38).

As far-left guerilla groups such as the FARC developed in this environment, their fight against oppressive class privilege and chronic poverty was guided under the ideological banner of communism (Pearce, 1990: 36, 37). This perceived threat of a communist rise in power in Latin America largely shaped US foreign policy toward the region over the last century and in fact, the US carried out decisive interventions in multiple Latin American countries as ‘anti-terrorism’ operations (WOLA, 2016: 2; Douglas, 2002: 141, 142). The continuing struggle between the Colombian government and opposition groups labeled as terrorist organizations, allowed the US to gain more foothold and political influence in the country through its backing of the Colombian government as contingent with pushing the US economic agenda (WOLA, 2016: 3, 4; Briscoe, 2006: 4). While this explanation barely glosses over the complexities of the relationship between the two countries, it is a fundamental aspect in reflecting on how these interactions have shaped the modern penal system in Colombia, perspectives on criminality, and in particular, foreign interventions. Furthermore, the close ties that have to a great extent defined economic and policy development issues in Colombia, and which demonstrate a shift from the war on communism to the securitization<sup>4</sup> of the War on Drugs, are also at the core of the unfulfilled peace negotiations<sup>5</sup> (Crick, 2011: 407, 408).

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Instead, they exacerbated social, economic, and political problems through neoliberal policies that shifted problems into new territories rather than solving them. Evidence also shows that there has been an industrious response to the robust policy framework, in many instances reinforcing criminal drug organizations and their capacity to operate, a phenomenon which has been termed the ‘Balloon Effect’ (Mejia, 2016: 8-10; DeDardel & Söderström, 2018: 34; World Prison Brief, 2021: 6).

<sup>4</sup> See glossary for IR definition of securitization.

<sup>5</sup> In an attempt to end the asymmetric civil conflict that has persisted since the 1960s, a Peace Agreement was signed and submitted for public approval in October 2016. However, in a referendum the agreement was voted against by a narrow margin, requiring further negotiation. A revised agreement was signed by all parties and approved by the Colombian Congress, however, initial resistance and mistrust by the public, along with changing political parties at the time, resulted in further

One key example of a US foreign policy enactment in Colombia that spans both the topics of Colombian incarceration and central concerns in the peace negotiations, is Plan Colombia, drafted throughout the 90s and signed into law in 2000 (Iturralde, 2016: 153-157). Designed as an aid package and diplomatic initiative that developed out of the ongoing US-led War on Drugs, Plan Colombia—initially called ‘Plan for Colombia’s Peace’—aimed to end the armed conflict by funding the Colombian military and paramilitary groups in their efforts to eradicate illicit cocaine production and the narcotics trade.<sup>6</sup> With the receipt of US military and social aid hinged upon the adoption of US style criminal drug policy and the formation of INPEC as part of a major prison reform, incarceration rates in Colombia have seen an alarmingly steady and sharp increase since its implementation, mirroring incarceration patterns in the US (DeDardel & Söderström, 2018: 833-835, Woods, 2016: 547).

A document published by the US Department of State in 2000 clearly pitches Plan Colombia and its success as integral to the success of achieving peace in the country. Along with the parameters of criminal policy reform were ambitious strategies for illicit crop eradication (US Department of State, 2000). However, also structured into the Plan were prison contracts with major private US contractors, thus expanding their respective industrial complexes<sup>7</sup> further into Latin America, with the goal of “improving national security” through the Improvement Program for the Colombian Prison System (De Dardel & Söderström, 2018: 833-835, 839-845).

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polarization of Colombian society. Since then, there has been a large resurgence in internal violence related to the ongoing conflict, stagnating the process of the agreement (IJCT, 2022: 1-4).

<sup>6</sup> This snapshot bypasses the critical dimensions created by the US’s historical involvement in the development of illicit narcotic production in Colombia. This occurred through various measures to emplace key figures in government whose political rise have demonstrated links to drug cartel financing. Additionally, the US has provided intelligence, personnel, and training to paramilitary groups with documented links to illicit crop cultivation, production, and distribution. Such connections are discussed at length in the historical accounting of Colombia’s political and economic development over the past century in Jenny Pearce’s, *Inside the Labyrinth*. Additional resources: (Briscoe, 2006: 3; McClintock, 1992: 53-55).

<sup>7</sup> Definitions of military industrial complex and prison industrial complex in glossary (see Davis, Avile, Iturralde, Ortiz & Jackey)

Despite the zealous approach Plan Colombia applied to the peace process, what is seen in hindsight is that it resulted in many effects contrary to its purported intentions. For example, coca eradication fumigation efforts, which have been heavily concentrated in rural underdeveloped areas with primarily indigenous and Afro-Colombian populations (Huezo, 2019: 305, 308), have led to, among other tragedies<sup>8</sup>, the forced displacement of many subsistence farmers. Many of those not displaced by fumigation have often been coerced by armed groups under threat of violence, into redirecting land-use toward the cultivation of illicit crops, a dynamic that still occurs today (citation)<sup>9</sup>.

Another less obvious driver of the nexus between poverty, labor markets, crime, and incarceration (Chioda, 2019: 257-259) that occurred under the Plan, was the easing of trade regulations between the governments as a development strategy. Yet, while this period is marked by economic growth, the new regulations were most favorable to large US and Colombian corporations (Reynolds, 2008: 2). For small producers, the introduction of cheaply manufactured goods and subsidized agricultural products entering the country from the US had devastating effects, as many could no longer compete with market prices. This factor also ultimately led many subsistence and generational farmers—particularly in rural areas, to look to the illicit drug trade not only as a means of income, but also as a way to remain working within the familiar agricultural sector (Chioda, 2019: 306, 314).

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<sup>8</sup> Two major controversies developed out of fumigation practices using glyphosate produced by US company, Monsanto. First, reports of cancer developments, increased birth defects, and miscarriages after exposure to aerial fumigation are well documented and referenced by a WHO study about the carcinogenic effects of the chemical (<https://www.nature.com/articles/nature.2015.17181>). Second, use of glyphosate eradicates everything, not only coca. Therefore, there is an extreme loss of biodiversity in fumigated areas subsequently eliminating potential for legal crops as well.

<sup>9</sup> One infamous example of the intricate web are the farmers who were caught up in is the funding of the Autodefensas Unidad de Colombia (AUC) paramilitary group (classified as a terrorist organization) by the US based, Chiquita Brands International. The corporation hired the AUC to provide private security against leftist rebels trying to seize back land acquired by the corporation, in which many subsistence farmers were displaced. (<https://www.nbcnews.com/id/wbna17615143>).

Plan Colombia is but one of many foreign policy implementations that have had profound effects on the country's society<sup>10</sup>. Nevertheless, the example provides a useful demonstration of the linkages between intergovernmental economic, political, and social policy, while also highlighting the potential for unintended consequences. For example, under the plan farmers engaged in coca production were to be incentivized to change crops to non-illicit products, however relatively few of the funds promised in this measure have been allocated to farmers.<sup>11</sup> Primarily though, the example intends to draw attention to the justifications for the expanded use of the US prison model in Colombia through increased criminalization measures.

## **2.2 Effects of Punitive Drug Laws and Prison Overcrowding**

### **2.2.1 Those Closest to the Problem**

To contextualize and discuss the effects of punitive drug laws in the Colombian context, a few statistics are helpful. According to a 2019 report released by ReliefWeb and the UNOCHA, at over 9 million, Colombia has the highest registered number of internally displaced people, with most cases indicating forced displacement by conflict or violence as the cause (ECHO, 2019: 2; IDMC, 2021: Colombia). Also, this reflects *only* those who are registered, not accounting for those unregistered or those who have fled to neighboring countries. Nevertheless, this figure accounts for nearly 20% of the country's population (World Bank, 2021).

Having already established the connections between displacement, coercion, and entrance into the illicit drug trade, it is no surprise that estimates place the number of people directly or indirectly employed by drug cartels in the country at well over half a million,

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<sup>10</sup> It should be noted that perspectives on the efficacy of Plan Colombia vary. Both the Colombian and US governments claim the strategy was successful because coca production slowed. However, numerous scholars and organizations researching the effects of the policies under the Plan contest this claim based on the facts that production only temporarily slowed and over time increased elsewhere; and that the wealth gap increased under the new free trade policies, thus contributing to greater poverty and inequality. See WOLA's [Colombia: Don't Call it a Model](#), for a discussion of claims made on both sides of this argument.

<sup>11</sup>

roughly the same number of people employed in the manufacturing sector (Pearce). A 2018 study by the UNOCD reported over 130,000 families living off small-scale coca cultivation, with an average monthly income generated for such production around \$1,200. Particularly in rural communities, this figure can be two-to-three times the revenue made from legal crop cultivation (UNOCD, 2018). What is striking is the potential earnings made off the same amount of coca leaves once they have been produced into cocaine. 125 kilos of coca leaves, selling at around \$1 per kilo, is required to produce one kilo of cocaine. Once that kilo hits the international market, it can fetch between \$60,000 and \$235,000 depending on where its sold (Colombia Reports, 2021).

These figures demonstrate both the financial resources available to farmers and criminal organizations and help explain how the drug trade has become so integrated into the Colombian economy. For perspective, it is estimated that at one point the illegal drug trade accounted for 30% of Colombia's GDP (UNOCD, 2021). However, what the preceding discussion aims to connect, is how omnipresent the drug trade is particularly in rural, poor, and marginalized communities. For example, indigenous lands are typically located in rural areas with less infrastructure, support, and protection against armed groups, making these communities highly vulnerable to production and trafficking activities. Few, if any, have the resources to counter the effects of an organized crime presence. Therefore, for many, entering the drug trade is simply the only option for survival, and even those who manage to avoid it report being accused of collaboration with little recourse, thus capturing them between violent environments and harsh punitive laws that result in disproportionate representation in the legal system (Montenegro, 2018: 42).

### **2.2.2 Importation of the Punitive Model**

The pervasiveness of the illicit drug trade in Colombia is often cited as the primary reason for the country's adoption of US style drug laws. Under Plan Colombia and the Improvement Program for the Colombian Prison System, punitive criminal drug policies were introduced for low-level, non-violent offences—minor infringements that are often committed by the poorest sectors of the population. This included mandatory minimum sentencing and pre-trial detention. In consistency with the US, these racially and economically charged policies primarily affect ethnic minorities from areas with low education and high unemployment rates (WOLA, 2016: 2, 3; De Dardel and Söderström, 2019: 34; UNOCD; 2017:

537). A discerning look at history reveals, however, what should be considered as the primary incentive for the US government in building a judicial and penitentiary system in Colombia that mirrored its own. Penalization of low-level crimes casted a wider criminalization net, thus ensuring extradition pathways for high-level drug traffickers and guerilla leaders to the US, where they were considered criminals in the eyes of the US law (De Dardel and Söderström, 2019: 36).

One of the requirements for receiving US funding for the prison improvement plan, was oversight by the US Federal Bureau of Prisons in guiding the prison reform and confirming implementation of the new judicial procedures (De Dardel and Söderström, 2018: 844, 845). What this translated to, was the anticipation of a sharp uptick in arrests and convictions for newly punishable behaviors, and therefore a drastic increase in incarceration<sup>12</sup> (Martinez, 2003: 4, 5). The materialization of this scenario justified the rapid expansion in prison construction in order to meet the growing need for detention centers, a dynamic that is self-reinforcing when coupled with strict criminal policy for low-level offences<sup>13</sup> (Reynolds, 2008: 3, 4).

A prime demonstration of the US pushing its neoliberal economic agenda, the majority of prison contracts were awarded to private US companies providing products and services, and between 2000 and 2018, 16 new supermax style<sup>14</sup> prisons were built alongside the expansion of many existing prisons, increasing capacity by 70% (De Dardel, 2015: 179; Davis, 2011: 100). Although the Bureau of Prison management officially ended its oversight agreement in late 2005, prisons in Colombia are still heavily privatized under both US and Colombian companies. And just as was seen in the US, in Colombia the prison industrial

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<sup>12</sup> This portion of the agenda is based on the US adversarial legal model, where criminal cases are presented in a two-sided structure with an objective third party (prosecution, defense, judge or jury). Following the model can be time consuming and costly, especially when the system is overwhelmed with cases and particularly under additional pressures such as those caused by the pandemic. Furthermore, legal resources are often strained at best for criminal defense when the system is over capacity, which is the case particularly when there is severe overcrowding and excessive bureaucratic tape. As an example of policy mobility, this legal model has been adopted by nearly every Latin American country over the last 30 years (Rodriguez, 2009: \_\_\_\_).

<sup>13</sup> Part of what drives this as a self-reinforcing dynamic has to do with prisons as criminogenic spaces and the effect this, as well as the quality of rehabilitation programs have on rates of recidivism. These factors will be discussed further along in this thesis.

<sup>14</sup> The supermax prison is a style of prison designed in the US, following the sociological theory of depersonalization as a method of punishment and a robust security framework (McHugh, 1996: 356).

complex is showing to be one of the fastest growing industries in the country (Colombia Reports, 2017; El Espectador, 2020, links in references).

### **2.2.3 Prison Overcrowding**

Despite increases in capacity, current figures indicated by INPEC and watchdog organizations suggest an overoccupancy rate of between 16% - 46%, depending on the metrics used<sup>15</sup> (INPEC, 2021; El Espectador, 2022). Since 2000, the number of people imprisoned for drug-related crimes in Colombia has increased from around 6,000 to over 24,000, with drug-related crimes consistently placing among the top three reasons for people to enter the Colombian criminal justice system (Eastwood, et. al., 2016: 18). To put this into a historical context, the imprisonment rate in Colombia remained relatively stable over roughly a 100-year period (OAS, 1999: 4). However, the past three decades have shown a staggering 300% increase in the prison population, coinciding with the policy implementations under Plan Colombia (World Prison Brief, 2021: 6). Despite these efforts and grim figures, evidence shows no significant reduction in drug operations or crime rates.

While Plan Colombia did not explicitly state the aforementioned dynamic as a strategy for securing renewals of prison construction contracts, in retrospect its design has been heavily scrutinized as fueling the prison crisis in Colombia by providing a steady stream of people entering the criminal justice system<sup>16</sup> (Rodriguez & Uprimny, 2006). Legal scholar Rodrigo Uprimny and sociologist and human rights activist César Rodríguez Garavito, both of whom have written extensively on global governance, suggest that the emphasis on US modeled drug laws in Latin American penal reforms, has been a critical factor in consolidating free markets that privilege private investment—such as the construction of new prison facilities. This is largely attributed as one of the core causes of the increase in prison populations throughout the Americas.

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<sup>15</sup> This figure has hovered around 50% for nearly the last two decades, but recent INPEC accounts show a significant reduction. However, various groups have criticized these statistics for misrepresentation, suggesting the higher rate as more accurate, an argument that will be elaborated on later in this study. Furthermore, the rate of incarceration has increased over time, so despite a reduction in overcrowding, if the pattern remains, the rate of overcrowding will increase again as arrests/convictions occur faster than facilities are built (Söderström, 2021: 10; Wacquant, 2009).

<sup>16</sup> Scholars also attribute the prison crises in many countries to the turn toward punitive drug laws, including in the US.

Numerous studies by different watchdog organizations and scholars build on this claim and attribute prison overcrowding to two main causes: harsh and mandatory minimum sentencing for drug-related crimes, and excessive use of pre-trial detention (WOLA & TNI, 2010; Woods, 2016: 537; Metaal & Youngers, 2011: 89-92; Uprimny Yepes & Guzman, 2011: 40-43; Martinez, 2003: 1, 2). In Colombia, despite increasingly unprecedented funding for prison expansion projects, the facilities themselves continually face severe lack of funding for operational costs and rehabilitative programs for prisoners. And the living conditions for detainees are dismal at best even in the newest and most modern facilities, due to severe overcrowding and excessive strain on resources (El Espectador, 2021).

Prison overcrowding is not exclusive to Colombia. Data on Latin America shows incarceration rates in the region roughly doubling since 2000 and there are flagrant examples from across the globe in which increased incarceration has resulted in gross violations of human rights and human dignity (Iturralde, 2019: 5; World Prison Brief, 2020; WOLA & TNI, 2011: 54, 64-67, 75-77). Moreover, evidence shows that overcrowding produces a double condition of effect and cause at the same time. Conditions caused by overcrowding have been shown to increase levels of violence among inmates, reinforce criminal organizations operating both within and outside the prison walls, and leaves rehabilitation and reintegration strategies to the wayside. All of these factors reproduce the conditions that lead people to prison and have been indicated as causal links to higher rates of recidivism, a phenomenon termed the '*revolving door prison*' by criminal justice researchers (Davis, 2006: 73; Martinez, 2003: 2, 10).

What prison overcrowding means is that there simply cannot be dignified living conditions, particularly in systems such as Colombia where operations are underfunded (Woods, 2016: 547). Despite prison expansion projects, facilities persistently face major sanitation and hygiene problems associated with compromised infrastructure, such as poor ventilation, degradation of bathrooms, cells, common areas, and water supplies. Detainees often report being underfed. Also, competition for space and resources results in decreased security (Woods, 2016: 543). Together, these factors lead to unhealthy living conditions, where the prison population—which generally exhibits higher rates of disease, comorbidities, and mental illness than the free public—faces even greater physical and mental health risks imposed by the system and the exacerbating environment (Wang, et. al. 2020: 2; Martinez, 2003: 3, 6; Woods, 2016: 548; Enggist, et. al., 2013: 14). Furthermore, overcrowding also



places immense additional burdens on medical resources, where there has been a consistent lack of specialized personnel, even under ‘normal’ circumstances. Although the Constitutional Court in Colombia declared the whole prison was in an ‘unconstitutional state of affairs’ in 1999 due to systematic violations of inmates’ fundamental rights, even attributing the situation to the punitive turn and prison population boom in the 1990s (Martinez, 2003: 10), the push for increased penalization for low-level offences continues (El Espectador, 2022).

### **2.3 The Unique Circumstances of Women**

Average global trends have seen the female imprisonment rate increase nearly 60% since 2000<sup>17</sup> and place the rate of women detained for drug-related offenses at around 35%, nearly twice the average rate of men. In Latin America the rate is even higher, with the same group of incarcerated women accounting for around 50% of the female prison population (PRI, 2020: 12). Although punitive drug policies are theoretically gender-blind, a higher likelihood for women over men to be arrested and/or convicted for drug related crimes, the majority of which are non-violent, is just one of the reasons why women are disproportionately affected by these repressive measures. Studies across the region have shown that the increase in female imprisonment has not been driven by an increase in the seriousness of the offenses committed, but rather by the more severe responses to the less serious crimes women tend to commit. In addition, it is now well documented that punitive legislation imposes disproportionate sentences on people that play lesser roles in trafficking organizations, targeting the lowest level organization participants who are also the most easily replaceable, while mostly failing to detain the more influential ones higher-up (Mason and Stubbs, 2010: 189; Global Prison Trends, 2020: 11, 12, 18).

The disproportionate effects are further realized when considering the impact that incarceration has on families and community. Just as incarcerated men often come from impoverished communities, so do women. Yet women tend to be even more disadvantaged because they face greater inequity in social capital in terms of job training, gaps in employment history, lower levels of education, higher economic marginalization and social exclusion, and greater stigma associated with incarceration compared with men. This is evidenced in research

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<sup>17</sup> Compared to an average rate increase of 20% for men, over the same time period (IDPC, 2021: 6).

on types and rates of employment post-release, with more women being relegated to the informal economy than men, and reduction in family ties and support attributed to the deeper feelings of shame in the perception of incarceration as ‘unfeminine’ (Owen, 2017: 2; Ariza & Iturralde, 2017: 3, 9).

In Colombia, the average female inmate fits a very particular profile: she is detained on drug-related charges, is between the ages of 27-35, has at least one child, has attained an education between 2<sup>nd</sup> and 3<sup>rd</sup> grade, and she tends to be the sole breadwinner and caregiver in her household (PRI, 2020: 23, 30; Giacomello, 2017: 290, Ariza & Iturralde, 2017: 2-5). In many cases, this last factor also bears a strong association with incarceration. Male incarceration often leaves these responsibilities to female partners. The loss of financial support and shared responsibility from partners frequently forces women into illegal activity themselves in order to supplement the needs of their families (Ariza & Iturralde, 2017: 2). These conditions feed the cycle of violence that is most evident in poor communities, where statistics show higher rates of criminal involvement among youth occurring in homes where one or more parent is absent (Mason and Stubbs, 2010: 290-292). Furthermore, removing mothers from their children imposes additional punishment for both, and beyond what is determined as legal obligation and challenging sentence proportionality (Iturralde, Santamaria, & Uribe, 2020: 10; Commission on Judgement T388 of 2013: 3). In many cases, due to there being less prison facilities designated for women, detainees are transferred far from home making visitations significantly limited if not altogether impossible for family members (Vanwanbeke & Blackburn, 2015: 4). By hindering meaningful social bonds through reducing family contact, relocation can also hinder the process of successful reintegration (Marmolejo, et. al. 2020: 1078).

Finally, because carceral systems are primarily designed for men, facilities regularly lack gender-specific medical care, with specialists often serving multiple prisons over a large geographic area on top of medical staff shortages attributed to overcrowding. This has resulted in a higher number of medical problems reported in late stages versus similar reporting amongst the free public (Woods, 2016: 543). Additionally, sanitary supplies are continually reported as a lacking resource, with most female inmates relying on family members to provide them with essential goods. This too becomes a greater challenge and improbability when women are relocated far from home (Women Resisting workshop, 2019: 3, 4). Stereotypical gender roles

also affect the availability of job-training programs that can lead to living-wage work in the formal economy post release. Programs designed for women tend to focus on domestic work compared with the skilled labor (i.e., higher paid) training opportunities available (sometimes) for male detainees (Russell & Carlton, 2013: 474). These factors represent only a few of the overt and nuanced ways in which gender discrimination in judicial decision-making manifests as additional human rights violations under ‘normal’ judicial circumstances, despite claims of shifting toward gender mainstreaming (Russell & Carlton, 2013: 474-477), all fault lines which have been deepened by the effects of Covid-19.

## **2.4 Conclusion**

This chapter intends to, first, highlight the sociopolitical backdrop under which the modern Colombian penal system has developed, so the effects of the pandemic and specifically Decree 546 can be discussed with wider contextual meaning. Second, to demonstrate how the securitization of the illicit narcotics trade has been used as a justification for the US becoming a more permanent fixture in the Colombian carceral assemblage (Felbab-Brown, 2009: 69), thereby laying a foundation for later engagement with the idea of these same elements influencing perceptions of institutional trust. Third, how the unique circumstances of women warrant greater attention, particularly as the pandemic has revealed increased inequalities and abuses in the Colombian penal system. Finally, while only briefly touching on key elements of relevant Colombian background in this context, the aim is to provide enough information to substantiate parallels drawn when applying the theory developed in this study to a wider context, such as the ongoing peace process, which itself touches on many of the themes presented in this thesis.

## **3 Methodological Framework and Methods**

### **Introduction**

This chapter outlines the methodological framework and qualitative methods used to explore the following research questions:

*-How may have Decree 546 impacted trust in institutions/policymakers?*

*-How may those types of effects impact wider peace objectives?*

In discussing the research design, choices of methods and methodology, and reflexive views of this researcher incorporated into this study, this chapter intends to articulate the connections made throughout the research process and offer the reader a roadmap to the decision-making path. These details attempt to provide the transparency and framework necessary for a coherent and credible analytical discussion (Rubin and Rubin, 2005: 64-66).

### **3.1 Research Approach**

Given that a primary component of this research concerns Covid-19, the relevant literature and available data at the outset of this endeavor was sparse, to say the least. Subsequently, methodologies within a qualitative approach could more appropriately serve as a foundation for this open-ended, exploratory inquiry, considering the lack of empirical data and novelty of the phenomena being observed. Furthermore, accounting for key limitations expanded on later in this chapter, a qualitative study leaning on an inductive, interpretive epistemological positioning coinciding with a constructivist ontology, serves to engage reflexivity with the data in a way that can underscore the strength of this chosen methodology (Geertz, 1973:10).

After considering the use of other methodological approaches a grounded theory (GT) approach was chosen because of the methodology's strength in tackling research topics devoid of long, credible, and empirically based literature (Goulding, 1999: 8). My inquiry was also naturally following the constructivist grounded theory (ConGT) approach from the outset, given my prior interests and research objectives. While the challenges presented by this choice

of methodology cannot be understated, its flexible strategies and epistemological affinity for feminist inquiry (Plummer and Young, 2010: 308) have both aligned with my interests and goals as a researcher, which are inextricably linked. These factors converge under the objective of promoting engagement by calling attention to critical matters in the lives of disadvantaged and oppressed women and their families. Additionally, considering the challenges faced in conducting remote research, the ConGT methodology provided an adaptable framework to guide the data generation process in a way that could be sensitive to the dynamic social context in which the data was being produced (Skolaridis, 2009: 16).

## **3.2 Methodological Framework**

### **3.2.1 Feminist Constructivist Grounded Theory**

Further rationalization for the use of the grounded theory methodology in this study continues with a brief overview of its development. This also serves to provide the basis for understanding where and how a feminist constructivist perspective builds on the methodology, from both a disciplinary standpoint and as a reflexive part of the research process.

First introduced by Glaser and Strauss, classical GT began to deviate from the then-predominant positivist traditions of sociological research, which assumed an unbiased and passive role for the researcher, separating the observer and the world being observed (Charmaz, 2006: 5). The positivist traditions of the time conferred knowledge on the basis of replicable research design and validity, primarily through hypothesis testing and theory verification (Plummer and Young, 2010: 308). By contrast, the research methodology introduced by Glaser and Strauss sought to inductively generate analytical categories, or ground theory based in the analysis of systematically obtained data and comparative analysis. It is characterized as a method of discovery, with Glaser and Strauss initially insisting on no *a priori*, i.e., theoretical knowledge of the research subject, therefore promoting the maxim synonymous with GT, that ‘all is data’, and favoring emergent categories over preconceptions and extant theories (Glaser and Strauss, 1967: 7; Charmaz, 2006: 187).

One evolutionary departure from the GT perspectives of Glaser and Strauss toward the constructivist paradigm has to do with the starting point of an inquiry. While Glaser and Strauss

suggest the method begins objectively, the constructivist approach considers the background assumptions and disciplinary perspectives of the researcher and how these factors shape research topics and conceptual emphases, a phase in the research Blumer coins as *sensitizing concepts* (Blumer, 1969: 22). According to Blumer, these concepts foster ideas to pursue and sensitize the researcher to ask particular kinds of questions about the research topic (Blumer, 1969: 24; Charmaz, 2006: 133). Following reflection on this study and its developments, it becomes clear from the researcher's perspective, that a history of personal interest and engagement in related topics have worked to loosely frame these interests that developed into sensitizing concepts and subsequently, a theoretical framework.

A key feature of the GT methodology is research and analysis as an iterative process. Just as the framework seeks to understand particular social phenomena as processes that often include temporal elements, this method acknowledges the active role of the researcher in data generation and analysis throughout the data collection process. Subsequently, data analysis is used to further inform and shape data collection. (Charmaz, 2006: 15, 185). According to Charmaz, this makes the method particularly well suited for recognizing “unfolding temporal sequences that may have identifiable markers with clear beginnings and endings and benchmarks in between” (Charmaz, 2006: 10).

This study demonstrates this process through its sequence of interest and events. It began with research into human rights abuses in Colombian prisons, and then into the unique circumstances of incarcerated women. These conditions changed considerably with the onset of the pandemic, from which point the research became more focused on the same issues under additional strains and inputs and the resulting policy implementation. Challenges and limitations in access to informants further shaped the nature of the inquiry. The opportunity to collect data pertaining to the effects of Decree 546, from the resulting dialogue, statistical information, and anecdotal evidence, presented themselves in the months following the decree's passing, and so on.

This iterative method, coupled with the notion that ‘all is data’, represents the stages of this research inquiry, thereby confirming the choice of methodology as it occurred in practice, and as the pandemic situation and ensuing sociopolitical responses emerged. In line with the methods promoted by practitioners of GT, the literature review included in this study has also

been treated as part of the data collection and analysis process. Through this process, the prominent emergent themes together comprise the sensitizing concepts and theoretical framework in which the theory of *loss of institutional trust through empty policy* situates itself (Charmaz, 2006: 169). Details of this decision-making path will be discussed further in the Data Collection section of this chapter. But it is also notable to mention at this point, as early stages of this process further reinforced the positioning of this research as a feminist inquiry, with gender issues increasingly prominent in the research and therefore shaping the investigation.

Charmaz writes extensively on the development and use of ConGT, stemming from the flexible engagement with the methodology promoted by Glaser and Strauss. Similarly, her work promotes GT methods as a set of principles and practices rather than rules and requirements. It also employs the postmodernist perspective of constructivism, which assumes that people, including the researcher, construct the realities in which they participate, and that knowledge is socially and culturally constructed (Charmaz, 2005: 9; Charmaz, 2006: 187; Allen, 2011: 24). Postmodern perspectives have also made valuable contributions to feminist research, which puts the lived experiences of women at the fore and seeks to consider women's needs, interests, and experiences, aiming toward the improvement of women's lives (Klein, 1983: 90). The ConGT approach easily harmonizes these concepts by acknowledging that there is not one universal truth, but rather multiple realities being simultaneously constructed, thus pursuing insights from multiple perspectives (Nagel, et. al., 2021: 3). This allows room in this research for my ideological and philosophical positioning as a feminist to be appropriately acknowledged and engaged with as a bias in this study and serves as the springboard for analysis, guided by the framework provided by Charmaz and other feminist ConGT researchers.

### **3.2.2 Challenges, Limitations, Ethics and Reflexivity (change title)**

An imperative acknowledgment to establish early on is the unique nature of this study even within the often-scrutinized paradigmatic approach of constructivism and associated subjective social research methods. It is therefore worth noting challenges presented by the methodology itself. Perhaps at the forefront of these is the lack of clarity in the articulation of methods. Yet, it is precisely this that gives the approach strength in its flexibility (Nagel, 2021: 369), but the procedures for theory development seemed vague and abstract for a novice

researcher. Practice led to more comfort with the processes of coding, categorizing, conceptualizing, and eventual theoretical development. Yet diverging paradigmatic attributes within the broad arena of grounded theory approaches made it difficult to confirm an adequate trajectory, particularly given the lack of reference material for studies conducted under relatable circumstances. However, as the process unfolded and theory development occurred, I was able to reflect on the previous stages and find a sense of confirmation that I was employing the methodology effectively, though retrospect also made apparent the limitations of scope for this study at a graduate level. The study would be better grounded with the addition of many added perspectives through more interviews.

In the constructivist grounded theory approach and similarly in feminist research, narrative interviews that provide participant viewpoints are integral in the production of knowledge (Allen, 2011: 24). While this was the goal from the outset, gaining access to participants proved far more challenging than expected. With travel restrictions in place throughout most of the duration of this study program, conducting field work became an impossibility, instead being replaced by remote research. A handful of promising leads for study participants led to dead ends and other methods of data collection were required to ensure progress. However, the challenge of unconventional means of data collection and production ultimately adapted well to the flexibility of the constructivist grounded theory methodology, eventually leading me to a key informant who I may not have otherwise found using a different method of data collection.

The informant provided invaluable insights in this study by relating stories and perceptions of incarcerated women in Colombia with whom she is in frequent contact. This is in part because of her advocacy work, but also because as a formerly incarcerated woman herself, she has formed a network of friends and colleagues during her time in detention. Were it not for her participation, I may not have acquired such personal insight into women's perceptions of their situations at the time, given the already challenging circumstances of access to incarcerated women on top of their limited access to communication technology. Additionally beneficial, the informant's academic background meant she was already familiar with the type of informed consent form I presented to her early in our correspondence. This factor also gave added weight to her reassurance that my ethical concerns about studying this vulnerable group were valid in this setting—that my effort to shine light on this topic work



within the research goals of doing no harm (Bryman, 2012: 135-141), and even generously offering that this study is important in the effort to bring awareness to this subject matter.

Despite this validation and the generous interview given, there were a couple of challenges in the acquisition of this data. Besides the practical issues of connectivity and time zone differences, I felt my language skills to an extent inhibited the natural flow of our conversation. While I speak Spanish, it is not my native tongue, and my own slight translation delay at times slowed the conversation. Perhaps if that had not been the case a greater level of comfort or familiarity may have been achieved and more might have been shared. In the end this offered another opportunity to be reflexive on my role as the researcher and the ways in which this factor may have shaped my construction of reality.

Lastly, the creative approach to data collection necessitated by the pandemic meant heavy reliance on documents as data sources. This presented several challenges. The texts used as data required translation and much of the literature researched was in Spanish, making progress slower than it would have been working in my native language. I also wanted to confirm the accuracy of the translations considering the legal jargon in the effort to best understand the texts and their meanings, which also took time. However, the more significant challenge of using texts as data is that their interpretation can be subjective. What is derived, understood, and analyzed is entirely based in the perspective of the researcher and their background and knowledge (Bryman, 2012: 554, 555). Without the ability to ask questions for clarification or grasp nuance in the exchange of dialogue and body language, the need for a reflexive approach becomes that much greater (Ralph, Birks, & Chapman, 2014: 1, 3). Contextual positioning of the documents, elaborated on in the following section, enhanced the awareness of the context in which the documents were produced. But the questions asked during this step also offered points of reflection about how my own cultural references framed my answers to those questions, serving as frequent reminders to evaluate the interplay between my perspective and interpretation of the data.

### **3.3 Methods and Data**

#### **3.3.1 Data Collection**

The core components of this study are comprised of four main data sources: Decree 546 and its accompanying document “ABCs of Decree 546, Manifesto: Heading Toward a Prison Genocide,” interview transcripts from my informant, and excerpts from a radio interview with the former Justice Minister of Colombia who was serving during the start of the pandemic. However, as previously stated, existing legislation, normative documents, and research literature were simultaneously treated as data and analyzed using a similar line of inquiry, and data collection and analysis occurred simultaneously. This inductive process guided the data collection and served to frame the ideological situating of the analysis (Charmaz, 2009: 165). Noting this point in this section intends to remind the reader that the following procedures which explain how the data was treated, were also used in the scrutinization and analysis of other document sources with which the sensitizing concepts and literature review were presented.

Following the chronological trajectory of data collection, Decree 546 and the ensuing document, ABCs of Decree 546, which served as a more easily digestible pamphlet compared to the 26-page legislation, together provide the basis for this study. Having already done extensive research into the prison paradox and abolition ideology, the pandemic prompted the decree, a document and practical idea that materialized at the convergence of those two study areas of interest. Were it not for already actively researching in this realm, the decree may not have ‘appeared on my radar’, therefore this extant text serves as one of the primary sources of data for this project.

The initial intent was to focus on Decree 546 itself, yet once both documents were contextually positioned, slight divergences indicated that the secondary document, ABCs of Decree 546 (from here on referred to as the ABCs document) could make analytical contributions to the decree itself. Charmaz suggests the targeting questions of “who, what, when, where, why, and how” as a way of providing context and compensation for the decreased sensory involvement that would otherwise occur with elicited data (Charmaz, 2006: 4). Ralph, Birks, and Chapman propose contextual positioning as a way to identify key actors, define the scope of the texts, chronicle their position in time, and make rationalizations or justifications about their positions and use as data, thereby enhancing interactivity with the data and

providing the backdrop for a more meaningful analysis (Ralph, Birks, & Chapman, 2014: 4, 7). As artifacts that inferred both the problems confronting detainees and policymakers in the face of the crisis, the contextual positioning of Decree 546 and the ABCs document brought to the forefront a very different language which each document used for its intended audience. The nuanced differences provided opportunities for comparison to other data, but also enhanced awareness of the different contexts in which the documents were produced. This led to a more reflexive stance on how the information would and could be interpreted (Birks and Mills, 2011: 2).

The same procedure of contextual positioning was applied in the preparation of other primary data sources and extant data used for developing the sensitizing concepts. This was particularly helpful in establishing a chronology of key documents, as the temporal aspect of this study is part of its novelty and is a major factor in *how* things unfolded. Furthermore, the process also helped sift through large amounts of data to select the most relevant data to this study and helped inform the data collection process itself (Ralph, Birks, and Chapman, 2014: 2, 7).

The next datum in focus is the document, *Manifesto: Heading Toward a Prison Genocide* (from here on referred to as the Manifesto), a statement drafted by 50 criminal lawyers and academics strongly denouncing the efficacy of the decree and efforts by policymakers to address the Covid-19 crisis in the prison system. Published exactly one week after Decree 546 was passed, the document demonstrates the impossibilities of achieving the stated goals of the decree based on knowledge from the respective fields of the authors. Furthermore, it conveys the strong disillusionment and outright anger of the community advocating for the rights of detained persons in light of the decree's ineptitude. Noting the temporal aspect of the document's production, particularly given the collaborative effort, also serves to highlight the immediacy and importance redressing the issue.

Researching the discourse surrounding Decree 546 as it unfolded, the name of my informant began reappearing in various articles and interviews. Carolina<sup>18</sup> has had a high level of visibility regarding criticism of the decree, with her credibility established largely by her

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<sup>18</sup> This person's name has been changed in order to respect their privacy.

personal story. The incredible journey arcs from being a detainee in the Colombian prison system for nine years, to eventually becoming council and representative of Colombia and Latin America to the UNOCD, in addition to being a prominent abolitionist and activist in the fight for improving the lives of female prisoners, not just in Colombia, but across the globe through the organization she co-founded. She graciously responded to my correspondence and willingly participated in two semi-structured phone interviews that serve as the elicited data in this study (see Appendix A for the Interview Guide).

Despite lacking the opportunity to make visual observations given the medium, thick descriptions were still obtained through the flexibility of the interview format, which allowed questions to flow both ways. Denzin, Ponterotto, and Schwandt point out that unlike thin description, which describes or outlines a situation (Ryle, 1949), a thick description tasks the researcher with describing and interpreting social action within the context, thus presenting detail, emotion, meanings, and motivations that can “characterize the episode,” or, interview (Denzin, 1989: 83; Ponterotto, 2006: 543; Schwandt, 2001: 255). The dimension added to the analytical process by pursuing thick descriptions with these interviews underscored the meanings behind the questions posed by the informant, offering key points for comparisons and reflexivity. Furthermore, given the lack of a wider resources pool of interview data, plus the unique position of the informant, it seemed logical to follow Charmaz’s advice of treating the data, “not as an objective historical record, but as a dominant and elite voice in the public conversation about a social problem and thus an important site of reality construction.” (Charmaz, 2006: 39).

One of the strengths of using elicited data in social research is that various levels of analysis are presented when there is interpersonal interaction between a researcher and participant(s) (Birks and Chapman, 2014: 3). Finding similarly nuanced information in extant texts can prove more challenging, yet it is particularly necessary in a study such as this, given the heavy reliance on extant texts as data sources. However, the novelty of the pandemic garnered lots of media attention and there was considerable media coverage on the topic of exacerbated human rights violations in prisons across the globe, which provided avenues of investigation despite the lack of academic literature. In particular, the Colombian newspaper, *El Espectador*, began an investigative journalism project in collaboration with ongoing research by the Friedrich-Ebert-Stiftung, The Prison Group, and the Center for Studies on Security and

Drugs (CESED) at the Universidad de Los Andes, which began documenting prison conditions after the prison riots in Colombia on March 22<sup>nd</sup>, 2020.

The aforementioned media coverage led me to the last piece of primary data detailed in this chapter. The radio interview with Justice Minister, Margarita Cabello Blanco occurred on June 3<sup>rd</sup>, 2020, and is conducted by justice journalist Maria Elizabeth Ortiz for media outlet, El Tiempo. The interview transcript provides the official public perspective on the efforts of the government and INPEC to address the unfolding crisis. This perspective, along with the figures presented by Minister Cabello Blanco, offer additional points of comparison in their analysis.

Despite the initial challenges faced by field work limitations, in the end differing types of data provided varying levels of analysis that both guided and answered my research questions. Additionally, the way the data collection process unfolded resulted in the opportunity for further reflexivity and engagement with the idea of my role as the researcher in the production and analysis of the data, a critical component of a grounded theory study. Pertinent to this is one last consideration. Considering the heavy reliance on extant data sources and exposure to a substantial amount of media, literature, and discourse on the topics at hand, the pursuit of knowledge in this realm had the potential to be heavily skewed. Recognizing this factor in addition to taking a feminist stance which inherently leans left, seeking out alternative and often conflicting perspectives was also at the fore in the effort to avoid an obvious pitfall. These perspectives serve to deepen the analysis presented later in this thesis, but this issue is mentioned at this juncture to ensure the reader that potential ‘blindness’ were regarded in the literature review and production of data process.

### **3.4 Data Processing**

This section serves two purposes: it maps the development of constructing theory in the GT approach and shows examples of the process in this study so the bases of analysis can be best understood. It begins with different stages of coding, followed by memo-writing to develop relationships and pattern leading to the creation of concepts, categories, and themes, and then axial coding to introduce dimension, further memo-writing, theoretical sampling, and finally ending with the construction of theory (Charmaz, 2006; Allen, 2011: 27). While these

steps are presented in a linear fashion, in reality they were circular, iterative, patterned, and by no means linear. The process occurred many times with the exception of the theoretical construction stage, which the former processes ultimately enabled. However, the concluding theory of *loss of institutional trust through empty policy* was finally tested against early data and analytical stages in order to confirm its validity. The process in its entirety, intended to remain emergent, interactive, and reflexive, in line with the constructivist perspective of this study (Charmaz, 2003: 247). Lastly, the volume of data was managed primarily using Nvivo, which provided helpful tools for comparing codes, and later drafting memos, along with other valuable organizational aids.

### **3.4.1 Coding**

Qualitative line-by-line coding represents the initial step in the analytical process of GT. Charmaz defines it as “the process of naming segments of data with a label that simultaneously categorizes, summarizes, and accounts for each piece of data” thus generating the “bones” of the analysis and analytical scaffolding (Charmaz, 2006: 43; Charmaz, 2003: 260). The process is meant to elicit creativity in the researcher’s interpretive approach to the data, and involves developing initial codes, and later focused codes and axial coding where categories and themes emerge through abstraction (Strauss and Corbin, 1998: 105). In this study, gerunds were given particular attention for initial and focused coding, following Charmaz’s constructivist practical advice. The practice intends to emphasize actions that can describe enacted processes as a way to develop theoretical sensitivity by moving beyond otherwise static categorizations (Charmaz, 2006: 136). In some cases, this took the form of InVivo coding, which places emphasis on the actual words used in the data in order to “grab the reader’s attention and capture the essence of the category” (Strauss and Corbin, 1998, 108).

Building on the contextual positioning of the data, some additional questions have helped to guide the coding process. These included questions such as: What is happening here? What are the basic social/psychological processes? Whose perspective is represented here? From whose point of view is the given process fundamental? Who exerts control over these processes? What meanings are attributed? Who is the intended audience for the information? What does the information mean to various participants? What does the information leave out? Are there any hidden assumptions? (Charmaz, 2006: 51). While the questions are generally

interpretive, they were fundamental in breaking down the data into more manageable ‘pieces’ and provided significant insights, particularly for the document sources.

Other questions also helped to develop the feminist approach by indicating power structures, personal and political influences, and keeping women’s needs and interests in the foreground when constructing the answers to these questions. Some questions included: On what and whose facts does the information rest? Who or whose interests are served in asking these questions? What assumptions are inherent in the concepts I am investigating? What are the potential consequences of the findings? How can I resist (rather than justify) systems of inequality that may be apparent here? How can this inquiry promote (or inhibit) social change? (Allen, 2011: 24, 35).

Wigginton and Lafrance suggests that the feminist research task is to see to the extent possible, the ways in which the women’s world is organized differently from that of men, and therefore, drawing out information from the vantage point of women is essential (Wigginton & Lafrance, 2019: 5). Answers to some of these questions became apparent in the interview with Carolina but given the other types of data used in this analysis, the feminist-oriented line of questioning was key to the pursuit of similar information from the document sources which lacked dialogue exchange. In each case, such questions attempted to gain a better understanding of how these documents might shape or construct the reality of the women affected by them. Additionally, they helped keep the frame of the research perspective in focus, as answering them from a subjective point of view was inextricable in the process and therefore important as a constant consideration in how data was being processed and interpreted.

Samples from the initial coding stage including InVivo codes, demonstrate how similar coding patterns emerged, later becoming categories and forming the basis for themes that were compared across data. For example, Decree 546 and ABCs of Decree 546 present themselves as directives “aimed at timely preventing the risks of [Covid-19] contagion and spread, in people deprived of liberty, and also, in the personnel who works within the establishments” (Decree 546, 2020). The subtext on the cover page of the ABCs document states in bold letters that, “Justice belongs to everyone.” Initial coding evolved from ‘*placing importance on equal rights to health and safety*’ to a more focused, ‘*equalizing language.*’ Similar codes emerged from the Manifesto, which states in its first demand that the decree be modified to “guarantee

in a real and effective way the health and life of both the prison population and the workers in the penitentiary sector.” Because of its strong use of language, the Manifesto also provided a number of InVivo codes. Directly taken from the text, the code ‘*symbolic use of law*’ became a crucial category for comparison, as one example.

Another initial coding example is given below, where the code ‘*trust*’ first emerged. ‘*Trust*’ was initially not developed into its own category, but instead was linked to the category of *misleading promises*. Later, ‘*trust*’ was developed into its own prominent category in the data analysis, eventually becoming a thematic anchor in the theoretical development<sup>19</sup>

Excerpts from interview	Initial code	Tone/Emotion/Expression notes
<p>[6:38] After a lot of prisons had cases the government passed 546 already late, which as you know it listed all the people, but also excluded so many people, more than 100 exclusions! And sure, it said some women would qualify, you know, pregnant women or those with small children, but only if a crime was considered minor, meaning non-violent and if it wasn't a drug-related crime.</p> <p>So, we knew in that moment that it wasn't really going to do much for basically any of the women. And we started to look at the crimes that were in the list to see who would benefit and it included crimes involving drugs, and well, in Colombia about half of women are inside because of crimes related to drugs. But most aren't violent! But that didn't factor into the exclusion because they weren't crimes the government considered minor, and then of course very few of the minor crimes women are jailed for aren't drug-related.</p>	<p>Obvious that prisoners' lives were not a primary concern</p> <p>Highlighting the major “flaw” limiting the decree's effectiveness</p> <p>Tone relays how few women actually fall in this category</p> <p>Acknowledging an obvious outcome / Sense of mistrust</p> <p>Collectively seeking and interpreting information</p> <p>Identifying a significant proportion of the prison demographic</p> <p>Expressing a helpless defense</p> <p>Disconnected lawmakers</p> <p>Feeling frustrated that lives are at the whim of the government</p>	<p>Ambivalence</p> <p>Said w/ sarcastic laugh, as if the outcome was so obvious from the start that it was insultingly disappointing</p> <p>Frustration</p> <p>Disappointment</p> <p>Said w/ Contempt</p> <p>Defeat</p> <p>Acrimonious</p> <p>Deflated</p>

<sup>19</sup> If this study were to continue, this category and theme would re-orient the study in the pursuit of further grounding the theory in the data.



<p>[7:50] So yeah, it's not really going to benefit women because they're not considering what <i>really</i> is a minor crime and because of this the document isn't really delivering what it's saying it will. I can honestly say it didn't work. We can see that after 8 months the decree has only released approximately...less than 500 people. Over 8 months! And we see that in that time only 45 women were released even though they said they were some of the primary people who would be considered.</p> <p>[11:12] I'll mention this about a conversation I had with a congressman. We asked, this is not public, but I'll confirm this, but we asked how many people are going to <i>actually</i> benefit from the decree and he and the INPEC representative that was there answered us with, well, they gave us a number that was really weird, but they said they had released 1308 people, but I knew they weren't telling the whole picture. And that's what we've ended up seeing, is that they're relying on numbers that are giving a misleading picture of what they say they've done...</p>	<p>Disagreement with how criminal acts are defined, definitions made w/o considering the humans behind the actions</p> <p>Giving false hope</p> <p>Definitive assessment of inadequacy</p> <p>Suggesting the absurdity/spectacle in how staggering the mismatch is (what was told compared to what has happened)</p> <p>Misleading promises from gov.</p> <p>Implies political access through position, putting pressure on officials</p> <p>Working as a group and calling out lawmakers</p> <p>Appearing cohesive among political entities</p> <p>Feeling skeptical, predicting misrepresentation/ Feeling of skepticism confirmed based on in-depth knowledge</p> <p>Identifying a political strategy Public misrepresentation</p>	<p>Anger, disdain</p> <p>Disappointment</p> <p>Frustration, anger</p> <p>Utter sadness</p> <p>Frustrated/upset laughter</p> <p>Trust?</p> <p>Skepticism</p> <p>Condescension</p> <p>Mistrust/distrust (based on sense/based on experience)</p>
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**Table 1.** Initial coding sample from translated interview transcript with Carolina

Following the initial and focused coding stages as well as early-stage memo-writing, detailed below, was axial coding, which relates categories to subcategories that “intend to build a dense texture and dimension of relationships around the axis of a category” and serve to “sort, synthesize, and organize large amounts of data by re-assembling them after initial coding” (Struass & Corbin, 1998: 13). Charmaz suggests that axial coding attempts to draw out conditions or circumstances that form the structure of the phenomenon in question, preserve interactions in participants’ strategic responses to issues, events, or problems, and identify the consequences or outcomes of actions (Charmaz, 2006: 60-62). A focused and recurrent code

that emerged from the interview transcript, '*giving false hope*' was related to the aforementioned categories of '*equalizing language*' and '*symbolic use of law*' in the axial coding stage. The emergent category of '*seeding distrust*' resulted from establishing these relationships.

The late stage of coding is theoretical coding, described by Glaser as “conceptualizing how the substantive codes may relate to each other as hypotheses to be integrated into a theory” (Glaser, 1978: 72). The constant comparative method, which is used in every stage of analysis, is used in the theoretical coding stage to develop relationships between emergent categories and concepts. Here, the categories and concepts emerging from the data can also be evaluated against and alongside theories present in the supporting literature. Furthermore, the question of whether there is an inter-changeability of indicators that can be tested against existing knowledge (Glaser & Strauss, 1967: 7, 8). This was a fundamental step that pushed this research toward an unexpected direction. The concept of '*empty policies can decrease hope*' is a prime example of that shift in this research.

Preliminary research focused on how the inefficacy of Decree 546 in achieving what it set out to, might have affected incarcerated women in Colombia. What the comparison of the coding and analysis of the data revealed was something important beyond just the policy itself. Emergent concepts centered around the themes of *hope* and *trust* eventually took a more prominent role in the research. Furthermore, the nuanced language in the interview with Claudia and the radio interview transcript with Justice Minister Cabello Blanco suggested linkages to other systemic problems that strengthened the basis of the concepts, indicating a potential theoretical connection.

The shift in research focus highlighted above, sparked further questions about how such theoretical conceptualizations about the relationship between “empty” policies and trust might be contextualized in the wider picture of societal goals, for example, the ongoing peace process in Colombia. This factor will be explored in more detail in the Analysis chapter of this thesis but is given attention here to demonstrate how substantive codes were used to move the analytical story into a theoretical direction (Glaser & Strauss, 1993: 76; Charmaz, 2005: 14).

These examples provide snapshots of the coding processes applied to all the data and much of the supporting literature. This process of coding, sorting, and categorizing, initiated the progression of memo-writing, as detailed in the following section.

### 3.4.2 Memo Writing

Memo writing is an essential part of the grounded theory process. It serves as a way to reflect on the data with informal analytic notes about processes which may become evident (Charmaz, 2006: 82). Multiple memos were drafted and revised for each piece of data, in the process raising focused codes to conceptual categories. Through this process, focused codes were additionally scrutinized, leaving more prominent concepts apparent. They also served to spark further research inquiries in order to better understand certain phenomena that emerged, potentially presenting theoretical codes. The following example provides a sample of an early memo draft which led to categories that later became significant for comparison:

**(Reversible [in]Action)**

*Strong, **deliberate use of language** demonstrates the gravity and immediacy of the problem at hand. The claim is made by experts aware of the posed threat of Covid-19, and **how that threat relates to the pre-existing prison/prisoner conditions**, which are highlighted in the manifesto. The legal definition of **genocide**: the deliberate killing of members from a particular group and or/ deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or part (UN Convention on the Prevention of the Crime of Genocide, 1946, Article III). Use of this terminology is meant to be impactful and speaks to an audience who would likely be well aware of the legal sense of the word 'genocide', and those who can use this document to further advocate for change.*

*Authors of this manifesto establish the fields from which they come and stress their collaborative effort in this public denouncement. By stating they are teachers and academic researchers in the fields of criminology, criminal policy, independent researchers and civil servants working within the justice system, they are establishing credibility/identifying their knowledge resource pool. EX: two primary authors are both judges and legal philosophers who've written legislation for the InterAmerican Court of Human Rights rulings and normative legislation used by the ICC.*

*The **temporal element** is also noteworthy. The manifesto was published early on in the pandemic, nearly one month to the date after the decree was passed, so by titling as "Heading toward...", there is an indication that the **course could be changed (ability to alter course)** and in fact, this is exactly what this manifesto is calling on authorities to do. Considering that there are 50 contributors spread across three continents, the timeframe in which this document was produced further speaks to the fact that the shortcomings of the legislation were brutally obvious from the outset. It can be assumed that work on the document started immediately after the decree was passed, possibly even before if any of the contributors were privy to any legislative innerworkings. Ultimately, the title of the manifesto suggests that the decree was put into effect in a time where there was still **REVERSABLE ACTION**. At the time the manifesto was published, there was still time to repeal the decree and amend it to be something that would actually produce the results it claimed.*

**Box 1.** An excerpt from an early memo draft written about the Manifesto.

The revised memo draft below, emphasizes the idea of judicial pliancy given political will, which later became a fundamental relationship to the perception of trust in the theoretical development stage:

**Heading Toward a Prison Genocide** identifies the gravity of the situation by calling out policymakers with strong legal accusations. Terminology is deliberate, intended for an audience familiar with such jargon, and who would therefore understand how blatant the denouncement is.

The authors identifying themselves and their credentials are key indicators that policy and policymakers are being closely observed by scholars, legal minds, and activists in the global community. Working in this realm, the authors demonstrate a familiarity with persistent problems within the carceral system in Colombia, and therefore the severity of the problems presented by the pandemic. What's more, is they directly accuse Colombian policymakers of also knowing this dynamic and choosing a policy implementation that ignores the situation (symbolic use of law), lacks efficacy, and disregards their responsibility and commitment to the protection of human rights.

By demanding that Decree 546 be revised to meet its purported goals, the element of *choice* by lawmakers is highlighted. They've deliberately chosen to produce something they know won't work. From the standpoint of the incarcerated and their families, what must this blatant disregard for their safety feel like? How might one's hope and confidence be affected as needs are cast aside?

**Box 2.** A revised draft of the previous memo.

Furthermore, the categories of '*symbolic use of law*' and '*false hope in legislation*', which emerged from this later draft, eventually evolved into the category of '*legislative veneer*'. This focused the inquiry more sharply on the role of policy "without teeth" as an underlying process in shaping the experiences of various stakeholders, in particular those most affected by how these policies might be interpreted.

In line with the constructivist approach, additional short memos were generated alongside their counterparts as an attempt to increase trustworthiness through a reflexive attempt to identify biases at given points. Such memos helped the researcher's understanding of how and where perspectives on the data might align or converge from the group of women at the core interest of this study. The short sample of one such early memo given below, became a persistent reminder of a major bias woven throughout the study:

### Abolition and Social Capital in Different Cultural Contexts

To what degree is my unease and personal, anecdotal knowledge of US intervention in Colombia shaping my questions and the type of data I'm looking for? Are my abolitionist beliefs that have developed as a result of familiarity with the US prison model, imposing any potentially false assumptions about the Colombian prison model? Remember that much of the abolition literature I'm familiar with is written from a North American perspective (even though these perspectives to some extent build off of Foucault and Wacquant who come from European perspectives but write about US influence).

How might certain core ideas underpinning abolitionist ideology differ in the Latin American, post-colonial context? Consider how differently power structures exert their influence in each country. How might this relate to global capital at a state level?

Perhaps there are multiple levels of analysis that can build off that last point. Colombia's ambition of improving their global capital (bilateral relations with the US a major factor) in turn has shaped the potential for social capital in the country. Squires describes this as social organizations such as norms, trust, and networks which can improve the economic performance in a given society by facilitating coordinated transactions (130, 131). How might this look different in Colombia and the US? How can we see the materialization of power dynamics in these characteristics? How might these differences shape abolition ideas differently in each cultural context? Could this have something to do with where along the line of "progress" each country is in terms of attitudes/practices toward human rights?

The political and criminal expressions of violence debilitate the evolution of social capital (Squires, 131; Peace, 4). Think about how this is structurally different in each country and how that plays into the abolition ideology and movement in each place.

On that last point, maybe look for points of divergence after the BOP oversight of the reform ended to keep yourself in check. Maybe compare stat. trends under BOP oversight and a few years after to what was happening in the US during the same perception period to see if there are any significant differences. Look for literature/sources on how public of the Colombian prison reform was during that time or how it's changed since then. What about the abolition movement in Colombia in relation to that?

**Box 3.** Early reflexive memo written after completing Angela Davis' *Are Prisons Obsolete*. This memo led to the pursuit of literature/data which could give a clearer picture of where the Anglo-American feminist political philosophy fails to align with the Latin American context, and how that has led to such differences in the evolution of the abolition movement in each region.

These different types of memos spurred more comprehensive data collection, as well as produced fundamental categories for comparison with other data, thus prompting a more abstract cycle of analysis (Charmaz, 2006: 91, 92, 95). Box 3 highlights a line of inquiry that broadened the researcher's knowledge of abolition efforts in Colombia, which is in part what led to identifying Carolina as a potential informant. The sample also shows an early entry of the idea of *trust*, which became a major category and subsequent theme after being visible elsewhere. For example, when compared with memos written about the interview with Carolina, the more substantive concept of '*empty policies can decrease hope*' emerged, which was related to *trust* in axial coding. The following section continues with this example,

revealing how memos such as these, along with theoretical codes, formed the basis for the subsequent process of theoretical sampling and refinement into the eventual theory of *loss of institutional trust through “empty policy”*.

### **3.4.3 Theoretical Sampling**

According to Charmaz, the purpose of theoretical sampling is seeking pertinent data to develop the emergent theory, with the objective of elaborating and refining the categories which constitute the theory and developing those categories until no new properties emerge (Charmaz, 2006: 96, 97). In this study, the emergent theory that is relevant to Decree 546 and the experiences of women affected by it, applies beyond this singular case. The process of theoretical sampling provided a method in which the theory of *loss of institutional trust through “empty policy”* could be tested against other pertinent theories and situations.

The constant themes in the vast body of literature describing the nexus between punitive drug laws, overincarceration, and policy, took new dimension under the added pressures of the pandemic. Taking a feminist research stance in the approach to this research, provided the opportunity to test this emergent theory from a gender perspective, against existing well-developed theories.

## **4 Theoretical Perspectives and Sensitizing Concepts**

The iterations of data collection and analysis in this study were not pursued following a particular theoretical framework. However, the theory developed in this study, which endeavors to explain and even predict the effects of ‘empty policies’ on institutional trust, cannot stand alone (Wæver, 2014: 30). Therefore, the following theoretical perspectives and sensitizing concepts offer a loose framework specific to how this study was approached (Vuori, 2017: 67). The ConGT methodology encourages abstaining from a preconceived theoretical framework (Charmaz, 2006: 97-99), advice followed for this project. However, in retrospect the themes addressed in this chapter were present throughout most of the project in part because early research called attention to them. As such, they are not only prominently evident in the analysis, but also critical factors in the construction of the research perspective and process.

Symbolic interactionism and abolition together offer sturdy theoretical and practical underpinnings for analysis and theoretical construction, and the concept of the Prison Paradox encompasses core elements from which Decree 546 and its outcome can be analyzed. The chapter begins by defining symbolic interactionism and how it is understood and applied in this study. Next, the Prison Paradox explains the societal problematics associated with punitive laws and overincarceration. These issues lead into a brief discussion of abolition ideology as a response to the Prison Paradox, and the abolition agenda. Finally, the chapter ends by highlighting the opportunity the Covid-19 pandemic presented in testing abolition centered practices in this context.

### **4.1 Symbolic Interactionism**

For the constructivist grounded theorist, the theoretical perspective of symbolic interactionism provides an explanatory tool for analyzing how experience shapes perception. Loosely developed by Mead, the perspective assumes action as the starting point for analysis and focuses on a person’s imagined understanding of the other person’s role in an interaction. The interpretive nature then, assumes emergent multiple realities, indeterminacy, truth as provisional, and facts and values as linked (Charmaz, 2006: 127, 189). Thus, this approach lent itself well to the research design of this study considering the availability of data. While obviously appropriate for the interview data in this study and questions asked specifically about

Decree 546, the toolkit of symbolic interactionism, which analyzes the dynamic relationships between meaning and action, and addresses the active process through which people create and mediate meanings (Charmaz, 2006: 189), also proved useful for extant texts that lacked two-way interaction. Blumer's interpretation of symbolic interactionism posits that people act toward things based on the meanings those things have for them, that the meanings of such things arise out of social interactions, and that these meanings are handled and modified through the interpretive process (Blumer, 1969: 2). In Blumer, Faules, and Alexander's later crystallizations of symbolic interactionism, they suggest meanings ascribed to symbols that shape everyday human interactions, such as language, are what ultimately produce society (Redmond, 2015: 9-11).

However, there are challenges to these views. Redmond proposes a flaw in the perspective being its failure to address micro and macro-level issues such as emotion and unconscious or politics and history, as some examples which may largely shape an individual's perspective (Redmond, 2015: 12, 13). Scrutinizing the data using a symbolic interactionism perspective in this study attempts to grapple with this criticism by its somewhat unconventional application to extant texts. For example, Decree 546 is viewed as a symbol representative of its political and historical situation. But when coupled with the document ABCs of Decree 546, the differences in use of language provides far more meaning to analyze and compare. Here, the analysis attempts to understand *why* the government chose specific language variations, who the text was intended for, and what is absent in the second text. There are very present historical symbols such as pre-existing statutes on which Decree 546 is based, and nuanced sociopolitical references as well, such as prioritization of the exclusions. For Carolina, who was familiar with both texts, the meanings ascribed to each cannot be separated from her understanding of the historical and political environment that produced them and how those elements have shaped her experience and interaction with the documents and their effects.

Another example of how the research attempts to analyze micro and macro facets of the data was looking at the media response to the decree. In this regard, reporting from *El Espectador* and *El Tiempo*, two national newspapers leaning left and right respectively, were invaluable. They gave a sense of the national dialogue around the topics at hand through their reporting, and the comments sections where little filter is evident allowed a more pronounced pulse on ascribed meanings to be taken. Such measures added analytical depth to the



researcher's perceptions of the meaning ascribed to Decree 546 by a larger pool than simply the informant interviewed in this study, though analysis did not occur on those comments to the same degree. Moreover, in light of social constructivism's objective of questioning how people perceive their different realities rather than attempting to explain one objective reality itself, the interpretive approach in this case serves well for justifying theoretical assumptions made in this study about the 'bigger picture' (Charmaz, 2006: 129).

The perspective of symbolic interactionism also promotes a reflexive stance in looking at how and why data collection was conducted the way it was, how personal background and knowledge has influenced that process and the meaning attached to it, and perhaps most importantly, where, why, and how other realities associated with the data may be perceived. The grit in the analytical perspective then lies in where these factors may align and the significance in where they diverge. For example, the theory developed in this study assumes the reality of the researcher. The background, sensitizing concepts, perspectives, and analysis used to present and support the theory of "reduced institutional trust through empty policies" only carries weight if perceptions of reality somewhat align. For some who may assume punitive policy and paperwork without "teeth" are solutions to altogether different perceptions of the problem at hand, this theory has no value. Therefore, the analysis tends to draw out as much as possible the researcher's influence on the conceptualization of the data and present in the most substantiated ways, possible alternative perceptions that may be derived from or act on the data, then analyzing those divergences (Charmaz, 2016: 129). The approach also then, serves to provide as much transparency as possible, emphasizing the constructive aspect of the research.

## **4.2 The Prison Paradox**

Problems of mass incarceration, prison overcrowding, and overrepresentation of women in the prison system discussed in Chapter 2, are given added cultural and political dimension by discussing how these factors are presented through the concept of the Prison Paradox. Though previous scholarship has pointed out the paradox evident in the relationship between increasing incarceration and either stable or increasing crime rates, the Vera Institute of Justice has presented numerous research reports and policy briefs on the subject, in so, coining the

term. The concept analyzes the questions of why more incarceration has a marginal impact on crime, and why methods of incapacitation (taking people out of circulation) and deterrence (dissuading people from committing future crimes out of fear of punishment) have proven ineffective (Steman, 2017: 1, 2). The Prison Paradox articulates the evidence-based claims that incarceration has a diminishing impact on crime, little to no effect on violent crime, has shown to increase crime and incarceration rates in communities with already high incarceration rates, and is an expensive way to achieve minimal public safety. Moreover, the paradox emphasizes carceral spaces as increasingly criminogenic spaces (Steman, 2017: 2-4), often producing higher rates of recidivism (Iturralde, Santamaria & Uribe, 2020: 5).

Although the research carried out by the Vera Institute focuses on the US carceral system, the paradox arguably applies in wider contexts and specifically to Colombia, attributable to US policy mobility which has been previously discussed (De Dardel & Söderström, 2018: 1-34; Davis, 2003: 86-97; Gilmore, 2007: 237-239). Yearly reports published and made publicly available by watchdog organizations such as Penal Reform International (PRI), the Washington Office on Latin America (WOLA), and De Justicia to name a few, all produce information about penal institutions in Colombia and Latin America that also corroborate this claim, even if they do not explicitly use the term. Therefore, it serves as an appropriate concept under which the following topics can be presented and later applied in this study's analysis. First, normative rules set by the United Nations demonstrate the intergovernmental response to the prison crisis, establishing measures that aim to counteract problems defined in the Prison Paradox. The discussion includes the concept of prisoners' right to health, as established in the rules. Concluding the section is the concept of 'prisoner health as public health', which is derived from the both the normative rules and substantiated research on public health. Together, these concepts develop the basis under which Decree 546 and its effects are analyzed from a normative policy perspective.

#### **4.2.1 Mandela, Bangkok, and Tokyo Rules**

In 1955 shortly after the Universal Declaration of Human Rights was written and endorsed by the UN General Assembly, another set of rules were drafted that sought to address the issue of meeting these standards in the prison setting. First known as the United Nations Standard Minimum Rules for the Treatment of Prisoners, then later adopted as the Nelson Mandela rules in 2015, the rules, which are not legally binding, have served as an influential

source for guidance on prison management and legislation for the 193 signatory countries (Mandela Rules, 2015: Articles 1-4). Their evolution through the decades demonstrates increasing international policy orientation around human rights, with revisions reflecting the problems propelled by overincarceration and overcrowding. The baselines for best practices in the treatment of prisoners, cover an array of topics from education to hygiene and healthcare and underscore the element of equality for prisoners in the universality of human rights (Mandela Rules, 2015: Rules 12-35, 64-66, 104, 105).

A main categorical revision to the most recent version of the rules pertains to prisoner healthcare and the right to health (PRI, 2016: 1, 7). The amendments introduced and/or modified eight rules, focusing more sharply on the responsibility of the State to ensure access to an *equal* degree and quality of care available to the rest of the community regardless of their legal situation, with healthcare being ‘organized in close relationship to the general public health administration’ (Mandela Rules, 2015: Principle 9, Rule 24; Coyle, 2009: 47). Also added were standards for providing necessary mental healthcare (Rule 25), and prenatal and postnatal care for female detainees (Rule 27). These inclusions signal the shift toward gender mainstreaming and rehabilitative approaches to penal models, yet reality strikes far from normative suggestions particularly in the developing world. The prison healthcare infrastructure is far inferior to those available in the wider community in nearly all contexts (Söderholm, 2020: 2; Iturralde, Santamaria & Uribe, 2020: 22; Owen, 2017: 6).

Preliminary Observations 1 and 2 of the document acknowledge this aspect, identifying the rules as a ‘general consensus of contemporary thought...set[ting] out what is generally accepted as good principle and practice’ and that ‘it is evident that not all rules are capable of application in all places at all times.’ (Mandela Rules, 2015). Enggist, et. al. point out, however, that in a comprehensive study of the right to health of prisoners, the analysis showed that international case law is gradually transforming the non-binding guidelines into accepted minimum legal requirements for governments to meet (Enggist, et. al. 2013: 25). Even still, in places where prison operations experience severe lack of funding such as Colombia, healthcare provisions are often the first services to be disregarded due to high costs (Iturralde, 2011: 142). And the effects of such actions have implications beyond simply the violation of the prisoner’s rights. This is overtly and painfully evidenced in the prison riots that have occurred over the past couple of years in Colombia, where inmates have cited lack of adequate healthcare services

as ignition points. In these events, nearly 300 inmates have died (Marmolejo, 2020: 1069; El Espectador, 2022). But effects also manifest more subtly in things like rising recidivism rates with mental health problems becoming increasingly prominent features of prisoner profiles (Owen, 2017: 12; Mason & Stubbs, 2010: 190). Both examples highlight the importance of prioritizing prison healthcare as avenues of improving human rights standards and addressing causal factors.

Two additional normative documents produced by the UN General Assembly are important to consider in the analysis of the Decree 546. Adopted in 2010, the Rules for the Treatment of Women Prisoners, otherwise known as the Bangkok Rules, are comprised of 70 rules built upon previously existing ones but focused more acutely on the unique needs of women. Their adoption resulted from increasing recognition of problems associated with female incarceration. At the forefront was the fact that women as a category have represented the fastest growing prison demographic across the globe over the past two decades<sup>20</sup> (Mason & Stubbs, 2010: 189; Russell & Carlton, 2013: 474; Ariza, et. al., 2017: 6). Additionally, the rules reflect growing awareness of the importance of familial and community ties, emphasizing the use of rehabilitative practices over punitive ones as methods to reduce potential recidivism and thus having positive impacts beyond the detainee. They also address disparities between rehabilitative programs available to men versus those available to women, a trend that had been well documented by the time the rules were adopted, particularly in the developing world (Bangkok Rules, 2010: Annex 5, Rules 1, 2, 26, 28, Global Prison Trends, 2020: 4, 22; Garland, 2001: 11, 12). Feminist scholars such as Davis and Owen largely attribute this mismatch to States' inability to keep up with sharp increases in female incarceration rates, not to mention the academic field calling attention to these injustices (Davis, 2006: 21, 61, 65; Owen, 2017: 3; Giacomello, 2017: 4, 5).

The final normative document considered here is the UN Standard Minimum Rules for Non-Custodial Measures, also known as The Tokyo Rules. They aim to promote the use of non-custodial measures in order to preserve the rights of prisoners and improve community

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<sup>20</sup> The case of Colombia gives even more staggering figures. Since 2000, the global incarceration rate for women has increased 159%, but Colombian female incarceration has demonstrated a 329% increase over the same amount of time (Ariza, et. al., 2017: 6)

involvement in the management of criminal justice (Tokyo Rules, 1990: 1.1-1.5; Global Prison Trends, 2020: 35). These rules essentially delineate alternative sentencing options for judicial systems based on a growing body of evidence confirming the potentially dangerous consequences of detention as a primary form of punishment, and specifically address the use of excessive pre-trial detention (Tokyo Rules, 1990: 1-7). In Colombia, the latter issue has become unprecedentedly problematic under the additional stresses Covid-19 has posed on the carceral system, which will be discussed in more detail in the following chapter.

Indeed, normative rules such as these have and continue to improve the standards of treatment and care for detainees globally and their importance cannot be argued. However, in addition to further highlighting systems' inability to meet these standards (Global Prison Trends, 2021: 3), what the presence of the pandemic has demonstrated in some cases, is that governments can enact policy in line with these standards while doing little to actually materialize them, as will be analyzed with Decree 546. This creates a potentially major pitfall for policymakers, activists, and the public who may see such measures and applaud their initiatives because they "look good" without determining whether or not such measures might actually reinforce broken and mismanaged systems.

#### **4.2.2 Prisoner Health as Public Health**

Another aspect brought to the fore by the pandemic is prisons as part of the community. This concept has long existed in the field of criminology, taking on new dimension in feminist approaches. Critics of penal systems have engaged with the idea that the shift of penal institutions out of more populated communities to rural areas, is in part as added layer of psychological punishment through geographic, social, and emotional isolation, and in part as a response to contracts for expansion to meet demands of a growing prison population (Gilmore, 2007: 88-92). The presence of the pandemic has neutralized the debates between critics and pro-penal expansion governments. Viruses do not respect high walls and tough bars. And prisons rely on personnel to remain operational—personnel who alternate between their work and homes in the free community daily.

In addition to the more theoretical conversations surrounding the inclusion (or lack thereof) of prisons in perceptions of community and society, the practical issues have tended to form around the idea of prison health in relation to public health (Enggist, et. al., 2013: 2;

Iturralde, Santamaria & Uribe, 2020: 25). As previously established, prison populations, which are mostly comprised of socially disadvantaged segments of the community, typically carry a higher burden of communicable and non-communicable diseases, and health literacy is generally low amongst prisoners (Enggist, et. al., 2013: 4, 7; Johnson, et. al, 2021: 4). These factors, coupled with overcrowding and often a lack of infrastructure, make the prison environment highly conducive to the rapid spread of contagious disease (Enggist, et. al., 2013: 5). This has led to epidemiological studies of infectious disease spread analyzing the relationship between prison health and public health, where the revolving prison door (in this case for prisoners and staff alike) produces disease vectors into communities. And these same communities often experience disproportionate rates of disease and vulnerability (Enggist, 2013: 13). Thus, prisons themselves present challenges to public health even under normal circumstances, illuminating the idea that protecting prisoners' health also serves to protect the health of the wider free community. But the novel environment created by the Covid-19 pandemic, wrought with anxiety, fear, and even paranoia, dramatically exacerbated existing problems, further distancing prison populations from their communities despite policy measures purporting to protect them. As will be seen, this occurred due to contagion spread from prison staff both into and out of prisons, staff reductions, strategic mismanagement, and negatively shaping public perception toward the prison population and the idea of prisons being part of the community.

One of the key issues that the above circumstances accentuated was and continues to be the gross violations of fundamental human rights designated by the aforementioned rules. Granted, the situations imparted on prisons, prison staff, and policymakers alike were by no means easy, but the overt disregard for those rights in some cases (for example, the prison's approach to contagion spread at La Modelo prison, which led to a massive prison riot, or the movement of infected detainees to "Covid-19 free" patios in order to accommodate more people, thus causing a mass spread of contagion among the prison population at Buen Pastor prison)<sup>21</sup>, warrant scrutiny of these measures as "best practices" and improving means going

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<sup>21</sup><https://www.colombiasolidarity.org.uk/2020/03/victims-of-march-21st-a-massacre-of-prisoners-for-protesting-in-the-modelo-prison-in-bogota>  
<https://www.theguardian.com/world/2022/jun/28/inmates-colombia-prison-riot-tulua>

forward. Numerous articles, interviews with inmates and their families, and statements given by INPEC and government officials, and data in this study, underscore both heightened feelings of neglect and despair, and inadequate prioritization of duties to protect peoples' right to health. We should not sink into complacency with the idea that some individuals' rights are more aptly protectable than others.

### 4.3 Abolition

The modern abolition movement faces many criticisms most often due to a lack of understanding what exactly abolitionists are striving for, more so than what they are pushing against (Carrier & Peché, 2015: 4-7, 29). Most people in democratic societies might agree that those who commit crimes should still be treated in a rights oriented, just, and dignified manner, though the concepts themselves become more subjective the further they stray from normative standards. But what is often misunderstood about abolition as an ideology, academic field of study, criminology theory, and movement, is that it is a *process*. Abolition does not mean dismantling systems overnight, nor year, nor decade, nor without alternative means, as many believe it calls for. What it does call for is dismantling systems that repeatedly prove to perpetuate problems instead of resolving them. In truth, true abolition can only be achieved by dismantling systems well beyond criminal justice, thus taking a more holistic look at the drivers of criminality such as poverty, racism, and inequality (Davis, 2020, interview; Gilmore, 2022: 3, 4).

The idea of abolition as a response to global capitalism and economic imperialism goes well beyond the scope of this thesis, but it is an appropriate concept to include in the study because, 1. This researcher is an abolitionist, and those ideologies cannot be separated from the motivation behind this work and therefore must be overtly stated. 2. The political influence asserted over the topics at hand along with their historical backing, are not separate from one another and offer critical points for analysis when viewed through an abolition lens. 3.

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<https://www.prison-insider.com/en/articles/colombie-coronavirus-hits-prison-population-hard?referrer=%2Fen%2Farticles%3Fpage%3D1%26tag%25B0%25D%3Dcoronavirus%26tag%25B1%25D%3Dfemmes%26country%25B0%25D%3Dco>

Criminalization hides the complexities of structural societal issues, and the abolition framework exposes this, linking it directly with capitalist institutions. 4. With a core critique of abolition practice being what to do with the ‘dangerous few’ the Covid-19 pandemic challenges notions of who those really are in both political terms and in public perception. Therefore, this section intends to present abolition ideas that scholars such as Davis, Gilmore, Owen, Russell, and many others, have presented as attainable and meaningful steps in the process of abolition, in order to situate the proceeding analysis in this perspective.

In an interview in early 2020, modern abolition pioneer, Angela Davis, stated that, “The nature of the abolitionist demand is to shift resources into institutions that can assist us in producing new modes of safety and security. So instead of giving funding to the violent institution of the police, fund mental healthcare, fund housing, free education, free healthcare for everyone....” (Davis, 2020: interview)<sup>22</sup>. This perspective challenges the ideological assumptions policing institutions present themselves with, which is as the only avenue for providing public safety and security. The demands aim to boost things like social capital and stability, which directly correlate with crime and recidivism rates (Davis, 2006: 16; Iturralde, 2019: 486; Bhandar & Ziadah 2020: 222; Russell & Carlton, 2013: 477). They indicate shifting structural drivers of crime and violence toward humanist practices that embody compassion, social justice, participatory democracy, and the expansion of open society (Cullors, 2019: 1687), values that are reflected in the normative rules regarding prisoners.

Some practical steps which align with abolition processes and human rights oriented carceral practices, include reducing the prison population by reversing punitive measures for certain types of crime. In particular, non-violent drug-related offenses, which scholarly perspectives generally agree on as a major driver of overincarceration (Eastwood, Fox, & Rosmarin, 2016: 6-10; Davis, 2006: 110; Iturralde, 2019: 481; Metaal & Youngers, 2011: 89-92). Another measure is finding therapeutic rather than punitive modes of addressing the people who commit these types of offenses (Russell & Carlton, 2013: 477). However, some abolitionists such as Davis and Gilmore caution against reliance on these methods, which, depending on who is defining them, can include mechanisms such as home confinement and

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<sup>22</sup> News interview with Angela Davis: <https://www.youtube.com/watch?v=i3TU3QaarQE>



community service. The argument is that while yes, the measures offer better alternatives than prison confinement, they potentially reinforce punitive systems instead of addressing core drivers of an individual's criminality, leaving the possibility for reproduction of criminality and normalization of the system that often produces it (Davis, 2006: 107, 112).

Ultimately, the process of abolition may well require some 'faulty' steps such as testing home confinement as an alternative to entry into the prison system if the agenda is to progress. And if anything, alternative measures in line with abolition practices confront another major critique of abolition which is that it is a 'utopian ideal', by pointing out that the vast majority of criminal reform practices as mechanisms of transforming society, are also utopian ideals, therefore why accept the status quo instead of testing alternative approaches? (Carrier & Peché, 2015: 5, 6). These systems are certainly transformative, but in the wrong direction. Some of the core challenges, however, are raising public awareness of structural violence apparatuses perpetuated by carceral systems. Shaylor suggests a valuable question, which was relied heavily on in the approach to evaluating and analyzing the data in this study but could also be useful for informing public views. It is simply, does this expand the system? (Shaylor, 2011: Keynote address).

#### **4.4 Covid-19 as a Testing Ground for Progressive Approaches**

The topics covered in the preceding sections bring us to the concept of the pandemic conditions serving as an opportunity to test the aforementioned abolition steps. Early on in the pandemic, the need for fast-acting measures was apparent both in terms of protecting human rights and public health under the principles of prisoners' right to health and their right to physical security as defined by Rule 6 of the Mandela Rules. This was the case globally, prompting the UN and WHO to call on governments with the appeals they did. Those appeals centered on quickly decarcerating prisons as a primary response to address these issues, while also emphasizing the crucial need for support mechanisms for those released from custody (PRI, 2020: 2; WHO, 2020: 2-8). Included under the umbrella of decarceration was also minimizing or altogether eliminating at least temporarily, the use of pre-trial detention, another major step proposed in the abolition process (Global Prison Trends, 2020: 15; Global Prison Trends 2021: 18). There were a variety of legislative responses, yet few countries were able to

achieve the standards of care reaching the suggestions for best practices (Global Prison Trends, 2021: 4-16).

From a practical perspective value lies in analyzing the efforts and outcomes of the legislation passed to assess what worked, what didn't, and where improvements could be made to better prepare systems for future crises (Wang, et. al., 2020: 11-13). Addressing a more theoretical perspective, value lies in analyzing how measures in alignment with abolition steps were applied at an unprecedented scale, and where those measures saw success and failure. While Decree 546 was not intended to be a step toward abolition, it had the potential to test such a role. And the prison conditions in Colombia under the novel pressures of the virus were, at face value, enough to compel public and political discourse toward more favorable views on prison release mechanisms than are seen under 'normal' circumstances<sup>23</sup>, also providing an atmosphere to test such campaigns.

## 4.5 Conclusion

The theoretical perspectives and concepts presented in this chapter are an orientation to the underpinnings of the proceeding data analysis. They help situate and contextualize the data and related topics, while also emphasizing the role of the normative documents discussed and those that lie ahead, as meaningful cultural and political symbols.

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<sup>23</sup> The following links give a few examples of media attention on this subject.

<https://www.elespectador.com/judicial/carceles-colombianas-en-medio-de-la-pandemia-atrapados-sin-salida-article/>

<https://www.elespectador.com/investigacion/crisis-carcelaria-en-colombia-que-hacer-con-el-inpec/>

<https://www.elespectador.com/judicial/recomendaciones-para-salir-de-la-crisis-carcelaria-en-medio-de-la-pandemia-article/>

<https://www.elespectador.com/investigacion/condenadas-a-no-ver-a-sus-hijos-el-impacto-de-la-pandemia-en-la-carcel/>

<https://www.eltiempo.com/justicia/servicios/coronavirus-minjusticia-habla-de-poco-resultado-del-decreto-de-excarcelacion-502936>

## 5 Data Analysis

The theoretical development in this study unfolded through the exploration of a variety of themes and categories that emerged from the data, in an attempt to answer the research questions:

*-How may have Decree 546 impacted trust in institution/policymakers?*

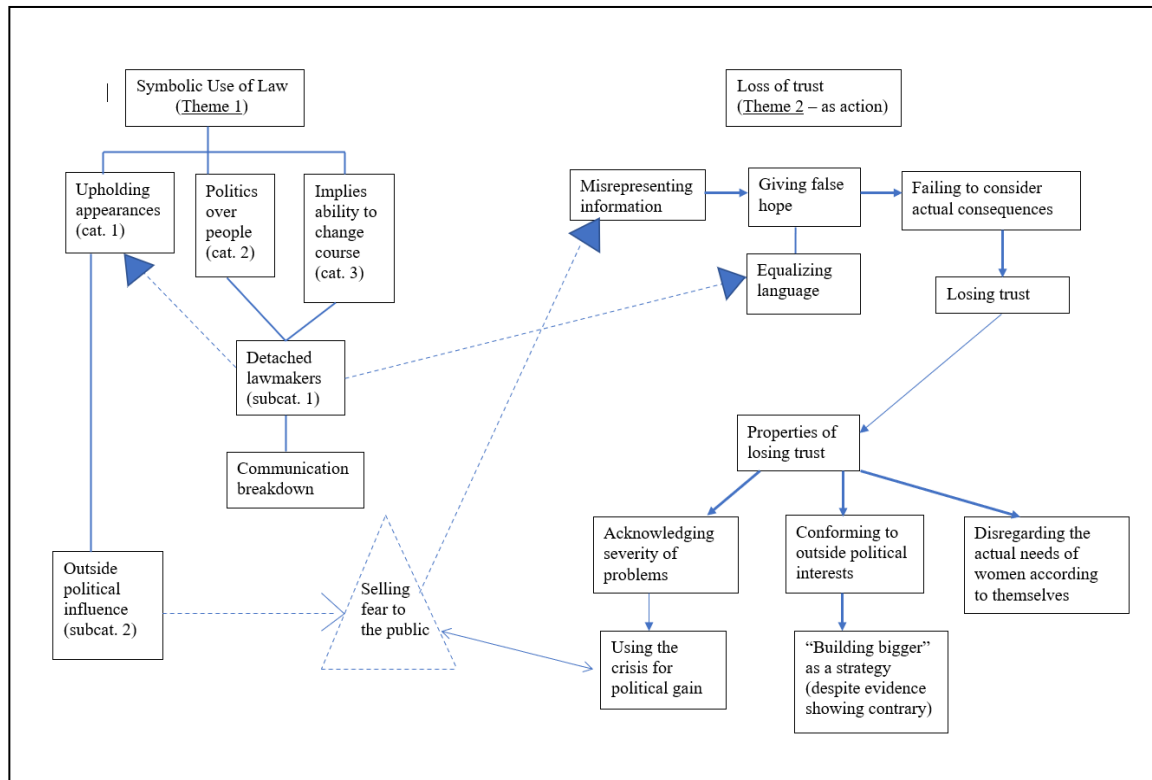
*-How may those types of effects impact wider peace objectives?*

Analyses presented in this chapter highlight those which stood out through constant comparison methods. Presented below is a visual representation of the categorical and thematic assemblage, which together give shape to the theory of *loss of institutional trust through empty policy*. It is not meant to be taken as a rigid structure, but rather a visual reference to remind the reader of the processes observed through the data, and how the major emergent themes relate to one another in the formulation of the theory.

The chapter will break down themes and categories presented below, drawing on the data behind each topic and using supporting literature and data to engage the analytical discussion. As previously pointed out, the approach aligns with the grounded theory methodology which views the literature review as part of the data/data collection process under the assumption that ‘all is data’, though again, there is a more detailed response to the data at the core of this study. The two major themes each comprise a section. Some categories are represented as sub-sections, but other categories and sub-categories which emerged from the data are woven into the analysis and denoted in italics so they are evident.

A couple of additional aspects are worth noting. First, that there is some overlap between categories, as some of the same data and similar categories led to the development of both themes. Therefore, for the sake of brevity, any overlap will be discussed where it fits best in the analysis so as not to repeat unless the value in underscoring both categories is apparent. Second, that theme 2, *Loss of Trust*, represents an action process (demonstrated by the connecting arrows) in contrast to the first theme. Theme 1 also encompasses dynamic processes but thematically plays a different role in this analysis. The distinction is made prior to the analysis because the theory itself describes an action process in a dynamic setting. This is not to say that the *symbolic use of law* is not itself an action, but that action plays less importance

as a process in this theoretical development. However, the dashed lines signify dynamic relationships between the two themes, and these connections are largely where the theory of *loss of institutional trust through empty policy* emerged. These relationships will be elaborated on further in the conclusion of this chapter and proceeding discussion, but the intention here is to inform the reader of how the ‘scaffolding’ of the theory was constructed.



**Figure 1.** Thematic and categorical framework for the theory of *loss of institutional trust through empty policy*.

## 5.1 Theme 1: Symbolic Use of Law

The term *symbolic use of law* was initially in vivo coded in the Manifesto but also supported by other data. Retaining the language itself as a theme was because labeling a law as such signifies a certain intention in creating the law itself (Villegas, 2016: 19). It was also appropriate given the employed perspective of symbolic interactionism because Decree 546 became a significant symbol with diverse meanings imparted on it. However, before

elaborating on the data, Villegas' perspective on symbolic use of law is helpful for framing this analysis.

He writes that “law itself is a cultural system of meaning and instrumental controls...” and that while the “instrumental efficacy of legal language determines conduct...the symbolic efficacy of legal language achieves its objectives through the communication of images of justice, equity, security, and other values perceived essential for social life.” He points out the role of rights as political and moral legal symbols, where often differences in instrumental and symbolic efficacy “do not coincide with the differences between internal (technical) points of view and external ones” (Villegas, 2016: 20, 21).

The latter point was strongly considered in the attempt to understand what Decree 546 meant to its authors and especially to the women affected by it, and how views of justice and interpretations of equity might diverge in this case. The law was enacted as a protection of rights under international pressure and scrutiny but failed to do so for the vast majority of people under the government's punitive care. This was not only apparent in the statistics detailing those released, but also in the sharply toned criticism surrounding it *and* its authors. A mere 815 out of the 4,000-5,000<sup>24</sup> people the government claimed would be eligible for release became so under the law, and of that number only 45 were women (Söderholm, 2021: 7)<sup>25</sup>.

When asked about her first impression of Decree 546, Carolina described the reaction she and her colleagues had when they read it immediately after it was passed and publicly released, though she was aware of its drafting beforehand through her advocacy work. She said:

*It made so many exclusions, more than 100 exclusions! And sure, it said some women would qualify, you know, pregnant women and those with small children but only if the crime was considered minor, meaning non-violent and it couldn't be drug related. So we knew in that*

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<sup>24</sup> This is a relatively wide range, but both figures were given in different documents and press statements through government channels.

<sup>25</sup> This number was subject to debate, as INPEC and the judiciary gave different numbers, but that will be addressed in a following section.

*moment that it really wasn't going to do much for basically any of the women...in Colombia most women are incarcerated because of crimes related to drugs but most aren't violent crimes. But that didn't factor into how they made the exclusions. Of course, very few of the minor crimes women are jailed for aren't drug related.*

What was so indicative in this speech was Carolina's change in tone, from hope to frustration to utter disappointment. As shown in the coding sample from Table 1., these initial emotions noted from the segment of the interview were focused into the description of *said with contempt*. The emotional backing of the statement supported the notion Carolina knew the law wasn't written to be effective, and she was obviously upset by that. And those were similar sentiments she described her friends and colleagues in detention feeling as they learned of what was to come, first thinking their hopes, fears, and rights would be meaningfully considered, only to realize their situation instead, was likely to get worse.

The symbolic dimension of the decree takes on multiple meanings when considering the drastically different perspectives of stakeholders. For lawmakers, the decree meant 'saving face' (relationally coded as *upholding appearances*) and represented a legal symbol of rights protection and humanitarian appeal to the public eye, even if it had little action behind it. It was already well known the preexisting deficiencies of the system would not be able to guarantee what the decree purported it could protect (Marmolejo, et. al., 2020: 1078). So, it too, could represent a symbol of institutional confidence, unworthy as it may have been. But for the incarcerated and their loved ones, it became a symbol of hope and then rejection. A symbolic equating of individual histories, characters, and conduct, to a drug offense.

The perspectives of the legal scholars and academics who authored the Manifesto seemed to understand the struggle and frustration of what the decree meant for detainees. In addition to calling Decree 546 a *symbolic use of law*, they also refer to it as a "pantomime and sordid spectacle," among other carefully chosen language. But perhaps the most compelling language used to call out the real, consequential outcome of Decree 546 in the Manifesto is in its title, *Heading Toward a Prison Genocide*. Given that the authors would be well aware of the legal implications of the term 'genocide', and that the audience of the Manifesto would understand their unabashed use of it, the choice is a pointed and very public symbolic shaming of policymakers. It was never likely that the Manifesto itself would affect significant change,

which it did not. But it did make clear that people were watching the government and condemning its actions for their inadequacies.

### *Outside Political Influence*

When asked her opinion of who she thought was best served by this legislation, Carolina responded with a hesitant laugh tinged with sarcasm, and said:

*Well, it started because of our Inter-American system, that was promoting alternatives to incarceration, and that promoted...a bunch of things. But the government is about politics, and nothing happened. They said from the beginning that it was going to benefit many people, but the [follow-up] commission said from the beginning that no, it wasn't going to be that way.*

Two major categories were supported by this passage. *Politics over people* and *outside political influence*. What initially stood out in this part of the conversation was the term 'Inter-American system'. What Carolina was referencing was the Inter-American Court of Human Rights, an autonomous judicial institution whose purpose is the application and interpretation of the American Convention on Human Rights, of which Colombia is a signatory through OAS (IACHR, 2022). Interestingly, one of the two primary co-authors of the Manifesto, Eugenio Raul Zaffaroni, is a presiding judge in this court.

This made the radio interview with Justice Minister Cabello Blanco all the more contradictory. Regarding Decree 546, when asked what the government based the exclusions on, she said it was in line with the jurisprudence of the convention established by the court, and that under that ruling the government must, "avoid crimes, punish those responsible, and maintain order" (El Tiempo: radio interview transcript). When pressed about the justification for the exclusions, she responded, saying:

*The measures that have been adopted by the pandemic on detainees cannot be detrimental to other international obligations...they [must] obey a criminal policy decision that seeks to comply with this.*

However, one of the major flaws of the decree emphasized by Zaffaroni and the other authors was the disproportionality of the exclusions based on the supplementary punishment imposed by greater exposure risk and potentially fatal consequences. This is interpreted as punishment

in excess of sentencing and thus a violation of rights (Manifesto: Declaration 3). They go so far as to say in the Manifiesto that many of the exclusions are “discriminatory, populist, and therefore illegitimate” and that “the rights to life and health cannot be endangered by the State...Therefore omitting its due protection is an excess of the exercise of proportionality, thereby annihilating legality, humanity, and proportionality, which are its constitutional requirements of legitimacy, especially if this deepens the very serious state of affairs” (Manifiesto: Declaration 6). In lieu of this explanation, the statement of Justice Minister Cabello Blanco, along with many others from the same interview, were categorized under *misleading information*. This leads back to Carolina’s comment about the Inter-American system proposing alternatives to incarceration. Reports show that indeed the IACHR proposed the use of home confinement as one strategy to reduce overcrowding and transmission, but what transpired paints a messy picture.

The primary objective of Decree 546, written on the title page of the ABCs document and following the introduction in the actual decree, states that the measures adopted are to temporarily replace the prison sentence in penitentiary and jail establishments with home detention, in order to combat prison overcrowding. When the pandemic first emerged, the infrastructure for home confinement in Colombia was rather weak. Shortly before the decree was passed, INPEC, through its networks of privatized prison supply and management contractors, contracted a US manufacturer of ankle monitoring devices used for remote detention (G4S, 2021). This approach came under fire for a number of reasons, including the fact that under this scheme detainees were required to pay the daily operational costs of the monitoring equipment. For many, the cost made the option completely unattainable, thereby reducing the already small group of eligible people to even fewer (WOLA, 2021: 9-11). For context, the operational cost was between 19,400 and 72,000 pesos per day. The average daily salary is between 18,000—33,000 pesos for a strata 1 or 2 person—the economic strata most associated with detained persons in Colombia (DANE.gov.co)<sup>26</sup>. So even in instances where

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<sup>26</sup> Census statistics for Colombia 2020: <https://www.dane.gov.co/index.php/estadisticas-por-tema/demografia-y-poblacion>



the decree went beyond symbolic to practical, provisional freedom became a matter of class privilege (WOLA, 2020: 3).

While this strategy largely failed widespread use under the parameters of the decree, the monitoring contracts have remained (G4S, 2022). In one sense, the system attempting to use alternatives to prison-located incarceration can be viewed as a positive step, such as in the case of reduced risk exposure to disease. But from the analytical viewpoint of the abolition agenda, Shaylor's question applied in this scenario illuminates some potentially dark downsides. In asking whether this action expands the system, the answer is resoundingly yes, emphasized by the securing of more US prison contractors into new avenues of incarceration in Colombia. Yes. This expands the global prison industrial complex and is very much a result of *outside political influence*. Furthermore, the stigma associated with home monitoring devices can hinder important social and economic activity. For many who already experience financial hardships, restrictions on movement and lack of external support can lead to even more precarious living situations such as the inability to attain basic essential needs such as food (WOLA, 2020: 1-3)

Another factor categorized under *outside political influence* pertains specifically to the exclusion of drug-related offences. Securing convictions based on these crimes has already been established as profitable for private US prison corporations operating in Colombia, and as mentioned, these crimes account for around half of female detainees in the country. But to put this exclusion into perspective, also found in the list are murder, crimes of torture, child sexual abuse, treason, aggravated terrorism, arms trafficking, espionage, and genocide, to name a few (ABCs document: 4, 5; Decree 546: Article 6). Making the same exclusion for all these types of crimes essentially places them in the same category. One can imagine the meaning of this for women incarcerated for drug offences upon learning, based on these comparisons, what their perceived threat to society was in the eyes of the law. Moreover, the comparisons further highlight the government's lack of gender-responsive criminal policy by again, penalizing poverty in their failure to consider overt patterns of necessity and circumstance behind drug-related offenses among female detainees. And if they claim to, the exclusions only reinforce the notion that Decree 546 was primarily meant to *uphold appearances* in the interest of aligning with *outside political influence*, and most certainly places *politics over people*. This is underscored by the fact that multiple scholarly and legal assessments have referred to the

decree as unconstitutional (Romero, Stalman & Hidalgo-Sola, 2021: 23, 24; ICTJ, 2021: 18; PRI, 2020: 19; Ariza, Iturralde & Tamayo Arboleda, 2021: 84; Ferrajoli, et. al., 2020: 2-4; De Justicia, 2021).

### *Implies Ability to Change Course*

Some difficult points to reconcile from the research perspective stemmed from the category of *implies ability to change course*. The research attempted to take a broad overview of the linkages between the data, and it became obvious that normative advice based on meaningful research along with desperate pleas were simply ignored or paid lip service. The category emerged as a result of similar coding from each piece of data and the supporting literature, which overwhelmingly describes the *acknowledgment of the severity of the situation* and recognition that different actions could be taken to move things in another direction.

The Manifesto was blatant in its call for alternative measures. Again, the title, ‘Heading Toward a Prison Genocide’ implied that there was still time for a reversal. The body of the document begins by repeating the title followed by, “in favor of real improvement’, also suggesting effective measures could still be implemented (Manifesto: Declaration 1). The clock ticked. In Justice Minister Cabello Blanco’s radio interview, six weeks after the Manifesto was published, when questioned about the lengthy process required by detainees to evaluate their eligibility for release under the decree, she responded by saying the government was considering passing an additional law to expediate the process. But in her response she also recognized the impositions placed on the inmates and judiciary alike in navigating the complex requirements in applying for eligibility. The *ability to change course* then, was presented as a possibility.

The decree and the ABCs document put forth two separate lists for applicants, one for those convicted, and one for those indicted and awaiting trial<sup>27</sup>. Requirements for both include presenting digitized biographical cards with information pertaining to judicial records and medical certifications documenting particular medical conditions. Those cards were required

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<sup>27</sup> Under the last major penal reform Colombia adopted mandatory minimum sentencing, which applies in most drug-related cases thereby making pre-trial detention applicable for most people facing such charges (Uprimny Yepes & Guzman, 2019: 40).

to be sent by regional directorates of INPEC to a preliminary judge, who would then delegate the case to a presiding judge. There were no public hearings (strict Covid-19 restrictions were in place but there was also no option for digital hearings to include detainees) and judgement was required to be made in 3 days (Decree 546, 2020: 14-17). These are only a few of the steps in a daunting process, not only for those eligible but also for the legal and administrative personnel required to carry out the work. Moreover, this was to occur under severely reduced access to legal representation for detainees, reduced personnel, and restrictions on in-person work for most of the judiciary apparatuses, with offices scrambling to figure out efficient ways to operate in the new work environment. Therefore, what resulted was many filed cases being dismissed because they passed their approval window (El Tiempo, 2020).

In addition to the bureaucratic hurdles, critics of the scheme pointed out that the biographical cards were simply not available to all people. The card system was in the implementation stage when the pandemic hit, so many detainees had never received one and reductions in staff due the pandemic made getting them much slower (Huertas Diaz: 2020). Furthermore, under ‘normal’ circumstances access to healthcare is limited for people in prison, so many who had qualifying medical conditions may not have had the necessary paperwork to prove it nor access to anyone who could certify them (PRI: 2021). This aspect alone signified the *detachment of lawmakers* from the system they were writing policy on. It also pointed to actual and potential incidences of *communication breakdowns* as many cases became caught up in the bureaucratic system. The same critics also pointed out measures that could have easily been implemented, which may have engaged the inmates in mitigating the spread of contagion and reflected an inclusion of the prisons within the public health scheme (Huertas Diaz, 2020).

The most feasible suggestion made early on was to simply task detainees with active case-finding and reporting procedures, in part substituting for staff reductions. While the suggestion may have entailed some implementation problem solving, even the measure of simply granting more agency could have had beneficial effects. The suggestion and claim are based on evidence from a previous study on public health initiatives involving similar programs, where detainees were tasked with case-finding and aspects of screening and immunization records keeping. Not only improvement on certain public health metrics among the total population (meaning incarcerated and free public combined) was shown, but also improvements on inmates’ perceptions of agency over their health and access to health information (NRC, 2014; Rich,

Allen & Williams, 2015; Wang, et. al., 2020: 28-32). Such effects would have been advantageous early in the pandemic, as inmates consistently reported increased anxiety about their situations due to lack of consistent and reliable information from prison authorities (PRI, 2020; WOLA, 2021), thus highlighting another area of *communication breakdown*.

Another seemingly obvious recommendation to redirect the situation facing incarcerated women at the start of the pandemic, would have been not including drug-related offences in the exclusions. This topic has been touched on, but in the context of the category *implies ability to change course* the data brought certain points to light. Decree 546 is based in other established rulings by the Constitutional Court. T-153-98, T-256-00, T-388-13, T-815-13, and T-726-15 all pertain to prisoner's rights and the unconstitutional state of affairs Colombian prisons were deemed as, well prior to the pandemic (Huertas Diaz, 2020; Iturralde, 2011: 112). According to legal scholars, these rulings would have supported the release of people convicted of non-violent drug related offenses. But instead of seeing reductions in punitive measures under the circumstances, new punitive laws for breaking Covid-19 restrictions were created. Although primarily fines, repeat offenders were subject to jailing with those most affected being people operating within the informal economy and therefore most susceptible to economic instability (HRW, 2020: 2).

Carolina also suggested ways in which the government could improve on the functionality of the decree and in doing so *change course* in the pandemic setting, but also proposed those measures could remain in place to tackle problems of overcrowding over the long-term. The main suggestions were to decriminalize minor possession and eliminate the use of pre-trial detention for low-level offenses. In Colombia, time spent in pre-trial detention, which is often served in a prison facility due to overcrowding in temporary holding facilities, can last years—going against the Tokyo Rules (PRI, 2020: 18). The recommendations were made at a point in the conversation where the discussion revolved around the frequently posed question of public safety perceptions if people who committed these crimes were to be released. She gave the reminder that the government has gone back and forth on decriminalization for such offenses in the past, with public support “changing according to political leadership.” Looking further into this statement drew back to other avenues of research in this project and in fact, recriminalization for such offenses occurred most recently in 2010 as a punitive-stance legacy move of outgoing President Uribe. In his book, *Alvaró Uribe y la Derecha Transnacional*,

economist Felipe Tascón comments on this move, going so far as to call Uribe a “two-term placeholder for US politics” (Castro, 2020: 3), a statement further supporting the category of *outside political influence*.

The punitive turn has retained these policies despite virtually all penal watchdog organizations operating in Latin America suggesting low-level drug decriminalization as means of addressing the prison crisis, improving human rights records, and making legal rulings with proportionality (WOLA, 2019: 13-17; PRI, 2020, 28; UNODC, Woods, 2016: 541). But with the political reasons for this evident, the question then returns to public support. Specifically, if the evidence of harm is clear, why isn't there more public pressure on government to enact meaningful change? Carolina mentioned public support on these issues “changing with political leadership” and this rings true, speaking to the influence of leadership over public perceptions of social matters. Iturralde writes about this topic, pointing out that one of the biggest barriers for meeting the rights and needs of prisoners the first year of the pandemic, was due to “low public support for government measures in that direction”. He suggests this was primarily because the ‘problem’ of the prison population—not just the release of prisoners, but the whole population itself—was presented as a security issue rather than a public health issue (Hernandez, 2020: 18, Iturralde, 2021: El Espectador article).

In *Are Prisons Obsolete?* Angela Davis discusses the politicization of this issue, pointing out that policymakers often use fear tactics against release measures to gain support from their constituencies. She proposes that releases are presented as undermining the retributive purpose of the sentence, thus lessening the chances of the prisoner ‘learning their lesson’ (Davis, 2006: 97). The positions of Iturralde, et. al. support this comment and add to the Colombian context by writing that, “It is hard to change the culture. As a consequence of an expansive, authoritarian, and selective criminal policy and overincarceration even at high economic cost, these have become the main features of penitentiary and prison policy, and the public is accustomed to it.” (Iturralde, Santamaria & Uribe, 2020: 26) The comments section of the El Tiempo page where the radio transcript was published certainly corroborates this sentiment. But Davis, like others, makes the point that, “If more money was allocated to treatment and addressing the core reasons for engagement in things like trafficking, especially at low levels, this could counteract stigma, address multiple issues simultaneously (i.e. parental absence,

poverty, etc.), and ease the burdens of prisons” and that this scenario “[could] also work to improve the image of policymakers in the eyes of the public.” (Davis, 2006: 100).

The unfortunate truth is that prisoners have little to no agency over their health care and are dependent on State authorities to protect and promote their right to health. And while there are technically mechanisms in place to hold States accountable when they are found in breach of this obligation, in reality prisoners have little recourse to engage those mechanisms when their rights are violated (Global Prison Trends, 2021: 6). So then, what messages must detainees have derived from the knowledge that more could have actually been done to improve their situations during the toughest months of the pandemic, but those in charge of them opted not to make those choices? Not many beyond Carolina’s feelings of hopelessness, frustration, and anger can be imagined.

## **5.2 Loss of Trust**

The preceding data processing and analysis supported the construction of the first theme presented, *symbolic use of law*. Concurrently in the data processing however, gerunds and action phrases were also coded in an attempt to parse out the connecting processes existing within the data. The objective was to develop theoretical sensitivity in the data, emphasizing actions that may apply at different scales, rather than focusing solely on people (Charmaz, 2006: 137). Therefore, the second theme, *loss of trust* denotes the outcome of these processes and underpins the theory of *loss of institutional trust through empty policies*. Because these categories are based in the same data there is some categorical overlap. Where this is case, additional information is presented to stress different points.

### *Misrepresenting Information*

All of the data shared relational coding to the category of *misrepresenting information* in different ways. In speaking with Carolina, she referenced a conversation she had with a

congressman and representative from INPEC, pointing out that what she was about to tell me was not public information<sup>28</sup> but that she could confirm its truth, saying:

*...We asked exactly how many people are going to benefit from the Decree 546 and INPEC<sup>29</sup> answered us, well, they gave us numbers that were weird. They said 1308 people had been released, but they weren't telling the whole picture. The things that made them wrong is that they were including people who were already going to be released but not because of the decree. And we've ended up seeing that they're relying on numbers that are giving a misleading picture. And another example is that they're saying the numbers they achieved for 2020 were really good, but last year the number of women sent to prison was significantly lower than average, so the numbers aren't because of this...*

Her story was consistent with other information coming from official government sources. Justice Minister Cabello Blanco gave an even less accurate response to a question about the number of infected inmates across Colombia. In her effort to portray INPEC's handling of the situation as efficient, she claimed that [at the time of the interview] there were 1,178 reported Covid-19 cases across Colombian prisons, but that "fortunately all of them are asymptomatic" (El Tiempo: radio interview transcript). Not only were these numbers expected to be completely inaccurate by the time the interview took place in May 2020, but claiming *all* cases were asymptomatic only served to lessen her credibility by its impossibility.

Carolina shared a story told to her by a friend and colleague in Buen Pastor women's prison in Bogotá, which placed just a couple of weeks later than Cabello Blanco's statement on the pandemic timeline. The friend told her they had been waiting for Covid-19 test kits and when they finally arrived and tested the women living in her same patio, all 350 of them came back with positive results. She also said her friend expressed a lot of anxiety about learning what she "basically already knew" was true being confirmed by the tests, yet knowing they weren't going to get the help they needed. Carolina shared another story about a different friend living in a separate patio. The friend told her there were 12 women from her patio who had come into contact with a guard who had tested positive, and the prison authority's strategy was

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<sup>28</sup> This statement has since been reflected in public documents, though the exact numbers are close but do not match.

<sup>29</sup> Referring to the representative.

to move these women into solitary confinement. But, she said, “they ended up testing positive anyways but were kept there because the administration didn’t do anything to change the situation. Even though others in the patio began also testing positive.” Carolina said her friend was very upset because they were kept in solitary for longer than they needed to be, and that all the women knew that could have been them.

There was so much emotion in the retelling of these stories, and they help convey the realities of fear, anxiety, and helplessness these women were living. But the stories also tell something else. They demonstrate in these same realities that the government and INPEC did not have the kind of control over the situation they purported to, instead choosing to *misrepresent critical information* to the public. Despite mounting evidence contradicting INPEC’s claims, they and the Justice Department continued dispelling either false or *misleading information* over the following months. Another example is their claim that Decree 546 was successful (even though other government officials are on record acknowledging the contrary (El Tiempo, 2020; Hernandez-Jimenez, 2020: 4) in significantly lowering the rate of overcrowding. An official report from the justice department from later in the year claimed overcrowding had dropped from a national rate of 54.5% in February 2020 to just over 16.7% in August due to the legislation. But the report failed to acknowledge that the decrease was mostly due to releases under ordinary measures and more importantly, through a suspension of transfers into prisons (El Espectador, 2022, interview with Carolina).

This issue resulted in another major crisis. During the first few months of the strict pandemic lockdown in Colombia, there were fewer arrests. But as the months went on and new minor offenses were enacted into law, arrests rose back to prior levels. This led to the suspension of transfers beginning in June 2020. But because people were not entering prisons, jails, which were already functional as temporary holding facilities, became repositories for all criminals being arrested and awaiting sentencing. Data is still emerging from this crisis, but what has been revealed is that the prison crisis not only relocated, becoming the problem of under-resourced municipalities, but it also became severely exacerbated. The list of egregious human rights violations and situation itself presents the opportunity for an entirely different study, but to put things in perspective here, according to police data temporary detention facilities, which in the past experienced around 60% overcrowding rates, were experiencing between 150% to over 3,220% overcrowding rates in different parts of the country



(Ombudsman's Office, 2021)<sup>30</sup>. Because of this in many cases it has been impossible to separate people by gender nor by the severity of crimes they are accused of. This has led to reports of facilities with severe outbreaks of violence including gender-based violence, severe food shortages, and absolutely abysmal and unlawful living conditions (El Espectador, 2022).

### *Giving False Hope*

Considering the pressures on the carceral system, another one of the stories Carolina shared was striking. She spoke of a young woman who was arrested but was eligible for home release under Decree 546 while awaiting her trial. But because she couldn't remember the exact address of the house her family had just moved to INPEC instead brought her to jail without trying to get the accurate information. Carolina continued the story saying:

*So she entered the jail and ended up testing positive for Covid right away. And later when the guards were tested they tested positive too. First they isolated her in solitary confinement, even though she hadn't even had a trial and no conviction or sentencing. But then they moved her to an area where people were being isolated because of health issues. But it was too late anyways, most of the people in that patio ended up getting Covid. I think we never imagined that women who had tested positive would be able to go to a different patio, but it happened.*

Although the story shares similarities with the others she told, what stood out in this one was the fact that the young woman was eligible to remain at home but a technicality and otherwise human error cost her the opportunity. Despite protocol, Carolina seemed to infer that something more could have been done about the situation. Instead, however, she entered the already overburdened system. The story provides a personal example of what must have been perceived as *false hope*, but other data reflects different facets.

The National Academies of Sciences, Engineering, and Medicine released a report called, "Decarcerating Correctional Facilities During Covid-19" in which studies on pre-trial

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<sup>30</sup> <https://www.defensoria.gov.co/es/nube/comunicados/10550/Centros-transitorios-de-detenci%C3%B3n-est%C3%A1n-en-peores-condiciones-que-las-c%C3%A1rceles-advierte-el-Defensor-del-Pueblo-URI-estaciones-de-polic%C3%ADa-Defensor%C3%ADa.htm>

detention are referred to. Among other highlights is that pretrial detention is associated with criminal convictions, longer sentences, imprisonment, and a higher likelihood of future arrest (Dobbie, Goldin & Yang, 2018; Heaton, Mayson & Stevenson, 2017; Leslie & Pope, 2017). Wang, et. al. add to these claims by suggesting that under the pandemic conditions, greater and unnecessary virus exposure through court involvement and incarceration is “tantamount to sentencing without trial, and therefore a violation of rights” (Wang, et. al., 2020: 48). When looking at this in the context of lockdowns and newly punishable crimes, these factors take on racial and class dimensions. 60% of Colombians work in the informal economy (Uprimny Yepes & Guzman, 2019: 7). This meant that severe lockdown restrictions, which were in place in the country for nearly two years, drastically affected the livelihoods of the majority of the country’s population. Many, if not most, were forced to break new lockdown laws for survival. If the scenario told in the story above was possible, it can also be imagined for other people as well who were facing some of the most severe hardships under the circumstances, potentially setting a future of carceral involvement in motion.

With research establishing that exposure to the system increases likelihood of remaining involved in it, the objectives of INPEC and punitive judicial rulings are easily questioned. The annual Global Prison Trends report published by PRI states that, “As a core function of prison, a broad range of rehabilitation programs should be offered, including physical and mental healthcare, psychosocial support, education and vocational training course and work opportunities.” (Global Prison Trends, 2020: 5). In INPEC’s own mission and vision statements the organization frames itself as ‘an agency designed to protect prisoners’ human rights’ that aims to ‘pay special attention to particularly vulnerable groups, including imprisoned indigenous people, LGBTI people, and women’. They claim recent reforms are aspirational, focusing on rights-oriented training for staff and centered around rehabilitation for detainees (INPEC, 2022).

In his article, “Analysis Over the Actual Prison Overcrowding in Colombia” Iturralde discusses the judiciary and INPEC’s claimed stance on the objectives of incarceration, with resocialization being enshrined in Colombian legislation. They maintain that their fundamental mission to “make available to the condemned person solutions to personal deficiencies that motivated their criminal capacity or social maladjustment.” In other words, to “show the intern a new life project, another future possible, so that when they are released they do not commit

a crime again.” (Iturralde, 2017: 112). If these commitments could be taken without any knowledge of the realities of prison life, they might seem promising and hopeful for the downtrodden caught up in criminal involvement. But the deficiencies of the system leave this as *false hope*. Furthermore, this framing shifts responsibility for systemic drivers of criminality away from the structures that create it, inferring that the individual is responsible for their condition. In doing so, things like poverty, homelessness, illiteracy, or low-level criminal drug involvement, factors that are all associated with female incarceration in Colombia, are explained away as individual shortcomings rather than social and political failures (Bhandar & Ziadah, 2020: 213).

### *Equalizing Language*

Language of equality is strung throughout Decree 546, the ABCs document, and stressed as a protection in Justice Minister Cabello Blanco’s interview. The decree claims it will be applied “without prejudice” and states its goal as “preventing the risks of contagion and spread, in people deprived of liberty, and also, the personnel who works within the establishments” (Decree 546, 2020: 2). The latter statement demonstrates the government’s acknowledgement of equal rights to the protection of health for both detainees and the free operational personnel in the prisons, and its moral and legal obligation to do so.

There is even a bold graphic on the cover page of the ABCs document reading, *Justice Belongs to Everyone*. But this does not appear in the actual decree. While bold graphics such as this one are not to be expected in legislative documents like Decree 546, it is a calculated



La justicia  
es de todos

decision to include it on this type of document, knowing it would be the one out of the two likely to receive much more attention. In fact, the ABCs of Decree 546 was made for exactly that purpose. But considering the subsequent extraordinary punishment imposed on detainees due to disproportionate Covid-19 exposure through the exacerbated environment, it seems insensitive, not just to detainees but also to prison staff alike. The very conditions of Colombian prisons under ‘normal’ circumstances impose additional sentencing for the detained beyond an official judgement because of the heightened health and safety risks imposed by simply entering the institution. Even more so with the threat of contracting Covid-19 without adequate medical support.

The Manifesto strongly emphasizes the contradictions of equality based on this fact, denouncing the insufficient protective actions on behalf of both detainees and staff. The third declaration warns that, “confinement and overcrowding make penitentiary and prison establishments a significant transmission area for the Covid-19 coronavirus, which can put health at risk and the life of all the people who interact in said environment” (Manifesto: Declaration 3), reiterating the acknowledgments made in the decree. But then they continue with, “After all this speech, it is unacceptable the decree ends up linking so many exceptions to access to home confinement, which makes it useless and ineffective for the purposes for which it is reported” (Manifesto: Declaration Six). The second part of the manifesto is a list of demands which sought to address the anticipated failures of the decree. The first demand states that, “In the development of the precise constitutional powers provided for in article 215, Decree 546 of 2020 be modified as soon as possible, to repeal all the barriers that prevent effective access to home confinement and guarantee them in a real way, and the health and life of both the prison population and the workers in the prison sector.”

One of the primary jobs Carolina has undertaken, which started while she herself was incarcerated, is helping to inform other detained women of their rights and the legal obligation the State has to them. But she conveyed in the interview that receiving accurate and up to date information “was difficult while inside.” Carolina even said that when she was imprisoned, the guards took the book she had on national penitentiary regulations away from her. When speaking of a conversation with a friend still inside, she said the friend was aware of the document because she’d seen it pinned to a board in the patio, but “just the one paper for the whole patio of hundreds of people and it was gone before too long”. The document was made available on the INPEC website, which is also a portal for inmates and family members where information and services can be found. It is an organized site with invaluable resources, but use of internet became more restricted than usual during the pandemic, primarily attributed to staffing shortages (Iturralde, Santamaria & Uribe, 2020: 15).

So, despite efforts to convey *equality* in the eyes of the law, systems in place simply inhibit that capacity. Moreover, the very exclusion of drug-related offenses in the decree denotes *inequality* through its disproportional effects on women. Disaggregated data on drug-related offenses by gender presented earlier validates this point. To build upon it, 52.4% of people deprived of liberty for drug trafficking crimes do not have any other criminal

convictions, indicating that conduct was either not associated with criminal structures or if so, occurred within low or decentralized ranks in such organizations (Metaal & Youngers, 2011, 39-46). The rate of drug usage in Colombia is one of the lowest in Latin America and is far lower for women than men (CEDD, 2015: 74-79). This is not to say that women do not use drugs recreationally in the country, but the numbers strengthen the notion that the majority of women incarcerated for drug-related offenses engage in such conduct more so out of necessity than recreation (Uprimny Yepes & Guzman, 2019: 5, 6; Chaparro, Correa & Youngers, 2017: 27-30). From the perspective of those excluded then, the meaning of the decree might have highlighted the very *inequality* they exist in and reinforcement of the structures in place to keep them there. In the theoretical development of this study, *equalizing language* is a sub-category of *giving false hope*. The two were related because with legislation consisting of rights protection such as Decree 546, which stresses equal protection under the law, combined, the two at face value would give hope. But understanding or even feeling the reality of that information being false in practice and therefore *misrepresented*, would instead leave most people feeling neglected and wary of such lofty promises.

### *Failing to Consider Real Consequences*

Anecdotal evidence through the stories previously told give a glimpse of the lived realities as consequences of poorly managed health strategies in the prison system. But the consequences of poor management, practice, and policy have broader implications. Wang, et. al. suggest in their 2020 report, that decarceration measures should not depend substantially on the petitioner's crime because in practice this would, "tend to overlook the medical criteria that should gain greater weight in a public health emergency" (Wang, et. al., 2020: 91, 92). While some of the target groups of the decree included people over the age of 60 and people with serious diseases, reduced mobility, or accredited disabilities, having a drug-related offenses would have made people within these groups ineligible for release.

As established, the Manifesto clearly acknowledge the danger imposed by this when they determined the situation could become 'genocide'. In the seventh declaration, the authors warn that, "forcing any person to face real and certain danger to life, under current conditions, means subjecting them to a situation comparable to a death penalty...inflicting excessive and despotic pain...[and] entail[ing] more injustices than the crimes committed" (Manifesto: Declaration 7). While these words may sound alarmist, for a population which is associated

with an accelerating ageing process and elevated health risks (Global Prison Trends, 2020: 13), the words meaningfully recognize their situation. Eliminating the drug offense exclusion would have enabled the release of a significantly larger portion of the incarcerated population at a time it was needed most. This would have also made a safer environment for those remaining in prison, which includes those in the elevated risk group who were ineligible for other offenses. The move would have made strides toward helping INPEC meet its stated goals of operating with respect to human rights and human dignity.

Carolina echoed the frustration evident in the Manifesto at the impossibility of implementing the strategies purposed in the decree to the scale the Justice Department claimed it could achieve. She too, described the monumental hurdles facing women and all detainees in meeting the requirements. Her seemingly biggest frustration though, was that there was no provision to evaluate cases on a personal basis, claiming that even under ‘normal’ circumstances, limited resources make granting conditional freedom ‘difficult’. She explained, “judges have so many cases that often times detainees are not present at their own hearings, even though this is not supposed to be the case”. Therefore, when women are requesting provisional freedom based on demonstrated good behavior, time already spent, and as she put it, “a series of objective things”, the judge bases the decision on whether they can start the resocialization process outside the prison, on paperwork from INPEC, which includes a ‘character assessment’. Carolina said these are often missing from prisoners’ files because they are general filled out by volunteer law students who meet with inmates with irregularity. Plus, she said, “the forms are subjective, and you usually only get a few minutes with the person, if you get a meeting at all.” Under pandemic restrictions these meetings were put on hold, making the possibility to have release approved all the more difficult. This untenable situation would be despairing, leaving one to question whether the system was ever set up to meet one’s needs.

Instead, the system put people in far worse situations. Even under ‘normal’ circumstances, prison populations exhibit mental health problems at rates higher than the free public, a situation further exacerbated by the stress of the pandemic. During this time, additional restrictions on social activities, work, education, religious activities, delays in court hearings and legal counsel, and greater use of solitary confinement as distancing measures, made what were already unconstitutional living conditions unfathomably worse (Johnson, et. al., 2021: 1-8). Yet, throughout all of this, while to some extent recognizing the shortcomings

given the situation, INPEC and the Justice Department's official portrayal of the situation was one of control, claiming they were still adhering to their rehabilitative objectives (El Espectador, 2021). This was not true according to reports and interviews obtained from detainees.

An increasing number of studies show that punitive systems which fail their rehabilitative purposes contribute to rising prison populations. These populations are also generally concentrated among vulnerable groups, thus causing further marginalization of these communities (Global Prison Trends, 2020: 4). This highlights another key consideration, which is that the human rights and economic impacts of prison are felt well beyond prison walls. Studies have documented negative effects from incarceration on children, families, communities, and wider society (Gaillard, et. al., 2016: 11; IPRT, 2020: 4, 5; Global Prison Trends, 2021: 4-6, 20, 23, 24-27).

### *Conforming to Outside Political Interests*

The categorical property of *conforming to outside political interests* emerged from much of the same data that supported the category of *outside political influence*. But in this case, the objective was to parse out what acted as a driver of the topic instead of treating it as a static category. Two claims were made on the topic of the drug offense exclusion in Decree 546 in the discussion of *outside political interests*. One, that there is profitability for US contractors in securing drug convictions in Colombia. Two, that there is a lack of truly gender-responsive criminal policy. The process indicating the 'why' of the drug offense exclusion builds off these points. The annual aid package delivered from the US to Colombia for the fiscal years of 2020 and 2021, which included additional budget measures for Covid-19 relief, were dependent on the Colombian government's continued adherence to military and judiciary practices born out of Plan Colombia (Beittel, 2021: 30). The legacy stipulations, now under the follow-up National Consolidation Plan, have seen pendulum swings through different Colombian and US administrations and the fragile peace deal, oscillating between military and counter-narcotics focused campaigns, to ones more rooted in human rights and restorative justice particularly after the peace deal was signed (Beittel, 2021: 34).

However, following the disintegration of the peace accord under President Duque, which saw the re-organization of some armed groups, illicit narcotics production has ramped up to

unprecedented levels and expanded even further into rural, indigenous, and Afro-Colombian territories (Ariza, Iturralde & Tamayo Arboleda, 2021: 69). The past three years each broke records for coca production in the country, putting pressure on bilateral relations at a key time where Covid-19 relief aid was much needed (Beittel, 2021: 36-39). This has meant a bargaining chip leveraging US aid allocations on refocusing military and policing strategies around the narcotics trade. The Colombian carceral system is by extension, still affected by this scheme, as INPEC still operates under the directorship of a police and military comprised body, and punitive drug laws remain in place (Hernandez-Jimenez, 2020: 9; Iturralde, 2021: El Espectador article).

### *“Building Bigger” as a Strategy*

One of the more unsettling outcomes of the pandemic has been the government’s long-term strategy response toward prison policy. *Acknowledging the severity of the problem* early on, there was clearly a need for additional resources along with more responsible resource allocation. Instead, the response has been to further reinforce structural mechanisms that drive society’s biggest challenges, poverty and inequality. In Justice Minister Cabello Blanco’s radio interview, given in May 2020—relatively early on in the pandemic, when asked about supplementary strategies to mitigate the spread of Covid-19 in Colombian prisons, she said that in addition to Decree 546, the ministry had already given the order to increase prison capacity by 1,500 people at San Angel prison, a new temporary holding facility in Riohacha, and another 1,500-person facility in Periera. She stated that:

*The crisis has helped us to reinforce what had not been achieved in 10 years of claims, to reinforce all the treatment plants of the 132 centers and all the places of health and food preparations. Due to the emergency, we ordered this and looked for resources to do it. In this sense the crisis has also brought good things, and I am pressing USPEC<sup>31</sup> so that they quickly get out the contracts for these improvements.*

Justice Minister Cabello Blanco is not wrong in that the pandemic placed more immediacy on the need for improving existing facilities. However, the problematic aspect is

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<sup>31</sup> Agency responsible for prison services.



that so early on in the pandemic, despite the obvious need for providing direct resources to people imprisoned or vulnerable communities, enormous funds were instead allocated to pushing forward expansion contracts despite mounting evidence that incarceration is a driver of structural inequality (Bowleg, 2020: 4). Furthermore, Ms. Cabello Blanco used the success of securing these contracts in her re-election campaign, and in the recent presidential run-off in Colombia, the conservative party also cited these projects as progressive “humanitarian” approaches to dealing with the prison crisis, thus *using the crisis for political gain* (El Tiempo, 2020).

### *Disregarding the Actual Needs of Women*

The discussion has touched on ways in which Decree 546 and related data have impacted the lives of women and what their perceptions about them either have or may have been. But additional factors demonstrating gender inequalities that developed with the pandemic have also had significant impacts on the ways in which women have experienced imprisonment during this time. Among the most cited difficulties is the reduced interaction with their children. Although INPEC tried to quickly build up its digital capacity in order to offer telecommunication and video visitation as an alternative during visitation suspensions, reports have shown that access was infrequent and unreliable. Furthermore, the digital divide experienced by many marginalized communities created significant barriers to the approach (Iturralde, Santamaria & Uribe, 2020: 22). This reduced even further the emotional caretaking capacities of family members in both directions, which were even more critical during the period of uncertainty and anxiety, with women reporting this as having severe impacts on their mental health (Global Prison Trends, 2021: 18, 19, El Espectador, 2021)<sup>32</sup>.

Additionally, a survey conducted in Buen Pastor women’s prison in Bogota in late 2020, revealed that suspended visitation meant women were unable to receive essential hygiene products typically supplemented by family members. According to the survey women are given one pack of menstrual pads over a three-month period, so without the additional supplies from outside the prison, adequate hygiene and dignified conditions were even less attainable

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<sup>32</sup> <https://www.elespectador.com/investigacion/condenadas-a-no-ver-a-sus-hijos-el-impacto-de-la-pandemia-en-la-carcel/#>

(Marmolejo, 2020: 1078; interview with Carolina). Services the government is obligated to provide which were already lacking, such as women specific reproductive healthcare, also became even less available (Global Prison Trends, 2021: 22).

Despite the evidence demonstrating the different effects Decree 546 had on women, one of the sharp criticisms of the system has been the lack of adequate data pertaining to female detainees, both under the decree and under regular circumstances. Some critics point to this factor as the reason behind the prioritization of reestablishing visitation for male detainees over female detainees. Although there is a large body of research indicating the critical importance of maintaining female social bonds as means of reducing the social reproduction of imprisonment (WOLA, 2020: 38), visitation for women came later than it did for men as pandemic restrictions began being lifted. This was attributed by Claudia Bibiana Marino, director of a medium security women's prison in Bogotá, to the fact that medical personnel are required to sign off on detainees' health before in-person visitation could resume, and there have been fewer medical resources available for female detainees (El Espectador, 2022). This dynamic occurred despite a much larger male prison population. So, for over two and a half years, normal visitation hours which were granted weekly, were reduced to 30 minutes monthly, and restrictions still remain in place for children under the age of 12 and elderly persons (El Espectador, 2022). It is important to bear in mind along with these factors, that women are typically imprisoned further from home than men, as there are fewer women's facilities.

These examples clearly demonstrate that although there is gender sensitivity evident in the language of the decree, the effects reveal major discrepancies in actually implementing a gender perspective. In Carolina's interview and interviews referenced through media outlets, detained women consistently claim their expressed and explicit needs have been ignored. Furthermore, regarding Decree 546, given the political evidence presented, it is clear why drug-related offenses were made exclusionary. This more so highlights the lack of a meaningful gender-specific response. One can imagine, however, that no matter the awareness of the politics, the exclusion of drug-related crimes may seem unnecessarily cruel in the socioeconomic landscape. Women know they are not the *cause* of society's problems despite whatever hand they may play in them.

## *Loss of Trust*

As stated, Theme 2, *Loss of Trust*, attempts to explain the processes occurring in the data. Theme 1, *Symbolic Use of Law*, looked at the “what” and “why” of the situation represented in the data, while Theme 2 approaches the subject of “how.” What the preceding discussion intended to show was the way in which certain events and actions made women feel, based in personal accounts, related stories, and imagined emotion and reality. The discussion also aims to show how the data analysis helped the process of losing trust emerge.

Directly within the data, *mistrust* was initially coded in Carolina’s interview when she spoke of paperwork not being delivered to judges by INPEC directorates, saying, “And many times they’re just not delivered even if people did manage to do everything right. They’re lost!” But the code *trust* emerged in less obvious ways elsewhere. In trying to follow a feminist constructivist approach using extant data, the research attempted to draw out prominent emotions underlying those relationships that were drawn between categories. As highlighted in the discussion, frequent emotions were frustration, hopelessness, helplessness, and anger. The study made an effort to build the analytical scaffolding ‘up’ by constructing an idea of an emotional process overarching the lower categorical relationships. This is where *losing trust* became solidified in the research as a theme.

From this point the investigation aimed to understand further the processes driving *loss of trust*. This was loosely based on Biernacki’s model for the Theory of Identity Transformation, which at a similar point in the theoretical construction attempts to explain the properties of becoming ordinary (Biernacki, 1986: 160-167). Here, the approach aimed to explain the properties of *losing trust* as a way to guide the somewhat ambiguous research process. However, the constraints of the data in terms of only having one interview and therefore only one personal perspective (aside from that of the researcher), presented a challenge for constructing a theory based in the realities of the group at the core interest of this study. As discussed in chapter 3, this was a difficult aspect to navigate from the outset, but the idea was to circumvent this circumstance creatively in the approach to extant data. What resulted instead were properties associated with perceived drivers of *losing trust*, but looking at how and where the process happened more rooted on the side of policymakers.

A major flaw lies in how *'properties of losing trust'* is approached. The theory presented would be better grounded if the properties were more clearly defined from the experiences of the female detainees, to understand what personally, within them, they feel causes them to *lose trust*. This is one area the research could focus on more directly if the study were to continue with more access granted. The second area deserving increased focus is *selling fear to the public*. This also emerged in higher levels of analysis. What became interesting about this category was that it also represented a meaningful action process, but instead treated detainees as a category and exhibited a macro-level process in which the government was interacting with society. What was compelling about this emergent category was that while detainees were treated as a category unto themselves, there were still varying gender components. To give some examples, there were points noted from a series of studies presented across key reports on Latin American prisons that led to the following themes. *Stigmatization* was experienced by all genders but manifested differently. Men experienced stigmatization based on perceptions of gang association and drug use, while women experienced stigmatization based on perceptions of imprisonment being an 'anti-feminine' experience, thus portraying women in the free world as somehow more feminine than those involved with the judicial system. Members of the LGBTQI+ community experienced far greater stigmatization and marginalization both in communities post-release, and even more so inside penal facilities (WOLA, 2019: 5-9; Global Prison Trends, 2021: 20-26; Gilbert, 2022: 10-14; Gilbert 2007: 66; Woods, 2016: 535-538, Wang, et. al., 2020: 16, 17, 23, 45-49, etc.).

The study relied heavily on the notion that some emotional outcomes for certain kinds of events are based loosely in a sort of universal truth. While this may not be appropriate for all settings, in the case of absence of freedom and violation of rights, perhaps there is more common human emotional experience than may be found elsewhere. The constructivist approach would support this claim. But ultimately there are some obvious weak points in the data. Namely that it lacks enough volume to deepen the sense of meanings bestowed on the symbols, i.e., Decree 546, Manifesto, and radio interview, but also the symbolic outcomes of those articles and events. However, given the limited scope of the study, the theoretical claim is aptly placed within the data. It would simply be better grounded in a wider study, whether that be with more participants or an interview going into greater depth of personal history, more expansive perceptions, and ongoing projects. Ideally it would be both.

## 6 Discussion

The purpose of this study from the outset was to look at the disproportionate effects of incarceration on women in Colombia. With the emergence of the pandemic, the trajectory of the research became focused on novel aspects contributing to these effects. This ultimately shone light on ways in which responses to the pandemic reinforced the disproportionate effects of incarceration experienced by women, despite the appearance of accounting for their particular needs. While there was not a specific end goal for theorization regarding these experiences, the emergent theme of trust sets a foundation for broad connections made to overarching social problems in Colombia. In this case, the prison setting can be viewed as a microcosm, or more appropriately, culmination of the ongoing challenges facing Colombian society outside the prison walls.

One aspect that made the pandemic setting particularly hopeful from the perspective of abolitionism, was the opportunity to test initial but significant steps in the abolition process prompted by international emphasis on human rights. When Decree 546 and similar legislation elsewhere was passed, these measures seemed like major strides toward the alignment of evidence-based, gender-responsive approaches to punishment, which could open the door to more lasting community-based approaches to criminality. What ensued instead in the case of Colombia, was the opportunity to observe how structures of oppression can become reinforced under the pressures of the sociopolitical climate. This fact is underscored by observing the developing situation through the abolition lens, which calls attention to the expansion of the Colombian carceral system through legislation like Decree 546. Therefore, with the research motivated from the outset by a desire to see how the outcome of Decree 546 could be used to better inform or prepare the system for future novel pressures, it ultimately serves as evidence to promote alternative practices that truly take women's circumstances and needs into account.

Regarding the project, key points should be stated about the researcher's perspective in this discussion. Although the research is focused on women, it does not intend to suggest that they are of greater importance than men. Certainly, the issue of incarceration by sheer volume is more problematic for men. The specific interest in women in this case, came from parallels drawn between issues of gender discrimination and violence resulting from structural issues in Colombia, and seeing these patterns reflected in the carceral system. Many of these same

factors hold true for men. But the unique place of women in society, as primary caretakers, and being the mothers, sisters, and daughters of men, highlights the importance of their roles in families and communities, and connects deeply to issues of male incarceration as well.

Another key point is that there are no doubt personal views evident in calling out the failures and shortcomings of the Colombian judiciary system and INPEC in this project. As an abolitionist it is virtually impossible to take stock of penal institutions in capitalistic society without taking a negative stance. However, this does not mean that by calling out such failures in attempts to address pandemic issues and complex problems, any easy solutions are suggested. The systemic nature of the problems means solutions could not possibly be easy. But institutions and governments should be challenged to improve, particularly when it comes to the most marginalized people in their societies and particularly when there is an overwhelming body of evidence increasingly demonstrating that current practices perpetuate structural problems. Holding institutions accountable is therefore crucial in the pursuit of change.

Lastly, and most importantly, this project didn't set out to look at the larger issue of the delicate peace negotiations. But the issue is virtually impossible to separate from the themes that emerged in the research. The truth is, as was touched on throughout this thesis, that every Colombian is affected in some way by the ongoing conflict. Particularly the most marginalized and vulnerable in the country who exist in the most rural places where there has been a sharp rise in conflict, to the most populous cities which are full of displaced people trying to escape it. Parallels are emphasized by the fact that women have been considered key stakeholders in the fragile and yet unfolding peace process, precisely because of issues which are also driving female incarceration in Colombia. Yet their unique position is still not meaningfully reflected in government policy (Parada-Hernandez & Marin-Jaramillo, 2021: 2-6).

This is why the theory of *loss of institutional trust through empty policy*, which developed out of the analysis of an artifact, justifies comparisons between the situations and implies appropriate application across multiple political and cultural contexts. Arguably, the idea is obvious enough even without explanation, but in the process of attempting to 'discover' a theory in the data, loss of institutional trust became glaringly important. Even more so when considering the role of government in protecting the most marginalized at their greatest time

of need, especially considering ripple effects on families and communities. Governments should be scrutinized based on how well they take care of their most vulnerable. Therefore, if deliberate action is taken to prevent the health and wellbeing of the most vulnerable at the most critical hour, how can a citizenry assume the government will look out for their best interest when the stakes are even higher?

## References

- Addressing the Global Prison Crisis: Strategy 2015-2017. (2015). Vienna: *United Nations Office on Drugs and Crime*. Retrieved from: [https://www.unodc.org/documents/justice-and-prison-reform/UNODC\\_Strategy\\_on\\_Addressing\\_the\\_Global\\_Prison\\_Crisis.pdf](https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Strategy_on_Addressing_the_Global_Prison_Crisis.pdf)
- Agee, J. (2009) Developing Qualitative Research Questions: A Reflective Process. *International Journal of Qualitative Studies in Education*. 22(4): 431-447. DOI: <https://doi.org/10.1080/09518390902736512>
- Allen, M. (2011) Constructivist Feminist Grounded Theory Study. *Qualitative Research*. 11(1): 23-45. DOI: 10.1177/1468794110384452
- Arboleda, J., Petesch, P., and Blackburn, J. (2004) *Voices of the Poor in Colombia: Strengthening Livelihoods, Families, and Communities*. Washington DC: The World Bank. Retrieved from: <https://openknowledge.worldbank.org/bitstream/handle/10986/14923/298900PAPER0CO0Voices0of0the0poor.pdf?sequence=1&isAllowed=y>
- Ariza, Libardo, & Iturralde, Manuel. (2017). *Women, Crime and Prison. Política criminal*, 12(24), 731-753. <https://dx.doi.org/10.4067/S0718-33992017000200731>
- Ariza, J. L., Iturralde, M., and Tamayo Arboleda, F. L. (2021) Del Carcelario al Barrio. Caracterización Cultivada de la Reincidencia Criminal de Colombia. *Estudios de Derecho*. 78(171): 65-87. Doi: 10.17533/udea.esde.v78n171a03
- Ariza, J. L., and Lemaitre, J. (2011) “Datos Sin Números” Un Acercamiento al Orden Social en la Cárcel La Modelo. *Revista de Derecho Público*. 26(3): 5-21. Retrieved from: [https://derechopublico.uniandes.edu.co/index.php?option=com\\_content&view=summary&id=66%3Adatos-sin-numeros-un-acercamiento-al-orden-social-en-la-carcel-la-modelo&catid=3%3A26&Itemid=26&lang=es](https://derechopublico.uniandes.edu.co/index.php?option=com_content&view=summary&id=66%3Adatos-sin-numeros-un-acercamiento-al-orden-social-en-la-carcel-la-modelo&catid=3%3A26&Itemid=26&lang=es)
- Avilés, W. (2001) Institutions, Military Policy, and Human Rights in Colombia. *Latin American Perspectives*. 28(1): 31-55. Retrieved from: <https://doi.org/10.1177/0094582X0102800103>
- Background: After Decades of Conflict, Cementing Peace and Securing Justice for Victims in Colombia. (2022) *Justice, Truth, and Dignity*. International Center for Transitional Justice. Retrieved from: <https://www.ictj.org/location/colombia>
- Bhandar, B. and Ziadah, R. (2020) *Revolutionary Feminisms: Conversations on Collective Action and Radical Thought*. London: Verso. Print. ISBN-13: 978-1-78873-777-7
- Blumer, H. (1969) *Symbolic Interactionism*. Englewood Cliffs, NJ: Prentice-Hall. Print.
- Bowleg, L. (2020) Reframing Mass Incarceration as a Social-Structural Driver of Health Inequity. *American Public Health Association*. 110(1): 9-13. Retrieved from: <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305464?role=tab>



Bryman, A. (2012) *Social Research Methods*. 4<sup>th</sup> Edition. New York: Oxford University Press. Print.

Carrier, N., and Piché, J. (2015) Blind Spots of Abolition Thought in Academia: On Longstanding and Emerging Challenges. *Champ Pénal*. Volume 12. Retrieved from: <http://doi.org/10.4000/champpenal.9162>

Castro, I. (2020) “Alvaro Uribe, the Colombian ExPresident, Faces Judicial Worries in the US.” *Open Democracy*. Retrieved from: <http://opendemocracy.net>. (get full address)

Chaparro, S., Pérez Correa, C., and Youngers, C. (2017) Irrational Punishment: Drug Laws and Incarceration in Latin America. The Research Consortium on Drugs and the Law. Regional Report. Retrieved from: [https://www.drogasyderecho.org/wp-content/uploads/2021/11/Irrational\\_Punishments\\_Final.pdf](https://www.drogasyderecho.org/wp-content/uploads/2021/11/Irrational_Punishments_Final.pdf)

Charmaz, K. (2014) Grounded Theory in Global Perspective: Reviews by International Researchers. *Qualitative Inquiry*. 20(9): 1074-1084. DOI: 10.1177/1077800414545235

Charmaz, K. (2016) The Power of Constructivist Grounded Theory for Critical Inquiry. *Qualitative Inquiry*. 23(1):34-45. DOI: 10.1177/1077800416657105

Charmaz, K. (2019) "With Constructivist Grounded Theory You Can't Hide": Social Justice Research and Critical Inquiry in the Public Sphere. *Qualitative Inquiry*. 26(2): 165-176. DOI: 10.1177/1077800419879081. <https://journals-sagepub-com.mime.uit.no/doi/pdf/10.1177/1077800419879081>

Chioda, L. (2017) *Stop the Violence in Latin America: A Look at Prevention from Cradle to Adulthood*. Washington DC: The World Bank Group. Print.

Clear, T. R. (2007) *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Neighborhoods Worse*. University Press Online. DOI: 10.1093/acprof:oso/9780195305791.001.0001

Coronavirus: Healthcare and Human Rights of People in Prison. (2020) *Penal Reform International*. London: PRI. Retrieved from: <https://cdn.penalreform.org/wp-content/uploads/2020/03/FINAL-Briefing-Coronavirus.pdf>

Coronavirus: Preventing Harm and Human Rights Violations in Criminal Justice Systems. (2020) *Penal Reform International*. London: PRI. Retrieved from: <https://cdn.penalreform.org/wp-content/uploads/2020/07/Coronavirus-briefing-July-2020.pdf>

Coyle, A. G. (2009) *A Human Rights Approach to Prison Management. Second Edition*. London: International Center for Prison Studies, King's College. Retrieved from: [A Human Rights Approach to Prison Management \(Andrew Coyle\).pdf](#)

Coyle, A. G. (2021) Prison/Penitentiary (Entry). *Encyclopedia Britannica*. Retrieved from: <https://www.britannica.com/topic/prison>

Crick, E. (2012) Drugs as an Existential Threat: An Analysis of the International Securitization of Drugs. *International Journal of Drug Policy*. 23: 407-414. Retrieved from: <https://pdf.sciencedirectassets.com/271958.1-s2.0-S0955395912X00057/1-s2.0-S0955395912000503/main.pdf>

Cullors, P. (2019) Abolition and Reparations: Histories and Resistance, Transformative Justice, and Accountability. *Harvard Law Review*. 132(6): 1684-1694. Retrieved from: <http://search.ebscohost.com.ezproxy.kpu.ca:2080/login/asp?direct=true&db=bth&AN=135900733&site=ehost-live&scope=site>

Davis, A. (2003) *Are Prisons Obsolete?* Seven Stories Press: New York. Print. ISBN- 13: 98- 1 -58322-581-3

Davis, A., et. al. (2021) *Abolition. Feminism. Now.* Chicago: Haymarket Books. Print.

De Dardel, J. (2016) “Resisting ‘Bare Life’: Prisoners’ Agency in the New Prison Era Culture in Colombia.” Chapter 13 in: *Carceral Spaces: Mobility and Agency in Imprisonment and Migrant Detention*. New York: Routledge. 173-187. Print.

De Dardel, J., & Söderström, O. (2018). New Punitiveness on the Move: How the US Prison Model and Penal Policy Arrived in Colombia. *Journal of Latin American Studies*, 50(4), 833-860.

DeSchutter, O. (2021) Legacies of Colonialism, Patriarchy, Neoliberalism Impede Access to Food, Water, Health Care for World’s Poor. *United Nations General Assembly*. GA/SHC/4327

Retrieved from: <https://www.un.org/press/en/2021/gashc4327.doc.htm>

De Sousa Santos, B. (2006) Globalizations. *Genealogies of the Global: Problematizing Global Knowledge. Theory, Culture and Society*. 23(2): 393-399. Retrieved from: [http://www.boaventuradesousasantos.pt/media/pdfs/Globalizations\\_Theory\\_Culture\\_and\\_Society\\_2006.PDF](http://www.boaventuradesousasantos.pt/media/pdfs/Globalizations_Theory_Culture_and_Society_2006.PDF)

Huertas Diaz, O. (2020) Release Detainees and Convicted Inmates: Between the Prison Crisis and Covid-19. *Periódico Unal*, Universidad Nacional de Colombia. Retrieved from: <http://unperiodico.unal.edu.co/detail>. (get full address)

Douglas, F. (2002) “US Military Engagement in Latin America”. *The Globalization of U.S.-Latin American Relations: Democracy, Intervention, and Human Rights*. Westport, CT: Praeger Publishers. Chapter 8. Print.

Eastwood, N., Fox, E., and Rosmarin, A. (2016) A Quiet Revolution – Decriminalisation Across the Globe. *Release: Drugs, The Law, and Human Rights*. ISBN - 0-904932-45-1

Enggist, S., et. al. (2013) Good Governance for Prison Health in the 21st Century: A policy briefing on the organization of prison health. *United Nations Office on Drugs and Crime*. ISBN 978 92 890 0050 5

Enggist, S., et. al. (2014) Prisons and Health. *World Health Organization*. ISBN: 978 92 890 5059 3. Retrieved from:

[https://www.euro.who.int/\\_data/assets/pdf\\_file/0005/249188/Prisons-and-Health.pdf](https://www.euro.who.int/_data/assets/pdf_file/0005/249188/Prisons-and-Health.pdf)

Farmer, P. (2006) Structural Violence and Clinical Medicine. *PLoS Med* 3(10) 449-457. Retrieved from:

<https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.0030449>

Felbab-Brown, V. (2010) Shooting Up: Counterinsurgency and the War on Drugs.

Washington DC: Brookings Institution Press. Retrieved from: <https://ebookcentral-proquest-com.mime.uit.no/lib/tromsoub-ebooks/reader.action?docID=472718&ppg=85>

Ferrajoli, L., et. al. (2020) Rumbo a un Genocidio Carcelario en Colombia: Manifiesto en Contra del Decreto 46 de 2020. *Observatorio del Sistema Penal y los Derechos Humanos, Universidad de Barcelona. Revista Critica Penal y Poder*. 19(167-176). Retrieved from:

<https://revistes.ub.edu/index.php/CriticaPenalPoder/article/view/31392/31397>

Flick, U. (2019) "Coding for Grounded Theory". *The SAGE Handbook of Current Developments in Grounded Theory*. Chapter 6. DOI: <https://dx-doi-org.mime.uit.no/10.4135/9781526485656>

<https://dx-doi-org.mime.uit.no/10.4135/9781526485656>

Flick, U. (2019) "From Intuition to Reflexive Construction: Research Design and Triangulation in Grounded Theory Research". *The SAGE Handbook of Current Developments in Grounded Theory*. Chapter 6. DOI: <https://dx-doi-org.mime.uit.no/10.4135/9781526485656>

<https://dx-doi-org.mime.uit.no/10.4135/9781526485656>

Foucault, M. (1979). *Discipline and punishment: The Birth of the Prison*. New York, NY: Random House. Print.

Garland, D. (2001) The Meaning of Mass Imprisonment. *Punishment and Society*. 3(1):5-7. Retrieved from:

[https://journals.sagepub.com/doi/pdf/10.1177/14624740122228203?casa\\_token=s7usez3EymIAAAAA:FyAyd\\_mT7ZZyj1HOwzDljCODPQoYRMNRt0S8PgzcVMB0YP-GDrTuu7o6Blv9hYyimgkL90d1Z46](https://journals.sagepub.com/doi/pdf/10.1177/14624740122228203?casa_token=s7usez3EymIAAAAA:FyAyd_mT7ZZyj1HOwzDljCODPQoYRMNRt0S8PgzcVMB0YP-GDrTuu7o6Blv9hYyimgkL90d1Z46)

Galtung, J. (1990) Cultural Violence. *Journal of Peace Research*. 27(3) 291-305. Retrieved from: <https://doi.org/10.1177/0022343390027003005>

Galtung, J. (1969) Violence, Peace, and Peace Research. *Journal of Peace Research*. 6(3): 167-191. Retrieved from: <http://www.jstor.org/stable/422690>

Garzon Vergara, J. C., et. al. (2015) Technical Report on Alternatives to Incarceration for Drug-Related Offences. Joint Report: *Organisation of American States (OAS) & Inter-American Drug Abuse Control Commission (CICAD)*.

[http://cicad.oas.org/fortalecimiento\\_institucional/dtca/publications/ReportOnAlternativesToIncarceration\\_ENG.pdf](http://cicad.oas.org/fortalecimiento_institucional/dtca/publications/ReportOnAlternativesToIncarceration_ENG.pdf)

Giacomello, C. (2017). Women and Drug Policies in Latin America: A Critical Review of the United Nations Resolution 'Mainstreaming a Gender Perspective in Drug-Related Policies

And Programmes'. *The Howard Journal of Crime and Justice*, 56(3), 288-308.  
doi:10.1111/hojo.12216

Giacomello, C. and Garcia Castro, T. (2020) Imprisoned at Home: Women Under House Arrest in Latin America. Washington DC: Washington Office on Latin America. Retrieved from: <https://www.wola.org/wp-content/uploads/2020/07/Imprisoned-at-Home.pdf>

Goldberg, E., and Evans, L. (1998) *The Prison Industrial Complex and the Global Economy*. San Francisco: Agit Press. Print.

Goulding, C. (1999) Grounded Theory: Some Reflections on Paradigm, Procedures, and Misconceptions. *University of Wolverhampton Management Research Centre*. Retrieved from: <https://wlv.openrepository.com/bitstream/handle/2436/11403/Goulding.pdf?sequence=1&isAllowed=y>

Hernandez, J. S. (2020) Del Miedo a la Acción, Una Crisis en la Crisis: Estrategias Para Proteger Las cárceles del Coronavirus. *Dejusticia*. Retrieved from: <https://www.dejusticia.org/wp-content/uploads/2020/08/8-ESTRATEGIAS-PARA-PROTEGER-LAS-C%C3%81RCELES.pdf>

Hernandez-Jimenez, N. (2020) Covid-19 and Judicial Decision: Competence to Decide the Measures of Decree 546 of 2020. *Justicia*. (25)37:11-23.  
<https://doi.org/10.17081/just.25.37.4353>

Hesse-Biber, S., and Flowers, H. (2019) "Using a Feminist Grounded Theory Approach in Mixed Methods Research". *The SAGE Handbook of Current Developments in Grounded Theory*. Chapter 24. DOI: <https://dx-doi-org.mime.uit.no/10.4135/9781526485656>

Hiller, J. (2018) Cambiamos Las Rejas: Crisis Reform and the Search for Justice in Colombia's Prisons, 1934-2018. *The Stone Center for Latin American Studies*. Retrieved from: [http://gateway.proquest.com/openurl?url\\_ver=Z39.88-2004&rft\\_val\\_fmt=info:ofi/fmt:kev:mtx:dissertation&res\\_dat=xri:pqm&rft\\_dat=xri:pqdiss:10846854](http://gateway.proquest.com/openurl?url_ver=Z39.88-2004&rft_val_fmt=info:ofi/fmt:kev:mtx:dissertation&res_dat=xri:pqm&rft_dat=xri:pqdiss:10846854)

Internal Displacement Monitoring Centre (IDMC). (2022) Country Profile: Colombia. <https://www.internal-displacement.org/countries/colombia#displacement-data>

Irminger, F., and Kittay, K. (2020) Global Prison Trends. *Penal Reform International*. London: PRI. Retrieved from: <https://www.penalreform.org/resource/global-prison-trends-2020/>

Iturralde, M. (2019) Neoliberalism and its Impact on Latin American Crime Control Fields. *Theoretical Criminology*. 23(4): 471-490. <https://doi.org/10.1177/1362480618756362>

Iturralde, M. (2021) Paro Nacional: ¿Y las Cárceles? *El Espectador*. Retrieved from: <https://www.elespectador.com/judicial/paro-nacional-y-las-carceles/>

Iturralde, M. (2011) Prisiones y Castigo en Colombia: La Construcción de un Orden Social Excluyente. *Los Muros de la Infamia: Prisiones en Colombia y en América Latina*. 110-194. Retrieved from: <https://biblioteca.corteidh.or.cr/tablas/r27395.pdf>

Iturralde, M., Santamaria, N., and Uribe, J. P. (2020) Covid-19 y la Crisis Estructural de las Prisiones en Colombia. Diagnostico y Propuestas de Solución. *Friedrich Ebert Stiftung*. <http://library.fes.de/pdf-files/bueros/kolumbien/17264.pdf>

Johnson, L., et. al. (2021) Scoping Review of Mental Health in Prisons Through the Covid-19 Pandemic. *British Medical Journal*. doi:10.1136/bmjopen-2020-046547

Karandinos, G., and Bourgois, P. (2019) The Structural Violence of Hyperincarceration. *The New England Journal of Medicine*. 380(3) 205-209. Retrieved from: [http://www.antonioacasella.eu/salute/Karandinos\\_Bourgois\\_2019.pdf](http://www.antonioacasella.eu/salute/Karandinos_Bourgois_2019.pdf)

Kinner, S., et. al. (2020) Prisons and Custodial Settings are Part of a Comprehensive Response to Covid-19. *The Lancet*. Volume 5. 187-189. Retrieved from: [https://doi.org/10.1016/S2468-2667\(20\)30058-X](https://doi.org/10.1016/S2468-2667(20)30058-X)

Klein, R. D. (1983) The 'men' Problem in Women's Studies. *Women's Studies International Forum*. 6(4): 413-421. [https://doi.org/10.1016/0277-5395\(83\)90034-1](https://doi.org/10.1016/0277-5395(83)90034-1)

Linares, A. (2021) "A Perfect Storm: What's Behind the Colombian Protests?" *Noticias Telemundo*. Online news article. Retrieved: 08/2/21. <https://www.nbcnews.com/news/latino/colombia-protests-rcna894>

Mahoney, J. (2003). Long-run Development and the Legacy of Colonialism in Spanish America. *The American Journal of Sociology*, 109(1), 50-106. Retrieved from: <https://www-jstor-org.mime.uit.no/stable/10.1086/378454?seq=1>

Marmolejo, L., et. al. (2020) Responding to COVID-19 in Latin American Prisons: The Cases of Argentina, Chile, Colombia, and Mexico. *Victims & Offenders*. 15(7): 1062-1085, Retrieved from: <https://doi.org/10.1080/15564886.2020.1827110>

Martinez, L. (2003) "Análisis Sobre el Actual Hacinamiento Carcelario y Penitenciario en Colombia". Defensoría Del Pueblo Colombia: Derechos humanos para vivir en paz. Retrieved from: <https://grupodeprisiones.uniandes.edu.co/images/stories/relatorias/PRISIONES-OCT2011/ENT.ESTATALES/DEFENSORIA/INFORMES/analissobreelactualhacinamiento2003.pdf>

Mason, G., and Stubbs, J. (2010). Beyond Prison: Women, Incarceration and Justice? *Current Issues in Criminal Justice*, 22(2), 189-192. <https://heinonline-org.mime.uit.no/HOL/Page?handle=hein.journals/cicj22&id=203&collection=journals&index>

McClintock, M. (1992) Instruments of Statecraft: U.S. Guerilla Warfare, Counterinsurgency, and Counterterrorism, 1940-1990. New York: Pantheon Books. Print.

McHugh, P. (1966). Social Disintegration As a Requisite of Resocialization. *Social Forces*, 44(3), 355–363. <https://doi.org/10.2307/2575835>

Mejía, D. (2016) Plan Colombia: An Analysis of Effectiveness and Costs. *Foreign Policy at the Brookings Institute* in collaboration with Universidad de los Andes and UNGASS. Retrieved from: <https://www.brookings.edu/wp-content/uploads/2016/07/mejia-colombia-final-2.pdf>

Metaal, P., and Youngers, C. (2011) Systems Overload: Drug Laws and Prisons in Latin America. Transnational Institute. Washington DC: Washington Office on Latin America. Retrieved from: [TNI Systems Overload.pdf](#)

Miller, R. J. (2014) Devolving the Carceral State: Race, Prisoner Reentry, and the Micro-Politics of Urban Poverty Management. *Punishment and Society*. 16(3): 305-335. Retrieved from: [https://journals.sagepub.com/doi/pdf/10.1177/1462474514527487?casa\\_token=9hPii1dcb3kAAAAA:5l5FUjdu7Gi6O8NEvMearXaPwh-zr4RqKh02MHto6sRfpV42-rWLkRfQGKkihtHjTH5wu9HM93iS](https://journals.sagepub.com/doi/pdf/10.1177/1462474514527487?casa_token=9hPii1dcb3kAAAAA:5l5FUjdu7Gi6O8NEvMearXaPwh-zr4RqKh02MHto6sRfpV42-rWLkRfQGKkihtHjTH5wu9HM93iS)

Ortiz, J., and Jackey, H. (2019) The System is Not Broken, It Is Intentional: The Prisoner Reentry Industry as Deliberate Structural Violence. *The Prison Journal*. 99(4): 484-503. Retrieved from: <https://doi.org/10.1177/0032885519852090>

Owen, B., et al. (2017) *In Search of Safety: Confronting Inequality in Women's Imprisonment*. Oakland: University of California Press. Print. ISBN: 9780520288713

Pearce, J. (1990) *Colombia: Inside the Labyrinth*. London: Latin American Bureau, (Research and Action) Limited. Print.

Plummer, M., and Young, L. (2010) Grounded Theory and Feminist Inquiry. *Western Journal of Nursing Research*. 32(3): 305-321. DOI: 10.1177/0193945909351298

Ralph, N., Birks, M., and Chapman, Y. (2014). Contextual Positioning: Using Documents as Extant Data in Grounded Theory Research. *Sage Journals*. 4(3). DOI: <https://doi.org/10.1177%2F2158244014552425>

Redmon, M. (2015) Symbolic Interactionism (Chapter 5). *Human Communication Theory*. Iowa State University Press. Retrieved from: <https://core.ac.uk/download/pdf/128976014.pdf>

Rendon-Gonzalez, N. (2022) Colombia: Example of Increased Criminality by Women. *Center for Latin American and Latino Studies, American University*. Retrieved from: <https://aulablog.net/2022/01/28/colombia-example-of-increased-criminality-by-women/>

Roberts, K., et. al. (2021) It's More Complicated Than it Seems, Virtual Qualitative Research in the Covid-19 Era. *International Journal of Qualitative Methods*. 20: 1-13. DOI: 10.1177/16094069211002959

Romero, L. (2021) Colombia: Informal Employment. *Statista*. Retrieved from: <https://www.statista.com/statistics/1039930/informal-employment-share-colombia/>

Romero, L., Stalman, L., and Hidalgo-Sola, A. (2021) The Covid-19 Pandemic and Prison Policy in Latin America. *The Dialogue*. Washington DC: Inter-American Dialogue. Retrieved from: <https://www.thedialogue.org/wp-content/uploads/2021/04/The-Covid-19-Pandemic-and-Prison-Policy-.pdf>

Rose, D. (2011) Revisiting Feminist Research Methodologies. *Feminism and Psychology* [https://www.researchgate.net/publication/228376960\\_Revisiting\\_Feminist\\_Research\\_Methodologies\\_A\\_Working\\_Paper](https://www.researchgate.net/publication/228376960_Revisiting_Feminist_Research_Methodologies_A_Working_Paper)

Rubin, H. J., and Rubin, I. S. (2005) Qualitative Interviewing: The Art of Hearing Data (2<sup>nd</sup> Ed.). *SAGE Publishing: Los Angeles*. Print. ISBN: 9781452226651

Russell, E., and Carlton, B. (2013) Pathways, race and gender responsive reform: Through an abolitionist lens. *Theoretical Criminology*. 17(4): 474-492. DOI: 10.1177/1362480613497777. <https://journals-sagepub-com.mime.uit.no/doi/pdf/10.1177/1362480613497777>

Salvatore, R. D. and Aguirre, C. (1996) *The Birth of the Penitentiary in Latin America: Essays on Criminology, Prison Reform, and Social Control, 1830-1940*. Austin, Texas: University of Texas Press. Print.

Sarmiento, C. B., and Hurtado, M. R. (2007) De La Modelo a Coleman (o de cómo las Cárceles en Colombia se Volvieron de Verdad. *Análisis de Las Políticas Públicas en Torno a La Prisión*. Bogotá: Universidad Externado. 17-66. Retrieved from: <https://doi.org/10.2307/j.ctv1ks0b8h.11>

Schuck, E. P., Backes, B., and Wang, A. (2020). Decarcerating Correctional Facilities during COVID-19: Advancing Health, Equity, and Safety. Washington (DC). <https://www.ncbi.nlm.nih.gov/pubmed/33411438>

Serrano, M. (2018) “Despite economic growth, Colombia continues to be one of the most unequal countries in the world.” *Periodico UNAL: Universidad Nacional de Colombia*. Retrieved from: <http://unperiodico.unal.edu.co/pages/detail/despite-economic-growth-colombia-continues-to-be-one-of-the-most-unequal-countries-in-the-world/>

Skolaridis, S. (2009) The Process of Conducting Qualitative Grounded Theory Research for a Doctoral Thesis: Experiences and Reflections. *The Qualitative Report*. 14(4): 719-734. DOI: 10.46743/2160-3715/2009.1375

Shadmi, E., et. al. (2020) COVID-19, Health, Equity, and Global Perspectives. *International Journal for Equity in Health*. 19: 104. <https://doi.org/10.1186/s12939-020-01218-z>

Simon, J. (2010) Beyond the Panopticon: Mass Imprisonment and the Humanities. *Law, Culture, and the Humanities*. 6(3) 327-340. Retrieved from: [https://journals.sagepub.com/doi/pdf/10.1177/1743872110374255?casa\\_token=FnYuH-WNhi4AAAAA:Z77EVSMy2MHXBauGR2EzkLRAVpfLsPGG7jtwws7vxk7h-9TbEtdGwcZqripY4mYMWquNCjZQ8Ve](https://journals.sagepub.com/doi/pdf/10.1177/1743872110374255?casa_token=FnYuH-WNhi4AAAAA:Z77EVSMy2MHXBauGR2EzkLRAVpfLsPGG7jtwws7vxk7h-9TbEtdGwcZqripY4mYMWquNCjZQ8Ve)

Söderholm, A. (2021) Prisons and Covid-19: Lessons From and Ongoing Crisis. *International Drug Policy Consortium (IDPC)*.  
[http://files.idpc.net/library/Prisons\\_COVID\\_Lessons.pdf](http://files.idpc.net/library/Prisons_COVID_Lessons.pdf)

Special Report: Colombia (2000) The Ties That Bind: Colombia and Paramilitary Links. *Human Rights Watch* 12(1): 1-12. Retrieved from:  
<https://www.hrw.org/reports/2000/colombia/#:~:text=Together%2C%20evidence%20collected%20so%20far,all%20of%20Colombia's%20five%20divisions.>

Steman, D. (2017) The Prison Paradox: More Incarceration Will Not Make Us Safer. *Vera Research Advisory Board and the Department of Criminal Justice and Criminology, Loyola University*. Retrieved from: [Prison Paradox for the record-prison-paradox\\_Vera project.pdf](#)

Study of the Working Group on Arbitrary Detention Relating to Drug Policies. (2021) *United Nations Human Rights Council (UNHCR)*. Retrieved from: <https://www.wola.org/wp-content/uploads/2021/09/G2110965.pdf>

Sudbury, J. (2010). 1. Unpacking the Crisis: Women Of Color, Globalization, And the Prison-Industrial Complex. In *Interrupted Life: Experiences of Incarcerated Women in the United States* (pp. 11-25). Berkeley: University of California Press.  
<https://doi.org/10.1525/9780520944565-003>

Tate, W. (2015) *Drugs, Thugs, and Diplomats: US Policymaking in Colombia*. Stanford, California: Stanford University Press. Print.

United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary (Bangkok Rules). (2011) UNOCD. Retrieved from: [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf)

United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). (2015) Vienna: UNOCD. Retrieved from: [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf)

Uprimy Yepes, R., and Guzman, D. E. (2019) Drug Policy and the Prison Situation in Colombia. Transnational Institute. Washington DC: Washington Office on Latin America. Retrieved from: [tni-systems\\_overload-executivesummary-def.pdf](#)

Vanwanbeke, E., and Alvarez, F. (2018) Designing Reintegration with Prisoners: A Case Study of a Participatory Process Based on Industrial Design with Female Inmates in the San Diego Jail, Cartagena de Indias, Colombia. Retrieved from:  
<https://revistas.unal.edu.co/index.php/tsocial/article/view/74306/67260>

Viera, C. (2008) “Colombia: International Criminal Court Scrutinises Paramilitary Crimes.” *Inter Press Service News Agency*. News Report. Retrieved from:  
<https://www.ipsnews.net/2008/08/colombia-international-criminal-court-scrutinises-paramilitary-crimes/>



Villegas, M. (2016) *The Symbolic Uses of Law At the Heart of a Political Sociology Law*. Chapter 2. Cambridge: Cambridge University Press. Retrieved from: [\\*the-symbolic-uses-of-law.pdf](#)

Vuori, J. (2015) *Constructivism and Securitization Studies*. The Routledge Handbook of Security Studies. 2<sup>nd</sup> Edition. 64-74. Retrieved from: <https://doi.org/10.4324/9781315753393>

Wacquant, L. (2009) *Crafting the Neoliberal State: Workfare, Prisonfare, and Social Insecurity*. Retrieved from: <https://onlinelibrary-wiley-com.mime.uit.no/doi/pdfdirect/10.1111/j.1573-7861.2010.01173.x>

Wacquant, L. (2000) The New 'Peculiar Institution': On the Prison as a Surrogate Ghetto. *Theoretical Criminology*. 4(3): 377-389. Retrieved from: [https://journals.sagepub.com/doi/pdf/10.1177/1362480600004003007?casa\\_token=44OKOV6W29sAAAAA:iSpKduF4VR3F9qgiOPnK0hVT8inQkweQeoQgB2OxeCubKVuoLTh9rK4zc5c4ZaL2-cj\\_BCHmVQmK](https://journals.sagepub.com/doi/pdf/10.1177/1362480600004003007?casa_token=44OKOV6W29sAAAAA:iSpKduF4VR3F9qgiOPnK0hVT8inQkweQeoQgB2OxeCubKVuoLTh9rK4zc5c4ZaL2-cj_BCHmVQmK)

Wang, E., et. al. (2020) *Decarcerating Correctional Facilities During Covid-19: Advancing Health, Equity, and Safety*. Washington DC: The National Academy Press. DOI: 10.17226/25945

Wigginton, B., and Lafrance, M. N. (2019) Learning Critical Feminist Research, A Brief Introduction to Feminist Epistemologies and Methodologies. *Feminism and Psychology*. 0(0): 1-17. DOI: 10.1177/0959353519866058

Wilson-Gilbert, R. (2022) *Change Everything: Racial Capitalism and the Case for Abolition*. Chicago: Haymarket Books. Print.

Wilson-Gilbert, R. (2007) *Golden Gulag: Prison Surplus, Crisis, and Opposition*. Oakland: University of California Press. Print.

Woods, C. (2016) Addressing Prison Overcrowding in Latin America, A Comparative Analysis of the Necessary Precursors to Reform. *ILSA Journal of International & Comparative Law*: 22(3): 534-560. Retrieved from: <https://nsuworks.nova.edu/ilsajournal/vol22/iss3/3>

WOLA. (2016) 15th Anniversary of Plan Colombia: Learning From its Successes and Failures. *Washington Office on Latin America*. Retrieved from: [https://www.wola.org/files/1602\\_planco/](https://www.wola.org/files/1602_planco/)

Women Resisting, Bringing Down the Bars First Workshop of Women from the Americas Who Have Been in Prison: Executive Summary of the Workshop Sessions. (2019). Washington DC: WOLA. Retrieved from: <https://www.wola.org/wp-content/uploads/2019/10/Women-Resisting-Bringing-Down-the-Bars-1.pdf>

## **Key Media Articles:**

<https://colombiareports.com/amp/colombia-seeks-foreign-companies-prison-privatization-effort/>

<https://www.elspectador.com/investigacion/condenadas-a-no-ver-a-sus-hijos-el-impacto-de-la-pandemia-en-la-carcel/>

<https://www.elspectador.com/judicial/recomendaciones-para-salir-de-la-crisis-carcelaria-en-medio-de-la-pandemia-article/>

<https://www.elspectador.com/judicial/la-militarizacion-de-la-vigilancia-y-custodia-de-los-detenidos-un-paso-en-falso/>

<https://www.elspectador.com/investigacion/crisis-carcelaria-en-colombia-que-hacer-con-el-inpec/>

<https://www.elspectador.com/contenido-patrocinado/quien-cuida-los-dineros-asignados-para-los-internos-de-las-carceles-en-colombia/>

<https://www.elspectador.com/judicial/carceles-colombianas-en-medio-de-la-pandemia-atrapados-sin-salida-article/>

<https://www.elspectador.com/judicial/los-archivos-secretos-del-hackeo-a-la-fiscalia/>

<https://www.elspectador.com/judicial/la-crisis-delegada-hacinamiento-en-estaciones-de-policia-y-uris/>

<https://www.eltiempo.com/justicia/cortes/la-respuesta-del-gobierno-a-27-preguntas-de-la-corte-sobre-decreto-de-carceles-492850>

<https://www.eltiempo.com/justicia/servicios/coronavirus-minjusticia-habla-de-poco-resultado-del-decreto-de-excarcelacion-502936>

<https://www.theguardian.com/world/2022/sep/22/colombia-gustavo-petro-total-peace>

<https://www.bbc.com/news/world-latin-america-35491504>

## Appendix A: Interview Questions

- ¿Cuáles fueran sus impresiones iniciales al respecto a el decreto, y que tal las de colegas o conocidos interesados en las implicaciones de este tipo de legislación?
- ¿Me gustaría saber que tan accesible ha sido información respecto al decreto para esas personas directamente afectadas?
- ¿Qué intereses cree usted que están mejor servidos por esta legislación?
- ¿Qué ha visto usted a consecuencia de este decreto?
- ¿En qué forma diría usted cree que el resultado de esta legislación podría ser usado para promover mejores prácticas en el futuro?
- ¿Piensa o considera que esta es un escalón hacia adelante? Que no va cambiar nada, o tal vez contraproducente?
- ¿Qué cree usted que podría ser una alternativa más realista o de mayor impacto al castigo de prisión?

## **Appendix B: Questions applied to extant texts for contextual positioning**

- How was it produced and by whom?
- What is the ostensible purpose of it? Might it serve other unstated or assumed purposes? Which ones?
- How does it represent what its authors assumed to exist? Which meanings are embedded within it? How do those meanings reflect a particular social, historical, and perhaps organizational context?
- What is the structure of the text?
- How does its structure shape what is said? Which categories can be discerned in its structure? Do the categories change in sequential texts over time? How so?
- Which contextual meanings does the text imply?
- How does its content construct images of reality?
- Which realities does the text claim to represent? How does it represent them?
- What if any, unintended information and meanings might you see in the text?
- How is language used?
- Which rules govern the construction of the text? How can narrative be discerned in them? How do these rules reflect both tacit assumptions and explicit meanings? How might they be related to other data on the same topic?
- When and how do telling points emerge?
- What kinds of comparisons can be made between texts? Between different texts on the same topic? Similar texts at different times? Between different authors who address the same questions?
- Who benefits from the texts? Why?

## **Appendix C: Questions applied to extant texts for eliciting rich data**

- What are the parameters of the information?
- On what and whose facts does this information rest?
- What does the information mean to various participants or actors in the scene?
- What does the information leave out?
- Who has access to the facts, records, or sources of the information?
- Who is the intended audience for the information?
- Who benefits from shaping and/or interpreting this information in a particular way?
- How, if at all, does the information affect actions?