

Speech

International Association of Prosecutors

Latin America has the record of being the most social unequal region in the world. Recently it **has stood out because of its great level of criminal violence**. The cooptation of politicians and the height of criminal violence, arms, drugs and human trafficking, especially the ones that are forced into labor and sexual slavery, represent a global problem which is detrimental to the citizens lives.

Although Latin America and the Caribbean house less than 9% of the planet's population, 33% of the homicides occurred there. According to the Global Study on Homicide published by the United Nations Office on Drugs and Crime in 2019, within the Americas, with an average rate of 17.2 per 100,000 inhabitants, high rates in Central America stand out (25.9) and South America (24.2), well above the rest of the world figures: África (13), Europa (3), Oceanía (2,8) y Asia (2,3).

The only four countries in the world with homicide rates of more than 40 people per 100,000 inhabitants are in Latin America: El Salvador (62.1), Venezuela (57), Jamaica (57) and Honduras (41.7). It is the only region on the planet whose rate has increased, mainly due to the escalation of homicides in the two countries that together account for more than half of the population of the entire Latin American region: Brazil, with 31.6 deaths per 100,000 inhabitants, exceeds the violence of Mexico. We talk about 65,000 annual deaths from homicide in Brazil and 33,000 in Mexico, higher than those in Syria and Iraq.

The proliferation of transnational organized crime groups is becoming the main social problem of the region, a threat to **democracy** and the main **brake on their economic development**. Unfortunately, **those who have understood the global character of the world in which we live and managed to structure their organizations with a logic that exceeds national borders are criminals**. We are witnessing the proliferation of international protection networks that hide fugitives from justice in other countries, of collaboration systems between criminal organizations that

operate worldwide, of a globalized exchange of information, drugs and weapons, interconnected mafias in the region and the world. These are just some of the strategies that reduce the impotence to national organized crime prosecution systems.

Criminal violence and its social consequences have now become a central part of the political agenda of our countries, and inequalities in terms of security, the main factor of social discrimination in the region. Faced with the proliferation of regionally structured criminal organizations, and with powerful connections with their counterparts in other parts of the world, **national security mechanisms prove insufficient and subordinate to impotent, if not corrupt, and complicit political powers.** Instead of being an advantage in terms of efficiency, the proximity of national courts, prosecutors and security forces leaves them at the mercy of corruption and threats of organized crime and limits their sphere of action to the prosecution of minor criminality, without the possibility of promoting the scrapping of criminal organizations by imprisoning their leaders and confiscating their assets.

For all these reasons, a regional strategy is urgently needed to face a crime that is organized on a regional basis. It is in this context that we propose the creation of a LATIN AMERICAN AND CARIBBEAN CRIMINAL COURT AGAINST TRANSNATIONAL CRIME (COPLA).

1. FUNCTIONS

The main function of a LATIN AMERICAN AND CARIBBEAN CRIMINAL COURT AGAINST TRANSNATIONAL ORGANIZED CRIME should be to **complement the criminal prosecution policies carried out by national systems** focusing on two aspects potentially capable of scrapping criminal organizations:

1. **The international persecution of key members of criminal groups**, usually unpunished and / or protected by networks of judicial and political complicity.
2. **The extinction of ownership and the recovery of material goods**: a measure experienced successfully in several countries and of extraordinary effectiveness in the disarticulation of these organizations.

COPLA should be a **complementary and collaborative court of justice regarding national justice and security forces**, established through an **international agreement** and not linked to an existing regional organization. The Statute of the Court must be **consistent with the Palermo Convention against transnational organized crime of the United Nations and its protocols**, and with the commitments that almost all the countries of the region have assumed when signing it.

The crimes provided by the Palermo Convention, which COPLA should investigate, prosecute and eventually punish, are **illicit manufacturing of and trafficking in firearms, trafficking in person, child trafficking and prostitution, smuggling of migrants, drug trafficking, illegal trafficking of cultural property and those related to transnational corruption and money laundering**.

In addition to its specific work as a court, **COPLA should develop agencies that constitute it as an effective instrument in the fight against transnational organized crime**.

Among them, COPLA should promote a **Regional Agency against Transnational Organized Crime (ARCO)** capable of collaborating in the harmonization and improvement of national laws dealing with these crimes, in the establishment of all cooperation mechanisms that promote transparency of the national political systems and

their independence from criminal organizations, in favor of the exchange of information between the police, security forces and other crime prevention and repression agencies of the member states, in promoting coordination between themselves, in the regional organized protection and concealment of witnesses of these crimes, in the institutional coverage and protection of members of civil society whose activity in the fight against these crimes exposes them to reprisals, and in raising awareness about the importance of this problem among Latin American population.

2. THE COPLA CAMPAIGN

The COPLA campaign was originally promoted by Democracia Global, an Argentine NGO, which won the support of renowned academics of different political convictions - from Anthony Giddens to Mario Vargas Llosa - of prosecutors and justice officials - like former prosecutor Antimafia Antonio Di Pietro; Argentine prosecutor José María Campagnoli, national prosecutor Antimafia and Antiterrorismo Federico Cafiero De Raho - and top-level political figures - such as the vice president of Argentina, Gabriela Michetti, the former president of the Oriental Republic of Uruguay, Juan María Sanguinetti and relevant Ministers and legislators from all over Latin America.

Over six years, several declarations, events and meetings allowed the campaign of the Latin American and Caribbean Criminal Court against Transnational Organized Crime (COPLA) to become a regional initiative and a State policy for the government of the Argentine Republic, whose president has announced and promoted in his speeches at various forums, including the General Assembly of the United Nations.

2014- The Argentine Senate established its support for the creation of a Latin American Criminal Court that allows the persecution and prosecution in the region, of organized transnational crime, and for the campaign that is being developed in favor of its constitution.

2015- The Global Organization of Parliamentarians Against Corruption declared to take into account the existence of the campaign for the creation of COPLA, opening the way for the study and debate of such an important issue.

2016- The Ministry of Justice created the Committee of Experts on the Control of Organized Crime and Corruption, to advise the Minister on initiatives of international and regional order such as the formation, with other countries of the region, of a Latin American Criminal Court (COPLA) against organized and extreme crime.

2016- **The Chamber of Deputies of Argentina declared its support for COPLA** as an advanced institutional response that allows consolidating the fight against transnational organized crime in the region.

2016- **Inclusion of the Proposed Statute of COPLA in the “Justice 2020” platform** of the Ministry of Justice.

2016- **The Mercosur Parliament declared of interest the creation of COPLA** and expressed its support for the campaign in favor of its constitution.

2017- **Official presentation of the Proposed Draft Statute** at the prestigious Law School of the University of Buenos Aires.

2017- **In the 72nd General Assembly of the United Nations**, the vice president of the Argentine Republic, **Gabriela Michetti**, said that “**we are working in Argentina, to find the consensus that will allow us to establish in our region, a Latin American tribunal against organized crime**”.

2017- **Creation of two COPLA offices**, one in the **Ministry of Justice and Human Rights**, and the other in the **Ministry of Security of Argentina**.

2018- **The Ministers of Justice, Security and Home Affairs of the Mercosur countries and associated States issued a joint declaration** committing to study feasibility and **explore alternatives to combat organized transnational crime and avoid spaces of impunity such as the COPLA initiative**.

2018- **The Argentine national group of Parliamentarians for Global Action expressed its support for the creation of COPLA** for the persecution and punishment of key members of criminal groups in close collaboration with the national justice and security forces, and the campaign that is being developed with this objective.

2018- **The Euro-Latin American Parliamentary Assembly expressed its support for the creation of COPLA** for the prosecution of crimes related to drug trafficking and organized crime.

2018- **Declaration of Buenos Aires in support of the creation of COPLA** of a complementary nature of national justices and dedicated to the disarticulation of key members of criminal groups that incur in any of the crimes provided for by the Palermo Convention and its Protocols.

2018- **In the 73rd General Assembly of the United Nations**, the president of the Argentine Republic, **Mauricio Macri** said “**we are still looking for the necessary consensus to design a complementary judicial instance, at the regional level, thus fight together against organized crime**”.

2019- **The Chamber of Deputies of Paraguay declared of national interest the creation of a COPLA** to optimize the fight against regional organized crime and **urged the Paraguayan State to join the initiative** and provide all the necessary support.

2019- **The Ecuadorian national group of Parliamentarians for Global Action expressed its deep support for the creation of COPLA** for the prosecution and punishment with the utmost rigor of the law, of the key members of criminal groups.

2019- Presentation of the COPLA campaign at the **XXI Plenary Assembly of the Conference of Ministers of Justice of the Ibero-American Countries** in Medellín.

The campaign that drives the creation of COPLA has a multidimensional strategy:

- **CIVIL SOCIETY.** Setting up a Coalition of NGOs of Latin American and global scale with the aim of creating a COALITION FOR COPLA. Currently, it has 40 NGOs from Argentina and other parts of the world.
- **INDIVIDUAL ADHESIONS.** Achieve the commitment of relevant figures in the political and intellectual world as mentioned above: Fernando Savater, Juan José Sebreli, Mario Vargas Llosa, Anthony Giddens, David Held.
- **PARLIAMENTARY STRATEGY.** Individual adherence of parliamentarians to the campaign and the adoption of resolutions in all Latin American countries and in all parliamentary assemblies and regional parliaments as the aforementioned declaration of interest in favor of the creation of COPLA by the Chamber of Deputies of Paraguay
- **EXECUTIVE STRATEGY.** Convene other countries to join the government of the Argentine Republic in the adoption of the COPLA strategy as part of their state policy.
- **LEGAL STRATEGY.** We have created a group of legal experts for COPLA, who were responsible for drafting the draft Statute of the Court to be proposed to the Assembly of States Parties at the beginning of the process. We summon the

reading, participation and suggestions that can be made to the Statute as they have already done, the judges of the International Criminal Court, Rosario Aitala and Olga Herrera de Carbuccia; the president of the ICC, Silvia Fernández de Gurmendi; the director of Prosecutors of the ICC, Fabricio Guariglia, among others and we aim at the formation of a permanent advisory committee made up of experts from the political and the legal field around the world who, due to their background and background, can make a valuable contribution to the development of the COPLA.

- **ACADEMIC STRATEGY.** The dissemination of the COPLA project in all universities and academic spaces related to the subject as it was already done at the Law School of the University of Buenos Aires, at the Faculty of Legal Sciences of the Universidad del Litoral and at the Annual Conference of the International Society for the Reform of Criminal Law in Montreal. In 2020, two activities will be carried out at the International Law Congress of the Faculty of Jurisprudence of the Universidad del Rosario in order to promote the campaign.