



5. THE CRIMINAL JUSTICE RESPONSE TO HOMICIDE

Previous chapters in this study have focused on what is known about recorded homicide offences. This chapter focuses, however, on the response of criminal justice systems in terms of homicide cases solved by the police, persons arrested for and persons convicted of homicide.

Bringing the perpetrators of homicide to justice and preventing impunity for those responsible for lethal violence is a core responsibility of the State. Indeed, there is international recognition¹ that the State is required to provide judicial protection with regard to fundamental rights, including the right to life. An effective criminal justice system that ensures rigorous investigation, timely prosecution and fair adjudication of suspected homicide offenders is a pre-requisite for upholding the rule of law, as well as for achieving justice for homicide victims. The widespread impunity of perpetrators, on the other hand, fosters the kind of lawlessness that can facilitate more violence, recidivism, organized criminal activities and even contribute to the perpetration of more homicides.

Measuring the criminal justice response to homicide requires accurate and reliable data across the main law enforcement, judicial and correctional institutions involved (police, prosecution, courts and prisons). Data on individual offences and alleged offenders should be collected at each stage (a simplified overview of which is shown in figure 5.1) so that every case is followed through the system and performance indicators can be calculated. In practice, very few countries have such a recording system and, at the global level, only aggregated data on police-recorded offences and

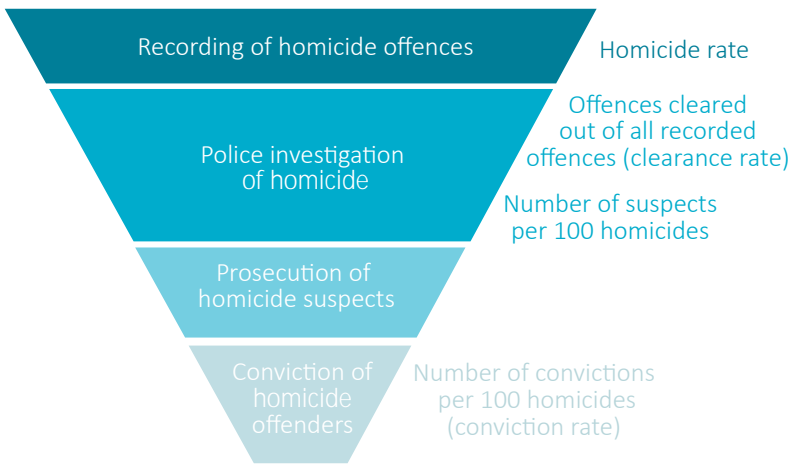
suspected offenders, and court data on persons convicted, are available for a sufficient number of countries to allow at least a basic analysis.

Furthermore, data of this type do not give information about fundamental qualitative aspects of criminal justice administration, such as the quality of investigations, the right to legal aid, the fairness of procedures and the duration of trials, but they do provide an initial assessment of the capacity of countries' legal systems to deal with homicidal violence. As only limited data are available for Africa and Oceania, they are not included in the regional analysis, which exclusively focuses on Asia, the Americas and Europe.

Homicide cases: from investigation to sentencing

Once homicide cases are recorded by the police, law enforcement authorities conduct investigations that can eventually lead to the identification

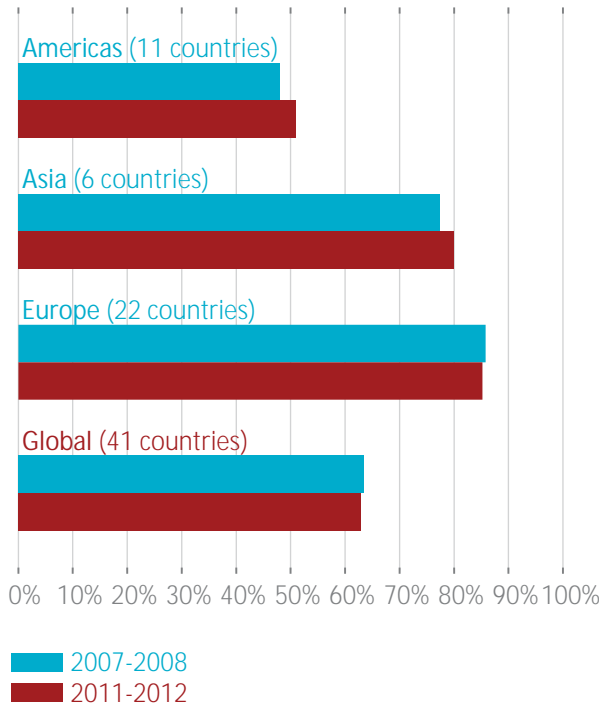
Fig. 5.1: Statistical indicators relating to four phases in the criminal justice process



¹ *Universal Declaration of Human Rights*, article 3; *International Covenant on Civil and Political Rights*, article 6.1.

Source: UNODC.

Fig. 5.2: Homicide clearance rate, by region (2007-2008 and 2011-2012)



Note: Regional figures represent weighted averages; data on two countries in Africa and Oceania are included in the global total but not shown separately. The homicide clearance rate is the percentage of homicides cleared by the police, divided by all homicides recorded by the police in the same year.
Source: UN-CTS.

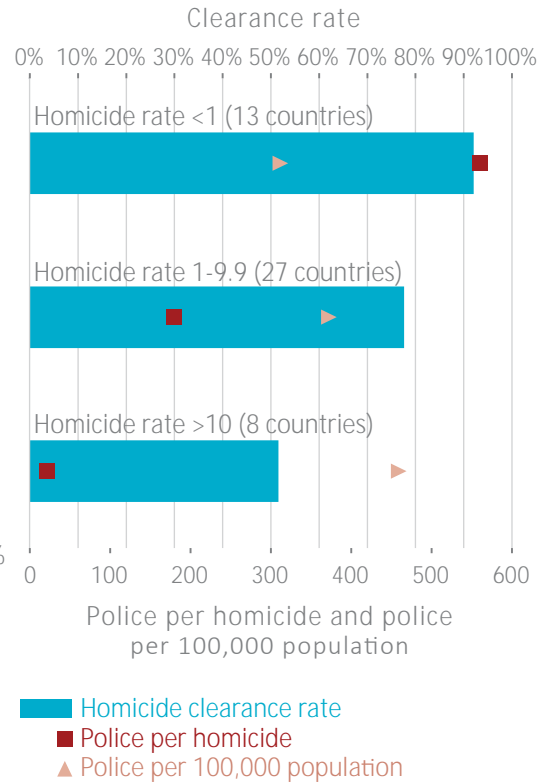
of crime suspects on the basis of the evidence gathered. The first indication of the overall results of the police investigation of homicide cases can be drawn from the “homicide clearance rate”, which is the percentage of homicides “cleared” of all those homicides brought to the attention of the police. In most cases, this means that the police have identified and arrested one or several suspects for a particular homicide and that the case has been turned over to the prosecution service.²

At the global level, the homicide clearance rate is slightly above 60 per cent,³ which means that the police are not able to identify a suspect in a large portion of homicides. At 80 and 85 per cent, respectively, clearance levels are higher in Asia and

2 A case will normally be considered “cleared” when a suspect has been identified by name and charged. In addition, there are other circumstances that may qualify a case as “cleared”. For example, the police may “clear” a case because the suspect has died; the suspect is not criminally liable due to age or mental incapacity; evidence has been found that no crime was committed; or an identified suspect has made her- or himself untraceable.

3 This is based on data from 41 countries.

Fig. 5.3: Homicide clearance rate and police per 100,000 population, by level of homicide rate (2012 or latest year)



Note: Average figures represent un-weighted averages.
Source: UN-CTS.

Europe than in the Americas (about 50 per cent) (see figure 5.2). Several underlying reasons may account for these regional differences, such as the possibility that the higher homicide rates recorded in the Americas than in Europe and Asia may stretch the capacity of law enforcement institutions in the Americas to investigate each case thoroughly. Also influencing law enforcement’s ability to clear cases is the type or context of a particular homicide, as certain typologies, such as those perpetrated by gangs or organized criminal groups, tend to be more challenging to investigate than others.⁴

In countries for which data are available, homicide clearance rates tend to be lower where homicide levels are higher: in countries with very low homicide rates (less than 1 per 100,000 population), clearance rates average 92 per cent, while in countries with high homicide rates (above 10 per 100,000 population), clearance rates are as low as 52 per cent (see figure 5.3). It seems that a virtuous

4 Van Dijk, J. (2008). Pp. 157-158.

Fig. 5.4: Homicides, persons suspected and persons convicted of homicide per 100,000 population, by region (2011 or latest year)

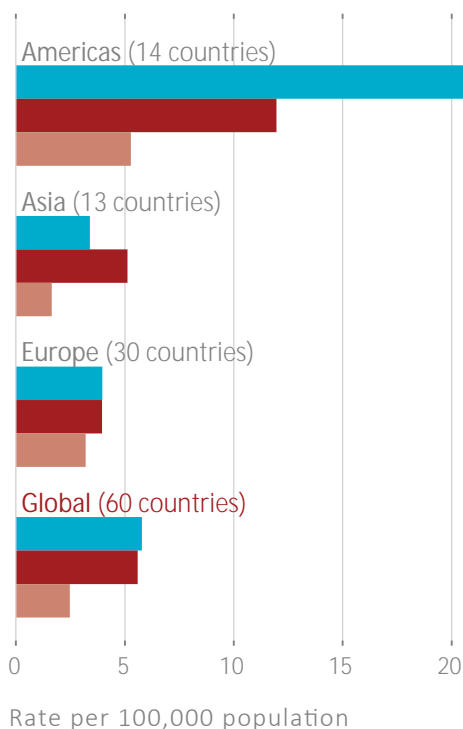
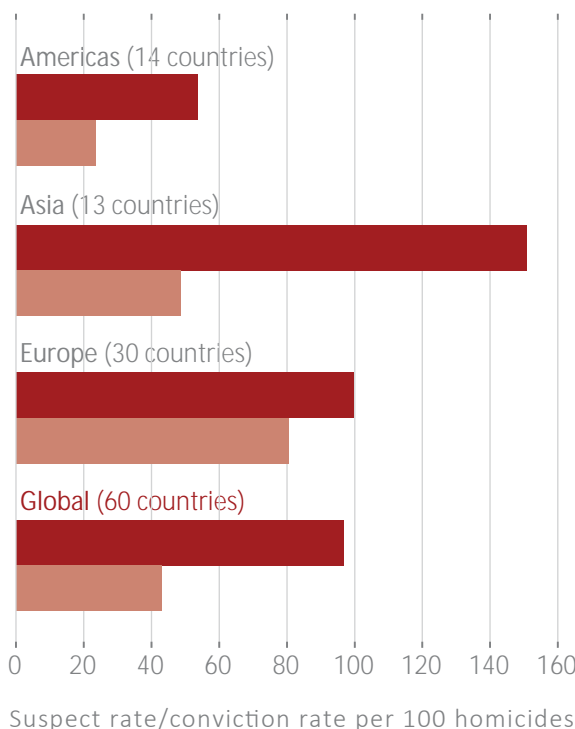


Fig. 5.5: Persons suspected and persons convicted per 100 homicides, by region (2011 or latest year)



Legend:
■ Homicides
■ Persons suspected
■ Persons convicted

Legend:
■ Persons suspected
■ Persons convicted

Note: Data on three countries in Africa and Oceania are included in the global total but not shown separately.

Source: UN-CTS.

Note: Data on three countries in Africa and Oceania are included in the global total but not shown separately.

Source: UN-CTS.

circle exists in countries with low homicide levels, where higher clearance rates can in turn act as a deterrent and lower homicide levels further.

Despite the fact that countries with high homicide rates actually have a greater number of police per 100,000 population, they have low homicide clearance rates. Therefore the size of the police force apparently has no direct impact on the clearance of homicide cases, but the fact that, as mentioned above, police resources can be really stretched in those countries should be taken into account. The “police to homicide” ratio gives an indication of the number of police officers compared to the number of homicides, which is greater than 500 in countries with low homicide rates, but is 25 times lower in countries with high homicide rates (20 police officers per homicide case).

Additional information on the outcome of the criminal justice process is provided by data relating

to persons suspected⁵ and those convicted of homicide: at the global level, for every 100 homicide victims, 97 persons are suspected/arrested on homicide charges,⁶ while 43 are convicted of homicide (see figure 5.5).

When looking at the criminal justice process at the regional level, for every 100 homicide victims there are 53 suspects in the Americas, 151 in Asia

5 At the international level, there are different definitions and methodologies for counting persons suspected of a crime. For example, some countries count the number of persons arrested, while others also include persons suspected or cautioned.

6 Through the successive stages of the criminal justice process, the counting unit is shifted from offences to persons entering into contact with law enforcement and criminal justice authorities. The number of suspects can be higher or lower than the number of homicides (higher when more than one person is suspected of a homicide, or lower when a suspect is charged with more than one homicide or the police cannot identify a suspect), but the number of convictions is likely to be substantially lower than the number of homicide suspects; for many suspects charged with homicide, there will be no conviction because of a lack of evidence.

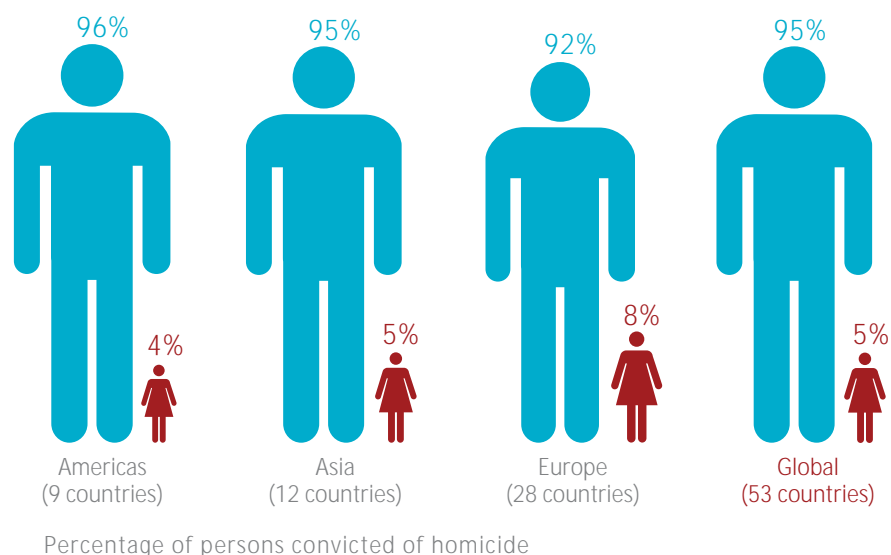
and 100 in Europe, while the number of persons convicted per 100 homicide victims is 24 in the Americas, 48 in Asia and 81 in Europe (see figure 5.5). Thus, in the Americas, where, on average, the homicide rate is high, the police are able to identify a suspect for slightly more than half of all homicide victims, but less than 50 per cent of those suspected are convicted, meaning that less than a quarter of homicides lead to a conviction. In Asia, where homicide rates are lower in general, on average there are multiple suspects for every homicide, yet only half of homicides end in a conviction. In Europe, there are as many suspects as there are homicides, with eight out of ten leading to a conviction; a high conviction rate by comparison.⁷

With a conviction rate of 24 per cent, the level of impunity for homicide in the Americas is rather high. This may be partly due to the fact that, as mentioned previously, the high volume of homicides are a drain on law enforcement and criminal justice resources. Furthermore, as discussed in chapter 2 of this study, homicides in the Americas are often connected to organized crime or gang activity and usually have lower clearance and conviction rates compared to other homicide typolo-

gies such as intimate partner/family-related homicide or other types of interpersonal homicide. Other possible explanations include the corruption of officials by organized criminal groups and/or the fear of reprisals.

With 50 per cent more suspects than homicides, less than a third of whom are convicted, the situation in Asia is harder to explain. It could be related to reasons of recording and methodology, with the number of those questioned or interviewed regarding a particular homicide being included in the number of suspected persons, or a large number of suspects arrested without serious grounds, resulting in large numbers of suspects who are not to be prosecuted. But if this is a real difference, it may point to inefficiencies in the performance of the police and prosecution services. This phenomenon may also be due to the prevalent types of homicide in Asia as there may be a large share of homicides linked to typologies that involve more than one perpetrator, such as various types of domestic violence in which more than one family member perpetrates the offence. In India, for example, an average of two or more suspects are arrested for each homicide case, suggesting the involvement of accomplices.⁸

Fig. 5.6: Percentage distribution of persons convicted of homicide, by sex and by region (2012 or latest year)



Note: Data on four countries in Africa and Oceania are included in the global total but not shown separately.

Source: UN-CTS.

⁷ The conviction rate is the number of persons convicted of homicide divided by the number of homicides in the same year, per 100 homicides. Some limitations of this indicator, dictated by data availability, are that it uses “persons” as counting units (instead of cases) and that it is built using aggregated annual data even though homicide and its related trial can take place in different calendar years.

⁸ National Crime Records Bureau, India (2012). P. 148.

In Europe, the level of impunity is much lower and the vast majority of homicides lead to a conviction. This may be a reflection of the low homicide rates and the adequacy of law enforcement and criminal justice resources, as well as the greater proportion of interpersonal homicides, in which victim and perpetrator are often known to each other, increasing the likelihood that an investigation will establish a clear link between the perpetrator and the crime. For example, in Finland, 90 per cent of all homicide victims between 2003 and 2011 were known to the offender.⁹

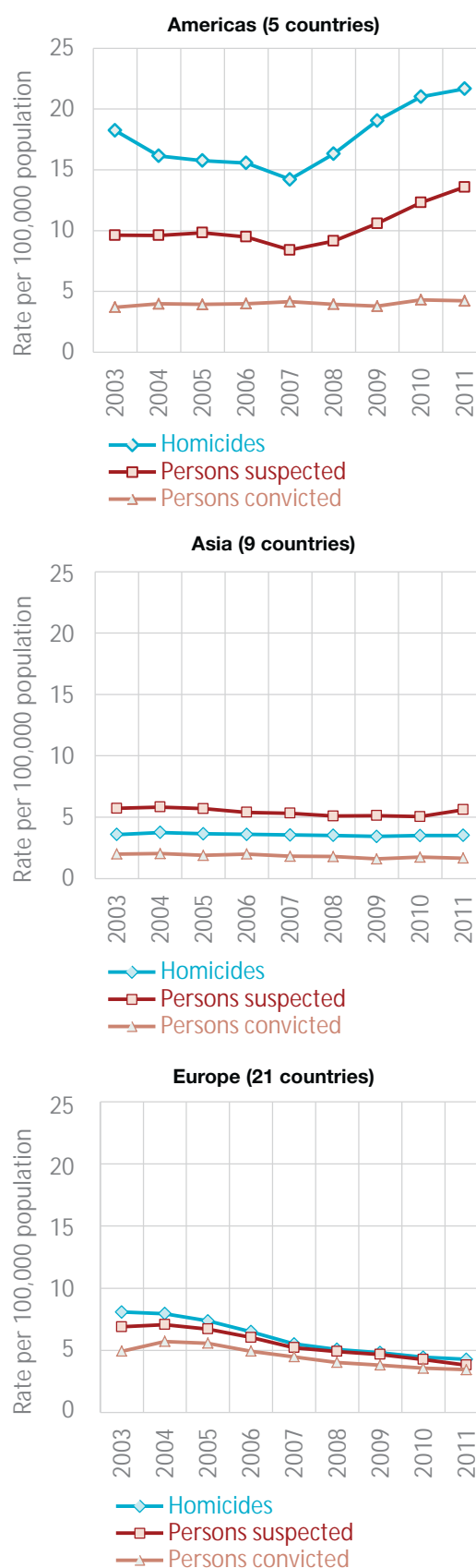
The vast majority of homicide suspects in all regions are male. Available data indicate that this general pattern is also the case for homicide convictions, with men accounting for an average of 95 per cent of all persons convicted of homicide in 53 countries for which data are available (see figure 5.6).

Trends in the criminal justice response to homicide

A way to monitor the efficiency of criminal justice systems in relation to the management of homicide cases is to consider trends in homicide as well as corresponding developments in the levels of people suspected and convicted of homicide. This analysis should not be considered indicative of the overall performance of the system — as stated earlier, qualitative aspects of criminal justice administration should also be accounted for — but it can shed light on whether its resources are being used efficiently.

Over the last few years, the gap between the number of homicides and the number of convictions has been widening in the Americas.¹⁰ The police seem to be able to identify suspects even though the number of homicides has increased, but the number of convictions does not follow the rising trend (see figure 5.7). In Asia,¹¹ the criminal justice response to homicide did not change significantly between 2003 and 2011; the gap between homicide cases and convictions increased slightly, with a suspect being convicted in less than half of all homicide cases. In Europe, both the

Fig. 5.7: Homicides, persons suspected of homicide and persons convicted of homicide per 100,000 population, by region (2003-2011)



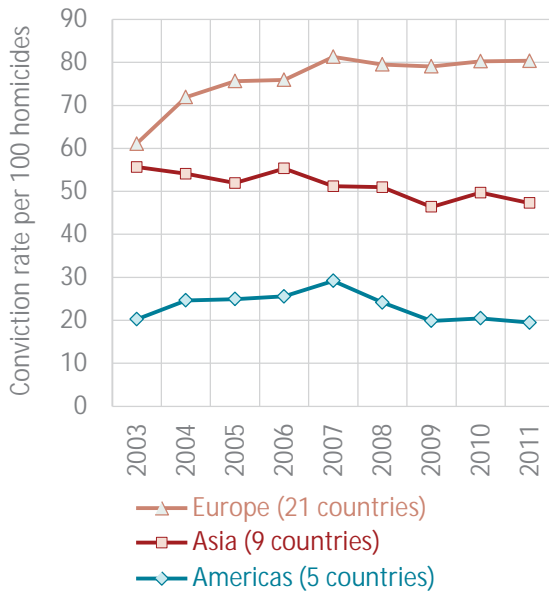
Source: UN-CTS.

⁹ Lehti, M. (2013), in *Henkirikoskatsaus, Verkkokatsaus 29/2013 (Homicide Review, Web review 29/103)*.

¹⁰ Countries in the Americas for which consistent time series are available include Canada, Chile, Colombia, Guatemala and Mexico.

¹¹ Countries in Asia for which consistent time series are available include Armenia, Azerbaijan, Cyprus, Georgia, Hong Kong, China, India, Israel, Kyrgyzstan and Mongolia.

Fig. 5.8: Homicide conviction rate, by region (2003-2011)



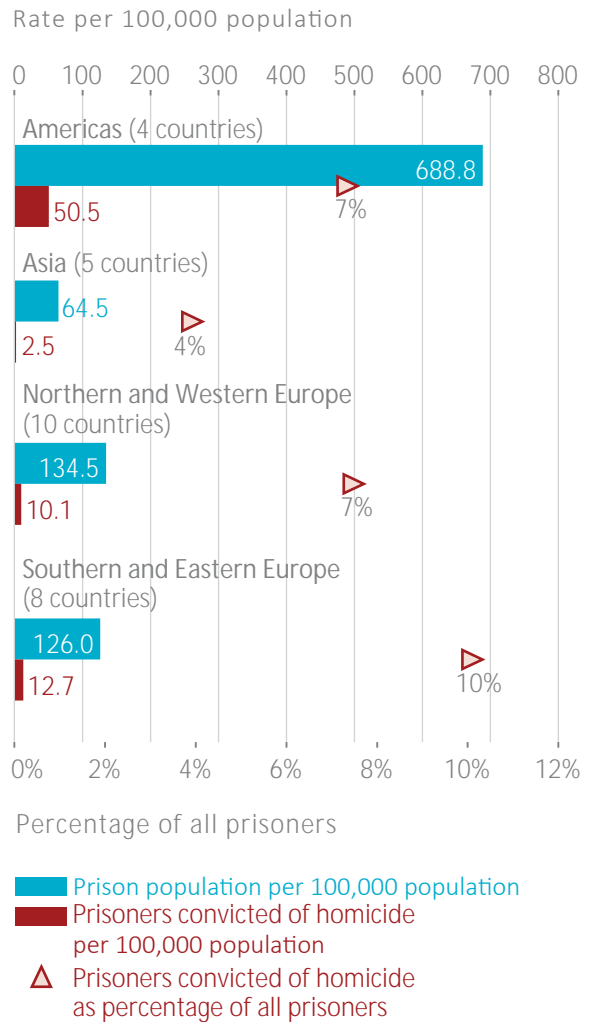
Note: The conviction rate is the number of persons convicted of homicide divided by the number of homicides in the same year, per 100 homicides.

Source: UN-CTS.

homicide and suspect rate have declined by almost half since 2003, while the rate of persons convicted of homicide has declined by 30 per cent. This means that the gap between homicides committed and convictions has narrowed, with the majority of homicide investigations leading to a conviction.

A direct way to monitor the efficiency of the criminal justice system is to examine time trends in homicide conviction rates, which are very diverse at the regional level (see figure 5.8). A decreasing trend shows that the performance of the criminal justice system is deteriorating and that improved capacities, resources and procedures are needed. The increasing trend recorded in Europe indicates that the region's criminal justice systems have been increasingly efficient in dealing with homicides. This is no doubt also connected to the low levels of homicides recorded in Europe. On the other hand, although Asia is also characterized by low homicide rates, the conviction rate has gradually declined in that region. In the Americas, the increasing trend recorded up until 2007 has since reversed, as rising homicide trends have not been paralleled by similar levels of convictions, meaning that impunity related to homicide has grown in the Americas in recent years. The specific reasons for such phenomena need further investigation, but they could be due to issues related to a lack, or inefficient use, of resources, insufficient capacities or inappropriate legislation.

Fig. 5.9: Total prison population per 100,000 population, prisoners convicted of homicide per 100,000 population, and prisoners convicted of homicide as a percentage of all prisoners, selected regions (2012 or latest year)



Source: UN-CTS.

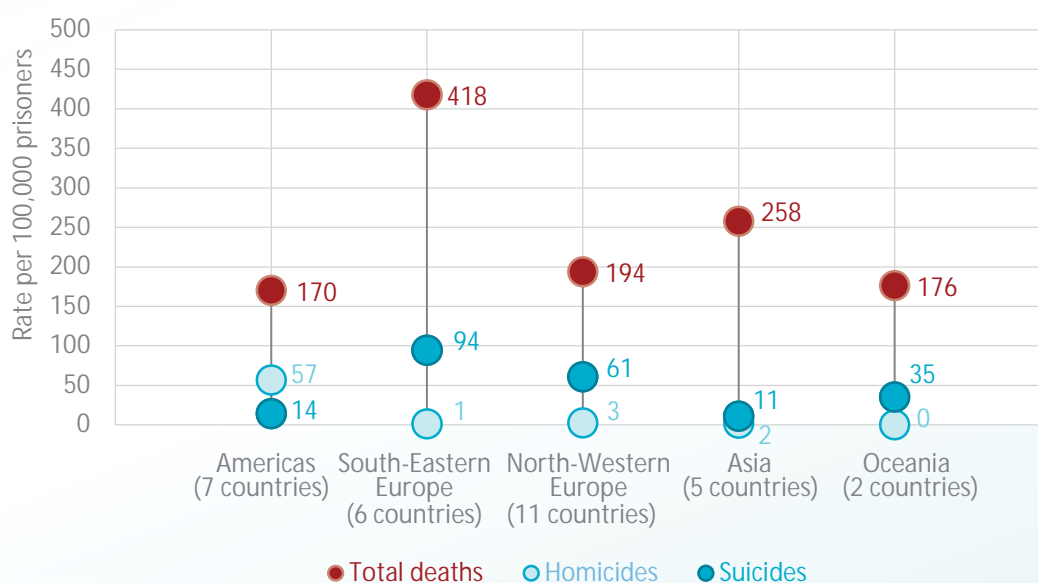
Prisoners sentenced for homicide

Among all the types of crime dealt with by the criminal justice system, homicides tend to make up only a marginal share of the total. In most countries, the share of persons convicted of homicide is usually well below 1 per cent of all those convicted of crime. However, the combination of the relative levity of sentences for less serious crimes and the long duration of prison sentences for homicide offenders means that, at any given point in time, homicide offenders can make up a significant share of the total prison population. This share depends on a number of factors, such as the overall rate of persons convicted of homicide and other crimes, the severity with which the crim-

Homicide in prison

Less visible but no less problematic are cases of violent deaths among prisoners. In line with States' heightened duty to ensure and respect the right to life in custodial settings, international standards and United Nations human rights bodies call upon prison administrations to initiate and/or facilitate prompt, thorough and impartial investigations into all incidents of death in custody or shortly following release, including with independent forensic or post mortem examinations, as appropriate.^a In spite of this principle, relevant information is often scarce, but some indications emerge from available data on deaths in prison settings. In many countries there is a substantial death rate per 100,000 prison inmates (which includes both natural causes of death as well as those resulting from external causes), which is very high, especially considering the relatively young age structure of the prison population (see figure 5.10). Among external causes, rates of homicide appear to be a bigger problem in prisons in the Americas (57 per 100,000 prisoners), than in Europe (2 per 100,000 prisoners), where suicide appears to be the main non-natural cause of death of inmates.

Fig. 5.10: Total deaths, homicides and suicides of prisoners per 100,000 prison population, selected regions and sub-regions (2012)



Source: UN-CTS.

When comparing data for the seven countries in the Americas for which data on deaths, homicide and suicide of prisoners are available, the homicide rate per 100,000 prisoners is three times higher than the homicide rate in the general population.^b In the other regions, there does not appear to be a major difference between the homicide rate in the prison setting and in the total population, although more information would be needed to come to definite conclusions in this regard.

^a United Nations General Assembly (1988); ECOSOC Commission on Human Rights (1995) E.CN.4/1995/34, Para. 926g.

^b In the same seven countries, the average homicide rate is 19.1 per 100,000 population.

inal justice system deals with offenders guilty of different types of offence, variations in sentencing policies and possibilities of parole.

Available data on homicide offenders in prison indicate that in some countries with high homicide rates, such as selected countries in South America, there can be a substantial number of homicide offenders in prison per 100,000 population.¹² Yet, irrespective of different levels of homi-

cide, the share of homicide offenders among the total prison population is not markedly different across regions. In Europe and the Americas, it is between 7 and 10 per cent, while it is lower in Asia (see figure 5.9). In terms of prison management, high shares of homicide offenders pose specific management challenges to prison administrations.

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dor; Panama; Paraguay; and the United States of America. In Asia, data on homicide offenders in prison are available for: Armenia; Hong Kong, China; Indonesia; Japan; and the State of Palestine.

12 In the Americas, data are available for: Costa Rica; El Salva-