

Executive summary

The current study, entitled "The Salvadoran Prison System and its Facilities" is the product of research conducted by the University Institute of Public Opinion (Iudop) of the Central American University, "Jose Simeon Cañas" (UCA), under the auspices of the Heinrich Böll Stiftung Foundation. The study was carried out between January 15 and August 31, 2015, with the primary objective of offering a thorough analysis of the current status of El Salvador's prison system and its facilities in order to promote greater understanding of how the system functions and the complex dynamics that underly and emerge from the current conditions in which imprisonment in El Salvador occurs. The study also contributes to a greater understanding of the social implications of imprisonment as a preferred mechanism for punishment as well as for prevention in society at large.

The study consists of a qualitative investigation based on semi-structured interviews, conducted with public servants, former officials of the Salvadoran justice system and with experts on penal affairs, as well as an extensive review of documents and statistics related to the subject.

The first chapter contains a comprehensive description of the configuration of the prison system, of the institutions that comprise it, their assignments and their legal classification. The report notes that, while the Salvadoran prison system can be characterized as progressive –which means it is designed to permit internees to transit from one stage to another and eventually gain access to a modality of open regime– between 2011 and 2015 close to 95 % of inmates have been serving a sentence under a closed regime of confinement, with only 5 % with access to an open regime. The transition from the normal phase of confinement to a stage of greater trust and semi-freedom, which seeks to promote the social rehabilitation of inmates who are on good behavior and about to complete their sentence, is hampered because most of penitentiary centers don't count with complete technical teams to monitor and certify

the evolution of inmates, and also because of the limited availability of rehabilitation programs in the prisons and a predominantly punitive vision that dominates among prison supervision and prison sentence judges and the criminological councils. The lack of a more effectively applied progressive regime, together with the continuous influx of people into the prison system, generates a wide numerical gap between the incoming and the outgoing prison population.

Also, in the Salvadoran prison system there is a regime of solitary confinement that is applied in the Maximum Security Prison of Zacatecoluca. Given the conditions of isolation and the various restrictions established by this regime, it should be an exceptional and transitory resolution. Nevertheless, in recent years, there has been an increasing tendency to resort to the use of the solitary confinement regime. According to the General Director of Penal Centers (DGCP in Spanish), between 2012 and 2015, inmates in the maximum security prison increased from 325 to 443, representing an increase of 36.3 %. According to prison authorities, this has to do with the increasing number of gang members transferred to this center, an indication of the hard line approach being applied currently by the Salvadoran State in the context of the war against gangs. One of the main criticisms of this practice is that the Maximum Security Prison of Zacatecoluca has been transformed into an extended stay facility, leaving aside the principles of exceptionality, proportionality, temporality and necessity that should characterize it.

With regards to the legal status of inmates, the data reveals a progressive decrease in the number of non-convicted prisoners. Between 2000 and 2015, the percentage of prisoners without trial and sentencing diminished from 50 % to 25.6 % of the total prison population, placing El Salvador below the average among Central American countries, which is approximately of 40.4 %. Nevertheless, upon considering the sentences that inmates are serving, it's observed a substantial increase in the number of years imposed. For the period 2011-2015, 80.3 % of sentences were for over 6 years. Official data shows that, during the same period, sentences imposed for between 31 and 50 years increased by 71.2 %, while sentences of 51 years or more increased by 170.1 %.

The second chapter discusses the situation in which inmates live with an analysis of prison population growth, living conditions, prison overcrowding and the deplorable conditions found in Salvadoran prison facilities. According to the DGCP, between 2009 and August of 2015, the prison population of El Salvador rose from 21 032 to 31 148, representing an increase of 48.1 % and a prison population density of 367 %. This means that, for every 100 capacity available in Salvadoran prisons, the State processed the entry of 367 people. In 2014, only 2 of the 22 penal facilities of the country reported a prison population density of less than 100%; in the remaining facilities, density varied between 170 and 942 inmates per every 100 capacity; this exposes the enormous humanitarian crisis that the prison system is facing.

The Rehabilitation Centre for Women at Ilopango continues to be one of the most overcrowded penal facilities in the country. In spite of a reported expansion

of its installed capacity, it continues to suffer from 367 % overcrowding, due to a current population of 2000 women. This is a reflection of the exponential growth of the female prison population in the national penitentiary system, during the past eight years. This situation is complicated further by the special needs of women prisoners and by their role as mothers and providers. In this regard, according to the DGCP, between 2012 and 2014, the number of children who lived with their mothers in prison until the age of five increased by 25 %. Nevertheless, it is important to recognize the efforts made by the DGCP to provide better conditions for infants who live with their mothers in prison, with the modification of the mother-child area in the Izalco Prison Farm.

Despite the growing number of women in the prison system in recent years, the majority of the prison population as a whole continues to be men (90.4 %), while 9.6 % are women. Another relevant fact, related to the profile of the inmate population and the impact of incarceration on the lives of inmates, is that they are, in majority, young individuals. Approximately 40.5 % of the current prison population is between 26 and 35 years of age, while 29.2 % is between 18 and 25 years of age. That is to say that 70 % of inmates are people of working age. Regarding educational levels, 7 % of the prison population recorded in 2015 had no education, 73 % had some primary or secondary education and the remaining 20 % had completed a bachelor's degree, a technical degree or university.

Another aspect that has outlined the organization of the Salvadoran prison system during the last decade is the progressive and exponential growth of the gang population in prisons, something that was not exclusive to the periods characterized by *Mano Dura* policy. Between 2009 and 2015, gang members among the adult prison population rose from 7555 to 12 983, an increase of 71.8 %. Today, gangs represent 41.7 % of the total prison population nationwide. With more than 12 000 inmates pertaining to gangs, this group alone exceeded the installed capacity of the prison system by 153 % in the first quarter of 2015. The situation of prisons where gang members are regularly held has progressively worsened due to the systematic neglect they have suffered in the last decade, both in terms of infrastructure and the lack of reeducation programs and of job placement.

With regards to the living conditions of inmates, the study reveals that high levels of overcrowding, deteriorated infrastructure and the inadequate supply of basic services have generated severe unsanitary conditions in many prisons, intensifying the spread of a variety of diseases. In many penal facilities, roofs, drainage systems for sewage and rainwater are about to collapse; this is worsened by a lack of water and the poor state of electrical installations, all of which provides an idea of the deplorable conditions prevailing in the prisons. Particular attention needs to be given to the situation of inmates with terminal illnesses and chronic conditions, a population that doubled between 2009 and 2014. In late 2014, the terminally ill and those with chronic illnesses within the prison system rose to 2550 people; this means they represent the 9 % of the penitentiary population and, due to their special status, they should receive benefits provided by the law. Current conditions in the

Salvadoran prison system work against basic principles of rehabilitation that the system should pursue, since it dehumanizes, depersonalizes, and violates the human rights of the people it houses, besides being an ideal niche for strengthening deviant behavior.

The third chapter brings together information on the General Directorate of Intermediate Centers (DGCI in Spanish), which administers detention centers for young people who come of age while serving a sentence of confinement imposed by Juvenile Law. Of special relevance in this section is the elevated growth rate, over the last decade, of the prison population registered in these centers. Available data shows that, between 2006 and 2015, the number of young people serving time in these facilities increased by 2411.5 %, when they went from 26 to 653. This population is currently distributed between the two existing intermediate centers: one in Tonacatepeque and the other in Ilobasco. Another characteristic of this system is that it houses only male gang members; this replicates the pattern of segregation according to gang affiliation, similar to that found in the adult system and which began in the system for minors in violation of the law.

The study also shows that the Juvenile Penal Law in El Salvador is reproducing a punitive scheme adopted by the adult criminal system. According to data provided by the DGCI, there is a strong tendency to impose increasingly long prison terms; this law establishes 15 years as the maximum prison term for the fulfillment of detention orders for each crime committed. Data from the DGCI demonstrates that, between 2011 and 2015, youth sentenced to terms between 10 and 30 years increased from 11 to 184, an increase of 1573 %. The imposition of heavy prison sentences for juveniles in conflict with the law is counterproductive to rehabilitation efforts pursued by the juvenile criminal justice system, given the severe impact that prolonged detention has on people who are still in a stage of biopsychological development.

The fourth chapter is dedicated to an analysis of information related to the required treatment of prisoners as established by law. This section puts forth both, the characteristics required by law for treatment during imprisonment and some of the obstacles and limitations that impede greater coverage and effectiveness of rehabilitation and reintegration programs established in the Prison Policy Opportunities Road to Justice and Security. A major obstacle to implementing reintegration programs is the enormous deficit of technical personnel to diagnose, provide treatment and assess the progress of the prison population. Available data shows that, between 2009 and 2015, the staff of the criminological technical teams of the DGCP has been reduced by 48%. In 2015, the system had 69 technicians to serve a population of over 31 000 inmates, equivalent to two technicians per 1000 inmates. This deficit is due not only to staff budget limitations, but also to difficulties in recruiting staff who are willing to work with the prison population, due to the risks involved.

The difficulties of prison administration to expand the supply of training activities, due to the constant flow of prisoners into the system, budget constraints, limited staff to provide workshops, the limited number of technical personnel to guide and accompany behavioral progress of inmates, as well as the limited physical space available in many centers, impede the prison population from having access to comprehensive reeducation processes, which, in turn, becomes an obstacle for inmates' transition into a progressive regime, in accordance with the design of the Salvadoran prison system.

The fifth chapter analyzes the investment by the State in the prison system and in the detention system for juveniles in conflict with the law, under the supervision of the DGCI. The study highlights as positive the increase registered in recent years in the budget allocation for the DGCP. The public expenditure allocated to the DGCP increased from \$ 16,395,960 in 2002 to \$ 68,700,985 in 2015. However, the positive impact of this budget increase is limited by the continuous flow of prisoners into the system, which has impeded budgetary increases from signifying a growth in public investment per inmate. Although the annual budget for the DGCP has increased by 52 million dollars in the last 13 years, the average annual public expenditure per inmate has not exceeded \$ 1500. Because of the composition of spending of the DGCP, more than 88 % of the budget is spent on food for prisoners and for staff salaries. The allocation of funds to other basic areas, such as rehabilitation or improvement of basic services in prisons, experiences serious constraints.

The sixth chapter deals with the demands on the justice system and the flow of people passing through its different stages, taking as reference the official statistics from the justice system. It also includes a small section devoted to exposing the legal situation of detainees in police holding cells, prison benefits, and the work of the Department of Evidence and Probation (DPLA in Spanish). The study reveals that in more than a third of the fiscal requirements presented to the judiciary in 2014 (38.5 %), the Attorney General's office requested the provisional arrest of the accused during the criminal investigation. The continual use of incarceration as a preventive resolution, together with the increase of prison sentences, derives in a steady flow of people into the Salvadoran prison system, which limits the impact of efforts to decongest the system by applying measures that allow the completion of prison terms in regimes of trust and semi-freedom. The numerical disproportion between recorded arrivals to and departures from the prison system portrays, in large part, the grave situation that this system is currently facing. For example, in 2012, while 6452 people were discharged from prison, 9220 new inmates arrived. This trend appears to have grown in the first half of 2015, during which the number of new arrivals doubled the number of departures from the prison system.

An alarming fact is the elevated number of people who continue to be detained in police cells, some of them for extended periods, including administrative detainees, under provisional arrest or with sentences. According to figures from the National Civil Police for the year 2014, 23 349 people entered in police cells under

administrative detention, along with 9577 people who were detained provisionally through a precautionary measure and 2238 who had been condemned. With a capacity to accommodate a total of about 1000 people, in August 2015 authorities registered a population of a little over 5000 detainees in police cells. This alarming situation of overcrowding and lack of segregation measures for detainees generates serious violations to the right to safety and security, to an extent even greater than those suffered in prison, given the small space where so many people live. Particularly serious are the conditions of police cells in the eastern part of the country, with a capacity for 266 people and, in 2014, a population of 8344 people. These police cells also gained notoriety during 2015, due to the occurrence of several inmate deaths presumably as a result of health problems related to overcrowding.

A final chapter contains general considerations and a series of recommendations related to prison issues in El Salvador. Among the key recommendations is the need for all operators in the justice system to properly apply the law, with special emphasis on the Prisons Act, in police, in the office of the Attorney General and the justice system, since there is a growing gap between the law and reality in the Salvadoran prison system. The aforementioned implies the need for the Salvadoran State to carry out all of the actions required for compliance with various established regulations, both national and international, defining minimum standards of treatment and rehabilitation of persons deprived of liberty. In this respect, it is imperative that the entire justice system assumes responsibility for compliance with the Brasilia Rules on access to justice for persons in vulnerable conditions, enabling compliance with all the guarantees and rights of individuals prior to conviction and the application of a prison sentence, promoting, in the case of misdemeanors, the alternative forms of disputes resolution or the effective application of alternatives to incarceration established by law, in order to adequately restore to the victim the legal rights that have affected and to provide to detainees tools to prevent recurrence.