

Recidivism and Reintegration: Seeking a Future for Prisoners

The Ministry of Justice is taking the right measures, aiming at the urgent need of strengthening the penitentiary conditions so as to improve rehabilitation, decrease recidivism and effectively reduce delinquency rates. Chile shows a high incarceration rate with an important criminological contamination. Therefore, the application of penitentiary benefits has a direct bearing on reducing recidivism.

It is a fact that the Chilean incarceration system passes through a crisis. Overcrowding and lack of dignity, far from offering a favorable atmosphere for the prisoners' future reintegration, turn it into a real "school for crime", where there is a strong criminological contact and few possibilities of future rehabilitation.

The recently published study of *Paz Ciudadana* entitled "*Reincidencia en el sistema penitenciario chileno*" (Recidivism in the Chilean Penitentiary System), which shows the need to design, implement and evaluate policies and actions oriented towards solving this situation, constitutes an evidence of this fact.

The analysis of this study shows the difference in terms of recidivism between convicts in an imprisonment system and those who have entered an alternative sentence system.

It is a pioneer study on this matter, and as we know, there is no systematized and detailed information available regarding basic features of recidivism in our country. This is probably one of the key pending factors of the prison system reform agenda: to increase the analysis and technological capacity of *Gendarmería de Chile* (prison guards).

Main Recidivism Data

The Chilean prison population is slightly over 105,000 people, where 48.6% (51,323) remain in a closed regime with some kind of penalty involving personal restraint; the remaining 50.3% (53,579) is subject to an open regime (with alternative sentences such as conditional remission of sentence, probation or night curfew) or semi-open regime at Training and Work Centers (CET, in Spanish), equivalent to 0.7% (714).ⁱ

Tables 1 and 2 show that, in the closed regime, 50.5% relapse into crime, usually before a year (61.4% of the recidivists do it during the 12 months following their release); especially those who serve short sentences. On the other hand, in the open regime, only 27.7% relapse into crime (considering a future recidivism in both regimes) and in a longer term (47.2% of the recidivists do it during the 12 months following their release).ⁱⁱ

Table 1

RECIDIVISM IN THE CLOSED REGIME

Closed Regime		Recidivists by sentence duration in closed regime		
New contact with penitentiary system	General recidivism	Sentenced to less than 1 year	Sentenced to 1 to 3 years	Sentenced to more than 3 years
71.2%	50.5%	55.8%	51.6%	37.3%

Source: "Reincidencia en el sistema penitenciario chileno", Fundación Paz Ciudadana

Table 2

RECIDIVISM IN THE OPEN REGIME

Open Regime		Recidivists in the open regime by type of sentence		
New contact with penitentiary system	General recidivism	Probation	Conditional remission of sentence	Night curfew
40.6%	27.7%	19.5%	23.1%	43.7%

Source: "Reincidencia en el sistema penitenciario chileno", Fundación Paz Ciudadana

These figures will entail a relevant debate regarding the conclusions and causal relationships derived from them. Some people will possibly conclude that the closed regime has a low actual effectivity in terms of reducing recidivism and crime, since we face a “vicious circle”, especially in the case of short sentences. The opposite occurs in the alternative sentence system, where recidivism seems more successful.

Others believe that it is necessary to analyze with greater detail the delinquency record of the individuals subject to either regime, since maybe what is actually happening is that the system is effective concerning its selectivity: first-time and less dangerous offenders access the open regime, which could explain the lower recidivism rates.

The Government’s Agenda

A great part of the government’s agenda on this matter, with lines crossing both the Ministry of Interior and Public Security and the Ministry of Justice, are based on the idea that prisons should be adequate places for serving a sentence and rehabilitating prisoners, and that the alternative sentence regime should be an effective alternative system for imprisonment.

We believe it is important to facilitate and introduce the main policies and measures of the government agenda, which are highlighted below. Likewise, and as in many other fields of public policies, it is a *sine qua non* requirement to develop very concrete evaluation indicators.

1) Alternative Sentences under a Non-custodial Regime

The alternative sentence system aims at reducing the criminological contact and diversifies the current incarceration systems, so that prisons are the punishment for the most severe criminal offenses.

Therefore, a bill modifying Law Nr 18,216 was introduced, which strengthens the alternative sentence system in the following points:

- Diversification of the alternative sentence catalog, which introduces partial imprisonment sentence (replacing night curfew) and probation, which may have different intensity degrees.

- Definition of the crime catalog which will always be punished with prison sentences.
- Improvement of the sentence execution control through technological tools incorporating radiofrequency systems and GPS (known as bracelets); and which allow monitoring violations opportunely, avoiding recidivism and protecting the victim.ⁱⁱⁱ
- A new alternative sentence for prison sentences equal or less than one year, for those sentenced for minor offenses. This sentence consists in the performance of non-remunerated community services or in favor of poverty-stricken people. This measure seeks to avoid that offenders with low delinquency commitment cohabit and learn from the most experienced ones.
- Obligation to participate in drug and alcohol rehabilitation programs for those who need it.

The purpose of the above mentioned changes is that alternative sentences become an option for the convicts, under certain conditions and with adequate monitoring controls, so as to protect the victim and end with the idea that they constitute a benefit.

In this perspective, we believe that the new measures point at the right direction, since they reduce prison overcrowding and foster reintegration. However, if these measures are not properly monitored, they may have a boomerang effect. Additionally, they are useful for some offenses only. For example, the use of the electronic bracelet is more adequate for sexual harassment or intrafamily violence.

On the other hand, this implementation requires greater resources, training and evaluation in order to carry out an adequate supervision. An action plan is being developed in this direction, whose aim is to hire and train Probation Officials and people rendering benefits to the community, reducing from 60 to 32 the number of supervised people per official, thus reaching the recommended international standards. Nevertheless, we believe that in the long-run we should not leave everything in the hands of the prison guards. Even though the number of officials has

increased, *Gendarmería* does not rely on enough resources, nor coverage or monitoring capacity of those sentenced to the open regime.

2) New Policy Fosters Penitentiary Work

This policy seeks to incorporate and strengthen the skills of the prisoners, so as to help them find a job once they get out of jail, and thus, to their reintegration.

In this direction, the Ministry of Justice is creating a new policy which fosters penitentiary work: the idea is to improve the access of prisoners to the private world and the social programs developed by the government (especially oriented towards training and entrepreneurship), with the cooperation of businessmen.

Furthermore, a “Work Act for Prison Population” is pending, which stipulates among other measures: (1) the obligatory hiring of an occupational accident insurance for those participating at the CET; (2) to simplify the selection process; (3) to increase the management control measures carried out by the directors of the respective CET; and (4) to allow the development of productive activities to those who are under pre-trial detention. Moreover, *Gendarmería de Chile* envisages improving the infrastructure of its 20 CET and designing 3 new centers from now till 2014.

Here, we should keep in mind the need to flexibilize the application of the labor legislation to the prisoners; we are facing a purview case, considering that to subject them to unnecessary rigidities will be detrimental to them and thus impair their future reintegration potential.

3) Strengthening the Drug Treatment Courts (TTD, in Spanish)

These Courts are spread throughout the country and it has been demonstrated that they can decrease recidivism, reduce alcohol and drug consumption, and rehabilitate people.

Evidence of this is that from the 295 accused who entered the TTD in 2009, 24% relapsed into crime,^{iv} a lower recidivism level even for those sentenced to an open regime, according to the study of *Paz Ciudadana*.

In this perspective, work is being done for granting an institutional framework to the Drug Treatment Courts program so as to increase the range of beneficiaries (including recidivists, people under conditional remission of proceeding, remission of sentence and/or probation), and also create a national agency which generates and implements the information and training system.

4) Penitentiary Infrastructure

A new policy aiming at reducing overcrowding in the Chilean prisons, improving the convicts' dignity and considering jail as a new social opportunity, is being elaborated. Therefore, the adviser services of international experts in prison management have been required, which proposes an integral reform to the penitentiary system.

This proposal is based on the segregation of the prison population according to its criminology level and seeks to strengthen the development, growth and commitment of the convicts, through a corrective organization, where each penitentiary center will be constructed according to the needs and procedures required by their prisoners and *Gendarmería*.

In this perspective, 4 new institutions are being designed this year, which together with the new prison of Antofagasta, allow increasing the prison capacity by 30% and reduce the current overcrowding from 60% to 15%.^v

It is important to mention that 40% of the prison population presents low danger levels; 50%, medium level, and only 10% are highly dangerous prisoners. Therefore, a correct segmentation (which will be done at the New Classification and Distribution Center) is a key factor to reduce the so called "School for Crime".

Nevertheless, it is important to progress quickly and firmly in the concession of these new penitentiary facilities, and also to take charge of the existing infrastructure (some are from the 19th century) and to consider new jails which allow reducing overcrowding and improving the prison conditions.

Table 3

NEW PENITENTIARY FACILITIES 2010-2014

2 new facilities for low danger level prisoners	4,800
1 new facility for high danger level prisoners	2,000*
1 prisoner classification and distribution center	2,000
New prison of Antofagasta, 2011	1,200
Extension of existing prisons	1,000
Total of new places implemented by the government	11,000

Source: Public Account, May 2011, Ministry of Justice.

*500 of these places are for low danger level prisoners.

Conclusions

The study on recidivism recently published by *Paz Ciudadana* shows, with new arguments, the need to progress in the prison system reform. Chile has a high incarceration rate with an important criminological contamination. Therefore, the application of penitentiary benefits, aimed at reducing overcrowding, rehabilitation treatments or better work opportunities, has a direct bearing on reducing recidivism.

The measures implemented by the government are the adequate ones and point at the urgent need of strengthening the penitentiary conditions so as to improve reintegration, decrease recidivism and effectively reduce the delinquency rates.

All in all, a good deal of this debate also presents significant institutional challenges. This requires acknowledging that a new institution is needed, different from *Gendarmería*, which specializes in the supervision of non-custodial sentences, allowing *Gendarmería* to focus on its primary function, which is to take care of prisons and rehabilitate prisoners.

ⁱ Data obtained from the web site of *Gendarmería de Chile* www.gendarmeria.gob.cl

ⁱⁱ Fundación Paz Ciudadana. *Reincidencia en el sistema penitenciario chileno*, September 2011.

ⁱⁱⁱ Public Security Plan 2010 – 2014. Legislative Agenda.

^{iv} Ministry of the Interior and Public Security. *Presentación Seguridad Pública: Avances y Desafíos*, p.8. August 2nd, 2011.

^v Government of Chile. Public Accounts 2011. Ministry of Justice. May 21st, 2011.