

## Private Prisons: Revitalizing the Model

**The construction of four new jails in our country is very important to face the high overcrowding levels and it offers the opportunity of implementing efficient programs concerning prison segmentation, rehabilitation and reintegration. The choice of the new jails' construction and management models is not neutral with regard to these objectives; therefore, the possible discard of the concession model by the Ministry of Justice requires an analysis with strong evidence.**

From the beginning, and as a response to the high overcrowding level in the jails of our country, the present Government has been working on the "New Prison Policy", which among its different features includes the construction of four new prisons. As former Ministry of Justice Felipe Bulnes declared, in May 2011, "...the construction of these four jails will not only become the foundation of the new prison matrix, but it will also allow creating, during this Government, 11 thousand new places. This means an historical 30% capacity increase and the overcrowding rate will be reduced from current 60% to approximately 15%, which will enable us to properly speak of a system which privileges true rehabilitation. This big step will put us in the best conditions to definitely overcome prison overcrowding before 2018".

The proposal on these four new facilities is based on the consulting services of "Altegrity Risk", a prestigious international consulting firm which proposes the segregation of prison population in terms of their criminological level, with the purpose of offering convicts a better development of their capacities, besides avoiding the criminogenic effect. Moreover, one of these four facilities would become the "Inmates Classification Center", which would classify prisoners and the type of jail in which they should serve their sentence.

In this context, the proposal is not only positive, but absolutely necessary. Unfortunately, while half of this Government's term has already elapsed, it

has not yet began its design phase and it has faced a series of questionings regarding its management model.

As we know, the definition has entangled itself due to the Ministry of Justice's hesitation to continue using the concession model, since it would entail higher costs than the traditional model (public one), which is probably related to the Ministry's criticism concerning the prevailing contracts and the controversies and renegotiations generated in the past.<sup>i</sup> There are of course several factors which must be considered when choosing between different models on this matter, such as costs, security levels, reintegration, rehabilitation, drug abuse treatment, etc. However, the basic problem is that a transcendental decision is being made without a debate showing strong evidence for discarding a model which has been favorable for the country and widely used at international level.

### **Prison System and Prison Overcrowding**

Statistics of the Chilean prison system for the first semester 2012 show that it has a total of 103,189 convicts, where almost 50% remains in a closed system (imprisonment), a minimum percentage (less than 1%) in a semi-open system (which considers reclusion in Education and Work Centers) and another 50% of the population is in the open system, that is, subject to the alternative measures of Law nr 18,216, convicts with benefits and restraints (Table 1).

Within the closed system, the prison population is concentrated in the Metropolitan Region (36% of the total), followed by the BíoBío Region with 9% of the prison population. On the other hand, the greatest prison concentration in relation to their total population is the north regions: Arica and Parinacota with a prison population rate of 1,676.6 every 100,000 inhabitants; Tarapacá, 1,277.2 every 100,000 inhabitants; and Atacama, 846.2 every 100,000 inhabitants. For the rest of the regions, the rate oscillates between 520 and 744 every 100,000 inhabitants.

In terms of criminal compromise of the imprisoned population, it is important to mention that until December 2010<sup>ii</sup>, 22.5% of the prison population was classified with a high criminal compromise level, 48.1% with medium level, 25.9% with low criminal compromise and the remaining 3.5% had no classification. This strengthens the idea of relying on an infrastructure which allows prison segregation and, above all, which adapts to each situation, without overinvesting in high security jails, which is by the way one of the criticisms to the design of the first prison concession program.

Table 1

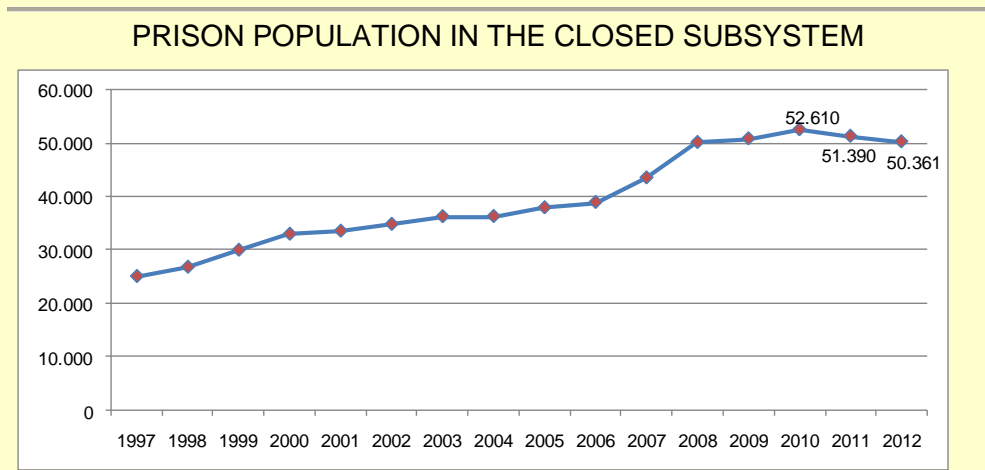
PRISON POPULATION BY REGION ACCORDING TO SUBSYSTEM AND SEX (UNTIL JUNE 30<sup>TH</sup>, 2012)

REGIO N	CLOSED SUBSYSTEM				SEMI-OPEN SUBSYSTEM				OPEN SUBSYSTEM			
	M	W	TO T.	%	M	W	TO T.	%	M	W	TO T.	%
Arica & Parina cota	1,8 45	37 0	2,2 15	4.4	6 1	7	68	9.4 6	662	18 3	845	1.6 2
Tarapa cá	2,1 74	35 3	2,5 27	5.0 2	0	0	0	0	1,1 20	26 3	1,3 83	2.6 5
Antofa gasta	2,2 24	23 4	2,4 58	4.8 8	4 9	1 5	64	8.9	1,8 44	40 0	2,2 44	4.3 1
Ataca ma	1,0 45	13 9	1,1 84	2.3 5	0	0	0	0	1,0 29	19 7	1,2 26	2.3 5
Coqui mbo	2,1 62	14 8	2,3 10	4.5 9	0	0	0	0	2,4 28	38 1	2,8 09	5.3 9
Valpar aíso	5,1 83	49 0	5,6 73	11. 26	8 1	1 0	91	12. 66	4,9 57	84 9	5,8 06	11. 14
O'Higgi ns	2,5 36	16 7	2,7 03	5.3 7	0	0	0	0	2,8 31	44 4	3,2 75	6.2 8
Maule	2,2 89	13 4	2,4 23	4.8 1	4 7	8	55	7.6 5	3,3 08	35 3	3,6 61	7.0 3
BíoBío	4,1 79	29 2	4,4 71	8.8 8	1 2	9 2	13 1	18. 22	3,9 17	54 3	4,4 60	8.5 6
La Arauca nía	2,2 21	85	2,3 06	4.5 8	1 0	6 4	11 0	15. 3	2,8 01	24 1	3,0 42	5.8 4
Los Ríos	1,3 41	42	1,3 83	2.7 5	3 4	3	37	5.1 5	949	10 1	1,0 50	2.0 2
Los Lagos	1,8 69	73	1,9 42	3,8 6	7 1	0	71	9.8 7	2,3 74	20 7	2,5 81	4.9 5
Aysén	174	2	176	0.3 5	2 8	0	28	3.8 9	385	24	409	0.7 8
Antarct ica	307	3	310	0.6 2	1 5	0	15	2.0 9	459	60	519	1
Metrop olitan	16, 446	1,8 34	18, 280	36. 3	4 9	0	49	6.8 2	15, 132	3,6 67	18, 799	36. 08
TOTAL	45, 995	4,3 66	50, 361	10 0	6 6	5 8	71 9	10 0	44, 196	7,9 13	52, 109	10 0

Source: Gendarmería de Chile.

In relation to the prison population's growth in the closed subsystem, Chart 1 shows an increasing trend over time, reaching its maximum in 2010, and starting to decrease during this year; this situation should further improve with the measures taken by the Government to rationalize the use of jails (one of them is the new general remission law and the amendments to the law nr 18,216).

Chart 1



Source: *Gendarmería de Chile* and Statistical Compendium prepared by the Survey Department of the Ministry of Justice. Information and Statistics Management Area, National Department.

### The Concession System

The prison infrastructure program fostered by the Ministry of Justice at the beginning of 2000 boosted the development of a concession model, not only with the aim of intensifying the construction of new facilities and face their deficit (reducing overcrowding and improving the prisoner's conditions), but also, as in every public-private association model, of taking the most of the private sector concerning the efficient management of scarce resources in the program's different stages, thus allowing to liberate public resources for other socially profitable uses.

In this manner, Concession Program 1 stipulated that the construction of these facilities would be financed by the licensee (except in GROUP 2) and the State would refund its cost in a 20-year term. During this period, the hired company would manage the services regarding feeding, health, maintenance and rehabilitation, while keeping internal controls and evaluations. *Gendarmería de Chile* would keep the facility's administration in addition to the inmates' custody service, and it would also rely on a permanent monitoring inspector (*Inspector Fiscal de Explotación*) in each prison. In brief, the State administers the facility, grants prison benefits, takes care of the security and it is the top authority of the prison. On the

other hand, the licensee designs, finances, builds and delivers the hired services.<sup>iii</sup> Today, in our country we have 7 concessioned prisons, and an additional one (Antofagasta) *ad portas* of starting operations. The operators offer the following services: social reintegration, laundry, infrastructure maintenance, standard and safety equipment, feeding (inmates and *Gendarmería de Chile*), store, cleaning, pest control and health services. The awarded concession companies are distributed in the following groups:

- GROUP 1: represents the facilities of Alto Hospicio, La Serena and Rancagua; it was awarded to the Sociedad Concesionaria BAS S.A. (it corresponds to a partnership between Besalco, Astaldi and Sodexo through SIGES).
- GROUP 3: represents the facilities of Santiago 1, Valdivia and Puerto Montt; it was awarded to the Sociedad Infraestructura Penitenciaria Grupo 3 S.A. (Compass Group).
- GROUP 2: includes the facilities of Antofagasta and Concepción. The operation was awarded to the Sociedad Concesionaria Grupo Dos S.A. (Sodexo) in a 15-year contract. In the case of Concepción, operations started in September 2011, and for Antofagasta, the licensee is executing the last stages of the “equipping plan”.

The concession model implemented in Chile for Group 1 and 3 is the so-called DBOT<sup>iv</sup>, which includes design, building, equipping and operation, delivering the services defined in the bidding conditions, and State transfer once the concession period is over. However, unlike traditional concessions, in this case the licensee’s income does not come from the system’s users, but from the subsidies of the State of Chile by way of the works’ construction and operation, including infrastructure maintenance and equipment. For Group 2, and since there were financial problems in the construction of the former groups, the State built the facilities and the *Sociedad Concesionaria* (licensee) was awarded the infrastructure’s equipping and the facilities’ operation.

### Definition of the Model

A great deal of the arguments used by the Ministry of Justice in relation to the model for the four new jails has been based on the alleged higher costs of the concession model versus the traditional one. In this perspective, the Ministry is working in the calculation of the real costs involved in every one of the models, since generally the known data (in the press or other sources) correspond to the sector’s budgeted expenditures in a period of time (one year) which is taken to unit expenditure considering the current average population.

Table 2

**COST PER INMATE IN THE PRISON CONCESSION PROGRAM  
(NET VALUES)**

State Payments	Group 1			Group 2		Group 3		
	Alto Hospicio	La Serena	Rancahua	Concepción	Antofagasta	Santiago 1	Valdivia	Puerto Montt
Semester Subsidies UF CLP\$								
SFO: Fixed Subsidy and Operation	73,580	73,580	73,580	66,100	66,100	61,283	61,283	61,283
IPV: Variable Price Indicator (By	12.5	12.5	12.5	12.5	12.5	12.5	12.5	12.5
Number of Inmates (100% occupancy)	1,679	1,656	1,689	1,189	1,160	2,568	1,248	1,245
Invoicing per Semester per Contract	94,568	94,280	94,693	80,963	80,600	93,383	76,883	76,846
Cost per Inmate per Semester	56.3	56.9	56.1	68.1	69.5	36.4	61.6	61.7
Monthly Cost	9.51	9.62	9.47	11.50	11.73	6.14	10.40	10.42

Source: Sodexo Chile.

Thus, in order to obtain the total cost per prisoner for the licensees, we should add to these payments the expenses of *Gendarmería de Chile* directly in each facility, including the facilities' management and monitoring services. Along these lines, *Gendarmería de Chile* made the following estimation in 2009.<sup>v</sup>

Expenditures of *Gendarmería de Chile*:

- Expenditures on Staff: Prison Officers and Surveillance Officers; and professionals, technicians and administrative personnel.
- Consumption Goods and Services (fuels and lubricants, usage and consumption materials, basic services and other expenditures).

Considering both items, according to *Gendarmería's* estimations in 2009, the monthly expenditure made by *Gendarmería* per inmate for the concessioned facilities of Groups 1 and 3, amounted to:

Table 3

MONTHLY EXPENDITURE PER INMATE FOR CONCESSIONED FACILITIES (ESTIMATION 2009)					
Group 1			Group 3		
Alto Hospicio	La Serena	Rancagua	Santiago 1	Valdivia	Puerto Montt
CLP\$202,449	CLP\$208,585	CLP\$151,676	CLP\$102,606	CLP\$251,987	CLP\$282,652

Source: Operational Costs Analysis, Concessioned Prison Facilities, Concessions Unit.

Additionally, it must be considered that the State has to pay the licensees a compensation for each day the number of inmates is higher than 120% of the facility's design capacity, which amounts to 100 UTM a day (approx. CLP\$3,900,000).<sup>vi</sup> These payments are made on March 31<sup>st</sup> and September 30<sup>th</sup>, and the last payment amounted to CLP\$725 millions, due to the overcrowding rates in the jails of Alto Hospicio, Santiago 1 and Rancagua, exceeding 120%.

Thus, the decision of discarding the concession model requires stronger evidence, especially considering that the current model benefits from the private sector expertise, as we have analyzed in a previous document.<sup>vii</sup> As an example, and in the first place, we should consider the idea that the State is not by itself a fully efficient organism for executing and managing projects and, thus, everything that can be subject to outsourcing should be made through specialized bodies having comparative advantages for delivering a service. In construction terms, for example, if we take into account the m<sup>2</sup> cost of the concessioned prisons of Group 1 and 3, we see that it amounts to 33.6 UF, while for the jail of Valparaíso it is 43.3 UF and for Punta Arenas it is 43.2 UF.<sup>viii</sup> On the other side, as Ian Blakeman, Head



of Custodial Services of the Ministry of Justice of England and Wales, has recently maintained, in the British model, when a private company has been awarded a bid for a specific prison, the cost has been nearly 15% below the public proposal. Likewise, the concession system allows incurring in technological surveillance and control improvements, which the private sector is able to develop in a more efficient way. Furthermore, it makes greater focalization on social reintegration programs possible, with more access to experts and infrastructure allowing its strengthening, particularly considering the reality of traditional prisons, which have become real “schools of crime”. And last, it offers a better quality of life to the system’s users, which should entail future benefits.

### Conclusions

The construction of four new jails in our country is very important to face the high overcrowding levels and it offers the opportunity of implementing efficient programs concerning prison segmentation, rehabilitation and reintegration.

All in all, the choice of the new jails’ construction and management models is not neutral with regard to the above mentioned objectives in terms of effectiveness and efficiency. Therefore, the possible discard of the concession model by the Ministry of Justice requires an analysis with strong evidence dissuading from continuing in a model that has been beneficial for the country.

### In brief...

#### PRISON CONCESSION MODEL IN CHILE:

- The construction of four new jails in our country is very important to face the high overcrowding levels and it offers the opportunity of implementing efficient programs concerning prison segmentation, rehabilitation and reintegration.
- Statistics of the Chilean prison system for the first semester 2012 show that it has a total of 103,189 convicts, where almost 50% is in a closed system (imprisonment); nearly 1% in a semi-open system (which considers reclusion in Education and Work Centers); and the remaining 50% of the population is in the open system (subject to the alternative measures of Law nr 18,216, convicts with benefits and restraints).
- The choice of the construction and management models of new jails is not neutral with regard to the objectives of reducing the prison deficit and relying on effective segmentation, rehabilitation and reintegration programs. Therefore, the possible discard of the prison concession model by the Ministry of Justice requires an analysis with strong evidence, which is still missing up to now.



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<sup>i</sup> A debate which had an influence on the discussion and approval of Law nr 20,140 which modified the Concession Law in 2010. The article of Alexander Galetovic, Eduardo Engel, Manuel Hermosilla and Ronald Fischer, “Renegociación de concesiones en Chile”, Estudios Públicos Nr 113, CEP, 2009. Available online in: [http://www.cepchile.cl/dms/lang\\_1/doc\\_4342.html#.UDQGzakf7NU](http://www.cepchile.cl/dms/lang_1/doc_4342.html#.UDQGzakf7NU).

<sup>ii</sup> Compendio Estadístico Penitenciario (Prison Statistical Compendium), 2010, Gendarmería de Chile.

<sup>iii</sup> Seminar “*Sistema Penitenciario Concesionado en Chile: Desafíos y oportunidades regionales*”, Patricio Inostroza, Monitoring Inspector of Concessioned Prisons.

<sup>iv</sup> DBOT: Design, Build, Operate and Transfer.

<sup>v</sup> Operational Cost Analysis, Concessioned Prison Facilities, Miguel Ángel Cornejo, Concessions Unit Assistant Chief.

<sup>vi</sup> “Hacinamiento en cárceles: Fisco 5 mil millones a concesionarias”. La Tercera, printed Edition, July 23<sup>d</sup>, 2012.

<sup>vii</sup> “La urgencia de reactivar la concesión en cárceles”, Public Issues Nr 898, December 5<sup>th</sup>, 2008.

<sup>viii</sup> “Cárceles concesionadas: un deber de Estado”. Tribuna El Mercurio, June 15<sup>th</sup>, 2009.