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*Special Edition*  
**Informal dynamics of survival  
in Latin American prisons**

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Cover photograph: Ecuadorian President Rafael Correa, speaking with prisoner leaders at the Penitenciaría del Litoral in Guayaquil, Ecuador. Undated photo (circa 2007–9) courtesy of *Vistazo* magazine.

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# Surviving in the New Mass Carceral Zone

Sacha Darke, University of Westminster and Chris Garces, Cornell University.

**As regional scholars, statespersons, and critics know all too well, prison populations have in recent years risen sharply across Latin America. The sheer numbers of the incarcerated have more than doubled since the turn of the century; in the aggregate, South and Central American prison populations grew from an estimated 650,000 in 2000 to over 1.3 million by 2014.<sup>1</sup> All 20 Latin American countries now lock away more people than they did little more than fifteen years ago.<sup>2</sup> By contrast, European prison populations fell by over 20 percent over the same period, and the unprecedented expansion of the United States penal sector on a global-historical scale appears to have leveled off and reached a tense new plateau.<sup>3</sup> As a key matter of global comparison, almost every Latin American state today possesses an actively swelling incarceration rate above the presently recorded world average of 144 per 100,000 national population — a new problem the social, political, and ethical implications of which have compelled us to coordinate this special edition of the *Prison Service Journal*.<sup>4</sup> We believe there is a strong case to be made that rather than the United States, it is instead the United States' southern neighbors which now comprise a second, even more ad hoc and disaggregated state experiment in dramatically expanding the bureaucratic role and infrastructural space dedicated to the contemporary prison estate. Latin America in sum has rather quietly become the new mass carceral zone. More to the point, however, the new mass carceral zone has much to teach about the present and future of global state penalty and carceral (mis)management, and it is to these pressing matters of life and death that, first and foremost, any publicly engaged prison ethnography ought to direct itself.**

The view of this wholesale carceral transformation from inside particular countries and prisons may appear to be confusingly variegated from one nation, region, or city to another, but clear-cut macro-level and micro-level trends are becoming more discernable. An undeniable development is the state-driven emergency, or the top-down impetus, that operates behind such unchecked carceral growth. Among the national contexts we consider in this special issue, Brazil's incarceration rate reached 301 in 2015 (up from 133 in 2000), Honduras' incarceration rate reached 196 (up from 178), Nicaragua's rate reached 171 (up from 128), Venezuela's rate reached 168 (up from 58), and Ecuador's rate has reached 162 (up from 64).<sup>5</sup> At merely 122 per 100,000, only Bolivia recorded a rate slightly below the world average. And yet, even the Bolivarian prison population has grown 30 percent since 2000. Official explanation for this 'expanding power of punishment'<sup>6</sup> throughout the region centre in part on rising levels of violent crime, and in part on the rhetoric of punitive populism, but mostly on drug prohibition policies. Depending on the particular country, up to a third of Latin American prisoners are being held in remand custody or are serving sentences related to drug trafficking.<sup>7</sup> In much of Latin America pre-trial detention has remained mandatory for most drug-related offences. For example, across Brazil the supply of illicit drugs attracts a minimum five year prison sentence for repeat adult offenders, whatever the quantity and whatever the drug. Among other criminal categories designated 'heinous' in late-1990s legislation, these 'drug traffickers' — as most Latin American countries define anyone who profits from illegal narcotics — , must also serve a minimum two-thirds of their sentence before being considered for parole. In 2014, 27 percent of Brazilian prisoners were in for selling drugs: a rate of imprisonment three times higher than in 2005.<sup>8</sup>

1. Postema, Cavallaro and Nagra, this volume.

2. Walmsley, R. (2015) *World Prison Population List*, 11th edn., London: International Centre for Prison Studies.

3. Walmsley (2015), see note 2.

4. Ibid.

5. Ibid.

6. Karam, M.L. (2009) *Proibições, Riscos, Danos e Enganos: As Drogas Tornadas Ilícitas*, Rio de Janeiro: Lumen Juris.

7. Ibid.

8. Karam, M.L. (2015) 'Mulheres presas', *Empório do Direito*, <http://emporiiododireito.com.br/mulheres-presas-por-maria-lucia-karam>, accessed 26 June 2016.

Not surprisingly, Latin American prisons charged with housing this over-abundance of indicted or sentenced bodies have witnessed a slow and frightening march of deteriorating conditions. Not only do we refer to the infrastructural decay endemic to the Latin American drug war prison, but equally important — and of particular importance to understanding what it is like to be incarcerated in such overcrowded facilities — , with staffing levels that fail to keep up with growing inmate numbers. Among the most extreme examples of staff shortage highlighted in this volume are the *García Moreno, Penitenciaría del Litoral*, and *Nuevo Centro de Rehabilitación Social Regional* — Guayas prisons located in the country of Ecuador, where one of our contributors spent time as a foreign prisoner beginning in 2005, before completing his sentence in *HMP Wandsworth*, London, UK, between 2014 and 2015.<sup>9</sup> Despite being very different prison types (a multi-purpose prison in a state capital; a nominal penitentiary that served more properly as a dumping grounds for indicted delinquents; and a so-called community prison synonymous with 21st Century Socialist penal code reforms), at each facility just three or four guards prison were typically left in charge of wings containing 350 to 500 inmates. *La Peni* held 8,000 inmates, five or six per cell, and many more were left to sleep in the cellblock corridors. Similarly, one of the two Brazilian prison guards interviewed for the volume, currently working at the infamous *Bangu* prison complex, Rio de Janeiro, reports that in his unit a maximum of nine officers are on duty at any one time.<sup>10</sup> Of these, just five officers will be stationed inside the cellblocks, as opposed to guarding and patrolling the outer prison wall. With a population of 1,200 inmates, as in the remainder of the complex, which in total holds nearly 27,000 prisoners,<sup>11</sup> the unit is currently operating at least 60 percent over official capacity. In Brazil official capacity is calculated according to the number of beds designated to individual cells and dormitories, as is the

...in many facilities officers rarely enter the cell blocks except at unlock or lockup. Instead, prisoners are increasingly left to fend for themselves...

national norm. Except that in Brazil it is quite normal to find four bunks squeezed into a 'single' cell measuring six or seven square metres.<sup>12</sup>

Under situations of abject deprivation and acute staff shortage, the immediate implication is that Latin American prison officers lack the resources to carry out the work of supervision, or even to ensure basic flows of vital goods and services across the wings. Across the region, officers increasingly rely on inmates to collaborate in the running of daily prison routines. Moreover, in many facilities officers rarely enter the cell blocks except at unlock or lockup. Instead, prisoners are increasingly left to fend for themselves and, with greater or lesser degrees of open institutional acknowledgement, to govern their spaces of enclosure. By default, prison administrators and their landing staff

also experience diminishing levels of authority. As Andrés Antillano demonstrates in the case of Venezuela,<sup>13</sup> this absence of state in Latin American cellblocks inevitably undermines both the direct authority and legitimacy of state-run prison governance.

These developments should not be remarkable to the student of contemporary Latin America. Social and legal historians<sup>14</sup> remind us that the region's prison systems have long been less concerned with corrections than with the management of 'offending' bodies — bodies considered threateningly anti-social by mere dint of the fact of

being held in state custody. This narrow focus on incapacitation has become increasingly prevalent in the neoliberal, globalised era of rising social disparities and falling social security. Most curiously, even Latin American countries that eschew neoliberal policies — eg. Venezuela, Ecuador, Bolivia, Nicaragua — wholeheartedly embrace the 'punitive turns' that neoliberal practices of preemptive 'threat neutralisation' set in motion. The consequences of such civil divestiture have been devastating both to everyday civil life and penal institutions alike. To borrow from Loïc Wacquant's analysis of 'the

9. Tritton with Fleetwood, this volume.

10. Karam and Saraiva, this volume.

11. Soares, R. (2016) 'Presídios do Rio nunca estiveram tão superlotados: São 48 mil presos para 27 mil vagas', *Extra*, 8 May 2016.

12. Darke, S. (forthcoming, 2017) *Self-Governing Prison Communities: Coproducing Order, Survival and Desistance in Brazilian Carceral Spaces*, London: Palgrave Macmillan.

13. Antillano, this volume.

14. See, *inter alia*, Dikötter, F. and Brown, I. (eds.) (2007) *Cultures of Confinement: A History of the Prison in Africa, Asia, and Latin America*, Ithaca: Cornell University Press; Salvatore, R.D., Aguirre, C. and Joseph, G.M. (eds) (2001) *Crime and Punishment in Latin America*, Durham: Duke University Press.

penalization of poverty' in Brazil, the region's prisons are therefore 'more akin to concentration camps for the dispossessed than to judicial institutions serving any identifiable penological function.'<sup>15</sup> As Christopher Birkbeck has diagnosed the problem, Latin American prisons have become little more than institutions of internment.<sup>16</sup> In sum, Latin America ironically finds itself 'ahead of the curve' in the global drift towards radically underfunded and precarious prison environments.

Similar to the region's under-invested and under-policed urban peripheries,<sup>17</sup> however, the lived complexity of social and political relations must be studied ethnographically in Latin American prison settings to better understand these paradigmatic spaces of *de facto* state abandonment.<sup>18</sup> Ethnographic, documentary, and – just as importantly – autobiographical accounts (*testimonios*) bear witness to a reality in which prison staff and prison inmates create and maintain professional and interpersonal relationships in even the most desperate of settings.<sup>19</sup> As the fieldwork-based contributions to this volume show, inmate and staff-inmate interactions are equally shaped by tacit relations of reciprocity and accommodation as they are by conflict or resistance. Much like the impoverished *barrios* and *favelas* on the outside, socio-political relations in Latin American prison spaces are, at the first instance, grounded in everyday interpersonal and collective struggles for order and wellbeing, or *ad hoc* institutional accommodations conditioned by state abandonment and the

normalisation of inhumane living conditions: what we call *informal dynamics of survival*.<sup>20</sup> Throughout the global South,<sup>21</sup> the shared precariousness of everyday life for prison officers and inmates has led to their necessary interdependence and institutional entanglement, as the former quietly become more reliant on the cooperation of the latter, and as prisoners step in to occupy the void in state responsibility or legally sanctioned ecologies of monopolised violence — a phenomenon one of us has previously referred to as 'inmate governance.'<sup>22</sup>

Informal prison dynamics of survival increasingly and creatively shape the prison environment across Latin America. As the international trend away from rehabilitative prison environments currently suggests, it appears that Latin American prisons are likely to become even more self-ordering. The untold or unintended consequences of this 'informalisation of prison governance'<sup>23</sup> are legion; they may at times appear more 'cobbled together'<sup>24</sup> than technologically crafted by penological or justice system experts, but inmate and staff-inmate strategies of pursuing survival ought to be carefully analysed. This special edition of the *Prison Service Journal* openly seeks to explore the intricacies of these informal dynamics actively at work across Latin American prison estates. The volume as such has been divided into three sections.

The first and largest section contains a number of academic articles focusing on ethnographic studies in specific countries (namely, Bolivia, Brazil,

## ...Latin American prisons are likely to become even more self-ordering.

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15. Wacquant, L. (2003) 'Towards a dictatorship over the poor: Notes on the penalization of poverty in Brazil', *Punishment and Society*, 5(2): 197–205, p.200.
  16. Birkbeck, C. (2011) 'Imprisonment and internment: Comparing penal institutions North and South', *Punishment and Society*, 13(3): 307–332.
  17. Koonings, K. & Kruijt, D. (eds.) (2007) *Fractured Cities: Social Exclusion, Urban Violence and Contested Spaces in Latin America*, London: Zed Books; Koonings, K. and Kruijt, D. (eds.) (2015) *Violence and Resilience in Latin American Cities*, London: Zed Books.
  18. Darke, S. and Karam, M.L. (2016) 'Latin American prisons', in Jewkes, Y. et al., eds., *Handbook on Prisons*, 2nd edn., Abingdon: Routledge.
  19. Ibid.
  20. In formulating the term informal dynamics of survival, we draw inspiration from existing anthropological work on individual and group resistance to state and social abandonment in a variety of social settings, for instance João Biehl's research at a Brazilian asylum (see Biehl, J., 2005, *Vita: Life in a Zone of Social Abandonment*, Berkeley: University of California Press) and Didier Fassin's research on the effect of the AIDS epidemic on South African townships (see Fassin, D., 2007, *When Bodies Remember: Politics and Experiences of AIDS in South Africa*, Berkeley: University of California Press; Fassin, D., 2010, 'Ethics of Survival: A Democratic Approach to the Politics of Life', *Humanity: An International Journal of Human Rights, Humanitarianism, and Development*, 1(1): 81–95). We are also indebted to our colleagues at the Global Prisons Research Network, principally Mahuya Bandyopadhyay, Andrew Jefferson and Tomas Max Martin, who in a special journal edition to which the current authors were invited to contribute, identified survival as one of three central, universal themes (alongside governance and transition) in the study of 'prison climates' (see Martin, T.M., Jefferson, A.M. and Bandyopadhyay, M., 2014, 'Sensing prison climates: Governance, survival, and transition', *Focaal: Journal of Global and Historical Anthropology*, 68).
  21. Martin et al. (2014), see note 20.
  22. Darke, S. (2013) 'Inmate governance in Brazilian prisons', *Howard Journal of Criminal Justice*, 52(3): 272–284.
  23. Garces, C., Martin, T.M. and Darke, S. (2013) 'Informal prison dynamics in Africa and Latin America', *Criminal Justice Matters*, 91(1): 26–27.
  24. Martin et al. (2014), see note 20.

Ecuador, Honduras, Nicaragua and Venezuela). Although contributors were asked to include a brief overview of a national or local prison system, in each article a special focus has been given to interrogating everyday realities of inmate governance and the informal dynamics of managing to survive spaces of in-built institutional neglect.

The second section focuses on firsthand accounts. It includes (as previously mentioned) a testimonial given by a former prisoner who spent nearly a decade in a number of Ecuadorian prisons from 2005 forward, and interviews with two university-educated, Brazilian prison guards, along with a former Brazilian prisoner-turned-rapper on Latin America's largest prison gang, São Paulo's *Primeiro Comando do Capital* (First Command of the Capital: the PCC).

The final section contains two articles that explore the policy implications of the volume. The first of these concluding papers focuses on the implications of self-ordering prison dynamics for policy makers in the region. The author makes the important point that 'carceral self rule' is produced by the acts and omissions of prison authorities; a majority of these authorities seek to rein in the most negative aspects of carceral self-rule (its emergence from struggles to survive dangerously precarious prison conditions, the omnipresent vulnerability to be dominated by predatory gangs, and so on), while supporting its normally more hidden-away salutary features (inmate inclusion in prison governance). The final paper in the volume explores the emergence in recent years of alternative models of incarceration in Latin America that aim to formalise inmate and staff-inmate self-ordering practices as an instrumental part of efforts by prison authorities to adhere to international human rights norms. The authors describe how prisoners may be creatively incorporated as shared managers of prison environments, and to make even more open and commonplace the array of inclusionary projects tacitly governing some of the least torturous or life-threatening facilities across the region. That members of the *Inter-American Commission on Human Rights* would seek to promote this kind of research may stand as testament to the relevance and immediate need for rethinking the prison as a space for 'the commons' to participate more integrally, and not exclusively from the

ground up, but more as a new space of and for ameliorative exchange, where 'the carceral top and bottom' ought to challenge and to remake the prison estate from within.

What would it take to more seriously consider prisoner self-governance? How does prisoner self-governance already map onto informal practices of inmate and staff survival, and how might these practices be incorporated as a means to regulate prisons more pacifically and, in the final analysis, to more constructively aid in state decarceration efforts? Fortunately, blind speculation or proclamations about these important matters of 'non-reformist reform' may no longer be needed as ethnographers from a variety of national academic traditions, equipped with different empirical questions and theoretical interests,

Fortunately, blind speculation or proclamations about these important matters of 'non-reformist reform' may no longer be needed...

have already begun to open new lines of inquiry into Latin America's prisons and to roll back the curtains on their backstage, inmate-and-staff practices. In the remainder of this introduction we briefly outline some of the more important features and consequences of informal dynamics of survival in Latin America. We conclude with a discussion of the ways in which self-ordering inmate and staff-inmate practices in particular might be utilised by those interested not just in studying

but also in remaking the commons emerging simultaneously inside and outside and between distinct prison contexts, and not only in Central and South America but elsewhere, across territories of the global North and global South, wherever new mass carceral zones are making their appearance. In doing so, we draw most of our data from the articles and firsthand accounts that we solicited for this volume. We thank each of the contributing authors for providing what we hope the reader will agree to be a singularly unique set of essay-length interventions giving equal weight to insider as well as academic accounts.<sup>25</sup>

### **Inmate governance**

Latin American prisons, then, are effectively governed through implicit, informal partnerships between prison administrators, prison guards and inmates. This underlying feature of inmate and staff-inmate relations is highlighted in each of the

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25. Special thanks goes to Pieter Tritton, for agreeing to share his experiences and understanding with us so soon after leaving prison.

contributions to this volume, as well as in our own previous fieldwork in Ecuador and Brazil. In Latin America two broad forms of inmate governance arise in response to material deprivations and staff shortage. First, in many penal institutions administrators make extensive use of inmates to work alongside or in the place of prison staff. In contrast to the better-resourced prisons of modern-day Northern America and Western Europe, today it is not unusual to find more inmates on duty than prison staff.<sup>26</sup> In some Latin American prisons inmates are employed not only in domestic and administrative positions, but also in security.<sup>27</sup> In a number of Brazilian prisons inmates have been entrusted with keys to the cellblocks; in Rio de Janeiro, imprisoned police officers have even been entrusted with mobile phones and guns.<sup>28</sup>

Second, each of the papers in this volume illustrate how inmates organise themselves to take on the functions of prison staff in the cellblocks themselves. In some cases clearly exclusionary and hierarchical, but in other instances more inclusive and customary, 'inmate collectives'<sup>29</sup> and 'cellblock mafias'<sup>30</sup> increasingly provide Latin American prisoners not only with self-governing systems of aid and protection, or representation in dealings with prison staff and administrators, but also in the regulation of informal markets necessary for collective material well-being. Important to our analysis, prison markets emerge in response to shortfalls in paid work,<sup>31</sup> and basic necessities such as cell space, bedding, medicines and food<sup>32</sup> as well

drugs, alcohol, mobile phones and other illicit merchandise. Moreover, they are increasingly important to prison administrators as well as to prison inmates.

The question whether inmate collectives and mafias provide, or have the potential to provide Latin American prisoners with more or less legitimate systems of governance than currently provided by prison officers is multifaceted and can only be answered case by case. Unsurprising considering the informal nature of inmate self-governance, the data provided in this volume is often contradictory at first glance. In some prison facilities, inmate leaders are found to be elected among their corridor and cell mates,<sup>33</sup> while in other prisons the most powerful inevitably rise to positions of authority.<sup>34</sup> Meanwhile, self-governance is found to be premised in

crippling levels of exploitation and backed up by extraordinarily high levels of violence in some facilities, but to be virtually absent in others. To further complicate matters, blackmail and other forms of rent-extracting coercion often co-exist alongside interpersonal networks of support, among the inmate populations,<sup>35</sup> and also between inmates and guards.<sup>36</sup>

Of particular importance to our analysis, informal dynamics of survival continue to pertain to inmate and staff-inmate relations in prisons that have in recent years fallen under the command of criminal organisations or 'movements.'<sup>37</sup> Major Latin American street gangs such as the *MS13* and *Barrio 18* in Honduras, and the PCC in São Paulo and the *Comando Vermelho* (Red Command) and *Terceiro Comando* (Third Command) in Rio de Janeiro increasingly traverse the boundaries between prisons

...self-governance is found to be premised in crippling levels of exploitation and backed up by extraordinarily high levels of violence in some facilities...

26. See e.g. Karam and Saraiva, this volume.

27. E.g. Birkbeck (2011), see note 16; Garces, C. (2010) 'The cross politics of Ecuador's penal state', *Cultural Anthropology*, 25(3): 459–496; Gutiérrez Rivera, L. (2010) 'Discipline and punish? Youth gangs' response to 'zero tolerance' policies in Honduras', *Bulletin of Latin American Research*, 29(4): 492–504. The employing of prisoners in positions of security has historical precedence both in Southern America (see e.g. Ramos, C., 1953, *Memórias do Cárcere*, Rio de Janeiro: José Olympio; Aguirre, C., 2005, *The Criminals of Lima and their Worlds: The Prison Experience, 1850–1935*, Durham: Duke University Press) and Northern America (see e.g. Marquart, J. and Roebeck, J., 1985, 'Prison guards and snitches', *British Journal of Criminology*, 25(3): 217–233).

28. Darke (forthcoming, 2017), see note 12.

29. Ibid.

30. Garces (2010), see note 26.

31. In particular, Cerbini, this volume.

32. In particular, Carter, this volume; Núñez and Fleetwood, this volume.

33. In particular, Núñez and Fleetwood, this volume; Tritton with Fleetwood, this volume.

34. In particular, Carter, this volume.

35. As Julienne Weegels writes in the context of her research at a police jail in Nicaragua, 'against a backdrop of violence and scarcity, inmates also form alliances and friendships to protect each other and help each other through difficult times (Weegels, this volume, p.16.)

36. See Darke (forthcoming, 2017), see note 12.

37. Biondi, 'Movement between and beyond walls', this volume.



and impoverished urban areas, and increasingly monopolise the networks of inmate authority, accommodation and reciprocal relations with prison staff. It might be mistaken to regard these gangs as merely 'egalitarian' or 'pacifying' modes of prison governance, yet there appears to be little doubt that the rise of major prison gangs has resulted in closer-knit communities of criminalised subjects on the insides of Latin America's jails and penitentiaries.

Each of the major criminal organisations covered in this volume gained control over prison territories in the short term through violence, most often in response to life-threatening conditions of state incarceration or internecine struggles within the blocks. Yet, in the longer term they have served to further facilitate inmate and staff-inmate systems of mutual support and vitally necessary protection. This is certainly the case with the PCC, which governs the lives of more than 90 percent of São Paulo's 220,000 prisoners. As papers and interviews in this volume by Camila Dias, Fernando Salla, and Karina Biondi demonstrate, since eliminating its rival groups in the first years of its existence, the PCC today rules less through violence and more through welfare provision, increasingly tolerant, quasi-legal forms of dispute resolution, and an ideology that pits 'outlaws' against a 'punitive state'. A key aspect of this ideology is that all PCC members are equal, an all-encompassing moral code that no-one is obliged to do anything besides assist one another.<sup>38</sup>

It would therefore be gravely mistaken to claim all prisoner-generated networks of power are singularly or exclusively serving 'predatory' interests without taking into account the fuller carceral picture of scarcity and everyday life. What remains in dispute is the extent to which the power wielded by Latin America's hegemonic 'prison gangs' should continue to be regarded as hierarchical and imposed, as Dias and Salla suggest in this volume, or as customary, autochthonous, and emerging from interpersonal relations formed among ordinary prisoners, more akin to the position taken by Biondi. In either case informal dynamics of survival take their place at the fore and aft of inmate and staff-inmate relations, though prison staff continue to resort to formal punishments as backup, usually with the tacit 'support' of prisoners. As

Dias and Salla emphasise, state and prison gang systems of control are not necessarily competitors. This interpretation is also supported in the interview conducted for the volume with two prison guards in Rio de Janeiro. 'The formation of gangs is a matter of survival. When prisoners are organised, they become more powerful, and life behind bars turns out to be less comfortable',<sup>39</sup> one of the officers responds when asked for his opinion on the relationship between deteriorating prison conditions and the rise of criminal gangs. When further questioned about the relationship between officers and prisoners, he goes on to describe how officers have little choice but to respect inmate codes of conduct to do their jobs, but that at the same time prisoners respect the need for officers to maintain security and to punish prisoners that breach prison rules. 'We live in a violent environment, in a permanent tension', he concludes. 'Both officers and prisoners are victims of the same precariousness.'<sup>40</sup>

#### Formalising the informal?

A major point we have sought to emphasise in the foregoing is that inmate self-governance across the new mass carceral zones shares deep and strong roots in Latin American history. The archival literature on

Latin American prison dynamics attests to the prison's longstanding use and abuse as a space of state abandonment and neglect.<sup>41</sup> The functional rationale of the prison lay in part as an overly idealized mechanism of deterrence, which *caudillo* political 'strong-men' (abiding by their republican, militaristic, dictatorial, or even democratic values) seized upon in order to discipline working classes and to terrorize potential vagrants, delinquents and enemies of state alike. Latin American ethno-racial dynamics happened to play a strong role in the designation of the prison as a space where the 'penitentiary ideal' was rarely if ever expected to produce the desired 'soul reformation,' so commonplace to penal expectations in the countries of the North Atlantic. To this day, ethno-racially marked indigenous, Afro-Latin or Afro-Brazilian, and foreign nationals comprise a majority of the inmate populations across the Latin American carceral state, and it should surprise no one that their ranks have likewise disproportionately increased during the emergence of

'We live in a violent environment, in a permanent tension' [...] 'Both officers and prisoners are victims of the same precariousness.'

38. Biondi, 'It was already in the ghetto', this volume. This development would seem an expansive and curious new addition to literature on the 'convict code,' but we leave this fascinating new phenomenon aside to future ethnographic research and critical inquiry.

39. Karam and Saraiva, this volume: p. 49.

40. Ibid., p. 50.

41. See note 14 for the basic introductory texts.

the drug-war era of heightened narcotics indictment, prosecution, and imprisonment. The spectacular rise of the inner-city or peri-urban *maras*, described in Carter's contribution to this volume on Honduras, attests to the carceral origins and trauma of a heavily persecuted and incarcerated 'transnational gang' community with historical roots in extreme urban and ethno-racial marginalization. In fact much of the present work points in the direction of new scholarship, soon to be published, about the racial calculus of carceral exclusion and abandonment, which may lead to thinking more directly about inmate self-governance as a legacy of the long Latin American post-colonial history of *marronage*, or attempts by systematically impoverished people of colour to find new political order and delimited kinds of interpersonal flourishing beyond the reach of the state.<sup>42</sup>

But here we have sought primarily to discuss the variety of ways in which inmate-self governance has become the tacit logic of rule on the insides of contemporary state prisons, and how Latin American states that acknowledge the relegation of the commons to these mass carceral zones may begin to develop greater appreciation for prisoners' structures of mutual aid in the face of their over-incarceration. The informal dynamics of survival comprise ad hoc technologies that spring from the efforts of prisoners and staff who recognize the ways in which incipient mass incarceration has led to the precariousness of all who live or work inside prison facilities. By highlighting these technologies of survival we are drawing attention to *actually existing practices* of alternative prison governance. The state's definitional hegemony over the concept of 'prison security,' typically understood as 'inmate threat neutralization,' has led to a wide variety of experimentation with prisoner segregation, isolation cells, stand-alone 'supermax' prisons, and other high-cost styles of instituted, dehumanising forms of isolation in response to breakdowns in official carceral authority. It has also led to a backlash of new penal state experimentation

with alternative, civil society-led Christian or nominally 'secularized' penitentiary models based more on rehumanising 'recuperation,' 'recovery,' and 'reintegration.'<sup>43</sup> Whatever the humanistic successes or failures of these practices or models, in what Salvatore and Aguirre refer to as the 'cycle' of reform, public criticism, and institutional collapse — evidenced time and again throughout different national prison histories<sup>44</sup> — we ought to emphasize that 'informal dynamics of survival,' or taking the interests of prisoners themselves more seriously, has rarely if ever been given all due consideration as a possible viable source of non-reformist prison reform. The interest of the Inter-American Commission on Human Rights to confront the intransigence of regional over-incarceration has led the present High Commissioner (himself an ardent

prison reformer and critic) to look to promote in this volume the 'controlled devolution of prison authority' as a means to save prisoners' lives and to engage in legally viable state decarceration efforts.<sup>45</sup> Each of the contributions to this volume provide ethnographic engagements that shed light on these informal dynamics as a response to prisoners' greater exposure to premature death.

The pressing question of how to 'formalise' such informal dynamics is a broad matter of pragmatic inquiry more suitable to future research across multiple countries' ethnographic and critical criminological communities who are now working in greater dialogue with

one another. Elsewhere, the editors of this special edition, for example, have brought together a new edited volume in preparation that explores how informal dynamics of survival require the active participation of prisoners, staff, and a variety of citizens who live outside the prison complex itself (friends, family, neighbors, legal advocates, prison researchers, and former work partners of incarcerated subjects). Hence the problematisation of informal dynamics of survival in the new mass carceral zones points our attention to the spontaneous growth and proliferation

Each of the contributions to this volume provide ethnographic engagements that shed light on these informal dynamics as a response to prisoners' greater exposure to premature death.

42. C. Garces. Unpublished ms. "Carceral Marronage and its Religious Directions: Latin America's 'Church and Parastate' Dynamic".

43. F. Macaulay, Modes of prison administration, control and governmentality in Latin America: adoption, adaptation and hybridity' *Conflict, Security & Development* v. 13, 2013 — Issue 4: pp. 361–392.

44. R.D. Salvatore & Aguirre, 'The Birth of the Penitentiary in Latin America: Towards an Interpretive Social History of Prisons,' (pp. 1–43), in (Salvatore & Aguirre, eds.) *The Birth of the Penitentiary in Latin America: Essays on Criminology, Prison Reform, and Social Control, 1830–1940*, Austin: University of Texas Press.

45. Postema et al., this volume.

of entire 'carceral communities.'<sup>46</sup> These communities come together increasingly in the form of *ersatz*, legally-minded watchdog groups working in concert with family members of the incarcerated. Quite often, such community efforts now keep 'incarcerated and ex-carcerated' members, or those who are bound together inside and outside the prison complex, up-to-date on prison dynamics and events taking place on the insides of carceral facilities vis-à-vis social media technologies. But most of the informal dynamics of survival are never publicized, and are more properly handled as 'public secrets' critically important to the well-being of all who live or work inside carceral facilities.

Each of the articles published in this special edition of the *Prison Service Journal* opens a new line of inquiry that may be considered to normalise and bring informal dynamics of survival out of the institutional shadows of the Latin American prison estate. Throughout the region, liberal and conservative elites have continued to seek penal solutions to the tragically endemic problems of contemporary state governance, whether 'neoliberal' or 'neosocialist' in political economic orientation. When different national prison populations swell and begin to approach the numbers more commonly associated with drug-war era United States,

it is useful to recall the variety of modes of resisting the penal fate ascribed to indicted or sentenced individuals. Informal dynamics of survival can take many shapes and be evidenced by multiple local histories. Whether or not it is possible to formally regulate them and to incorporate such ad hoc techniques and technologies of prisoner well-being, state policymakers in our opinion ought to begin analysing such survival strategies for what they can foretell about turning the region's 'prisons of misery,' 'islands of internment,' or 'spaces of death,' into a new machinery for the health and well-being of all who live and work within them. The very first step towards meaningful practices of state decarceration ought to begin with taking prisoners' lives and interests more seriously, and only then to recruit them into the tasks of sustainable prison transformation. Each article in the present collection has struggled to gain hard-won insights into this complicated procedure. We are frankly proud of this collective accomplishment, and hope that other scholars of penal worlds across Latin America and other world regions can use this inquiry into the new mass carceral zones as a model for productive critique and new ideas for non-reformist prison reform.

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46. C. Garces, S. Darke,, L. Duno-Gottberg, A. Antillano (eds.) *Carceral Community: Troubling Prison Worlds in 21st Century Latin America* (under contract with U. Pennsylvania Press).

# Neoliberal Penology and Criminal Finance in Honduras

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## Introduction

**In the early 2000s prison directors in Honduras ordered, for the first time, segregation for inmate populations according to gang membership. It was essential to minimising violence between the MS13 and Barrio 18, the largest gangs in the country. But it was equally necessary to protecting gangs themselves, from armed squadrons known to enter prisons undercover, and target gang wards in brutal massacres. Prison authorities ceded entire barracks, minimising official access, so that gang communities might fortify and secure them from the inside. At Marco Aurelio Soto (MAS), the largest national penitentiary, the MS13 gang was moved to a traditional barracks and the Barrio 18 to the former factory where traditionally inmates produced bulk fabrics for sale in the capital. By 2005 the gang had renovated the factory with perimeter walls and a decorative courtyard painted in bold colors and panoramic murals. The interior was remodeled. There were tailors, cobblers, billiards tables, and thundering music. Meanwhile, outside the factory walls, the prison struggled with insecurity and disrepair.**

Beginning in 2000, anti-gang policing in Honduras, Guatemala, and El Salvador initiated the mass incarceration of suspects and then a crisis in the Honduran prison system that is now over a decade old. Without sufficient funding to expand penal facilities, finance capital and charismatic leadership vital to the survival of carceral institutions in Honduras have been provided by organised groups from within the illicit economy. Converting the old prison factory at MAS into

a communal center of gang life is but one instance of state austerity and criminal affluence in a mode of reciprocal sustainability. Beyond renovating deteriorated infrastructure, revenue from illicit capital also funds vocational programs, basic provisioning for inmates, and financial subventions to prison employees.

For more than a decade now, scholarship attending to the layered complicity between neoliberal state policies and diversifying regimes of carcerality across Latin America, has examined its effects from diverse angles: urban securitisation;<sup>1</sup> Christian prison ministries;<sup>2</sup> drug wars and narco-capital;<sup>3</sup> inmate protest;<sup>4</sup> race and citizenship;<sup>5</sup> architectures and tactics of security;<sup>6</sup> co-governance;<sup>7</sup> among others. What I term 'neoliberal penalty' aims to highlight complicity between state austerity and illicit affluence, demonstrating the flexibility of neoliberal market logic at an extreme. Here I examine the overhaul of Honduran prisons in 2014 to suggest that while it has been politically expedient to frame such efforts as responding to overpopulation and infrastructural decline, equally it is the robust and flourishing market economies of prison interiors that generate renewed interest in regulating and controlling carceral enclosures.

## Overview

The carceral system of Honduras includes 24 institutions, designed for a total capacity of 8,000 inmates but currently holding over 16,000, with 50 per cent as pre-trial detainees.<sup>8</sup> In 2002 the introduction of *Mano Dura* (Strong Hand) policing strategies increased inmate populations by targeting members of international street gangs MS13 and Barrio 18. Despite militarised policing

1. Birkbeck, C. (2011) Imprisonment and Internment: Comparing Penal Institutions North and South, *Punishment and Society* 13, no. 3: 307–32; Ungar, M. (2003) Prisons and Politics in Contemporary Latin America, *Human Rights Quarterly* 25, no. 4: 909–34; Wacquant, L. (2003) Towards a dictatorship over the poor: Notes on the penalization of poverty in Brazil, *Punishment and Society*, 5: 197–205.
2. O'Neill, K. (2010) The Reckless Will: Prison Chaplaincy and the Problem of Mara Salvatrucha, *Public Culture*, 22(1): 67–88.
3. Campos, S. (2016) The Santa Monica Prison and Illegal Cocaine: A Mutual Relationship, *Crime, Law, and Social Change*, 65: 251–268; Núñez Vega, J. (2007) Las Cárceles en la Época del Narcotráfico: Una Mirada Etnográfica, *Nueva Sociedad*, 208: 105–117.
4. Carter, J. (2014) Gothic sovereignty: gangs and criminal community in a Honduran prison, *South Atlantic Quarterly*, 113(3): 475–502; Garces, C. (2010) The Cross Politics of Ecuador's Penal State, *Cultural Anthropology*, 25(3): 459–496.
5. Campos, S. (2014) 'Extranjeras': Citizenship and Women Serving Drug Trafficking Sentences in the Santa Monica Prison, *Bulletin de l'Institut français d'études andines*, 43(1): 75–91.
6. Garces, C. (2014) Denuding surveillance at the carceral boundary, *South Atlantic Quarterly*, 113(3): 447–473.
7. Darke, S. (2013) Inmate Governance in Brazilian Prisons, *Howard Journal of Criminal Justice* 52(3): 272–84; Darke, S. (2014) Managing without Guards in a Brazilian Police Lockup, *Focaal*, 68: 55–67.
8. Informe Anual (2014) *del Comisionado Nacional de los Derechos Humanos*. Last accessed May 14, 2016 [http://app.conadeh.hn/descargas/InformesAnuales/CONADEH\\_2014.pdf](http://app.conadeh.hn/descargas/InformesAnuales/CONADEH_2014.pdf)

gangs continued to attract members seeking an alternative to a stagnating formal economy or protection from urban insecurity.<sup>9</sup> Free-trade economic policies impacting urban centers also affected rural economies where illicit organisations grew coeval with contracting economies and vanishing trades. Gangs have often overshadowed such provincial associations though these *mafia* and *bandas* were central to building rural illicit economies supplementing the formal one. Inside Honduran prisons, the urban and rural fugitives of neoliberalism intersect. During the 2000s, prisons struggling to provide basic security and necessities ceded internal administration to inmate groups, and while media reports criticised such arrangements as ‘criminal finishing schools’, for thousands of pre-trial detainees and minor offenders, these processes and exchanges that had become *de facto* and *de jure* elements of prison management, would be their first entry into criminal social worlds.<sup>10</sup> In the sections that follow, I will examine the stages of this process as follows: (1) creation of inmate service economies, (2) takeover of those economies by criminal organisations, (3) formation of an autonomous prison community, and (4) state annexation of the prison economy.

### Neoliberal Penalty

In 2006 I was conducting fieldwork at Marco Aurelio Soto (MAS), and guards made sure I knew their jobs were difficult. Many wore threadbare uniforms, unable to replace them at personal expense. As social programs for inmates were eliminated and prisoners were idle, guards’ jobs were more hazardous. Escapes were common, and overflow encampments sheltered inmates in tents between buildings. At guard wages, employee life insurance was seldom affordable, and medical benefits, paid-leave, and retirement had been reduced. Guards slept in a dormitory that offered metal bunks with ripped-foam mattresses, and toilets that regularly overflowed, spilling into a large pool in the visitor parking lot.<sup>11</sup>

Meanwhile private capital from unregistered and unknown donors flowed into particular spaces. Photographs of tattooed gang members circulated in the global media of the early 2000s, drawing donations from humanitarian and evangelical groups that initiated renovation of their barracks. Their images mediated across global news channels, these newly decorated structures became iconic, and quickly expanded, supplemented through gang earnings in the shadow economies of extortion and drug sales in and outside the prison. When I visited the barracks of both the MS13 and 18 Gang by the mid 2000s, interviews and personal conversations often referenced their sense of a literal ownership of the renovated dormitory infrastructure.

### Expropriation

At the entrance to the barracks of the MS13, guards typically sat at a small desk more than twenty-feet from the actual entry point. The gang typically handled their own security and, when bored or exhausted by the sun, guards walked to an adjacent dormitory. Past groomed shrubs and a decorative arbor, they entered a circular garden and reclined in wooden swings by a pool of tilapia fish. They admired ornamental fighting cocks, and then visited a nursery of purebred, Rottweiler puppies.

The owner was Carlos, a mid-level cocaine and marijuana dealer who had grown up in Tegucigalpa, the nearby capital city. ‘I got here six months ago and this area was full of trash. No one wanted to touch it. A year ago some dudes were killed right there, just lined up on the wall and shot...I offered [the administration] money for it and of course they accepted, so now it’s mine to do what I want while I’m here.’ Guards ordered tamales and Cokes from Carlos’ assistants, inmates he gave a wage and some degree of protection.

With a leather jacket and gold chain, Carlos carried himself like a private contractor, shifting capital from

Photographs of tattooed gang members circulated in the global media of the early 2000s, drawing donations from humanitarian and evangelical groups that initiated renovation of their barracks.

9. UN Development Program Honduras. (2008/9) *Human Development Report Honduras 2008/9, from Social Exclusion to a Youth Citizenship*. Last accessed May 14, 20126. [http://hdr.undp.org/sites/default/files/hdr\\_honduras\\_2008-9\\_en.pdf](http://hdr.undp.org/sites/default/files/hdr_honduras_2008-9_en.pdf)  
 10. Comisión Interamericana de Derechos Humanos (2013) *Informe de la Comisión Interamericana Sobre la Situación de Personas Privadas de Libertad en Honduras*. Last accessed May 14, 2016. <http://www.oas.org/es/cidh/ppl/docs/pdf/honduras-ppl-2013esp.pdf>  
 11. These narratives come from my own field research from 2005 to 2016. For additional perspective, see: Centro de Prevención, Tratamiento y Rehabilitación de las Víctimas de las Torturas y sus Familiares, and Comité de Familiares de Detenidos Desaparecidos en Honduras (2006) *Situación del Sistema Penitenciario de Honduras*. Tegucigalpa, Honduras.

narcotrafficking networks in the capital, to prison renewal projects. From his pigpens Carlos gifted the prison Director a hog for Christmas and Holy Week, selling choice cuts of meat to staff and guards at low prices, assuring everyone was invested in his renovations. Journalists frequently characterise such exchanges as corruption or feudal tribute, but Carlos regarded them as part of rebuilding morale, re-instating year-end bonuses for administration that had been shorn from official budgets. 'If [directors and administrators] are happy, it's easier for all of us here,' he explained.<sup>12</sup>

### Privatisation

Across the prison yard in Module 3, a separate pavilion widely-known as the 'mafia barracks' that housed members of regional criminal bands, inmates adjusted to disinvestment differently. Those with influence in criminal groups across rural Honduras offered connections that affordably provisioned residents. Coordinators bought construction materials for a new perimeter wall, to assist the efforts of guards, and resources not provided by the prison were supplied at affordable prices, from bedding to pharmaceutical drugs, and foodstuffs that included eggs and meat, and duck, chicken, and turtle farms to supplement beans and rice from the prison kitchen. In other barracks, inmates of financial means established niche markets for basic necessities, but Module 3 was equipped with criminal financiers whose earnings underwrote a variety of renovation efforts, necessitating labourers, paying wages and credit, and kick-starting a diversifying economy.<sup>13</sup>

### Proto-State

Such creative solutions quickly ossified into predatory rackets. By 2012, inmate leadership negotiated all logistical matters of internment at

MAS. Guards received new inmates but delivered them directly to toros, powerful inmates who determined cell placement, accessibility of food and hygiene, and all details (including escapes) according to a rigid price scale.<sup>14</sup> Inmates without resources for an initial 'registration fee' as a baseline investment in their carceral residence entered indentured servitude to coordinators, commonly as couriers for drug sales. Inmate hierarchies regulated access to resources and movement, with authority from prison administration to enact their own disciplinary measures.<sup>15</sup>

Similar economies are vital to the survival of prisons and their detainees across Latin America. While there are no available figures on MAS in particular, La Planta prison in Venezuela, close in size to MAS, generated an internal economy of nearly \$3.4 million per year.<sup>16</sup> By the late 2000s internal markets at MAS were annexed by criminal groups who monopolised internal prison economies from the interior of autonomous carceral wards.<sup>17</sup> At MAS, the profits generated by the movement of contraband generated power and influence both inside and outside the institution that by 2012 the director declared himself powerless to address.<sup>18</sup> Guards and toros could extort inmate populations as captive markets.<sup>19</sup>

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### Other Worlds

Such criminal rackets have proven neither inevitable nor totalising, however. At San Pedro Sula (SPS) prison, the second largest in the country, built for 800 inmates and housing 2,700 in 2014, in March of 2012 inmates violently unseated extortion mafias that had run the prison for several years with unlimited power.<sup>20</sup> The revolt against them lasted hours, and prison authorities stood-down as a transfer of power was negotiated.

A 27-year-old pre-trial detainee named José Cardozo, known as El Chepe, assumed command of

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12. Additional perspective can be found at: Centro de Prevención, Tratamiento y Rehabilitación de las Víctimas de las Torturas y sus Familiares. (2004). *Informe del Sistema Penitenciario de Honduras*. <http://www.cprtr.org/pdf/informesistemapenitenciarioCIDH.pdf>
  13. For additional perspective, see: United Nations Office on Drugs and Crime (2012) *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*. Accessed May 14, 2016. [https://www.unodc.org/documents/data-and-analysis/Studies/TOC\\_Central\\_America\\_and\\_the\\_Caribbean\\_english.pdf](https://www.unodc.org/documents/data-and-analysis/Studies/TOC_Central_America_and_the_Caribbean_english.pdf)
  14. 'Como esclavos de capos terminan reos en Penitenciaría Nacional', *La Prensa* (Honduras) 19th January 2012.
  15. Stone, H. (2012) 'Inmates run Honduras prison as micro-state'. Available at: <http://www.insightcrime.org/news-analysis/inmates-run-honduras-prison-as-micro-state>
  16. 'Los 'negocios' en La Planta producen Bs 16 millones anuales', *El Universal* (Bolivia) 14th May 2012.
  17. 'Cárceles: ingresar un celular vale Q500; traslados cuestan hasta Q150 mil', *La Hora* (Guatemala) 3rd February 2014.
  18. 'Jugosos y millonarios negocios en Penitenciaría Nacional', *El Heraldo* (Honduras), 18th June 2012.
  19. 'DNSEP: Custodios son culpables de la corrupción en la Penitenciaría', *El Heraldo* (Honduras) 20th June 2012.
  20. 'Crimen en Honduras mueve unos 147 millones de dólares desde las cárceles', *Diario La Prensa* (Honduras) 6th February 2014.
  20. 'Terror en el centro penal de San Pedro Sula: 13 reos muertos', *El Heraldo* (Honduras) 30th March 2012.

the largest sector of the prison, on part of paisas, or non-gang members. A year later Chepe remained a mystery, though having demonstrated himself an imaginative architect of carceral leadership. After negotiating equilibrium between gangs, paisas, and officials, Chepe fashioned a social safety net, based on a graduated scale of taxation, to provide paisas and their families with health care. He invested in prison educational programs, making them obligatory for paisas and a condition of parole.<sup>21</sup> Money raised by inmates and unnamed Colombian donors generated new structures, second-floors, windows and terraces, winding corridors lined with butcher shops, metal workers, tailors, cafes, gambling tables, jewelers, and a decorative and lofty church. Chepe's sector has its own 'middle class' paying \$5000–7000 for private, air-conditioned suites with wifi and exercise equipment. SPS directors refer to Chepe's influence as 'autoridad civil', which extends even to the surrounding city, where people without connection to the prison visit Chepe seeking assistance, often financial but including basic necessities such as even a meal.<sup>22</sup> Even tenuous connection with Chepe's social experiment offers degrees of personal security inaccessible to the non-incarcerated poor, not only through health care access, but as victims of domestic abuse visit paisas soliciting domestic partnerships that ensure them increased personal safety.<sup>23</sup>

### State Annexation

At the point that the power and influence cultivated in formerly-neglected carceral wards approximated what might be perceived as a more 'just' social world than that which was outside, the National Institute of Penitentiaries of Honduras announced an overhaul to reduce overcrowding and modernise facilities. Specifically the plan will downsize the penal archipelago, reducing carceral facilities nationwide from 24 to 12, and reducing inmate populations by 40 per cent, pardoning petty criminals having served half their

sentence.<sup>24</sup> Individuals remaining in state custody will be transferred to modernised facilities and assigned by region, to increase family visitation and support.<sup>25</sup>

How is investment at this scale feasible within the same constraints of austerity that disinvested Honduran prisons to the point of abandonment? Across Central America practices of co-governance have demonstrated inmates capable of managing prison interiors, though in the case of Honduras such conditions also demonstrate that prison interiors are flexible market space with captive labour and consumers. The procedures that will return carceral governance to prison administration and the evolution of carceral infrastructure to the state, annexes this informal prison economy.

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Three new prisons will disarticulate existing prison economies and open them to private bidders, offsetting the required \$100 million USD investment.<sup>26</sup> The first is a US-style 'megacárcel' built to contain 2500 high-risk inmates, including founders, investors, and entrepreneurs of the informal prison economies. New facilities are designed to isolate and prevent communication between these individuals and other inmates, each cell a steel container surrounded by hydraulic cement, resistant to puncture and equipped with video surveillance.

While such a high-security (administrative segregation) facility facilitates the elimination of criminal finance and entrepreneurship from the penal enclosure, agro-industrial incarceration is the model for other facilities nationwide, minimum security complexes planned in consultation with state agricultural consultants, in which inmate labour in workshops and farms renders institutions self-sufficient.<sup>27</sup> State and private appropriation of criminal capital also extends to properties confiscated from regional narco-trafficking organisations, on which the construction of new carceral institutions were initiated.<sup>28</sup> Despite assertions that such new prison facilities will be self-sufficient, private contracts for prison services industries were granted to bidders from politically influential families, including that

21. Sanz, José (2014) 'El rey justo de la cárcel del infierno', *El Faro* (El Salvador) 13th January.

22. Ibid, 6.

23. Ibid, 19.

24. 'Más de 16,100 reclusos en 24 cárceles', *El Heraldo* (Honduras) 22nd October 2014.

25. 'Así se construye la cárcel de El Porvenir, Francisco Morazan', *El Heraldo* (Honduras) 20th October 2014.

26. 'Gobierno ha invertido 100 millones de dólares en la construcción de tres centros penales', *HRN: La Voz de Honduras* 10th August 2015.

27. 'Cárcel de El Porvenir será modelo a seguir', *El Heraldo* (Honduras) 19th October 2014.

28. 'Comida en hospitales y centros penales, otro negocio para la familia del presidente de Honduras', *Cholusat Sur* (Honduras) 21 September 2015.

of the current president, and denounced as cronyism. Additionally the annexation of inmate labour has been extended by new legislation requiring each inmate to provide 1400 hours of physical labour annually (five hours per weekday), as part of new rehabilitation programs arguing that steady labour reduces violence in prison populations.<sup>29</sup> Inmates producing food and goods for the maintenance of their facility also become a reserve labour army for the state, building desks for public schools, repairing rural roads, serving in reforestation, and in the maintenance of state infrastructure by splitting rocks, digging ditches, and producing and transporting raw materials such as bricks, cinderblocks, and sand. Their labour is unpaid, with any financial windfall channeled to the overall budget for the national prison system.<sup>30</sup>

### Conclusion

Cycling money out of the illicit economy and into material and managerial necessities of the prison, across the 2000s dark finance became the secret sharer of neoliberal penalty in Honduras. Though the institutional integrity of many prisons in Guatemala, El Salvador, and Honduras have been salvaged by co-governance, in Honduras it was off-

the-books financing of criminal groups that prevented systemic collapse. This relationship between illicit capital and security-state austerity turned prison interiors into diverse and lucrative market spaces that produced substantial returns for private investors. This article suggests that the current overhaul of the Honduran prison system, while addressing conditions of overcrowding and high rates of pre-trial detention, is equally the annexation of a sphere of exchange that developed in response to the impacts of austere economic policy, clearing the path for 'official' privatisation and monopolistic market practices that are the sine qua non of neoliberalism. Rather than a renewed commitment to the rights of the incarcerated, the new carceral archipelago in Honduras demonstrates both the ideological rigidity and the economic flexibility of neoliberal statecraft. If new rehabilitation programs succeed in transforming the spirit of the criminalised classes of contemporary Honduras, it is unlikely to be an effect of state programs premised on wrenching capital and labour from captive populations who bankroll their own incarceration.

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29. 'Congreso sigue debate de 'ley picapiedra', *País* (Honduras) 10th August 2015.

30. 'Aprueban últimos artículos de la Ley 'Picapiedra' *La Tribuna* (Honduras) 10th September 2015.



# Prisoner Self-Governance and Survival in a Nicaraguan City Police Jail

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**In line with the regional trend, the Nicaraguan prison population exceeds the capacity of its penitentiary system by on average twice its capacity, with the sharpest increases occurring over the past five years.<sup>1</sup> Considering that those are the years over which the traditionally socialist Sandinista government has consolidated its control of the presidency and institutions of crime control, this may seem to be a paradox, especially as the Nicaraguan penitentiary law has a clearly rehabilitative take on the function of prison for society.<sup>2</sup> Contrary to the regional punitive trend, 're-education' is advocated throughout the penitentiary system, sentences are relatively low, and participation in re-educational programmes, which range from schooling to cultural and church activities, is often rewarded with considerable sentence reduction. Yet daily life in Nicaraguan prisons is still very much governed through (the threat of) violence.<sup>3</sup> In this paper, I explore how convicted prisoners deploy both 'violent' and 're-educational' scripts to survive their prison time. I draw from an in-depth ethnographic engagement with a small group of prisoners from a large city police jail, who are part of a special 'rehabilitation programme'.<sup>4</sup> For them, survival entails both aiming for early release through participation in re-educational activities, and negotiating a place in the prison hierarchy from the get-go. Inside the overcrowded cells of the city police jail, where the surveillance practices realised by authorities do not provide the level of security required by the prisoners, the latter negotiation often overpowers the re-educational promise.**

## Overcrowding

The saturation of the Nicaraguan penitentiary system (in short, the *Sistema*) is directly reflected in the overcrowding of police jails in the larger urban centres. The city police jail where the prisoners that I worked with were held, currently holds over 400 prisoners in conditions suitable for only 150. Though it is officially a *preventiva* (prison for pre-trial detainees), only one of its cells holds arrestees. The rest of the population consists of convicted prisoners serving up to 15-year sentences. These prisoners serve their sentences in a legal limbo: a jail to which the Penitentiary Law does not apply, where they are guarded by police officers rather than prison guards, and where the infrastructure is not nearly suitable to serve out a sentence: on average 35 inmates sleep in each 5x5 meter cell, where they wash up and wash their clothes over the same hole in the floor as they defecate. Water shortages are more than common in the jail, and to complement the *chupeta* (the staple jail meal, consisting of a cupful of overcooked rice) family members queue outside the jail three times a day to pass food (*barcos*). In terms of infrastructure, there is no central courtyard for *sol* (sun), the visit hall serves as a dormitory at night, and only two small rooms are available for conjugal visits — where prisoners are allowed 20 minutes with their significant others rather than the full hour customary to the *Sistema*. Nonetheless, many prisoners prefer staying in the police jail rather than being transferred to the *Sistema*. They express that it's 'not as tough', 'easier to receive visits', and that 'the jail is closer to home.' It is also commonly believed that being released from the police jail, even if convicted, is easier than release from the *Sistema*.<sup>5</sup>

1. CENIDH. 2013. *Informe: Derechos Humanos en Nicaragua*. Managua. Specifically pp. 67-73. Retrievable online: [http://www.cenidh.org/media/documents/docfile/Informe\\_CENIDH\\_2013\\_FinalWEB.pdf](http://www.cenidh.org/media/documents/docfile/Informe_CENIDH_2013_FinalWEB.pdf)
2. Centeno Mayorga, Darvyn I. 2012. *Manual de Derecho Penitenciario Nicaragüense*. Managua: SENICSA.
3. See also Weegels, Julienne. 2014. 'The Prisoner's Body: Violence, Desire and Masculinities in a Nicaraguan Prison Theatre Group.' In Georg Frerks, Annelou Ypeij and Reinhilde König (eds.) *Gender and Conflict: Embodiments, Discourses and Symbolic Practices*, Farham: Ashgate.
4. This particular engagement took place between May 2015 and January 2016. I will go into it in more detail in the section 'Shifting between violence and reeducation'. This study is part of my doctoral research project about order and agency in the Nicaraguan prison system, which includes a previous long-term engagement with prisoners of a medium-sized state penitentiary (2009-2013).
5. This has much to do with the prevalence of 'irregularities' that are part of the Nicaraguan prison and justice system's "practical norms," much in the same way as De Sardan describes for informal practices common to the African public service sector. De Sardan, J.O.P. 'Researching the Practical Norms of Real Governance in Africa', Discussion Paper No. 5, Dec., London: Overseas Development Institute.

## Violent Initiations

With prisoners outnumbering on-duty officers by as many as 100 to 1 and no electronic surveillance system in place, inmates in the police jail are left mostly to fend for themselves.<sup>6</sup> In the overcrowded cells initiation into the prison's workings is entirely subject to rituals and regulations (norms) enforced by fellow prisoners. One former prisoner, nicknamed Joey, explains,

*The start for me was ugly. When I came in [to the cell] they [other prisoners] made me strip and beat me. [...] They put on music and had me walk up and down the corridor naked, whistling at me and smacking me on the butt, with their slippers or hands, to make me dance.'*

I looked at him in disbelief, thinking that he could have been made to dance 'la botella'. The 'baile de la botella' (dance of the bottle) is an event that every city police jail prisoner will assure exists but no one will acknowledge to have suffered, as it clearly exhibits sexualised traits that feed into the (re)production of specific, *machista* dominant masculinities.<sup>7</sup> Another prisoner had explained to me before that,

*When a group of guys in the cell gets together to make another guy dance la botella they'll turn up the radio, put a bottle on the floor, and the guy made to dance has to get naked and lift this bottle up by inserting the top of the bottle into his ass [...] Then he has to dance with the other guys, with the bottle, you know, and they'll say sexual stuff and smack him on the butt. If they don't like how you dance, like if you don't do it right, or if you drop the bottle, they'll beat you.*

But there are rules to the *baile*: 'they won't make just anybody dance, but if they don't like you, or if they think you might be a *perrita* (i.e. gay) they'll make you dance [...] if you refuse, you have to measure your fists with the guys that want you to dance, which will be the toughest guys in the cell and they'll beat you hard.' With this in mind, I hesitated, but asked Joey if there was any bottle involved in the episode he recounted. He directly assured me of the contrary,

*No way! Back in the cell they beat me hard and made me sleep by the side of the toilet... I spent like two weeks on that spot, I even thought of killing myself back then. But slowly I moved further from the toilet, to other spots on the floor, then to a hammock, and the last half year I was on a bunk.*

It may seem strange for Joey to move so abruptly from the harrowing experience of his initiation to discussing his sleeping space, but he did this to indicate that he quickly ascended. The hierarchy in a prison cell is most directly evidenced in the place where a prisoner sleeps: the most powerful prisoners and those who have spent the most time there will be on bunks, followed by those in the hammocks. Resulting from this rule, Joey explains that eventually,

*I got even with the guys that organised the beating, haha! All four of them were released, but three of them were caught again and came back. That's when I was on top and they were on bottom [rung], so it was my turn! I had my little group of *bróderes* (brothers, friends) then, and me la desquité (I took revenge).*

When I asked him if the police did anything about these beatings going on in the cells, he grinned, 'the police? They don't do anything! [...] They rather put you in a particular cell to ensure you get a beating. Like with guys that've done nasty stuff, they'll put them in the worst cells.'

## Prisoner Self-Governance

At this point, jail time might seem exceptionally brutal, but this violence has its particular logic. In the light of the overcrowding and understaffing of the prison, the scarcity of space, food stuffs and goods, what might seem ruthless prisoner-to-prisoner violence is part and parcel of the governance of the prison on the inside. It must be underlined, however, that against a backdrop of violence and scarcity, prisoners also form alliances and friendships to protect each other and help each other through difficult times. Food coming in from the outside is (or must) always be shared, beds and personal belongings are looked after by *bróderes*. As

6. The jail is adjacent to the city police commissary, meaning that there are more police officers around, but these do not directly guard the jail nor engage in its daily routine.

7. See also Weegels, 'The Prisoner's Body' (see n.3), or Lindegaard, Marie R. and Sasha Gear. 2014. 'Violence makes safe in South African prisons: Prison gangs, violent acts, and victimization among inmates', *Focaal: Journal of Global and Historical Anthropology*, Vol. 68, pp. 35-54.

time passes, all prisoners acknowledge and most begin to enforce the perceived fairness of the '*ley de la gallada*' (law of the prisoners).<sup>8</sup> Joey's story illustrates this as he engaged in enforcing these norms once he got 'on top'. The ley implies violence and solidarity, giving and taking: norms by which to order a volatile context. It has, moreover, become so engrained in the workings of the jail that police rely (or arguably depend) on these self-ordering principles among prisoners.<sup>9</sup> As Joey indicated, on occasion, police will even use 'prisoner law' to their own ends when they cannot 'get their hands dirty' themselves.

If, following Martin et al.'s exploration of prison climates,<sup>10</sup> we then understand governance as 'a set of interactions (conflict, negotiation, alliance, compromise, avoidance, etc.) resulting in more or less stabilised regulations, producing order and/or disorder (the point is subject to diverging interpretations between stakeholders) and defining a social field, the boundaries and participants of which are not predefined,'<sup>11</sup> we can understand prisoner-to-prisoner violence as a regulatory and boundary-defining practice of governance. It establishes a particular prisoner hierarchy ordered along principles established by the prisoners, and enforced through their regulations and practices. Even if the police govern the outer perimeter of the jail, its visitors, its opening hours and its curfew — life inside its cells is governed almost entirely by the prisoners themselves.

### Shifting between violence and rehabilitation

Seemingly contrasting the prisoner order, is the institution's emphasis on what is called re-education to achieve a prisoner's *cambio de actitud* (change of attitude). There are some important differences

between re-education in the penitentiary system and in police jails: first and foremost it is much less present (or completely absent) and largely unavailable inside police jails as the Penitentiary Law does not apply to the jails and, as a result, they are under no obligation to organise re-educational programmes. Yet there were programmes organised for the re-education of prisoners of the city police jail, but they were hosted at three different locations outside the prison: the city market place, the public hospital, and a neighborhood community center. My research took place at the latter, where my husband (a Nicaraguan theater director/actor) and I set up a theater training programme, which became part of the police-run rehabilitation and reinsertion programme that was set up there three years earlier, and resulted in the establishment of a prison theatre group. On weekdays, around 35 short-sentenced<sup>12</sup> prisoners were driven out to the community center to work and receive classes between 9AM and 5PM; 12 of these prisoners voluntarily participated in the theatre training programme, which ran on average 3 hours per day.

As the co-facilitator of this programme I spent about just as much time at the centre as the dozen participants, and became highly aware of the different empowering and disempowering experiences the young (wo)men went through both in prison and at the centre.<sup>13</sup> One force to be reckoned with at all times was the relentless, be it intentional or unintentional, exposure of one's delinquent status, crime and sentence to the general public by the police — whether or not the prisoner would want to disclose such information. Yet the theatre-making and performing, the group itself, became 'addictive,' a former prisoner and participant explains, 'it made all the other stuff bearable, you know, the unequal preferences and permissions of some guys over others, the police's mood swings.' The

Joey's story illustrates this as he engaged in enforcing these norms once he got 'on top'.

8. For many prisoners this law (or code) stands in marked contrast to the institutional 'rule of law' which is considered to be volatile and preferential (and thus inherently unfair).

9. Much as Darke explains in the context of a Brazilian police lockup, without inmate collaboration and self-ordering it would not be possible for the jail to operate. Darke, Sacha. 2014. Managing without guards in a Brazilian police lockup. *Focaal: Journal of Global and Historical Anthropology*, Vol. 68, pp. 55-67. For an exploration of norms as a way for prisoners to create security in an insecure environment see Skarbek, David. 2012. Prison gangs, norms, and organizations. *Journal of Economic and Behavior & Organization*, No. 82, pp. 96-109.

10. Martin, Tomas Max, Andrew M. Jefferson and Mahuya Bandyopadhyay. 2014. Sensing prison climates: Governance, survival, and transition. *Focaal: Journal of Global and Historical Anthropology*, Vol. 68, pp. 3-17.

11. Blundo, Giorgio, and Pierre Yves Le Meur. 2009. An anthropology of everyday governance: Collective service delivery and subject-making. In Blundo and Le Meur (eds.) *The Governance of Daily Life in Africa*, pp. 1-32. Leiden: Brill.

12. Sentenced to serve 2 to 5.5 years.

13. All participants were aware of my double role as a researcher, and explicitly voiced their consent to participate in my research. On separate occasions, we would sit together for informal group or private conversations, and I spoke with many at length, both during their time at the community center and after their release from prison. Almost all participants have by now been released.

daily effort that the participants in the community center's programmes put into behaving towards a life *beyond* prison, made it understandable that the (former) prisoners stressed their own agency in achieving their so-called change of attitude.<sup>14</sup> Though the police captain emphasised that 'change always comes from either love or fear,' if anything, change did not appear to come by way of the words from someone in police uniform. Even if the prisoners were more than grateful for the opportunity to swap their prison cell for the community center every day, 'rehabilitating' in a space provided to them by the same police that arrested them, they all underlined — in different ways — that 'change comes from within [...] the only one that knows when you've had enough of the street life is God and you yourself.' One participant reminded me that,

*Prison doesn't scare any of us. Sure, it's tough and nobody wants to go back once they're out, but it's not like we can't deal with it, we're used to it [violence]. Changing is harder than staying the same.*

In the introduction I mentioned that prisoners oscillate between violent and re-educational scripts. In the case of the city police jail this most clearly occurs when they literally move between the jail and the community centre, but the scripts also spill over between the two spaces. Even if prisoners almost exclusively govern themselves and each other inside their cells, the success of the police's rehabilitation programme is also shaped by the self-ordering practices of the participating prisoners. The strong incentive that the 'one-day-counts-for-two' regulation<sup>15</sup> provides for prisoners in re-educational programmes nationwide, opens windows to sentence reduction that would otherwise remain shut. As such, at the community center, prisoners to a certain extent engage in policing each other. Termination of the programme would namely signify, in the worst case scenario, an end to the opportunity of these prisoners to reduce their sentences by demonstrating their ability and willingness to 'change attitudes' through participation. The center is unfenced, located in the midst of a poor neighborhood, and visited by prisoner family members and friends on

a near daily basis. Generally only two officers are present at the center, who can hardly keep an eye on everyone. Opportunities for score-settling (fights), escape and engagement in illicit activities (such as smuggling) are hence omnipresent, yet hardly any incidents take place. If we do not take into account the role and principles of prisoner self-governance in this, we can never fully understand why the community center programme is able to exist.

## Conclusion

For their survival both within and outside of their cells, prisoners invest in knowing *when* and *how* to deploy what script to be able to navigate the complex web of tensions between the in-cell prisoner order and more institutionally defined out-cell, outside order. Those who excel in both scripts spend their time on the inside '*sin acalabrarse*' (without freaking out) while simultaneously and convincingly working toward an early release. As one prisoner, talented in both regards, put it to me: 'Julia, do you think I ever slept on the floor? [Clicks his tongue] I got a *camarote* (bunk) on the first day because I made a win [smuggling] that same day. Do you think I wash my clothes? M-mm: my cellmates wash them. I don't clean the cell, I can get up whenever I like [...] I never have to wait to wash up.' Even as he has been out of the trade for quite a while, this prisoner explained that he remained 'on top' in his cell, because 'one by one *les pegué su turqueada a todos* (I've beat all of them up). Pla-pla-plá! But easy, you know. They respect me. [...] I use that leadership to get them into good stuff now [...] [but] I tell you, if I wouldn't have been on the other side of things in the beginning, they wouldn't listen to me now.' Whether this is true or not is not the issue here, what is at stake is the successful performance — the correct practice — of prison scripts in order to survive. Enforcing and living by the *ley de la gallada* inside the cell, and by the practice of a *cambio de actitud* outside of it. Both constitute stabilised regulations, producing order and defining a social field, resulting from sets of established social interactions for the governance of the prison environment.

14. See also Weegels, Julienne. Forthcoming. Beyond the Cemetery of the Living: An Exploration of Disposal and the Politics of Visibility in the Nicaraguan Prison System. In Chris Garces, Sacha Darke, Luis Duno-Göttberg and Andrés Antillano (eds.) *Carceral Communities: Troubling 21st Century Prison Regimes in Latin America*. Philadelphia: University of Pennsylvania Press.

15. Generally, in the application of sentence reduction, the days participated in re-educational or work programs count double. Yet the application of sentence reduction can be very arbitrary, to the frustration of many participating prisoners.

# Formal and informal controls and punishment:

## The production of order in the prisons of São Paulo

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### Introduction

**In the last decades the growth of incarceration in Brazil deepened the precariousness of prison conditions and favoured the emergence of internal organised criminal groups established by inmates. These groups sought to create new relationship standards between inmates, prison staff and prison administrators, and between inmates themselves. One of the main groups, the First Capital Command (Primeiro Comando da Capital — PCC), gained hegemonic power across a large part of the state of São Paulo's prison system. This meant great change in the ways prison order was built and maintained.**

The classical studies of Goffman<sup>1</sup> and Sykes,<sup>2</sup> for example, show that, although having the legal resources to conduct prison routines, custodians deal with internal rules and actions that allow them to create a negotiated order, albeit unstable and informal. This paper aims to present the complexity of prison order in Brazil and in particular São Paulo with regard to formal and informal punishments, imposed by prison staff and also by the inmates themselves. We will analyse three kinds of punishment: legal/judicial punishments imposed by the prison staff, grounded in judicial decisions and overseen by judges; administrative punishment applied solely by prison staff; and informal punishments applied by the PCC, which can reach physical and psychological violence.

In short, we will describe and analyse the formal and informal punishments imposed by prison staff and also by the PCC. These practices of inmate control and the production of prison order do not compete among themselves. Instead, they intertwine and compose a wide field of controls on the prison population that make prison conditions even more complicated, challenging classical interpretations of the nature of prison order.

### **Between the law and the norm: the punishment imposed by prison staff**

In Brazil, there are two kinds of punishments that can be imposed by prison staff: those which are supported by

the Sentence Implementation Act (Lei de Execução Penal — LEP), whose imposition requires intervention and overview by a judge (e.g. transfer to federal prisons or to the Differentiated Disciplinary Regime, both of which are characterised by stricter discipline, similar to the supermax prison model); and punitive measures (called adjudications in the UK prison system) that are taken in an administrative sphere, and because of this are exempt from judicial monitoring and control (e.g. transfer between prison units, use of solitary confinement up to 30 days, solitary confinement for indeterminate time for prisoner self-protection, and extra-days of imprisonment).

In 1984, the Sentence Implementation Act/LEP<sup>3</sup> defined, for the first time, the rules for the serving of sentences. Although LEP effectively placed the enforcement of sentences within the scope of the judiciary, many measures adopted and implemented at an administrative level by prison staff are taken in disregard to it. For example, LEP states that 'collective sanctions are prohibited',<sup>4</sup> however, procedures such as restriction of movement, deprivation of leisure time, and suspension of visits, are routinely adopted by prison administration as punishments imposed in response to an incident on all inmates in a particular prison irrespective of their personal involvement in the misconduct.

LEP ranks breaches of prison rules as light, medium and severe. Severe acts of misconduct are listed as: inciting or participating in movement to subvert order or discipline (riot); escaping; possessing a tool that can serve to undermine the safety of others; failing to perform duties prescribed by law; and owning or operating a radio or telephone for external communication. Sanctions range from a verbal warning, reprimand, solitary confinement for up to 30 days or application of the Differentiated Disciplinary Regime.

The Differentiated Disciplinary Regime (RDD) was created in 2003.<sup>5</sup> Since then, RDD can be imposed on prisoners who commit acts of severe misconduct, upon authorisation and overview of a judge. RDD also can be imposed on inmates who represent 'high risk for the order and security of the penal institution or society'.<sup>6</sup> Yet, it can be imposed on inmates that are suspected of

1. Goffman, Erving. (1961) *Asylums: Essays on the social situation of mental patients and other inmates*. New York: Anchor Books.
2. Sykes, Gresham M. (1974) [1958] *The society of captives: a study of a maximum security prison*, New Jersey: Princeton University Press.
3. Act 7.210.
4. Article 45, §3º.
5. Act 10.792.
6. LEP, § 1º, art. 52.

involvement or participation in criminal organizations like the PCC, or other prison gangs.<sup>7</sup> RDD consists of isolation in an individual cell, restricted visits (two people per week for two hours); no more than two hours *banho de sol* (sunbathing; access to exercise yards) a day; prohibition of TV and radio; and restricted access to books and magazines. A prisoner can be held under RDD for a maximum of one year, although this period may be renewed in the case of further serious misconduct. Most prisoners held under the regime are not known gang leaders but ordinary gang members, or otherwise disruptive inmates. Some are known to be Red Command (Comando Vermelho — CV) leaders.<sup>8</sup> Of the few PCC leaders in RDD, all are secondary leaders. Paradoxically, the main imprisoned PCC leaders are not subject to this regime.

Alongside those measures that require judicial monitoring, there is a wide repertoire of punitive administrative procedures applied to prisoners that are not backed by legal provisions. In Brazilian prisons, operating rules are applied in a very discretionary way. The same action from different prisoners can be interpreted and punished differently. The internal disciplinary system (*sindicância*) is a formal procedure initiated by prison staff to investigate any misconduct (eg. fights, thefts, assaults, unauthorized materials use, trafficking and consumption of drugs). While many of these occurrences are taken to the further attention of the police and become police reports and even criminal cases, all administrative investigations into prison misconduct have important implications for prison governance and prison order. Responsibility for charges like owning cell phone and drugs are frequently assumed by prisoners forced to falsely confess by organized groups such as the PCC (this kind of prisoner is referred to as an 'orange' — '*laranja*'). In this sense, prison investigations do not affect prison gangs, which continue to maintain control of other prisoners and protect their members from punishment.<sup>9</sup>

Another control and punishment mechanism widely used by prison staff is to transfer the prisoner to a prison in which he will be away from his family, imposing on the

family extra spending in terms of time and material resources to carry out visits.<sup>10</sup> There are no specific rules towards any specific misconducts that imply the imposition of prison transfer, thus any prisoner can be transfer to any prison, and at any time.

### Social Control and Punishment: Inmate rule

In addition to the multiple procedures of punishment imposed by prison staff, Brazilian inmates are also subjected to a myriad of informal controls imposed by prisoners themselves. Inmate behaviour and practices are subject to microscopic levels of control, reaching intimacy and privacy, even thoughts and feelings.

The controls that the PCC leadership imposes on prisoners involves power strategies that combine: (i) adopting a discourse that calls for identification of prisoners in terms of the shared experience of incarceration and, as such, victims of injustice committed by an oppressive State that violates their human rights and imposes additional deprivation, pain and suffering; (ii) providing some basic needs of prisoners not covered by the State, such as hygiene materials, support to families to carry out visits, food and so on; (iii) the elimination of rival groups, often through the overt use of physical and symbolic violence; (iv) sending documents (code rules, statutes, letters, messages, instructions) produced by the PCC leadership to define behaviours, methods for joining the group, decision-making dynamics, forms of conflict resolution and setting punishments to be imposed in the case of non-compliance with the gang's codes of prison conduct.

Although informal controls are constitutive in a prison context, as already pointed out in the classical literature on the matter,<sup>11</sup> such controls have acquired much greater significance in Brazilian prisons since the emergence and consolidation of the PCC, especially in prisons in the State of São Paulo, where the group has a wide hegemony and exercises control in approximately 90 per cent of prisons. We do not address the social and historical process that led to the broad change in the prisons of São Paulo since the

Another control and punishment mechanism widely used by prison staff is to transfer the prisoner to a prison in which he will be away from his family...

7. LEP, § 2º., art. 52. Note that we use the term "prison gang" in reference to the PCC with caution. There are enormous differences between the PCC and Americans prison gangs, with whom the term is usually associated. Such differences will not be covered here, but, is important to stress that it is the lack of a better word in English that justifies using the term "prison gangs" in this text.  
 8. The CV is the major organised crime group/prison gang in the state of Rio de Janeiro.  
 9. Dias, Camila (2014) 'Disciplina Controle Social e Punição: O entrecruzamento das redes de poder no espaço prisional', *Revista Brasileira de Ciências Sociais*, 85: 113-127.  
 10. See also King, Roy and McDermott, Kathleen (1990) 'My geranium is subversive: Some notes on the management of trouble in prisons', *British Journal of Sociology*, 41(4): 445-71.  
 11. Goffman, E. (1974), see n.1; Sykes, G. (1958), see n.2.

emergence of the PCC.<sup>12</sup> However, it is important to stress that the intensification of informal controls on the inmates is directly related to changes triggered from the PCC's consolidation. That is the subject we want to discuss.

First of all, it is important to point out that the social control strategies operated by PCC members are very dynamic and change according to power structures that organise social relations in the prison environment. The strategies of social control we are to discuss should be understood within the context of their circumscription in a specific social setting, composed by a network of interdependence that puts individuals in relation to each other within certain patterns of expected (and required) behavior.<sup>13</sup> This interdependence network that produces order inside São Paulo's prisons is very flexible, which means that the expected patterns of behaviour, control strategies and punishments imposed by the PCC continuously evolve. Changes in strategies of inmate self-governance occur in response to developments in prison administration measures, in public security policies, or reorganisation of the hierarchical structure of the the PCC itself.

Analysis of a document produced by the PCC, named 'Spelling book union and family: for a conscious generation' allows us to access some discourses that are adopted to control the behavior of the prison population, through strategies of what they call *consciousness*. There are some important points on which to remark regarding the ideological appeal of the document, and the means by which the PCC leadership uses it to seek to establish objectives, goals and guidelines: first, the document outlines the history of

the PCC, highlighting the struggles, the goals and changes it has made in its 20 years of existence. Second, the document proposes a re-assessment of previous actions and their consequences (e.g. the May 2006 Attacks),<sup>14</sup> which it evaluates critically and concludes not to have been good strategies. Third, the meaning of each word of the PCC's motto 'peace, justice, freedom and equality'<sup>15</sup> is explained in detail. Here the document lists the group's objectives and provides guidelines and strategies to achieve them. Fourth, the document contains a list of institutions and people that can help achieve these objectives, and a list of people identified as 'enemies' to their cause.

We are not analysing the whole document in this paper, but we would like to draw attention to the meaning of *consciousness* for the PCC. This idea — the need and importance of *consciousness* of the prison population — appears throughout the document and permeates all the points listed above. *Consciousness* replaces the use of physical violence as a central strategy of social control over the behavior of inmates. Through the idea of *consciousness* and practices to 'raise *consciousness*' the PCC imposes the 'Discipline of the Command',<sup>16</sup> broadening and

deepening the scope of controls, extending surveillance beyond the actions and external behavior of prisoners. As the term for this strategy indicates, *consciousness* aims to gain control over internal non-visible aspects of prisoners' lives, in the area of their subjectivity.

To exemplify this strategy we use another document, a report<sup>17</sup> written by prisoners linked to the PCC describing the occurrence of a transgression in a São Paulo prison.

...it is important to stress that the intensification of informal controls on the inmates is directly related to changes triggered from the PCC's consolidation.

12. Dias, Camila and Darke, Sacha. (2015) 'From dispersed to monopolized violence: expansion and consolidation of the Primeiro Comando da Capital's Hegemony in São Paulo's prisons', *Crime, Law and Social Change*, 65(3): 213-215; Dias, Camila and Salla, Fernando. (2013) 'Organized crime in Brazilian prisons: the example of the PCC', *International Journal of Criminology and Sociology*, 2:397-408; Adorno, Sérgio and Salla, Fernando. (2007) 'Organized Criminality in prisons and the attacks of the PCC', *Revista Estudos Avançados* (Instituto de Estudos Avançados), 61(3):7-29.

13. Dias, Camila. (2013) *PCC: Hegemonia nas prisões e monopólio da violência*, São Paulo: Saraiva.

14. The event known as the May 2006 attacks was the major disruption in public security in post-dictatorship Brazil. In one week thousands people were killed and more than seventy prisons fell under the control of the PCC in the state of São Paulo. For more information about the event, see Adorno, Sérgio and Salla, Fernando (2007), see n.12.

15. The PCC has some identification symbols, one of which is the motto. The initial motto was "Peace, Justice and Liberty" and it was created in 1993. In 2005 the term "equality" was added for support changes in the PCC's structure, from a pyramidal to a cellular model.

16. 'Discipline of the Command' is the term used to describe forms of behavior, acting, feeling and thinking that are imposed on prisoners submitted to the PCC controls. See Dias (2013) chapter 7, see n.10.

17. The prisoners responsible for the enforcement of discipline in each prison unit produces reports at regular intervals that are referred to the PCC control instance immediately above, called "Sintonias" (Tunes). About hierarchical and organizational structures of PCC, see Dias (2013) chapter 7, see n.10. Those reports summarize all questions and problems occurred in each prison and the way which the responsibility for discipline (a prisoner who is a PCC member) proceeded with the solution in each case. These documents do not always have a regular interval. It depends on several question, as the context, the prison unit, the facts, and so on. The reports aim to inform all occurrences to the higher hierarchical instances of PCC and, in the most serious cases which require severe punishments, the report also aim seeking 'approval' for imposing such punishment. That 'approval' is called 'aval'.

The document reports an offense committed by a convict: he was seen masturbating on visit day. This act is portrayed as a *serious offense* since the visit day is when prisoners meet their families, especially their wives, is considered *sacred* and is surrounded by interdictions (e.g. do not look toward the wife of another prisoner). In the report, the PCC leadership at the prison is reported to have asked the prisoner: 'Of whom was he thinking while he masturbated?'. The punishment would depend on the prisoner's answer to the question. If he answered that he was thinking in a wife or a daughter of another inmate, he would be subject to a severe punishment — perhaps death. But, of course, the prisoner said he was thinking of his own wife while masturbating. The PCC 'trial' aimed to establish a more peaceful solution to the problem — renouncing the use of physical force and at the same time maintaining a standard of supervision and control that involves practices, thoughts and feelings of inmates.

The case expresses the molecular levels achieved by the strategies of power<sup>18</sup> and control exercised over the prison population by the PCC. It also reveals that the controls involve not only objective aspects of behavior, practices and actions of prisoners, but also their subjectivity, thoughts, feelings. The power strategies aim to produce certain forms of being and feeling characterized by self-control, the imposition of surveillance over the self and others, ultimately shaping a kind of submission.<sup>19</sup>

The PCC regulates such aspects of daily lives of the prisoners as eradication and interdiction of crack trafficking and consumption inside prison; the segregation of homosexual prisoners; and the banning of religions of african origin. Prisoners who do not follow its guidelines and procedures may be forced to transfer to other prisons or may be punished with physical violence, even death.

In a previously analysis of PCC documents,<sup>20</sup> the authors identified important changes in the ways the group exercised power and social control since it was formed in the early 1990s. At first, direct and explicit physical violence, including murder, had enormous symbolic power and was an important strategy to demonstrate the group's strength. Eventually these means of the use of violence gave way to more streamlined forms of punishment in which violence — although always present — was subsumed in control practices on the body, on the behavior, on the thinking. In this process physical violence, especially death, was gradually

established as a possibility and not as a *fait accompli*. It is the certainty of the use of violence, inherent to a scenario of consolidated power, which makes its actual use unnecessary.

New types of controls conformed and, currently, the term *consciousness* — used regularly in documents produced by the PCC — is the one that best expresses the content and the form taken by such controls. *Consciousness* aims to transform the mind and soul, through the development of internal controls, by imposing a change of conduct and behaviour, from inside out. In other words, it is intended that prisoners develop their own forms of self-control, ways of acting, thinking and feeling that are in line with the historical and political contexts of construction, maintenance and management of order in prisons controlled by the PCC.

## Conclusion

Foucault<sup>21</sup> points out how the autonomy of penal sentence enforcement extends punitive mechanisms to molecular levels that can be achieved by micro-penalties inherent to imprisonment. The extension of further instances of judgment over criminal proceedings and the execution of the sentence in which the decision-makers are multiplied through the enforcement<sup>22</sup> of the sentence, being the convergence center for this processes the prison administration. The extension of punishments beyond the legal sphere constitutes the administrative field as the locus of the proliferation of multiple penalties imposed on inmates by the prison administration.

If the prison is, par excellence, the place where a multiplicity of powers intersect, the dynamics produced in Brazilian institutions from the growth of organised groups of prisoners in the construction and maintenance of prison order, expanded the scope, extent and depth of social controls imposed on the prison population. Social controls imposed on the behaviour and practices but also the feelings, the thoughts, and the intentions of inmates. Such controls imposed from the outside by external sources, paradoxically intend to take the form of self-control, as is clear from the repeated use of the word awareness in PCC documents. Prison order is based in controls imposed by prisoners themselves, which articulate and overlap with the controls exercised by the prison administration, and extend the overall scope of the punishment on the inmates.

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18. Foucault, Michel. (1995) *Discipline and punish: The birth of the prison*, New York: Vintage Books.

19. Although it is not possible to deepen this discussion here, it is important to register the moral dimension directly relating to these forms of control. See Dias (2013) chapter 7, see n.10.

20. Alvarez, Marcos César, Salla, Fernando and Dias, Camila Nunes. (2013) 'Das Comissões de Solidariedade ao Primeiro Comando da Capital em São Paulo', *Tempo Social*, 25(1):61-82.



# Movement between and beyond walls:

## Micropolitics of incitements and variations among São Paulo's Prisoners' Movement the 'PCC' and the Prison System<sup>1</sup>

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**In this paper, I write about the first results of my most recent research, conducted in a prison of Guarulhos city, in the metropolitan area of São Paulo, Brazil. Six years after I conducted my first research on prisons,<sup>2</sup> I have once again conducted research inside prison facilities. I returned to a penal institution in order to, on the one hand, observe the changes undergone by the collective of prisoners that I previously studied and, secondly, to address the specifics of their local composition, especially in relation to the management of the prison unit.**

The prison where I conducted my research is a unit designated for men that were granted the right to semi-open conditions and has a capacity for 246 inmates, but currently houses a population of 568 men, divided into two pavilions. Most of them work during the day, some at the institution and others out of jail. Of those who work there, one part undertakes unit maintenance activities (such as cleaning, cooking and maintenance of outdoor spaces) and another part works in workshops installed by companies, in partnership with the prison administration. The prisoners are related to the First Command of Capital (PCC), a type of prisoner collective that appeared in the early 1990s and currently is present in the majority of penal institutions and urban areas within the State of São Paulo.

The PCC has commonly been referred to as 'the biggest prison gang' or as 'organised crime', yet I approach it as a 'movement'. But as a movement, the PCC does not fit easily into specific, delimited spaces or temporal intervals. This is due, in part, to the fact that it does not have a defined origin or endpoints. As a result, the PCC-as-movement is never limited to the trajectories traced out or encouraged by particular

people, not even the 'brothers' (PCC members) themselves. The PCC is instead composed by the simultaneous crossing of several movements. These traverse territories, times, and people in a motility that erases and leaves behind even as it establishes powerful traces. This is one result of a PCC composed of disparate entities that do not reveal any definitive, corresponding identities. Or, put slightly differently, people and things do not come together — all together — in order to take up shared, definitive paths in realizing a common goal or participating in a cohesive mission. Far from making up a monolithic unit, the movement called the PCC does not simply behave like the type of movement I am working to describe here, but it is also constituted by multiple and varied 'minor' movements that promise to provide the Movement called the PCC with diverse forms, calibers, velocities, and pathways. So, instead of defining the PCC as a gang or as organised crime, I would approach it as a name or as a quality of relations, following the traditional anthropological attention to human relations.

These are the relationships that tension the daily life of the prison where I conducted my research. According to the prisoners with whom I spoke, that semi-open conditions unit was actually semi-open, as opposed to other prisons of the same type located in the Greater São Paulo, which they defined as semi-closed. They highlighted the job opportunities and training offered by the unit, which they contrasted with those found in other units. In contrast, they said, there still existed what they defined as injustices practiced by the team of prison staff in relation to prisoners. Moreover, the interaction between the prisoners was not the best they had ever lived and therefore it was not the best prison through which they already passed.

1. This paper is a version of my presentation at the session Gangs, Prison Governance, Gender & 'Rehabilitation' in Latin America, organized by Julienne Weegels (Centre for Latin American Research and Documentation CEDLA), at the 2016 Congress of the Latin American Studies Association. The research presented in this article was part of post-doctoral activities conducted at the University of Campinas, Brazil, with a scholarship granted by CAPES (Higher Education Personnel Improvement Coordination) and financial resources provided by CNPq (National Council for Scientific and Technological Development). I am particularly grateful to Juan Albarracín for dialogues and for help in translation.
2. Biondi, Karina. 2010. *Junto e misturado: uma etnografia do PCC*. São Paulo: Editora Terceiro Nome. Published in English as Biondi, Karina. 2016. *Sharing this walk: An Ethnography of Prison Life and the PCC in Brazil*. Edited and translated by John F. Collins. North Carolina: University of North Carolina Press.

This was due to three factors. First, as it is a regime that usually precedes open conditions, many prisoners feared reacting to these injustices. This could make them lose the benefit of the semi-open conditions and would take them back to closed conditions. Second, the prison population housed in that unit was mostly formed of first offenders condemned for short sentences. Many had been sentenced directly to semi-open conditions. According to the prisoners with whom I spoke, the vast majority of these inmates 'were not from crime',<sup>3</sup> but drug users. It was an effect of the current law that decriminalises the use of drugs, and the actions of the police, who arrest the users as if they were drug dealers, and of the judges who condemn them. Finally, the interaction between the prisoners was not the best they had ever lived because the PCC was very little rigorous, giving room for many attitudes that did not fit with their ethics. According to the prisoners, until 2009, someone that made a mistake received a charge (in the form of reprimand, aggression, expulsion from the coexistence area or, ultimately, in the form of his death). From 2009 until now, the PCC had become 'more tolerant'; its members had begun to prefer to create awareness in prisoners rather than punish them. That was the first time I had heard about the 'Rescue Era', mentioned in the work of Dias.<sup>4</sup> With that, they say, there is now no 'seguro' (space for prisoners whose lives are at risk when in contact with others). Only rapists, whistleblowers and members of other factions, cases considered very serious, are sent to prisons controlled by rival gangs.

Penal legislation (that defines the penal regime), Law of Criminal Executions (that guide the conditions benefits), prison management (that dispose about internal punishments), State secretary of prison administration (that define the profile of prison's population), legislation that decriminalized drug use, along with the police action and action of the Courts of Justice (which led to the arrest as dealers who before the decriminalising were considered users), PCC ethics. All these forces are transformed into movements by the prisoners in their assessments of the possibilities of

action in the situation in which they find themselves. All this is transformed into ordinary components of the PCC that operates in that prison unit.

An event that occurred during my research served as an illustration of the problems of coexistence at the prison unit, as pointed out by the prisoners. During 15 days, an entire pavilion was punished. No prisoner could go out for work, study or even for association (or to collaborate on my research). After that, I talked to some prisoners who explained to me what had happened. According to them, there was a blitz in which more than 40 mobile phones were seized. Prison officials requested that the prisoners responsible for the phones plead guilty, but none of the prisoners did. Something similar had happened a few weeks before, when drugs were seized and also no prisoners appeared to be responsible for them. On both occasions, all prisoners suffered the punishment of being locked in the pavilion.

A guard told me that in such cases, the administration needs a name to whom it can attribute the material found, and usually the prisoners themselves induce someone to assume responsibility. Detainees confirmed that this works, or at least should work in this way: a prisoner assumes the responsibility of the seized material so that the punishment does not fall on everyone.

However, they didn't. Nobody assumed responsibility and everyone was punished. If, on the one hand, it showed a lack of solidarity among the prisoners or lack of one among them who had argumentative power to persuade a prisoner to take responsibility (which denotes a certain weakness of the 'brothers' in the prison unit or a absence of 'brothers' there), on the other hand it revealed that 'equality',<sup>5</sup> so valuable to the ethics of PCC, was there with all its strength. After all, no prisoner was forced to assume the offense and none of them tried to force another to do so.

An inmate whose first arrest occurred even in the early 1990s was discontented with what occurred and with what happened later. According to him, in the absence of a prisoner prepared to assume responsibility

From 2009 until now, the PCC had become 'more tolerant'; its members had begun to prefer to create awareness in prisoners rather than punish them.

3. Different from the legal definition for crime, for prisoners this word concerns a specific form of conduct that can be followed for those engaged in criminal acts, as well as for those who are not. Thus, there are criminals who are not from crime and workers who never infringed the law that are from crime.
4. Dias, Camila Caldeira Nunes. 2011. *Da pulverização ao monopólio da violência: expansão e consolidação do Primeiro Comando da Capital (PCC) no sistema carcerário paulista*. Tese de doutorado em Sociologia defendida na Faculdade de Filosofia, Ciências e Letras da Universidade de São Paulo.
5. Biondi. 2010. See n.2.

for the cell phones, the director of discipline had gone to the pavilion to lecture to the inmates about how things work in these cases. 'It was a slap in the face brothers'. He continued:

*Because it is one thing when the director or a guard talks about his work, what can, what cannot be done, what is related to the operation of the prison, right? But interaction between inmates is a matter for prisoners. We have to solve it between us. But then the director was giving a lecture to talk about how we have to behave among us. That does not exist! It is unacceptable!*

According to him, the 'brothers' should promote this conversation with the prison population and explain to the prisoners how things work in the case of seizure of forbidden objects. A volunteer to take responsibility for the object should appear to prevent 300 prisoners from being harmed, and it was the PCC's responsibility to work to make it happen. At the same time, the tolerance and the permissiveness of the PCC had created a problem for the prison administration: the absence of a name to attribute ownership of the objects.

We saw how movements incited by this new attitude of the PCC contribute to the composition of the prison population of that unit (its more tolerant stance ceased to expel imprisoned from that prison). After all, if the PCC had another posture, many prisoners that fulfilled their sentences in the prison would be sent to jails controlled by rival gangs. Thus, the composition of the unit prison, defined by the jail's management, is incited by movement triggered by the prisoner policies. Moreover, the reduction of cases of aggression and deaths within the prison system create specific conditions for the management of prisons. Finally, the PCC's stance to be lenient with errors or not

ensure that a prisoner is presented as responsible for seizures creates impasses for the prison administration and for the processes that result from these events.

According to the prisoners, the prison was not the best through which they had passed because of the penalty compliance regime that is intended, the profile of prisoners and the new attitude of the PCC. All these factors congregate elements that do not end on the outskirts of the prison unit and involve factional policies, prison policies, prison management, staff, legislation, policing, decisions of the Justice and the Court of Criminal Executions.

When I approach the PCC as a Movement composed by many movements, both 'inside' and 'outside' are then not so evident. Even if one considers the penal institutions as the center of the PCC, and if one considers that one is never more within the state than when inside a prison (as remembered by Barbosa,<sup>6</sup> inspired by Foucault),<sup>7</sup> my proposed approach offers a perspective that neither puts the PCC at the margins of state<sup>8</sup> or as something that arises in the 'absence' of the state, as seen by King and Valensia.<sup>9</sup> On the contrary, this approach enables us to describe how detainees — PCC members — put in movement administrative actions and prison policies, and how their movement in turn is productive of changes both in the management of prisons and public security.

This allows me to describe how the PCC is co-produced through the exercise of justice, security operations, current laws, public policies, and by what is written about it.<sup>10</sup> At the same time, it also allows me to approach the effects of movements in prison management, mainly the way they are lived by inmates. Whereas the policies or prison administrations do not start from a harmonically constituted State and do not act on the uniquely classified population — i.e. 'State' and 'prisoners' cannot be approached as monolithic units — my intention is to describe the micropolitics of incitements and variations in those relationships.

6. Barbosa, Antonio Rafael. 2005. *Prender e dar fuga: biopolítica, sistema penitenciário e tráfico de drogas no Rio de Janeiro*. Tese de doutorado em Antropologia Social. Universidade Federal do Rio de Janeiro, Museu Nacional. Rio de Janeiro.
7. Foucault, Michel. 1996 [1975]. *Vigiar e punir: história da violência nas prisões*. Petrópolis: Vozes.
8. Das, Veena and Poole, Deborah. 2008. 'El estado e sus márgenes. Etnografías comparadas'. *Cuadernos de Antropología Social*. No 27, pp. 19–52.
9. King, Roy D. and Valensia, Bruna. 2014. 'Power, Control, and Symbiosis in Brazilian Prisons'. *The South Atlantic Quarterly*, Vol. 113 Issue 3, pp. 503–528. King and Bruna write about the same penitential complex where I conducted my fieldwork. However, they are not rigorous with the date or theory. They consider things that occurred in early 90s as current, do not make their source of information clear (from guards, prisoners, newspaper, books), or who is talking about who. They also confuse reciprocity with symmetry when they criticize the work of Darke (Darke, Sacha. 2013a. 'Entangled Staff–Inmate Relations.' *Prison Service Journal*, no 207, pp. 16–23; 2013b. Darke, Sacha. 'Inmate Governance in Brazilian Prisons.' *Howard Journal of Criminal Justice* 52, no 3, pp. 272–84), and seem to assume that all Brazilian prisons operate under the same administrative, management and factional conditions.
10. For another conjugations that produce specific prison settings, see Garces, Chris. 2010. 'The cross politics of Ecuador's Penal State'. *Cultural Anthropology*, Vol. 25, Issue 3, pp. 459–496; Garces, Chris. 2014. 'Ecuador's 'black site': On prison securitization and its zones of legal silence'. *Focaal — Journal of Global and Historical Anthropology*, Vol. 68, pp. 18–34.

# When prisoners make the prison. Self-rule in Venezuelan prisons<sup>1</sup>

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**An emerging issue in the penitentiary system in Latin America, one that has not received much attention by scholars, is the self-rule of prisons in which control of the carceral order relies on the informal structures formed by inmates, contesting the internal government administration, and through violent coercion, maintaining internal order. In this paper we describe and discuss this self-rule based on ethnographic research in a Venezuelan prison during a two-year period and several interviews with inmates and ex-convicts. Carceral self-rule is defined by the roll back by prison administrators in the task of maintaining order and regulating life and the replacement of informal, inmate-controlled structures and practices.**

The skyrocketing prison population in Latin America has contributed to changes in life inside prisons, shifting both power relations and social organization internally. In many prisons in the region state power, hitherto omnipotent and unchallenged, is questioned and even displaced by groups of prisoners passing *de facto* rule over the rest of the prison population.<sup>2</sup>

We've named this phenomena *carceral self-rule*: prison practices and structures, usually violent and illegal, through which prisoners, or a group of them, control, regulate and govern collective life in prison, or at least crucial aspects of it, thereby displacing the State from functions traditionally considered its monopoly.

This is distinguishable from the informal organisation of prisoners, as described in the work of American sociologists during the second half of the twentieth century,<sup>3</sup> because while social relations, cultural codes and inmates practices in these works are understood as forms of resistance, rejection or adaptation to the intervention of the prison administration, in our case the informal organization has replaced the role of bureaucratic administration. Neither can this condition be understood as *prison gangs*,<sup>4</sup> a category which often is confused, because while prison gangs control only particular groups of inmates (often attendant to ethnicity or origin) and dispute power with the administration and other gangs, carceral self-rule maintains relatively stable, effective, and often exclusive control of the people within the prison as a whole. Frequently, and it is also the case in Venezuela, prison gangs precede carceral self-rule, which usually results in struggle between rival factions until one prevails over the other. Finally, it is necessary to distinguish carceral self-rule from prison privatization and other forms of prisoner participation in management, maintenance, treatment and disciplinary regimes.<sup>5</sup> While these prisoners might be pampered and favoured by the administration, they function on behalf of that administration; whereas carceral self-rule is imposed by violent force and is in clear antagonism with the administration whether it be hidden or unrecognized by formal powers.<sup>6</sup>

Drawing from field research over two years in Venezuelan jails and interviews with inmates and ex-

1. This paper is based on field research conducted together with Ivan Pojomovsky, Chelina Sepúlveda y Verónica Zubillaga. I thank Jennifer Martínez for her translation and suggestions.
2. See for Brazil, Biondi, K. (2010) *Junto e misturado, uma etnografia do PCC*, Sao Paulo: Terceiro Nome; Darke, S. (2013) Inmates Governance in Brazilian Prisons, *Howard Journal of Criminal Justice*, 52, 3: 272–284; Nunes, C. (2011) Estado e PCC em meio às tramas do poder arbitrário nas prisões, *Tempo Social*, 23, pp: 213–23. For Bolivia, Cerbini, F. (2012) La casa de jabón. *Etnografía de una cárcel boliviana*, Barcelona: Edicions Bellaterra. See too Pérez Guadalupe, J.L. (2000) *La construcción social de la realidad carcelaria: Los alcances de la organización informal en cinco cárceles latinoamericanas: Perú, Chile, Argentina, Brasil y Bolivia*, Lima: Fondo Editorial de la Pontificia Universidad Católica de Perú.
3. See Clemmer, D. (1958) *The Prison Community*, New York: Rinehart; Goffman, E. (2001) *Internados*, Barcelona: Amorrortu; Morris, T. and Morris, P. (1963) *Pentonville; A Sociological Study of an English Prison*. London: Routledge & K. Paul; Sykes, G. (1974) *The Society Of Captives: A Study Of A Maximum Security Prison*, New Jersey: Princeton University Press.
4. See, *inter alia*, Lessing, B. (2010) The Dangers of Dungeons: Prison Gangs and Incarcerated Militant Groups, *Small Arms Survey 2010: Gangs, Groups and Guns*. Cambridge: Cambridge University Press; Shytierra, G. and Huebner, B. (2015) Gangs in Correctional Institutions, in Scott, D. and Pyrooz, D. (eds.) *The Handbook of Gangs*, Sussex: John Wiley and Sons; Skarbek, D. (2011) Governance and prison Gang, *American Political Science Review*, 105,4, pp: 702–716.
5. For example, Darke, D (2013) Entangled Staff-Inmate Relations, *Prison Service Journal*, 207: 16–22.
6. Of course, the relations between staff and the self-rule of the prisoners is quite complicated and variable, far from the false dichotomy between opposition–cooperation. The situation produces spaces of coexistence and mutual assistance. However, in the arena of effective power, the administration is severely limited by the power of prisoners, and the exercise of power can only be achieved through negotiation with the self-rule of prisoners or by exceptionally violent means. See Antillano, A. (2015) Cuando los presos mandan: Control informal dentro de la cárcel venezolana, *Espacio Abierto*, 24,4: 16–39.

convicts, in this article we aim to define carceral self-rule in Venezuela's Penitentiary system. We describe carceral self-rule as a cultural code regulating inmate activities, as political structure leading to internal government, and as economic order which supplies material support to prisoners. These three instances, of course, involve and reinforce each other, and together they enable the functioning of the carceral order far from management control.

### ***La rutina*: the self-regulation device.**

Contrary to what might be expected, the carceral order administered by prisoners is a hyper-codified space. There is virtually nothing that is not subject to unwritten rules and violations carry inexorable, relentless penalties, including death or severe physical punishment, inflicted by prison bosses. Any gesture, the gaze, the way they talk, clothing, relationships with others, practices that outside the walled life would be beyond control or be considered a private matter, are objects of a precise specification, distinguishing between the permitted and forbidden, and subject to strict regulations and thorough scrutiny. This set of rules is what prisoners call *la rutina* (the routine),<sup>7</sup> which operates like an informal mechanism for self-regulation in response to the stressful life in the prison.

These norms, which could look bizarre and senseless, become intelligible in the context and, moreover, functional to the collective needs of life in prison. They regulate interactions and prevent events that may precipitate violence, protect prisoners and their family members from violence, preserve order and strengthen group cohesion.

The rules can be distinguished between those that refer to relationships with other inmates, relationship with relatives and visitors, links to the institution and its agents, association with the system and the core values of group membership. Relations with the inmates are strongly regulated by rules oriented to preventing conflicts and misunderstandings. Anything that can generate unnecessary tensions or conflicts, any ambiguity,

double-meaning words, a gesture that could be considered offensive or lead to offenses, practices affecting the property and honour of others, are banned and usually punished severely.

Similarly, in terms of relationships with families, being fully clothed and not showing the torso in front of women, not looking at the partners of fellow prisoners, etc., are essential rules to avoid conflicts over a very sensitive issue for prisoners: relatives, partners and the precarious link with their previous, normal life.

Third, prisoners have a set of obligations to the collective order: all prisoners are required to work in order to maintain the informal system, and follow the orders of the prison chiefs.

Other rules are those dealing with relations with the institution and officials. Any collaboration with the authorities is refused. Furthermore, any participation or activity organised by the State administration, even if there would be benefits to the inmates or improvements in the conditions of prison life, are understood as forms of cooperation and, as such, condemned.

Last, the rules that are part of *la rutina* and are related to the values of the group. Show courage, honour or ritual use of violence are core values that are continuously deployed internally. These are associated with an almost baroque expression of rationality and the negation of all tactical calculation. This forces violent duels, openly exposing prisoners to armed clashes, even at the cost of fatal injuries.

*La rutina* prescribes guidelines that lead conduct, regulate interactions and modulate restrictions over interpersonal conflicts, protect prisoners from symbolic and material damages, block and neutralise possible attacks of institutional power, and strengthen group values. In this regard it is essential for the reproduction, regulation, preservation and even intelligibility of the prison social order.

### ***El Carro*: the inmates' self-government.**

These prisons are under the control of *El Carro* (The Car), a group of armed prisoners who emulate

These norms, which could look bizarre and senseless, become intelligible in the context and, moreover, functional to the collective needs of life in prison.

7. For a more extensive description of 'la rutina', see Antillano, A., Pojomovsky, I., Zubillaga, V., Sepúlveda, Ch., and Hanson, R. (2016) 'The Venezuelan Prison: from neoliberalism to Bolivarian revolution', *Crime, Law and Social Change*, 65: 192–211; Antillano, A. (2015) see n.6; Crespo, F. (2009) 'Cárceles: Subcultura y violencia entre internos', *CENIPEC* (28):123–150; Crespo, F. & M. Bolaños (2009) 'Código del preso: acerca de los efectos de la subcultura del prisionero', *Capítulo Criminológico*, 37,2:53–72.

the State in its functions, structure and in a certain way, forms and procedures. As such, the *Carro* is a clearly distinctive structure, separate from the rest of the prison population. This is defined by its professionalism (this is a group that devotes most time to the tasks of government and control) and the degree of the division of labour, specialisation and even bureaucracy. *El Carro* is run by the *principal*, the chief, who is accompanied by a group of companions and an armed body guard.

*El Carro* governs prison life and each of the prisoners. It decides on the management of resources, defines justice, imposes penalties, negotiates with the state, declares war against rival groups or State administrators, distributes goods, and sponsors parties. It manages the other prisoners like an army, like soldiers that feed the war against rival groups or the National Guard; a mass of workers, performing necessary work to reproduce life within the prison walls.

*El Carro ensures compliance to the routine by watching the prisoners and judging and punishing infractions, while it at the same time guaranteeing the reproduction of daily life by collecting and redistributing taxes and rents.*

Under this government, the *población* (all the prisoners who are not part of *El Carro*, but are subject to it) must comply with certain mandatory tasks: making *garita*, paying taxes, and abiding by the orders of *El Carro* without question.

The *Carro* has a monopoly of firearms inside the penitentiary. Only their members can possess and carry them. The monopoly of firearms is a condition for reigning over the rest of the population, which in turn ensures the monopoly of violence. Though the authority of the chiefs rests not only on weapons, without such power it would be precarious and questioned.

The *Carro* accomplishes the same functions of any state: it maintains internal order and also punishes those who break the rules, determines justice and solves conflicts, defends the territory and the population from external aggressions, and makes war (by revenge or conquest against other *carros*, or to press for certain demands or responses to attacks from the National Guard). But their activity is not confined to tasks related to the use of violence. It also

organises daily life, establishing work shifts and rationing scarce goods (food, use of kitchens, visits); it provides and distributes cells, beds and spaces, provides food for those unable obtain it, invests in improved conditions of life in the jail, manages different services within the prison (from food businesses, ballrooms, library, kitchen), regulates visits, has parties, regulates business and the price of products within the facility, handles relationships with administrators, penal systems, and armed guards.

The *Carro's* authority rests not only on its ability to coerce, but it must also have some legitimacy to maintain its control over the rest of the prison population. Its mandate is respected by prisoners not only because of fear, but because it is considered to be a good government. It guarantees peace, life and dignity of prisoners, provides goods and services, those vital for survival and those with high symbolic value: parties, women, and drugs. This polarity between coercion and legitimacy stresses the very existence of a *Carro*. The chiefs must be hard but understanding, authoritative but kind. An overly weak or overly severe principal can be deposed. The balance between violence and generosity is critical to their survival. In fact, the principal must appear wise and understanding, be the first to meet the *rutina*, but always demonstrate courage and strength.

The *Carro's* authority rests not only on its ability to coerce, but it must also have some legitimacy to maintain its control over the rest of the prison population.

#### **La causa: self-sustaining prison economy.**

Certain economic conditions make it possible to sustain this model, as much the functioning of the *rutina* as the existence of the *carro*, while ensuring collective means of subsistence. This can be understood as a biopolitical economy, which is based on the income exaction from a captive population. At the same time as the biopolitical controls the population, its management and subjugation permits enormous gains for those who exercise it. The main mechanism of levies is paying the *causa* (the cause) a sort of personal tax. The *causa* is the amount each prisoner must pay for the right to live in the prison. It is collected on the weekend, ensuring visitors leave money with their relatives. A default carries penalties, including expulsion from the dominion of the *Carro*.

In addition, the *Carro* has forced workers and soldiers at their disposal. Some devalued groups are exploited for physical jobs, cleaning and maintenance

of common areas, hauling goods or construction, usually to the benefit of the *Carro*, while the rest of the population can be warned to compulsively fulfil any task instructed by the heads or perform security work, surveillance or combat in situations of conflict. Lastly, another source of income is the payment for prohibited items that are difficult to get in the prison, such as drugs, phones and household appliances.

The prison economy plays a crucial role in financing, support and reproducing the social order, self-regulation and self-government. This is so in at least three ways: by providing support to the population, providing goods and services that the state does not provide, contributing to group cohesion and self-regulation, and affording the existence and operation of the apparatus of power and coercion.

### The rise of the new carceral order

Self-rule rests, therefore, in cultural codes, political practices and economic conditions. But these factors do not explain how this social order emerges. For us, three conditions seem fundamental for the consolidation of power by the prisoners: the widespread use of prison as a mechanism for exclusion, the availability of firearms and the erosion of the state's ability to control the population sent to prison.

The prison population increased in Venezuela from the 80s, going from 10,000 to more than 20,000 prisoners. The number peaked in the mid-90 with more than 30,000 detainees. The last years of the century, the prison population fell below 12,000, but then it went back up, breaking — for the first time in history — the barrier of 50,000 inmates.<sup>8</sup> The escalating use of imprisonment coincides with the dismantling of social policies in the 80s, the liberalization of the economy, the decline in government spending and the lowering of employment and its constituent consequences in terms of unemployment, poverty and exclusion.

Much scholarship emphasises the relationship between neoliberal policies and expansion of the punitive state power.<sup>9</sup> Prison does not work anymore

as a device to standardise and discipline the subordinate classes, which was associated with the ideology of rehabilitation, but now operates instead by strengthening and maintaining the exclusion of those social groups who were expelled from the world of work and consumption in the new economic order that neoliberalism installed. Mass incarceration, the decline of the rehabilitative ideal and a fall in treatment and monitoring techniques are indicators of this mutation.

Though this is consistent with two decades of neoliberal hegemony in Venezuela during the eighties and nineties, it does not explain why the prison population continues to grow in recent years, in the Bolivarian era, with a post-neoliberal government that implemented immense redistributive policies and social inclusion. Indeed, during this time poverty,

unemployment and inequality decreased significantly, but the number of people sent to prison continued to grow. Our hypothesis is that the social policies implemented, though improving living conditions of the majority, lose universality and fail to reverse the structural factors that cause exclusion, so that a significant group of the masses remains out of reach and conditions of exclusion persist. In this context, punishment complements redistributive policies by focusing on the

## The prison economy plays a crucial role in financing, support and reproducing the social order, self-regulation and self-government.

surplus population.<sup>10</sup>

The emergence and strengthening of self-rule prison structures go together with these fluctuations and peak with the growth of the prison population. These trends emerged in the mid-90s and consolidated over the last decade. The population increase fractured cohesion and internal social relations, making inoperative previous forms of regulation. The overcrowding of the prison that we visited, designed for no more than 300 inmates when more than 5,000 people are living there, and with less than 20 prison guards (who cannot enter inside), explains the rise of armed groups who are able to control the social order.

On the other hand, it created economic (extraction of revenues) and political opportunities (population mobilization) on which rest the *Carros*

8. Ministerio de Justicia (1980–1996) *Estadísticas Delictivas*. Caracas. Provea (1999–2013) 'Derecho de los privados de libertad'. In *Situación de los Derechos Humanos en Venezuela*. Provea, Caracas.

9. See Cavardino, M. and Dignan, J. (2006) 'Penal Policy and Political Economy', *Criminology & Criminal Justice*, 6, 4: 435–456; Müller, M. (2012) 'The Rise of Penal State in Latin American', *Contemporary Justice Review*, 15, 1: 57–76; Wacquant, L. (2010). *Castigar a los Pobres*. Barcelona: Gedisa.

10. Antillano, A. (2014) 'Crimen y Castigo en la Revolución Bolivariana'. *Cuestiones de Sociología* N° 10.

power. In short, a larger population created more income, more workers and more soldiers.

The second factor is the declining ability of state control over the carceral population. The fiscal crisis of the 90s affected spending in prisons and state coercive capacities, resulting in declining resources for institutions of punishment. Low budgets, reduction in the number of detention locations, falling investment in prison infrastructure, reduced prison guards and professional staff, resulted in failures in the supply of essential resources for the subsistence and control of inmates.

In addition, the state intervention in carceral space became more and more illegitimate. Numerous abuses, massacres, massive violations of human rights are evident from the late-80s. One justification often found among inmates in preferring the despotic government of the *Carro* over formal administration is their rejection of abuse and what they perceive as debasement in prisons under state control. The *Carro* protects prisoners from abuse of State authority, in exchange for a different kind of abuse. Weakness, illegitimacy and loss of state control are part of the same continuum, or different expressions of a profound transformation of punishment and the role of the state.

A third factor is the entry of firearms into jails. From the mid-90s, handguns are available to those who control the prisons. The loss of state control and the levying of huge revenues from the prison population, make it possible to buy arms and bribe guards to allow the entry of weaponry and the related need to fill the role of government in regulating internal life. This contributes to a particular group becoming the monopoly owner of firearms to ensure its supremacy over the rest of the population, allowing both its coercive control and successfully confronting the armed power of the state.

In sum, carceral self-rule can be understood as a consequence of the changes in the nature of prisons and their relation to society. On one hand, prisons operate as a device to reinforce and deepen social exclusion, especially for the surplus population, not just as a mechanism of discipline and normalization. On the other hand, the State shows itself to be incompetent or indifferent in controlling this excluded population. As a result, the prison appears to superimpose social exclusion with institutional exclusion, functioning as an outside, as a space *outside* of society and its forms of institutional control and regulation.



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# From The Panopticon To The Anti-Panopticon: The 'Art Of Government' In The Prison Of San Pedro (La Paz, Bolivia)

Francesca Cerbini, Universidade Estadual do Ceará-UECE, Brazil.

**The submissive heirs or 'the disinherited of the colonial policies',<sup>1</sup> the indigenous people, the peasants, the labourers, the miners and the small traders are the part of the population that is most incarcerated in Bolivia. In the majority of cases, before committing a crime and before being detained, they live in precarious conditions, making clear the link, well demonstrated by other authors,<sup>2</sup> between prison and poverty.**

In the prison of San Pedro, a facility designed to accommodate 300 convicts, now live around 2,300 inmates. More than half of them has a *per capita* income that does not surpass the threshold of mere survival, and can't afford a private lawyer, which puts them in the hands of public attorneys, whose huge workload does not allow them the possibility of offering an effective service.<sup>3</sup>

According to the data from The Organization of American States,<sup>4</sup> in 2010 Bolivian penitentiaries were the second most overcrowded in all Latin America while, according to reports by the Inter-American Commission on Human Rights,<sup>5</sup> 84% of Bolivian penitentiary population is in jail on pre-trial detention, the highest rate in all of South America,<sup>6</sup> despite Bolivian law establishes that remand should be an exceptional injunction.

Supported by these data, I carried out an ethnographic research in the self-governed prison of San Pedro, shedding light on a number of other anomalies described in the following paragraphs.<sup>7</sup>

In the fringe of the law and the Political Constitution of the state, self government<sup>8</sup> and informalities<sup>9</sup> of prison dynamics are quite common in the Latin American penal state. They indeed mirror a huge divergence between practice and theory and also a widespread 'trend' in Latin America, where 'penal statecraft differs significantly with respect to related experience of the first world'.<sup>10</sup> This 'difference' encourages a new theoretical approach to Latin American prison<sup>11</sup> that implies a change in our view point. Under such perspective and along with the data presented at the beginning of this article, I propose to understand self-government, the absence of surveillance, classification, schedules, work and all the experiences of the modern disciplinary apparatus, not so much as the loss of control of official authorities and state loss but as a demonstration of their power. A gov-ernmental strategy that shifts the focus from the concept of 'panopticon' to the concept of 'anti-panopticon' in order to represent an active, organised way of managing the inner space of the prison of San Pedro.

1. Segato, R. (2007, p.145) El color de la cárcel en América Latina. Apuntes sobre la colonialidad de la justicia en un continente en desconstrucción. *Nueva Sociedad*, 208:142–161; Aguirre, C. (2009) 'Cárcel y sociedad en América Lati-na:1800–1940', in E. Kingman Garcés (ed.) *Historia social urbana. Espacios y flujos*. Quito: Facultad Latinoamericana de Ciencias Sociales (FLACSO) pp. 209–252.
2. Bourgois, P. (2003) *In search of respect. Selling crack in El Barrio*. Cambridge: Cambridge University Press; Wac-quant, L. (1999) *Les prisons de la misère*. Paris: Éditions Raisons d'agir.
3. Giacoman Aramayo, D. (2010, pp. 27–28) 'Política de drogas y situación carcelaria en Bolivia', in P. Metaal & C. Youngers (eds.) *Sistemas sobrecargados — Leyes de drogas y cárceles en América Latina*. Amsterdam/Washington: Washington Office on Latin America — Transnational Institute (WOLA-TNI), pp. 21–29.
4. OEA (Organización de los Estados Americanos) (2012, p.122) *Informe sobre seguridad ciudadana en las Américas, 2012: Estadísticas oficiales de seguridad ciudadana producidas por los Estados Miembros de la OEA*. Alertamerica.org. Washington DC: Observatorio Hemisférico de Seguridad de la OEA, OAS Official Records Series.
5. CIDH (Comisión Interamericana de Derechos Humanos) (2012, p.10) *Informe presentado en el 146° periodo de sesiones de la Comisión Interamericana de Derechos Humanos*. Washington, DC: OEA.
6. FUNDACIÓN CONSTRUIR (2012, pp.127–147) *Reforma Procesal Penal y Detención Preventiva en Bolivia*. On line document <http://www.fundacionconstruir.org/index.php/documento/online/id/62>
7. To gain a deeper knowledge of the circumstances, objectives and methodology of the investigation, see Cerbini, F. (2012) *La casa de jabón. Etnografía de una cárcel boliviana*. Barcelona: Edicions Bellaterra. The descriptions of the context presented in this article are a very brief reworking of the material published by Cerbini (ibidem, pp. 35–92).
8. Biondi, K. (2010) *Junto e mixturado. Uma etnografia do PCC*. Editora terceiro Nome, São Paulo; Antillano, A. (2015) Cuando los presos mandan. Control informal dentro de la cárcel venezolana. *Espacio Abierto. Cuaderno Venezolano de Sociología*, 24 (4):16–39; Darke, S. (2013) Inmate governance in Brazilian prisons. *Howard Journal of Criminal Justice*, 52(3):272–284.
9. Garcés, C. Martin, T. and Darke, S. (2013) Informal prison dynamics in Africa and Latin America. *Criminal Justice Matters*, 91(1):26–27.
10. Müller, M-M. (2012:58), The rise of the penal state in Latin America. *Contemporary Justice Review: Issues in Criminal, Social, and Restorative Justice*, 15(1): 57–76.
11. Darke, S. and Karam M.L. (2016:469) Latin American prisons, in Y. Jewkes, J. Bennett and B. Crewe (eds.) *Handbook on prisons*, Routledge, pp. 460–474.

## The jail space

Paying for 'admission' into the prison of San Pedro reveals to the inmates the difference against the prison system they could have imagined from the outside. The income from those 'admissions' is passed on to the *consejo de delegados* (council of delegates), formed of eight inmates, elected inside the penitentiary community to be in charge of the eight sections that constitute the jailhouse. These sections have a main gate, common areas, and cells where people live and perform their daily activities.

Cells are a property constituting some kind of real estate inmates may rent, build or reform, therefore they are not assigned automatically. The best cells, which have more room and are better equipped, have been bought by drug dealers who want to live with all the luxuries, while most of the prisoners need to use their scarce economic resources to handle legal issues. They must rent a cell or be hosted by someone who may employ the deprived guests for their daily chores; treating them as servants in exchange for the opportunity to live in his 'home'.

Many of those who enter the prison with no money and no relatives to pay for their stay at the penitentiary are forced to be *saloneros* for three months. This consists of being helpful to the section's needs, keeping the common areas clean, washing the bathrooms, taking care of the garbage and waking up earlier to have everything ready before the rest of the inmates get up.

## The sections

Inmates can move around the whole facility with some exception: those sectors supposedly dedicated to drug abusers' rehabilitation and to punishment; the Álamos and Pinos, sections where inmates are locked in at night; and lastly, Posta, an elite sector structurally isolated from the rest of the penitentiary and interdicted to other inmates. Admission to this section is much more expensive than other cell blocks and may go up to 10,000 dollars. Within this area, many cells are like small apartments of one or two floors, with a view to a newly painted yard with chairs, tables and umbrellas sponsored by the Coca-Cola company in exchange for the monopoly of its products.

The underlying idea of this privileged segregation is that of offering a more comfortable, luxurious, safe and

calm imprisonment experience to wealthy people who can pay to live in Posta. Usually, the 'inhabitants' of this special area are politicians, drug dealers, executives and members of powerful families. They justify this treatment arguing that their lives would probably be at risk in any other section, otherwise dirty and chaotic, where they would be continuously extorted for their notorious and evident social backgrounds and economic resources.

## Drugs, alcohol and other illicit trades

Drugs can be consumed, with discretion, anywhere in the penitentiary, even in Posta. The high command of the prison get rich and their subordinates complement their miserable salaries with allowing drug trafficking and controlling the sale of alcohol and everything licit or illicit entering the penitentiary through the main gate. For example, the price of cocaine is ridiculous when compared to the numbers handled in the international market, and a huge amount of 90° alcohol is consumed, being much cheaper and easier to get than mainstream alcoholic beverages and that it can be swallowed when mixed with soft drinks.

If we consider the huge profit these merchandises generate, the bribe money for police officers, judges, prosecutors and lawyers, the illicit trafficking of organised crime, we may get an estimate of the illegal profit that thrives within the penal institution. Actually, it seems that the purpose of watching the main access is less concerned with the security of the penitentiary and the prevention of break out. The main goal is to assure none of the businesses established inside the jail escape the control of the police and the *consejo de delegados*, who always demand their commissions.

Exceptions, irregularities and omissions of the law promote extremely profitable business between some of the inmates, the authorities and the police officers who grant unwritten permissions to break the official regulations in exchange of bribes, shares of the profits and direct or indirect control of the inmate population.

## Family and women in prison

It's widely known that survival in San Pedro relies first of all on the generosity of relatives who, in the first period of imprisonment, visit the inmates and look after their material needs and the endless bureaucratic

Many of those who enter the prison with no money and no relatives to pay for their stay at the penitentiary are forced to be *saloneros* for three months.

paperwork needed for the trial. Some women even choose to live in captivity, moving with their children to their husband's cell. This is an illegal practice,<sup>12</sup> but like other 'exceptions' it constitutes an important source of income for both authorities and police as well as for those prisoners in charge of collecting the fees requested to live inside the jail.

Family cohabitation also brings certain economic advantages to the inmates: husband and wife can save money and start some kind of business inside the facility. Also the women, as free citizens, become a bridge with the outside world and can bring in all allowed products. Like so, many couples make a living selling processed foods, setting up fast food kiosks or real restaurants where the woman is the cook and supplier.

Actually, most of the inmates live by themselves. Generally, prisoners who must pay too much jail time become an unbearable economic burden and many women form a new family with another man.

### **Work: owners and employees**

We must distinguish four big categories between the inmates: those who get money from their relatives, who are usually wealthy (residents of the *Posta* or *Pinos* sections) and don't need to generate any income inside the prison, simply waiting for handouts from their families; those who, keeping in touch with their families, get some intermittent help from the outside and aren't 'rich' but enjoy some comfort; and, in the other side of the spectrum, inmates who live with their families and represent a minority, and those who have no contact with their families, who are the majority. The last category desperately need money to live, but due to structural and logistic deficiencies, San Pedro is not equipped to give inmates jobs. Available paid activities are the result of entrepreneurship and private capitals which, in turn, only generate profit for the investors. Therefore, in this jail there are few owners and many employees, who are willing to work under any circumstances just to cover the expenses of living in jail.

The interviewed inmates agree that the best investment in jail, within the limits of the legality, is the production of *autitos*, faithful miniature tin reproductions of familiar cars, taxis, wagons, buses and trucks that can be sold in many street markets in Bolivia and Peru. The owners of the *autitos* workshops enjoy the advantages of extremely low wages and the availability of free water and electricity for their business. They normally set their shops

in the poorer and most crowded areas because cells there are cheaper making the cost of installing their shops lower. Also, most of the more deprived individuals, the best candidates for the job, live in these sections. The hired workers don't earn a salary until they have completed the 'test period' when they learn the job. During this training period, between three and six months, they only get to live in the cells of the owner, where they also work. In principle, the inmates regard this occupation as a task like any other within the limited possibilities of making a living inside the penitentiary. Besides, being very hard to get into the group of the *auteros*, the ones who get the job end up feeling very lucky. But behind the privilege, await harmful work conditions. Most of the auxiliaries weld the parts of the automobiles with tin and muriatic acid which, once mixed

to put together the pieces of tinfoil, emanate dense fumes that the workers inhale continuously since they don't wear any protection and work inside the closed environment of the cell. Even when they understand that such substances may damage their health in the long run, many keep welding because they must use their earnings to pay their rent and the eventual debts they may contract when they enter the jailhouse, buy some extra food,

and afford the expenses of legal procedures.

Just like any other sensitive issues like violence or the presence of women and children inside the penal facility, the business of the *autitos* constitutes a taboo that most of the inmates hardly mention because they fear being criticised and losing their jobs.

Inside the San Pedro penitentiary there's no attempt at rehabilitating and forming 'productive' citizens. The role of the inmate is to peacefully occupy his place in the intricate gear of powers that, in a more or less coercive fashion, administrate the jail space. Profiting of the indigent and deprived majority, that constitutes the engine of an informal economy, such system enriches the administrative staff, penitentiary authorities and inmates placed in the helm, reproducing hence the same dynamics of solidarity and submission lived and accepted in the outside society.

### **Conclusions: from the panopticon to the anti-panopticon**

The presence of many women and children and the absence of prison staff are probably the most

Some women even choose to live in captivity, moving with their children to their husband's cell.

12. During my ethnographic fieldwork the presence of families living in prison was a sort of taboo. The inmates were worried their women and children could be expelled, so none of them wanted to talk about their permanence to outsiders. For this reason, it has not been possible to find available data on the starting date and existence of such practice in San Pedro, as in other Bolivian penitentiaries.

shocking and surprising element during a visit to the San Pedro penitentiary, in particular if we keep in mind the prisons in the northern hemisphere. In the XIX century these penitentiaries were the architectonic models which embodied the theories and ideologies that gave place to the construction of San Pedro, called the 'National Panopticon'.<sup>13</sup> But looking at this reality nowadays, a central question may arise. Did illuminist ideals of the prison, conceived as a system of devices 'reforming' the human spirit,<sup>14</sup> really reach Latin America in Postcolonial times? Probably there was no space for such ideals. For this reason, the most influential sociological and criminological theories,<sup>15</sup> oriented towards the profound critic of the ideologies and mechanisms of the penitentiary institution, can now hardly explain the functioning of many Latin American prisons. One example above all: the foucaultian '*regard*' on the use of time, space and body of the inmates describes a 'panoptism' which is not reflected in the prison of San Pedro. Here, on the contrary, official authorities rely on their power to apparently ignore what happens inside the facility, a space into which they prefer not to look,<sup>16</sup> as if San Pedro were a sort of non-panopticon, or anti-panopticon.<sup>17</sup> It does not mean that the authorities 'lack attention' or are not in control, but that an alternative governmentality acts in the prison space and shapes:

*An art of governing as least as possible, such art of governing between a maximum and a minimum, and the better when it's closer to the minimum than the maximum, must be considered a kind of [...] internal refinement of the reason of State; is a principle for its upkeep, for its most comprehensive development, for its perfection.*<sup>18</sup>

In many Latin American prisons, this 'art' takes the form of the pre-trial imprisonment, of massive incarceration, of overcrowding and, ultimately, of self-

government as an extreme and paradigmatic example of the least possible government by the official authorities.

Bolivia presents one of the highest rates of overcrowding and pre-trial detention. In such conditions — shown by the internal scenario of the prison of San Pedro — despair, indigence and the preponderant feeling of injustice become constitutive elements of 'the art of governing the least'; structuring as devices of internal coercion;<sup>19</sup> basic instruments of the power that, from the inside, allow the functioning of the prison, creating some kind of 'grey zone'<sup>20</sup> which fosters specific 'tactics and strategies' of resistance and subjugation.<sup>21</sup>

Overcrowding, a phenomenon that in recent years has become typical in northern and southern prisons, represents, on the one side, a means to unload the responsibilities of state 'criminal' policies which produce it, and, on the other, a way to delegate power to the high ranked inmates, provoking, as a result, disorders, discomfort and human drama. The advantage of an informal management of the inner space consists in keeping everything as an internal phenomenon not reaching the outer world, getting the best result with the least effort, from the point of view of the 'reason of the state'.<sup>22</sup> Therefore, while we are accustomed to perceiving 'abandonment' as a lack of action, San Pedro proves that abandonment plays an active and constitutive part in this state's 'art of government'.

In the end, the case presented shows how 'not seeing' more than 'seeing' is a fundamental feature of the concrete and real workings of the prison. A special 'attitude' of the government in the management of San Pedro and probably many other jails in Latin America. Considering many of them as anti-panopticons contributes to the rescue of local peculiarities, derived of specific historical, political and social configurations that restore a non-homologue, mutant image of prison. Furthermore, it helps to unmask, once again, the merely rhetorical discourse of the humanisation of the prison institution and its pretended objectives of rehabilitation in Latin America.

13. Ydiaguez, E. (1889) *Cárcel de La Paz. Refutación al folleto del señor Bernal titulado «Cárcel de La Paz»*. La Paz.

14. Foucault M. (1975) *Surveiller et punir. Naissance de la prison*. Paris: Éditions Gallimard.

15. Goffman, E. (1961) *Asylums. Essays on the Social situation of mental patients and others Inmates*. New York: Doubleday; Melossi, D. & Pavarini, M. (1977) *Carcere e fabbrica. Alle origini del sistema penitenziario (XIV–XIX secolo)*. Bologna: Il Mulino.

16. Ibidem.

17. Alford, F. (2000, p.131) What would it matter if everything Foucault said about prison were wrong? *Discipline and punish after twenty years. Theory and Society*, 29 (1):125–146.

18. Foucault, M. (2007) [2004], p.44 — *Nacimiento de la biopolítica: Curso en el Collège de France 1978–1979*. Buenos Aires: Fondo de Cultura Económica.

19. Cerbini, F. (2012) *La casa de jabón. Etnografía de una cárcel boliviana*. Barcelona: Edicions Bellaterra.

20. Levi, P. (2003) [1986] *I sommersi e i salvati*. Torino: Einaudi.

21. De Certeau, M. (1990) [1980] *L'Invention du quotidien, 1: Arts de faire*. Paris: Gallimard.

22. See footnote 18, pp. 32–34.

# The Blind Panopticon: Prisoners' subversion of the prison in Ecuador, 1875–2014

Jorge Núñez, University of California, Davis, and Jennifer Fleetwood, University of Leicester.

## Introduction

**In August 2014 a film crew stumbled across a century-old bureaucratic archive in the main men's prison in Quito, Ecuador.<sup>1</sup> Roof-high stacks of paperwork crammed into a nineteenth-century vault. This decaying archive recorded the daily life of Ecuador's oldest penitentiary, *Centro de Rehabilitación de Varones, Numero Uno Quito* (CRSVQ1); originally titled *Penal Garcia Moreno* after the President who oversaw its construction. Whilst not an exact rendering of Bentham's original Panopticon, Garcia Moreno Prison was an attempt to enact its notions of surveillance, discipline, and control. Five pavilions radiate out from a central hallway and observation tower; its star shape allowing a guard to see each cell door from this central point. This prison was decommissioned in 2014 and replaced by a US style maximum-security prison complex several kilometres from Quito (see Tritton, this edition).**

This article draws on extensive archival research conducted for the documentary *Blind Panopticon* tasked by Ecuador's Ministry of Justice shortly after the prison's closure,<sup>2</sup> and in depth ethnographic fieldwork undertaken by both authors while the prison functioned, between 2005–2007. In addition to an extensive array of official records hoarded during 139 years of prison functioning, countless everyday items left behind by prisoners transferred without notice also became part of this archive. In addition, the prison itself, its very materiality, is itself an archive of events inscribed on its walls: its paintings, its smells, and its silences.

Here we describe how prisoners subverted the Panopticon of Quito during its existence. Bentham's utilitarian spirit lived on in the Panopticon till the end,

not through surveillance mechanisms but rather through prisoners' economic survival. In doing so, we challenge the notion of the self-governing prisoner as the product of neoliberalism.

## The Panopticon of Quito

Jeremy Bentham described the Panopticon, his idea of a perfect prison, as a circular building of cells surrounding a watchtower with windows covered by blinds.<sup>3</sup> From this viewpoint, a single guard could oversee the prisoners' daily life without being seen, making it impossible for inmates to know whether someone was observing them or not. Here, it was not so much surveillance but the feeling of being under surveillance that was important. As Michel Foucault explains, panoptic architecture projects its surveillance model onto society so as to discipline its population through observation, self-control, and isolation.<sup>4</sup> The Panopticon is therefore much more than a type of architecture; it is a power relationship through which the omnipresent gaze of the watcher modifies behaviours, corrects habits, and reconditions instincts. No true Panopticon was ever built, but several Panopticon-type buildings can be found in Latin America. In Cuba the now defunct *Presidio Modelo* (built in the 1920s) is the closest to a true Panopticon. In Colombia a cruciform: 'Panoptico' was begun in 1874 (now the National Museum), the same year the Panopticon of Quito was completed after a five-year construction period, coinciding with Conservative Catholic president Gabriel Garcia Moreno's second term in office. The Quito Panopticon therefore reflects the global spread of 19th century European ideas about modernity and discipline, and for Ecuador it represents the very first attempt at modernising a nation profoundly shaped by Spanish colonialism.

1. Jorge Núñez, who is a co-author in this paper, was the film crew's research coordinator and documentary scriptwriter. The other research team members were Lorena Cisneros, Boris Idrovo, and Juan Andrés Suarez.

2. Herrera, M. (Director) (2014) *Blind Panopticon* (Talandro Films).

3. Bentham, J. (1995/1791) 'The Panopticon, or the Inspection House', in Miran Bozovic (ed) *The Panopticon Writings*, London: Verso, p. 29-95.

4. Foucault, M. (1975) *Discipline & Punish: The Birth of the Prison*, NY: Vintage Books.

The panoptic societal model corresponds to the mentality of an epoch — the European society of industrialisation. It was these ideas of ‘progress’ that President Garcia Moreno had in mind for Ecuador. His penitentiary embodied his views about the Ecuadorian nation state with cruel clairvoyance: combining rationality and brutality in the service of a modernity that was Catholic, obsessed with Europe, imposed with whips and bullets, discipline, and blood. The construction of the Panopticon was the final stage of his personal and political project, blending enlightenment philosophy and despotism. Even after its name was changed to a ‘social rehabilitation centre’, Quiteños continued calling it Garcia Moreno prison, reflecting the perpetuation of the ex-president’s values and fantasies, long after he was assassinated.

### ‘Blinding’ the Panopticon

*It is absolutely true that prisoners stubbornly resisted the new disciplinary mechanism in the prison; it is absolutely correct that the actual functioning of the prisons... was a witches’ brew compared to the beautiful, Benthamite machine. (Foucault, Power)<sup>5</sup>*

The Panopticon of Quito never fulfilled Bentham’s notions of an impeccable control machine. It was inaugurated in 1875 with only 71 inmates. Because the capital city did not have enough prisoners at the time, authorities of neighbouring prisons were summoned to hand over inmates in order to occupy its 270 cells. In stark contrast, at its closure in 2014 the prison was operating at five times its capacity making a mockery of the notion of solitary contemplation and order. Four to five men regularly shared a cell built for one (approx. 2m by 2.5m), but sometimes as many as eight were crammed in. Daily life in such close quarters constituted an entirely different type of punishment than the reformatory isolation envisaged by Bentham.

The prison population steadily rose throughout the 2000s. In 2002, the ‘two-for-one’ rule of early release was repealed, effectively doubling sentences. The second cause of overcrowding was the so-called war

on drugs, which, like the Panopticon, reflects politics and priorities forged in an entirely different national context; politics fundamentally underpinned by neoliberal doxa, in which crime and punishment can be understood as a matter of supply and demand.<sup>6</sup> In 2003, Ecuador signed a bilateral agreement with the United States of America committing to drug war policies. Performance indicators included an increase in the number of persons detained for drug trafficking.<sup>7</sup> A similar agreement was signed in 2005 making clear Ecuador’s commitment to increasing arrests of drug offenders.<sup>8</sup> By the end of the 2000’s, the prison population had nearly doubled; by 2007, one in three prisoners was incarcerated for drugs offences.<sup>9</sup>

Overcrowding put tremendous strain on the aging Panopticon. In contrast to Bentham’s orderly vision, by 2014 the sewers had collapsed; water stoppages and electric cuts were regular events. When the Panopticon’s archive was discovered in the dome of its watchtower, ironically, its windows were boarded up from the inside. No longer a site of surveillance and discipline, the watchtower was instead used as a store-cupboard, holding decades upon decades worth of bureaucratic paperwork: the Panopticon was, quite literally, blind.

## The Panopticon of Quito never fulfilled Bentham’s notions of an impeccable control machine.

### Physical reconstruction: Inmates as Rebuilders

During 139 years of functioning the Panopticon of Quito was reconstructed, adapted and remodelled many times. The archive contains hundreds of requests by inmates asking to bring in construction materials. Each physical intervention responded to systemic failings, from not having enough beds due to overcrowding, to installing kitchens in cells to deal with food shortages, to adapting facilities to offer medical care. From the early 1900s the prison record shows that high-ranking government authorities were deeply invested in running and refurbishing the Panopticon. Yet, from the 1970s onwards, the archive reveals that inmates became responsible for most repairs and renovations. The image below is a prison diary entry from April 19th 1905 recording a request from

5. Foucault, M. (2000) ‘Questions of Method’, in *Power: Essential works of Foucault, 1954-1984*, J. D. Faubion (ed.), New York: The New Press.
6. Wacquant, L. (2009) *Punishing the Poor: The Neoliberal Government of Social Insecurity*, Duke University Press.
7. Edwards, S. (2011) ‘A short history of Ecuador’s drug legislation and the impact on its prison population’, in Metaal, P., & Youngers, C. (2011) *Systems Overload: Drug Laws and Prisons in Latin America*, Transnational Institute/Washington Office on Latin America.
8. Pontón, J., & Torres, A. (2007) *Cárceles del Ecuador: Los Efectos de la Criminalización por Drogas*, *URVIO: Revista Latinoamericana de Seguridad Cuidada*, 1: 55-73, p. 63.
9. Edwards (2011) (see n.6), p. 55.

Ecuador's former Vice-president to convert an occupied cell into a make-shift treatment office for alcoholics and homeless. The entry begins as follows: 'Sir Province Governor: In response to the order given by the Republic Vice-president, who is currently in charge of Executive Power by fiat No. 333, the Department for the treatment of chronic alcoholics and homeless is ready.'



Garcia Moreno Archive, 2014 (photo by Núñez)

Inmate-led prison reconstruction reflects a particular relationship between the building and its inhabitants. Rather than being spaces of surveillance, cells were literally privatised. By the 2000s, cells were privately owned — bought and sold in a commercial market administered by inmates democratically elected by their peers.<sup>10</sup> This property market (and in fact, the widespread commercialisation of space in prison) was run with the consent of prison authorities. Rather than disciplinary classifications according to offence, status (remand versus convicted), time served, or age, inmates organised themselves into pavilions depending on how much they could afford to pay. Inmates' regular contributions to their pavilions paid for extensive communal repairs and renovation of the wing, ranging from repainting, and plastering, to the construction of a gym, TV watching space, a toilet block, basketball hoops in the yard, and so on.

Cells were remodelled and redesigned, limited only by inmates' finances and imaginations. Some were richly decorated, especially those belonging to

international drug traffickers. One had a mirrored wall to give an increased sense of space and was tiled throughout. A water heater had been installed; the kitchen was well equipped with a microwave and blender. A television and games station were suspended in a corner above the bunks. All in a 2m by 2.5 metre space! Few cells were so richly decorated but all had been subtly remodelled, depending on the owners' style, with everything from photos of nude women, religious iconography, paintings, graffiti, photographs of loved ones, national flags and more. There was not a cell without a secret hiding place. Even after decommissioning, they continued to keep their secrets: hosting drugs, weapons, photos, mobile phones and chargers.

The physical reconstruction of Garcia Moreno's prison by inmates converted the Panopticon of Quito into a social model far from surveillance, self-discipline, and control. It moved Ecuador's imprisonment's centre of gravity from bureaucracy towards a growing informal economy that expanded well beyond the carceral system. During its 139 years the Panopticon of Quito went from the European surveillance society to precarious neoliberalism, from an institution meant to discipline an emerging labour force, to one in charge with imprisoning the impoverished and unemployed under the war on drugs. And yet, all this painstaking renovation and collective effort carried out by prisoners gave them back a sense of purpose in life and the vital illusion of a meaningful existence.

### Subverting work as rehabilitation

*No man of ripe years and of sound mind, acting freely, and with his eyes open, ought to be hindered, which a view to his advantage, from making such bargain, in the way of obtaining money, as he thinks fit: not (what is necessary consequence) anybody hindered from supplying him, upon any terms he thinks proper to accede to. (Bentham 1843: Letter 1)*<sup>11</sup>

Bentham envisioned the Panopticon's prisoners in stark contrast to functioning members of society. While a free citizen must not 'be hindered... in the way of obtaining money, as he thinks fit' (see the Bentham's quote above about credit), a prisoner in the panoptical must work for the sake of discipline rather than profit. And yet, Bentham's imagining of the Panopticon is still underpinned by a utilitarian approach to prisoner's work.<sup>12</sup> Bentham proposes that inmates not be given any work, but rather those most likely to be 'most for his

10. Núñez, J. (2006) *Cacería de Brujos: Drogas "Illegales" y Sistema de Cárceles en el Ecuador*, Quito, Ecuador: FLACSO, Ecuador; Abyayala.  
 11. Gregory, C. (2012) 'On money debt and morality: Some reflection on the contribution of economic anthropology', *European Association of Social Anthropologists*, 30, 4: 380-296.  
 12. Bentham, J. (1995/1791) (see n.3) Letter IX.

advantage', and yet 'Nor do I see why labour should be the less reforming for being profitable'.<sup>13</sup> In the 19th century European model of the Panopticon work was compulsory. Like Bentham's model, work was meant to reintroduce prisoners into the discipline of industry. Nonetheless, prisoners often worked without actual salary or employment benefits. Even in contemporary prisons, payment may be paltry in comparison to the real economy. In that system, refusing to work may be a strategy of resistance for inmates.<sup>14</sup>

In Garcia Moreno prison the exact opposite occurred. Larco notes that, unlike panoptical prisons in France, United Kingdom, and the United States, Quito's Panopticon lacked work-based rehabilitation policies. In her view this was understandable due to the agricultural focus of Ecuador's economy; Quito had no urban industry in which to train inmates.<sup>15</sup> In fact, for most of its history, work was neither compulsory, nor available in Quito's Panopticon. Very few prisoners had access to workshops, training, or formal paid labour. During the second half of the 20th century, prison work became an entrepreneurial response to extreme precariousness, a refusal to starve to death rather than an initiative to set up shop. However, in an ironic twist, work was, for inmates, a choice in utilitarian terms. Avoiding work was possible, but only in the sense that destitution can be considered a choice. During the 2000s, the prison estate provided for only a bare life: a space to sleep was provided, but no mattress, covers, or pillows. Basic food was available twice a day, but without owning a container, inmates could not collect it. Medical care was available, but most inmates had to pay for treatment and medications. Inevitably, some died from lack of medical treatment.

By the 2000s, almost all inmates were involved in some sort of business, supporting himself, and in many cases, also his family. Work was not a strictly bureaucratic relationship; its aim was not discipline, but survival. Echoing the marketisation of cells, Garcia Moreno Prison housed a number of small businesses,

owned and run by inmates. Some cells were converted into small shops, selling everything from tobacco to eggs, hot chocolate to batteries. When Quito's Panopticon was decommissioned in 2014, its corridors were filled with fizzy drinks machines, and telephone cabins (the archive records that inmates sought and were granted special permission to sell phone cards), as well as small food stalls, selling coffee, tea, hamburgers and soda. Some larger food stalls sold three-course lunches. In addition, many were micro entrepreneurs. Documents in the archive, from the early 70s to its closure in 2014, tell of a long list of jobs and businesses: Grocer, laundryman, pool table owner, messenger to the street and office, food seller, picture painter, electrical technician, seafood salesman, artisan and craftsman, cook, deliveryman, secretary of the evangelical church, librarian, vendor of phone cards, cigarette seller, shopkeeper, hairdresser, language teacher, gym instructor, cell painter, kebab seller, event organiser, sports coordinator, confectioner, incense salesman, porter, toilet manager, watermelon segment seller, elementary school teacher, herbal tea seller, restaurant owner, etcetera, etcetera. Although the hurly burly of industry has little in common with the quiet notion of solitude and discipline that

Bentham intended, he might have approved of the sheer scale of industry.

Holding all this economic activity together, the Panopticon of Quito evolved into a financial laboratory of everyday debts and tax credits. Everything became a monetary exchange; everything was bought and sold on credit. There was no barter: debt was king.<sup>16</sup> Over the course of 139 years the inmates converted their prison into an inverted stock exchange. Like any other financial market-like assemblage, the Panopticon gave the illusion of an endless cash flow, but it was inverted because the illusion depended on slowing down monetary circulation instead of speeding it up.<sup>17</sup> Money passed from hand-to-hand in slow motion as though mimicking prison time, and in doing so, the

## Echoing the marketisation of cells, Garcia Moreno Prison housed a number of small businesses, owned and run by inmates.

13. Ibid. Letter X.

14. De Vito, C. G. & Lichtenstein, A. (2013) 'Writing a global history of convict labour', *International Review of Social History*, 58: 285-325.

15. Larco, C. (2011) *Visiones Penales y Regimenes en el Estado Liberal de 1912 a 1925*, Tesis doctoral Programa de Historia, Universidad Andina Simon Bolivar, p. 39.

16. Both archival and ethnographic data suggest that even the most mundane material exchanges in Garcia Moreno prison were highly mediated by a complex credit/debt system known as 'refile.' See: Núñez, J. (2005) *Caceria de Brujos: Drogas Ilegales y Sistema de Cárceles en Ecuador*, Maestría ABYA-YALA Publicaciones and FLACSO sede Ecuador, Quito.

17. The slowness of Garcia Moreno prison's financial flow functioned like a hire-purchase system (rent-to-buy), in which a prisoner could enjoy the use of a commodity that paid in regular instalments, but during the repayment period ownership remained with the seller. This credit system created a multiplicity of debt tallies that outlived the actual exchange of items.



Panopticon allowed its inhabitants to extract value from the neoliberal model of mass incarceration.<sup>18</sup>

In its archive, the Panopticon of Quito synthesises the dialectics of penal bureaucracy and the free-market. The image below is an official request by a prisoner to bring in sticks to sell 'pinchos' (meat skewers). The application reassures the prison warden that the requestor takes full responsibility for the everyday use of long pieces of wood assuring him that they 'will not constitute in any manner a weapon that may endanger others.' Similar requests abound in the prison archives:



Garcia Moreno Archive, 2014 (photo by Núñez)

Paperwork trails reveal the long, convoluted institutional process of starting a business. Firstly, prisoners needed authorisation from the committee of inmates. Next, an official request was made to prison administrators in which inmates had to declare their will to rehabilitate through self-employment and demonstrate the need to support their family by it. This entrepreneurial rhetoric was accompanied by a series of protocol phrases aimed to show remorse for the crime committed. Then the request entered the bureaucratic labyrinth of the prison, and was judged by prison authorities on the basis of institutional prejudice: a request to open a laundry is denied because the institution considers that this right is reserved for homosexuals!; an orange seller is denied access to a pavilion to avoid fights with his enemies.

This market-prison did not produce workers, at least not in the sense given in Europe or North America, but a precariat of entrepreneurs. Inmates' work was risky — people set up a business in the hope to get paid (but debt was equally likely). The logic was not completely cutthroat. Inmate entrepreneurs committed to a monthly payment to the medical emergency fund for the homeless in prison. The medical fund functioned as a charity run by inmates and prison bureaucrats who allocated money on

a first-come, first-served basis. Like the physical remodelling of this prison, this adaption responded to institutional failings.

## Conclusion

The Panopticon works through surveillance: being potentially overseen at any moment, inmates were supposed to self-discipline. Whilst the Garcia Moreno Prison imported European enlightenment ideas about the prison system to Ecuador, these notions were never fully realised. In Quito, inmates 'blinded' the Panopticon from within. They not only rebuilt Garcia Moreno's infrastructure, but also subverted its logic. Our ethnographic and archival research has just begun to explore the historical depth of this prison archive and its postcolonial overlaps and divergences with Bentham's enlightenment philosophy.<sup>19</sup> Bentham's utilitarianism was echoed in Quito's Panopticon, not because of his surveillance model but because of his stance regarding interest rates and debt.<sup>20</sup>

Garcia Moreno's prison archive constitutes a rich field site to historicise and critically study the self-governing prisoner and its alternative modern realisations. The Panopticon of Quito never succeeded in breeding a disciplined labour force. The inmates won that battle the very moment they blinded the Panopticon and shifted the centre of gravity from surveillance to survival. Our analysis illustrates that the prison was shaped by the ideology of the time: first by utilitarianism, and later by neoliberalism. The notion of the self-governing, entrepreneurial prisoner is far from contemporary but arguably has historical roots in Bentham's utilitarianism. Here we find more continuity than change. While Bentham imagined the prison through the lens of industrialisation; in Ecuador it took on quite a different character. The resulting prison model became a cultural machine of precariousness that forced inmates to work, struggle, and survive or face destitution. Prison entrepreneurship can neither be considered clearly a form of resistance to the prison regime (there being none), nor as compliance with it. As the archive shows, prisoners had to re-frame survival as rehabilitation, presenting themselves as willing participants in the corruption of Ecuador's prison system. At the same time as entrepreneurship bowed to the prison authorities, it subverted prison discipline.

18. Núñez, J. (2007) 'Las cárceles en la época del narcotráfico: Una mirada etnográfica', *Nueva Sociedad*, 208.  
19. Currently the Ecuadorian Ministry of Justice has custody of the archive rescued from Garcia Moreno prison. Government authorities have said repeatedly the archive will be made available to the public, but, in our knowledge, nothing has been done on this regard yet.  
20. Gregory, C. (2012) 'On money debt and morality: Some reflection on the contribution of economic anthropology', *European Association of Social Anthropologists*, 30, 4: 380-296.

# An Insider's View of Prison Reform in Ecuador

Pieter Tritton, with Jennifer Fleetwood, University of Leicester<sup>1</sup>

## Introduction

**This article offers an insider view of the Ecuadorian prison system which I experienced first-hand after having been sentenced to twelve years for drug trafficking following my arrest on the 16th August 2005 in a hotel in the capital Quito in possession of nearly 8 kilos of cocaine. I spent just over 9 years in three different prisons in Ecuador starting with Garcia Moreno prison in Quito followed by six years in the Penitentiary Litoral in Guayaquil, the largest port city on the coast, and the last year in the newly constructed Nuevo Centro de Rehabilitación Social Regional Guayas (informally known as the Regional), also in Guayaquil, the first of the new style prisons introduced under Rafael Correa's organic codigo penal neo-socialist regime. I was transferred to the UK at the end of 2014 and spent nearly a year in HMP Wandsworth, London prior to my release in August 2015. This is an account of my experiences in that time and the changing face of the Ecuadorian penal system. There is much that could be said, but here I focus especially on prisoners' self-rule and its impact on security, safety and order in the prison.**

## Garcia Moreno Prison, Quito

This is the main prison in the capital city, and the oldest, having been constructed in 1879. It is similar in layout and design to a typical Victorian Prison in England: four wings radiate from the centre, as well as a smaller wing housing maximum-security prisoners. Due to massive overcrowding most wings housed 350 to 500 men, in total around 1,500 (similar to London's HMP Wandsworth). The prison housed men over 18, convicted or charged with crimes ranging from petty theft through to drug trafficking and a small number of serial killers, assassins and rapists. Sentences ranged from a few months up to 25 years, and exceptionally 35 years. No differentiation was made between remand,

short-term, or long term prisoners. Police and guards patrolled the perimeter; guards maintained internal security.<sup>2</sup> On average 3 to 4 guards were present per wing. Insecurity was endemic with an average of one or two murders a week, an inevitable result of the many knife fights, fistfights and even occasional gunfights between prisoners.

This, and other factors resulted in a form of internal self-governance by prisoners. The 'Internal Committee' was democratically elected by their peers to represent them in negotiations with guards, the Director and even the Government. This committee arguably arose in response to a chronically over-stretched and under-resourced prison system in which inmates had to organise and advocate for themselves. In 2001, parole and early release were suspended pending the formation of a new penal code (finally introduced in 2014). Some spent up to 5 years awaiting trial, sometimes only to be acquitted. This resulted in over-crowding and animosity between the prisoners and authorities, leading to 'strikes', usually entailing chaining and blocking the entrances to the wings, denying access to the authorities. Strikes were highly co-ordinated: prisons acted in unison, the heads of the internal committees in the different prisons maintaining contact with illegal mobile phones. These co-ordinated strikes caused major disruption.

Garcia Moreno was in a state of disrepair, and it fell to inmates to maintain it and carry out nearly all works, covering the costs themselves. The Committee included an elected representative on each wing called a *caporal* (foreman). He acted as an intermediary between prisoners and the director or social worker, facilitating the entry of goods (legal or illegal), the purchase of cells, arranging permissions for visits and the like. *Caporals* also maintained order on the wing, overseeing maintenance (including building works, plumbing, electrics, painting and cleaning), providing security from gangs and arranging for food to be brought and served on time. The *caporal* also included managing the wing's finances, including collecting two forms of tax: the *guardia* (regular bribes for the guards) and *ingreso* (a one-off

1. Pieter wishes to thank Laurie for all her help and support.

2. Special operations or raids involved police too, sometimes accompanied by military or special tactical groups, and always heavily armed. Guns, (including Glock16's) were prevalent as well as kitchen knives, machetes and even hand grenades.

admission fee to the wing). He also charged shops or restaurants a business tax and took commission on the sale of every cell. These commissions and the *guardia* were used to bribe the guards to turn a blind eye to illegal activities on the wing.

As the boss of the wing, the *caporal* kept order amongst groups as far as possible. Within each wing, small groups formed based on nationality that is Ecuadorians, Colombians, Brits, Russians, Arabs and Africans. Some gangs and groups were also present, including the Latin Kings, FARC (The Revolutionary Armed Forces of Colombia) and ELN (The National Liberation Army), as well as large groups of drug traffickers. Such groups often contained extremely powerful individuals who had been capos (heads) in cartels or guerrillas. Some became caporals within the prison, or else were well respected by the caporals. Typically they were well educated, and had large financial resources, and back up in the street. Not only were they respected by fellow prisoners, but also by guards and governors. Nonetheless, these groups mostly participated in and supported the elected systems of inmate governance.

This seemingly organised system completely broke down during strikes. Prisoners didn't destroy their cells or the interior of the prison, mainly because they would have to repair all damage. With the absence of guards, all control, even by the caporals would evaporate until disputes between the prisoners and authorities were resolved and order returned. From the moment the gates were locked, everyone would be armed with at least a kitchen knife. Some small cliques embarked on robbery sprees stripping valuables from cells, and murdered people with whom they had serious grievances.

After several years of these strikes, and following the election of Rafael Correa as President, parole and early release laws were reinstated in 2007. This meant release after 50 per cent of sentence completed and automatic release on bail if not sentenced within one year. During a temporary amnesty, the prison population was more than halved with a mass exodus under the various laws re-enacted in 2009.<sup>3</sup> During this period of transformation and the shift from neo-liberalism to neo-socialism under Correa, I was transferred suddenly to the most feared, out of control and corrupt prison in Ecuador, the infamous penitentiary of Guayaquil.

## 'La Peni', The Penitentiary Literal, Guayaquil

This prison is the largest in Ecuador, housing, at its most over-crowded, around 8,000 inmates. Most served sentences for similar crimes as in Quito, but more involved gang-related crimes. Peni is situated on the outskirts of the large port city of Guayaquil, built in the 1960s to replace a 17th century equivalent to Garcia Moreno. 26 wings, two storeys high, were laid out along either side of a central passage-way linking the wings to a separate building housing the Director's office and departments. Each floor of each wing was designed to hold around a hundred people in approximately 50 cells. However, due to over-crowding, 5 or 6 shared a cell designed for 2, and some inmates slept in communal areas. The buildings were very dilapidated. As in Quito, maintenance of cells and the interior of the wings fell to inmates.

Each wing had its own exercise yard enclosed by a 15 foot wall surrounded by a no-man's-land (patrolled by guards and armed police) and a perimeter wall and watch towers. As in Quito, guards were in charge of the security inside the prison but called upon police and military for reinforcements and searches. The most dramatic difference between Garcia Moreno and Peni was the very apparent lack of control the authorities had within the walls of

This prison is the largest in Ecuador, housing, at its most over-crowded, around 8,000 inmates.

the prison due to the level of gang activity. From my perspective, the prison functioned as a holding structure. As long as there were no escapes and things didn't get out of hand, the authorities let the gangs maintain order and discipline and quietly cooperated with them. Two large gangs (the *Rusos* and the *Cubanos*) controlled the prison. Despite their foreign sounding names, they originated from Guayaquil, where they controlled the drug trade, prostitution, illegal alcohol, murders, extortion, robbery and so on. These skills were soon put to use within the walls of the prison. In collusion with the guards, they controlled everything that entered the prison and much of what happened on the wings.

This was evident in management of security on the wing. Unlike in Garcia Moreno where inmates were locked in their cells every evening, cells were open 24 hours a day (within the wing). At 8am and 4pm guards opened and closed the wing, taking a head count. During the daytime inmates could go to other wings but only those controlled by the gang whose domain

3. This included an *indulto* (pardon) for low-level drug offences.

they resided in. This was strictly enforced by the gangs, who placed inmates armed with guns on the gates of every wing, as well on the roof, and the main entrance. Thus, they controlled movement on their wings, and could get advance warning of approaching gang members or the entrance of the police, who generally did not receive bribes from the gangs.

Gangs took a cut of whatever came onto their wings, from alcohol, (whether smuggled or produced in home-made stills) to soft drinks and foodstuffs, for example adding 20-30 US cents to the price of each bottle of Coca-Cola (an entire lorry load was consumed weekly). Inmate-run businesses paid a weekly 'protection' fee (or were closed down). Gangs also controlled the sale of cells and who lived where. Like in Quito, everyone paid US\$5-10 weekly *guardia* (guard bribes) and US\$5-10 for the pleasure (or not) of the prison food, which should have been free. They also charged inmates a further \$10 each week for spurious repairs. Failing to pay (up to US\$30 weekly) could result in being robbed or transferred to a worse wing. The director and guards appeared to sanction these charges, and probably received their cut too. At this time, guards were paid around US\$500 a month, but could make 10 times more bringing in illegal goods, and receiving bribes. These bribes ensured that guards did little to keep formal order but rather facilitated, and in some cases, actively supported the gangs' rule of the prison.

The *caporals* collected payments, as in Quito, but here they weren't elected but installed by the gangs as the civilised face of their business. The result was a strictly controlled prison run by the gangs, which would mete out brutal punishment for any infringements. The gangs' most lucrative trade was the sale of cocaine, crack cocaine and heroin. Drugs were smuggled in by guards, visitors or sometimes hidden amongst food for the kitchen or in produce for the shops. The trade was heavily protected; gangs used unique packaging so they would know if someone else was selling drugs. All of this was done with the knowledge and permission of the head guards, who even helped enforce the gangs' control by removing rogue dealers or selling confiscated drugs to the gangs. The sums of money involved were huge: of 8,000 inmates, around 80 per cent used drugs. Inevitably the greatest number of problems arose due to drugs.

In addition to the control of legal and illegal business, gangs also controlled the sale of weapons, including handguns, machine guns, hand grenades, and even explosives. Daily life was on a knife-edge — inmates had little choice but to cooperate with gang

control. Life was especially difficult for foreigners, who were assumed to be rich and were targeted for extortion. Not knowing when or where violence would erupt was nerve racking as a gunfight could literally begin in seconds, even on visit days when visitors were present on the wings. After a spate of tit-for-tat killings between the gangs, and a couple of large gun fights in which 3-6 people were killed, media attention forced the authorities to act.

Pressure came from the government, forcing the Director to try to regain control. However, by this point corruption permeated every aspect of the institution. When previous directors or guards had challenged the gangs, brutal retaliations followed. Two directors and numerous guards were killed during my six-year stay at Peni. The police were brought in to regain control. They raided the prison to remove weapons and items gangs had brought in, such as large paddling pools, disco equipment, large T.V.s, dogs the gangs used for security and fighting cockerels — upon which vast sums of money were bet at weekends. They also prohibited the entrance of foodstuffs with visits and the many inmate-run shops without special permission. Inmates relied on these heavily; inmates' health suffered and many lost weight.

The police transferred gang leaders and *caporals* to prisons in other parts of the country to split them up. Initially, this had little effect as they were readily replaced, however after several months replacements became harder to find. To some extent this weakened the grip of the gangs, but the strict control by the authorities had a negative effect on those who weren't gang members: food shortages, shorter visits and little access to phones made daily life harder to bear. The prison became unstable in the absence of gang control, leading to an increase in violence overall as smaller groups fought for control of drug territories. Robbery and extortion increased, as did violence: between 4-6 inmates were murdered a week. The situation became dire.

The newly elected President Rafael Correa instigated a programme of prison modernisation, overhauling the whole system. The new prisons were more or less complete by mid-2013 and the situation in the prison in Guayaquil was now critical. Rumours were rife of a mass transfer, which finally took place the same day the President himself gave the order. In December 2013 mass transfers of some 6,000 prisoners began in a huge police operation. Inmates were stripped of everything, carrying nothing from Peni. On arrival everyone was issued with a prison uniform, a pair of

## The police transferred gang leaders and *caporals* to prisons in other parts of the country to split them up.

flip-flops and a pair of shorts. This stripping of inmates' property and clothes signified the end to inmates' control of prison.

### **Nuevo Centro de Rehabilitación Social Regional Guayas, Guayaquil: a new system**

Even though the 'Regional' wasn't fully completed (in fact it was estimated to be a year away from completion), this was to be the flagship of the Rafael Correa's reformed penal system. These new prisons are all of the same prefabricated design, resembling a modern, western prison. Each prison is designed to house approximately 6,000 inmates in wings with a capacity of 350, in five- person cells on three floors. Each cell has 5 concrete bunks, a toilet and sink, with cold water only. One built in strip light comes on automatically at 6pm and off again at 10pm. There are no electrical points in the cell: there are no TVs, radios, fridges, air conditioners, cookers, hifis, computers or phones. CCTV, controlled by the police, covers almost all areas. Each wing is an L shape, enclosing a small covered exercise yard with outdoor showers! Wings surround a central outdoor exercise area where there are football pitches and volleyball courts.

Upon being transferred, inmates were subject to a full strip search, body scanner, metal detector, and hot seat: the first time many had ever been searched this extensively. For the first time, inmates were allocated by security category depending on their sentence length, time served, crime and behavioural record. There was no paying to be allocated with your mates, no buying cells! For those used to running the prison this was a huge shock! The level of security in these new style prisons was far higher and far stricter. The police controlled all external security: manning the watch towers, monitored CCTV feeds, and searched everyone entering and leaving the prison — including guards and officials such as the education staff, doctors, nurses, social workers, kitchen staff, and of course visitors, and even embassy staff.

Security was initially very tight. Although there were usually just 2 to 3 guards per wing of 350 inmates, the police arrived quickly when they viewed anything suspicious on CCTV. Police also carried out all searches and were armed at all times, unlike guards. As well as watch towers, the prison was surrounded by several perimeter fences (including one that was

electrified) topped with razor wire.<sup>4</sup> Initially there were few weapons due to police surveillance. Nonetheless, it was only a matter of weeks before inmates began crafting knives and machetes from pieces of the structure of the prison such as the doors or fixtures and fittings. This in turn led to serious knife fights breaking out as gangs sought to reaffirm their territory.

In the initial months, inmates were not even allowed to possess pens and paper. Visitors, who had previously brought in things like food, newspapers, magazines, letters, books or clothes, could take in nothing. The authorities did this to completely break the power of the gangs by removing all potential sources of income and holding everyone incommunicado (recall that the Committee of inmates in Quito maintained a national network through mobile phones). Whereas previously visitors had entered the prison, here visits took place in purpose built rooms, lasting just one hour per week seated at a table, monitored by cameras, with guards and

police patrolling, followed by a search, sometimes a strip search, again by the police, on exit. Unlike the UK, inmates were entitled to a two-hour conjugal visit once a month in a private room with a bed, provided proof of marriage or a long relationship could be established. Nonetheless, it was at least a month before anyone was permitted visits at all. After the initial phase, the authorities turned

In the initial months, inmates were not even allowed to possess pens and paper.

their attention to rehabilitation and began to implement education courses, exercise regimes and workshops. Participation translated into up to 50 per cent off one's sentence for good behaviour (replacing previous early release schemes). The apparent rationale echoed western notions of rehabilitation through purposeful activity.

The role of the 'Internal committee' of prisoners was non-existent at first, but slowly became encouraged by the prison authorities, presumably realising the value of a mediator. It wasn't long before the system of *caporals* re-emerged, this time relatively independent from organised crime. The *caporals* now had to be approved by the authorities and have a good prison record. Their responsibilities were to maintain order on the wing, arrange ordered distribution of meals, cleaning and generally liaising with the authorities to resolve problems or look at complaints and ease the work-load of the guards who were now thinly stretched.

Many of these changes came as a great relief. The gangs were disbanded, debts generally written off, reasonable health care was finally available, the prison was free of drugs and alcohol; everyone had a bed to

4. Yet, some inmates attempted escapes in the first few months when they discovered a security defect in the cell doors. One escape attempt succeeded when an inmate impersonated an official and walked out of the main gates. The defect in the doors was quickly rectified and no further attempts succeeded.

sleep on and a roof over their heads. Everyone was reliant on prison rations, which in the first 4-6 months were meagre: nearly everyone lost weight. Transfer to the 'Regional' was not without problems. Due to the ill preparedness of the prison, many people suffered detoxing from heroin. Several died or committed suicide due to the severity of withdrawal. Opposing gang members were accidentally placed together on the same wing and even, sometimes, in the same cell, with fatal consequences. These problems were soon rectified and after a few months things settled down. Initial enthusiasm for the new regime quickly flagged. Staff running courses weren't paid, courses weren't funded, certificates weren't awarded for good work and behaviour, and no time was given off sentences. The realisation that sentences would not be reduced for completing courses, and the loss of autonomy within the system, was a heavy blow for inmates. Most now faced completing the entirety of their sentences in prison and had no motivation to behave.

Police control of the prison was generally successful in tackling guard corruption and breaking the gangs' control of the prison. However, many guards were friendly with police officers and even some police officers with inmates so, after a few months learning the system, smuggling recommenced: basic goods such as razor blades, cigarettes and food items started to appear, as well as drugs and mobile phones. Ironically, the increase in security fuelled corruption. Whereas previously a guard would have smuggled in a mobile phone for US\$20-100, they were now asking for US\$1,500-2,000. Furthermore, by withholding the chargers, they could demand up to \$50 just to charge the battery. A gram of cocaine, previously costing US\$5, now cost around US\$100.<sup>5</sup>

Most enthusiastically welcomed Correa's neo-socialist regime. Unfortunately it suffered from teething problems, creating opportunities for corruption to re-establish. As my experience in all three prisons shows, corruption was very deeply rooted. Great inroads towards change have been made, and the new prisons are a huge improvement in general living standards and security.

## Conclusion

During nearly a decade in the Ecuadorian prison system I witnessed first hand its reform and modernisation; from dilapidated Victorian style buildings to new modern structures with high tech security. New buildings are matched with a new regime with properly paid guards, teaching staff, properly qualified healthcare staff, inmates in uniforms, decent food provided free to all in an ordered fashion, education programmes, exercise groups for all abilities. Education courses replace work in

inmate-owned businesses such as shops, cleaning, laundry, building maintenance and of course illegal activities, which probably provided the greatest number of jobs! The drug trade undoubtedly fuelled high levels of corruption amongst the guards and officials. This has diminished a lot with the new system, which is far safer for guards. In short, an actual sense of rehabilitation and interest in inmates is shown by the state, in stark contrast to previously, when inmates were left to fend for themselves.

The new 'Regional' prison offered a fresh start: gangs were stripped of their powers of influence over guards and officials overnight, restoring power to the prison authorities and police. The police play a far greater role in the security of the prison and this had a dramatic effect in stemming the flow of narcotics, guns and other contraband. Although guards undergo stringent security procedures, corruption is still present, although better controlled. Rafael Correa's prison reform is, without doubt, a progressive step, vastly improving the living conditions, in every way, for thousands of inmates who now stand at least a chance of moving away from involvement in gangs. Nonetheless, its long-term success is by no means guaranteed.

My experience in three distinct regimes suggests that prisoner representatives can effectively assist in maintaining relations between inmates and officials. In part this depends on capable individuals participating in the 'internal committee'. As a transit point in the international cocaine trade, prisons often housed individuals who were experienced organisers (usually in the world of crime). Indeed, such individuals often commanded respect from their peers that lent them legitimacy. Inmates were more receptive to instruction from their elected peers as opposed to instruction by prison officials, who arguably lacked legitimacy due to widespread corruption. At the same time, money and violence connected to the drug trade undermined official control of the prison. This was taken to its extreme in Guayaquil resulting in a very volatile and dangerous situation. Since returning to the UK, I found that prisons in England have introduced prison councils, with the aim of giving prisoners more of a voice and also to assist in easing the work load of an already underfunded system facing yet more cut backs. The role of the 'number one' on the wings in England fulfils a similar role as the *caporal*. As prisoner autonomy has decreased in Ecuadorian prisons, so it is increasing in English ones. Nonetheless, as my experiences show, much can be learned from Ecuador as an example of how prisoners can usefully contribute to the daily running of prisons.

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5. Although heroin had been widely available, gang leaders were, in general, heavily against its reintroduction to the prison.

# 'It was already in the ghetto': Rap, religion and crime in the prison

Interview with Djalma Oliveira Rios, aka 'Cascão'

*Karina Biondi Federal University of São Carlos.*

On 22/08/2015 I met Djalma Oliveira Rios, also known as Cascão, member of the rap group Trilha Sonora do Gueto (Ghetto Soundtrack). It was in a club, in Osasco city, where the group would play a show. In between the sound check and other arrangements, we got to talk about many subjects. Cascão introduced me to Eliezer and Fininho, two other ex prisoners who also took part in the interview. As we can see below, what excels the most in their speeches is what I believe to be most valuable thing among prisoners and ex prisoners whom I talk to: their reflections.

**Karina: I would like you to tell me a bit of your experience. When were you arrested? When did rap come into your life?**

**Cascão:** I'm son to a north-eastern mother and I grew up in Capão Redondo (São Paulo suburbs) of the 80s. When I turned 14 I began to work as an office-boy. As we did payments in the banks, we started to analyze the entrances with the idea of committing robberies, so we formed a gang. In 1988 I was sent to FEBEM (institution destined to detain underage lawbreakers) for the first time. When I turned 18, I was already a bit known and I kept on robbing banks. After six months I went to prison for two years and ten months, then I went on parole and after six months I got caught again. Those were 8 years in prison, it was when I started writing my poetry. I shared a cell with a guy who used to write lots of lyrics (rap lyrics), and one day I asked him: 'Do you think that if I wanted I could write like you'? He made fun of me, so that day, I didn't go out for association, I stood in the cell and wrote poetry which is my success nowadays. It was when I found out my gift, just like that, because he made fun of me, but only when I got out of prison, in 1999, could I put it in practice.

**Karina: So you discovered your gift in there. Were you already religiously converted at the time?**

**Cascão:** No, I got converted out on the streets, but I learned God's word in there. For us, who hail from the ghetto, the criminals (by criminals, I don't mean those who commit the crime, but philosophers and strategists), we first do the time to be converted afterwards. While you are in jail you are part of what's in there, so, if there's a rebellion, you must be on the side of crime. So that's the deal, when I was in, I was a scoundrel, when I got out I've stopped, to put my music in practice, to work and build a stable life...then I went to church.

**Karina: What was the reaction from your old mates when you left crime, headed towards rap music and also got religiously converted?**

**Cascão:** That's an illusion some people have. For example: me and Eliezer were partners in crime, so I say- 'I'm done with the crime thing', and he answers — 'So you're gonna die'. It's not like that, it's about respect.

**Fininho:** But respect must be earned. Everybody already knew Cascão's history.

**Karina: There is a phrase I've always listened during my research, that is: "'nobody is obliged to do anything, but everything has consequences"'...**

**Cascão:** But that's it. The consequence is the law of life. Nobody has obligations to nobody, but for example, if someone gets caught with me, gets arrested and I manage to escape, then I am in debt to him, I must support him, with lawyer's expenses, support his family, providing cigarettes, hygiene stuff, etc, for we are partners. It's not a mandatory obligation, it's a sentimental and moral obligation!

**Karina: You talk about the assistance between partners, but there's also the assistance which comes from the PCC...**

**Fininho:** The assistance from the PCC is the assistance from the prison population itself. So, the comrades support who is in maximum-security prisons, because in the future I can be the one in there. It's not like we are paying taxes, it's a moral obligation too. Sentimental and moral! Some people thinks that the PCC gives with one hand and takes away with other hand, but the Command doesn't extort people or force them to admit crimes they did not commit, the fact is, nobody is forced to do anything.

**Karina: But some people think that the PCC has laws and punishes the ones who disobey them.**

**Fininho:** I am not a brother (PCC member), but I do what's right. Those who are born in the ghetto already know how it works, and it's not a PCC thing. If you do what's wrong, you'll be labelled wrong.

**Karina: But the prisoners aren't induced, for example, to admit to a crime they haven't committed in exchange for money?**

**Fininho:** No way! There's a kind of prisoner who does it, and he does it because he wants to, not because he is forced to. It's not something seen with good eyes. It's a part of crime but it's not 'the crime'.

**Karina: Cascão, you waited to get out of prison get religiously converted but a lot of people get converted in there.**

**Cascão:** Yes, many people.

**Karina: Is it viewed badly by other prisoners?**

**Cascão:** No, on the contrary. If there's a class which is respected by the scoundrels, these are the believers. They represent the balance in the world, without them, the world would be dominated by evil. In jail it's the same, the scoundrels want to escape, they want to talk on the phone, they want to make deals to get money, but they also know that on that corner are the church brothers, praying and holding on, got it?

**Fininho:** I can add that in many prisons nothing can be done in the morning before the call. If someone from crime dies, there's a collective prayer and the evangelical guys are the ones in charge of it. Only after the prayer can the inmates start their daily activities.

**Karina: But when a prisoner gets religiously converted, sometimes he may be suspected of 'hiding' behind the bible, so he won't face punishment for some mistake. Recently, some prisoners told me that God must be respected and that's why they can't accept those who use Him to cover up their faults. I was wondering if, what some may see as prejudice can be seen also as an opportunity, because otherwise he would be punished.**

**Cascão:** That's it, opportunity. There's no such thing as prejudice.

**Fininho:** What's more interesting for us? A little brother praying or a potential member of a rival gang?

**Eliezer:** You used the right word: opportunity. Your daily behaviour will show your choices, if you really opted from the heart or by mistake. If it's by mistake it's a repeated mistake, because someone that falters doesn't falter just once. God means transformation, it's not an illusion, God is a miracle, is a providence. Changes happen to those who believe and follow His word. So the day-to-day will prove if the choice is from the heart or if it's a trick to deceive people. A lie can't live forever, you know.

**Karina: Now changing the subject a bit. You went to college after leaving prison, right?**

**Cascão:** Yes. I graduated in law and studied theology too.

**Karina: You've been through prison, went to college, and have been successful with Trilha Sonora do Gueto. And at the same time you also maintain your commitment to life in suburbs and prisons, you give voice to them. No success or graduation could make you lose your humility...**

**Cascão:** Listen, I was once debating with a guy about realities. He argued using theories from books, you know,

from law school, and I replied: 'Man, I agree with you. Everything you've just said I had to swallow in college, I ate it and drank it like food or water, but your words are a load of crap, let's discuss reality!'

**Karina: Are you saying that the realities of life aren't compatible with theories from books?**

**Cascão:** That's right. And if you're not humble your conceptions will change, you will get away from the truth.

**Eliezer:** Cascão lives in truth and stood humble. He knows it deeply.

**Cascão:** It's because I've lived it.

**Fininho:** Only who lived it can talk about it.

**Karina: I've been following your interviews, speeches, videos, posts and I identify a lot what I say and write with the things you say, but you know, I see a lot of the PCC in your words...**

**Eliezer:** Cascão has the authority to say everything he says, because he lived it, so do I, I've been in prison for eighteen years and I'm back on the streets for one, so I can speak, we live it nowadays. Just like in the book you brought (he was holding a copy of a book written by me),<sup>1</sup> 'We live it — while pointing his finger to the abbreviation PCC on the cover, — It's not a fashion to be followed, it's a fact!

**Cascão:** It's a fact!

**Eliezer:** Born and raised against the oppression that has always existed! Tell me, who kills the most in Brazil? It's the military police! Last week the cops killed 18 around here. The PCC did what no government, anthropologist or even the pope could do, it humanised the crime.

**Cascão:** Humanised crime! Let's not say 'crime' because the 'lawists'<sup>2</sup> will say that crime means the ones who commit the transgressions, let's say it humanised the ghetto.

**Fininho:** But it all began in prison. Before the Comando, the prisoners used to rape visitors, abuse them, they extorted the comrades, after the birth of the PCC these things don't happen anymore. Nowadays you can't even slap a guy in prison, so killing is unthinkable, in prison or in ghetto.

**Eliezer:** They value life. Nowadays life is valuable in the ghetto.

**Cascão:** Won't die.

**Eliezer:** There are two sides of the coin, because dead can't speak, so, before the attitude, both sides must be listened to. It was vital to turn things into what they are today, to raise this banner. Life is priority, always.

**Karina: You posted a video on facebook about tickets for a concert. You said something like: 'You'd better buy in advance, because if you leave it for the last moment and the tickets are sold out, you won't be able to enter, no matter who you are, because everybody is equal'. When you mentioned 'equal' I**

1. Biondi, Karina. *Junto e Misturado: uma etnografia do PCC*. São Paulo: Terceiro Nome; *Running Side by Side: an ethnography of prison life in Brazil* (forthcoming). North Carolina University Press.

2. In Portuguese language the words 'lawist' and 'rightist' are the same: 'direitista', so there is a double meaning for the Cascão's speech, referring not only to those who embrace the right wing politics but also those who state their thoughts in the terms of law.



**thought how many times I'd heard this in the prison system. I'd like to know if this idea of equality has reached prisons and ghettos after being used by the PCC in their slogan.**

**Cascão:** No, it was already in the ghetto, it's kid street slang. I'll give you an example... We're playing football and Eliezer says, 'If you play against me I'll kick you down', then I say, 'I shall get payback, 'cause we're equal'. So, it's an old thing that became bigger after, like Eliezer said, crime got humanised. It began to be said: 'If you wanna kill someone, your equal, if you kill with no explanation, with no reason, you're gonna die too'.

**Eliezer:** In fact, it began back in 2002: Peace, Justice, Freedom and Equality.<sup>3</sup>

**Karina: Things have changed since then, right?**

**Eliezer:** Correct: Because, unfortunately, in the beginning it was like that: 'I'm part of the team, so I'm the man!' But now, if someone comes up with that attitude, he will hear: 'What? So you're the man? No dude, Equality! Because you've got to listen to the other side, there's no democracy without participation. The government speaks and you keep your mouth shut? No, you must have your voice listened to, that's why 'i' stands for Igualdade (equality). There's no more of the old ways saying that only

the big ones have their say, everyone has rights, everyone has a say, a voice and a point of view.

**Cascão:** That's right.

**Karina: The governor accredits to his police force the reduced number of homicides in São Paulo...**

**Fininho:** Even parrots can speak. The reality is different.

**Cascão:** It's the Command... everyone knows it. Society is hypocritical.

**Eliezer:** There's no way of hiding, only liars do. And this reduction in death did not take a decade, it was quicker, there was a general call saying: 'It's equality, life gets paid with life, let's listen to both sides', and the deaths stopped.

**Karina: To close our interview, do you think your views about the PCC may cause you to be accused of apologising for crime?**

**Cascão:** I have the following opinion, if you have something to say, say it. It doesn't matter what others think. But if you want to be a conventional person, you don't have to say anything, you just sit and wait for everyone around to speak for you. So, who was born to speak has to speak, without fear of being labelled apologist. No matter what the others think. They can think whatever they want.

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3. The PCC's motto.

# Hearing the voices of Brazilian correction officers<sup>1</sup>

*Maria Lucia Karam is from the Carioca Institute of Criminology, and Hildebrando Ribeiro Saraiva Jr. is from the Public Safety Council of the State of Rio de Janeiro.*

**L:** *I have a BA in Social Communication, and I'm currently attending a special program on public safety in a private university. I've been working in a pre-trial detention TC prison (a prison for detainees of the Terceiro Comando [Third Command]) in a mid-sized city since 2008.*

**W:** *I'm currently attending the Public Safety Course of the Fluminense Federal University. I work in a unit of the Bangu prison complex in the capital of the state. It's a CV prison (a prison for inmates of the Comando Vermelho [Red Command]). I work directly with the inmates as a guarda de miolo [core guard].*

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**HRS:** **When I worked in police stations, there was an orientation to classify people under arrest as members of CV, TC or ADA [Amigos dos Amigos [Friends of the Friends]] before sending them to a prison, even if they weren't actually affiliated to these gangs. In this case, we should consider the place where they lived: favela X, gang X; favela Y, gang Y.**

**L:** It still works like that. Even if they aren't affiliated to a gang, they'll say they are.

**W:** In addition, when we receive an inmate, even if he just lives in a neighborhood under the influence of a gang, we ask if he had any problem in the streets, in order to avoid conflicts in the interior of the cells. When the new inmate mentions any unsolved issue, we separate him from the *coletivo* [prisoner community], putting him in the cell called *seguro* [insurance], where he'll serve his sentence.

**HRS:** **Before we formally started our interview, you mentioned that some internal procedures may vary depending on who is the prison (or jail) superintendent.**

**W:** It's true, but anyway a CV unit is quite different from other units. In CV units everything must be negotiated. They have an inmates' **council**, with legitimacy to create a consensus in order to avoid disagreements.

**L:** There are also **chairs** of the cell, the block, and the unit. You have to hear the **council** in order to deal with any relevant issue that will affect the *coletivo*.

**W:** Think about the recent law about visitors. A change came from the outside: according to the new law, visitors cannot be strip-searched any more. This fact implied a change in the way prisoners are searched after they come back from the courtyard where they received their families. The search must be more rigorous. How to do it? We had to negotiate in order to avoid any *alteração* [disturbance].

**L:** In a TC unit, you ask the prisoner, who is naked, to crouch down, facing you and turning his back on you. He crouches down both ways, and then he can go. In a CV unit it is completely unacceptable to have a prisoner turning his back on an officer. If a new superintendent ignores this 'rule', there will be problems; it will probably cause an *alteração*. After the first rebellion, the superintendent will negotiate.

**L:** Prisoners have their own morals. You may pay with your life if this moral is disrespected. There is no delay in the enforcement of the 'law' behind bars. It may happen that a rebellion occurs in the day you are on duty; you may be sacrificed as an example, even if you were not the agent who broke the 'law.'

**L:** The TC's discipline is not the same as the CV's. The CV's conception of *coletivo* is much stronger. It's almost a military organisation. They have watchmen; they organise day/night shifts — there's a watchman in charge of each 'work' period. I wouldn't say that their discipline is stronger than the discipline of the officers, but it is surely much stronger than other gangs' organisation. The officers on duty are at a high risk of losing their lives. This fact encourages the whole group to be responsible for the safety of each other. In my unit we take this very seriously; I would say with professionalism. However, the point that I'd like to make is that the prisoners also have a discipline: if somebody is in charge of watching in a certain cell, he will do it. If the **council** asks: 'Which officer is on duty now?' — He will know the answer. They have

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1. The following interview was held with two correction officers currently working in the state of Rio de Janeiro. They do not want their names to be published; therefore they are identified just as L and W.

information about the whole unit. They know which team is on duty each day. They know if an officer changed his period of work. They know who is commanding the team on duty. They know which officer snoozes in his turn, as well as they know who the 'armored' officers (those who never sleep) are. It's interesting to notice this particular language. It's something used by all gangs — slang as a defence strategy. A new officer may stay the whole day listening to the conversation among the inmates, and he won't understand a word. Naturally, as time passes, officers start learning their language, but it's not so simple.

**MLK: How many prisoners and officers are there in your units?**

**L:** In my unit there are seven guards to watch about 500 detainees. The maximum capacity is 300. Besides these seven guards in the *miolo*, there are three more officers in the lookout towers. If an external attack occurs, they are expected to stop it. We don't have those cells where overcrowding is so bad that prisoners can't sleep at the same time. But it's amazing that we're relieved because there are places to sleep.

**W:** We used to have seven guards. The prison's maximum capacity is 750, but we have 1200 inmates. Recently, the administration put one additional guard during the day and two at night. So, at best, we have nine officers to take care of 1200 convicts. Inside, in the *miolo*, there are usually only five guards.

**HRS: In São Paulo, the PCC (Primeiro Comando da Capital [First Command of the Capital] was created after the Carandiru massacre.<sup>2</sup> In some way, we could ironically say that the state is an ally of the gangs, as it offers the horrible conditions of prisons as a fuel for their strengthening and expansion.**

**L:** Surely, the formation of gangs is a matter of survival. When prisoners are organised, they become more powerful, and life behind bars turns out to be less uncomfortable. However, the history of CV is older: it dates back to the 1970s, when bank robbers were kept together with political prisoners in the *Ilha Grande* prison. It's amazing how this organisation didn't lose its strength as time went by.

**W:** It should be said that most people have a wrong idea of such organisation. They overthrow each other all the time. I've been working in my current unit

for a little more than one year, and I've already seen five different CV leaders.

**L:** I don't disagree with you. The point I wanted to make is that the person is substituted, but the structure remains. The Command as an 'institution' is not overthrown by the **coup d'état**.

**W:** However, many things change. I can see the changes daily. For instance, now, any move that I make in the visitors' courtyard is watched by an inmate. This didn't happen under past 'administrations'.

**W:** The unit where I'm currently working can be considered the second most dangerous prison in the *Bangu* complex, but everything inmates do there must be authorised by *Bangu* III, where drug trafficking leaders are incarcerated. They don't talk to the chief officer or to the prison superintendent. They negotiate

directly with the superintendent of the whole *Bangu* complex: he is the one who intermediates the negotiations between the inmates and the SEAP (the state department that manages the prison system). An agreement reached in *Bangu* III will be followed in the other units.

**HRS: Do the prisoners work in your units?**

**L:** Presently, there are only ten *faxinas* (prisoners who have a formal job). There used to be courses of computer, craftwork,

but only a few detainees attended. The administration says that work is a way to change people — it's a joke. Many prisoners attach a stigma to those who formally work helping the administration. The *faxina* in a TC unit or the *ligação* in a CV unit knows that he will not be accepted by his comrades: one should be either an outlaw or a worker; you can't be both.

**W:** In a CV unit there is only janitorial work. Except for this, the prisoners' labor force is not used. I've already worked in units where officers and prisoners could sit and talk just as we're doing now. In a CV unit you can't do that. A prisoner is a prisoner, and an officer is an officer. Anyway, as a formal job may reduce the time to serve, the inmates that get these jobs are the most important ones for the CV activities in the outside. The CV tries to do everything to reduce their time in prison so that they can go back to their businesses.

**L:** When prisoners don't work they stay the whole day doing nothing. The lack of work strengthens the outlaw culture. It may happen that a prisoner insults another, by calling him a worker. And he'll answer: 'I'm

When prisoners  
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2. In 1992, 111 inmates were killed in the prison called *Carandiru*, in the state of São Paulo, when military police used lethal force in response to a fight between two groups of prisoners.

not a worker; I'm an outlaw!' And the administration does nothing to try to change this culture. After being behind bars for a few years, somebody, who was a worker before being arrested, will probably have adhered to this 'being proud to be a criminal' culture. People are deprived from their liberty, and nothing is done to qualify or rehabilitate them. The lack of dialogue and educational programs attests that prisons are just a depository of people.

**MLK: Are there differences between a pre-trial detention unit and a unit for sentenced inmates?**

**L:** The pre-trial detainees don't like disturbances. They just want to have their day in court. It's completely different to be behind bars for the first time, or to know that you will remain in prison for 20 years. The convict's anguish is different.

**HRS: How about the relationship between officers and prisoners?**

**W:** I always try to be respected by the inmates. Respect cannot be achieved by force. It's rather achieved by the rectitude of my behavior there. Nobody disturbs me, because they see that I'm doing my job in the right way.

**L:** The officer must learn the ethics developed behind bars. It's not a matter of being corrupted by this ethics, but to know where you are. Prisoners can't stand a dishonest officer. If you are dishonest in the outside, people will just despise you; in prison, you can be severely hurt. If you act according to the law — according to their 'law'; according to that ethics that we mentioned before — there will be no problems. Prisoners know when one of them is wrong: if you admonish him, the other prisoners won't be against you. A mere admonishment may imply more time to serve, for instance impeding a parole. If you maliciously admonish a prisoner, they'll see it. But, if he was wrong, the other prisoners also see it. You can admonish him with no concerns, also because you cannot be seen as a milksop. There's a routine which neither the officers nor the prisoners want to be broken. The most important thing is to keep this routine.

**W:** And they often suggest that the balance of power may occasionally change. Every day we have the *confere* [cell check]. Only one officer will be with 90 prisoners inside the cell. This is one reason why respect among people that are together in the same institution is so important.

**MLK: How about the relationships between prisoners and the drug trafficking in the favelas?**

**W:** The *Bangu* III leaders receive orders from the drug dealers of the *favelas*. Then, they transmit the orders to the blocks, the cells, the most remote jails in the interior of the state.

**L:** Many drug dealers in the *favelas* are former prisoners. They have experience; they've already proved that they can stand living in prison. Moreover, as they leave prison, where are they going to work? Where will they make R\$2000 [about £500] a week? Among former prisoners there are those who can become 'operational soldiers,' who like the adrenalin flowing of holding a machine gun and shooting at the police. After spending time in prison, what will these guys do? Play jiu-jitsu? No, they will handle guns again.

**W:** Moreover, prisons end up establishing connections that wouldn't be made outside. A guy from a certain *favela* can be side by side with a guy from another very distant *favela*. Internal connections help the external connections. Not all drug dealers of the *favelas* are 'shareholders of nothing,' as Zaccone says.<sup>3</sup> Some of them, even behind bars, can make R\$700,000 a week. How can you deal with somebody who handles such amounts of money?

**L:** This huge amount of money is a product of drug prohibition. Prohibition gives the market to drug dealers: it creates a criminal monopoly over a quite profitable activity, which offers jobs for lots of former prisoners. We know all the drug dealers, from the CV founders to the boss who was arrested last week. However, we don't know the names of anybody who handles this trade in a superior level, far from the *favelas*. I'm not saying that the drug dealers who are in prison are poor or nice people. If you cross the way of one of these guys who is making R\$700,000 a week, your life is worth nothing.

**L:** In effect, the lives of prison officers are quite fragile. Comparing to other states, the situation in Rio isn't so bad. Our salary is reasonable; we work 24 hours on, 72 off. However, in the 24 hours in which we are on duty, we live in a violent environment, in a permanent tension. Even if you can rest for four hours during this work period, you won't be able to sleep inside a powder keg with 1200 inmates. This tension impacts on your body and obviously affects your mental health. The *guarda de miolo* remains 24 hours behind the bars. There are no psychologists, no social workers, no further educational programs. Both officers and prisoners are victims of the same precariousness.

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3. Zaccone, Orlando (2007). *Acionistas do nada: quem são os traficantes de drogas*. Rio de Janeiro: Editora Revan.

# The Policy Challenges of Informal Prisoner Governance

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## Introduction

**Informal prisoner governance in Latin American penal institutions raises a number of dilemmas for policy. The responses must encompass decarceration and diversion policies, and an approach to prison security that emphasises co-production and co-governance rather than coercive control.**

### Survival and rent, monopoly and competition

The roots of both survival-oriented informal prisoner governance and violent, rent-oriented prisoner groups lie in the policies of mass incarceration adopted in the region from the 1980s, and consequent state omission and institutional violence. However, these policies produced quite distinct experiences for prisoners and problems for the state. The articles in this special edition demonstrate a spectrum, differentiated by a combination of variables. These include: (1) the level of autonomy of the prisoners, collectively, from the prison authorities; (2) who exercises coercive control and violence, even lethal force, within the prison walls; (3) the degree of structure, hierarchical organisation and reach of prisoner organisations (whether they are monopolistic or competitive within a single facility, networked across several facilities in the prison system, or operational outside the prisons as well as within); and, finally, (4) the material resources (goods brought into the prison, or necessities inherent to imprisonment) that can be traded or used to extract rents and encourage loyalty, and immaterial resources (legitimacy, trust or fear) available to such prisoner syndicates, enabling them

to maintain dominance in relation both to the prisoners and to the prison authorities.

All but the most draconian prison regimes require some degree of collaboration and communication between staff and inmates to maintain routines, predictability and the safety of both.<sup>1</sup> However, a tipping point occurred in the early 1990s in Latin America as rising prisoner populations outstripped the authorities' capacity to provide even the most minimal living standards, resulting in the state retreating to the perimeter of many prisons, and leaving inmates to fend for themselves. The self-governing prisoner communities that emerged for the purposes of day-to-day survival saw individuals and groups trading in the supply and distribution of desperately needed goods, with the rules of this prison society upheld through constant reciprocity, trade and contract-like arrangements, and by prisoner disciplinary committees.<sup>2</sup> Whilst a response to state neglect, the informal monetisation of everything produced by internal markets also tended to stimulate the creation of social hierarchies on the basis of income, with the community imposing segregation on stigmatised groups such as sex offenders.<sup>3</sup>

More commonly, however, the supply of survival goods within an overcrowded prison was regulated not by monetary exchange, but by violence exerted by a dominant group or groups functioning as a rent-seeking protection racket, extracting taxes from the prisoners, and monopolising force.<sup>4</sup> This monopoly was often unstable, and periodically rival groups or 'strong men' attempted to capture the commanding positions. This competition led to a volatile and terrifying environment for ordinary inmates. Mass incarceration policies also caused an influx of younger prisoners, often held for short periods on remand, with no

1. This becomes even more necessary in conditions of scarcity of staff and of basic amenities as Postema et al describe in Lurigancho prison in Peru (this volume) and Darke shows in his study of a police lock-up in Rio de Janeiro. Darke, S. (2013) 'Inmate governance in Brazilian prisons' *Howard Journal of Criminal Justice* 52 (3): 272-284.
2. San Pedro prison in Bolivia lies at the decentralised end of the informal self-governance spectrum, with relations between prisoners generally non-violent, with complex, decentred economic exchanges, functioning property rights, and internal markets for all kinds of goods (legal, illegal, survival and luxury). Additionally, there is no evident monopolistic prisoner group, or violent intra-group power struggles. Skarbek, D. (2010) 'Self-governance in San Pedro prison' *The Independent Review* 14 (2): 569-85.
3. Those accused of sex offences in San Pedro are forced to work in the kitchens. Cerbini, F. (2012) 'Comer y olvidar: los peligros del rancho en la cárcel de San Pedro (La Paz, Bolivia)' *Dimensión Antropológica* 56: 133-165.
4. Antillano, this volume.

knowledge of the 'convict code', which upset the previous equilibrium between guards and inmates, and caused a surge in interpersonal violence. The number of riots and murders rose steadily from 1990 to 2000 in Brazil's prisons.<sup>5</sup> The state's response was brutal, epitomised by the police killing of 111 prisoners during a disturbance in the House of Detention in Carandiru. This, and other mass prison deaths in the region, signalled to prisoners that they had no option but to organise to protect themselves from the violence both of the state and of their fellow inmates. The Carandiru massacre prompted, and legitimised, the emergence in 1993 of the Primeiro Comando da Capital (PCC), a prisoner syndicate that came to control over 90 per cent of the prisons and prisoners in São Paulo state through its deployment first of violence then of a form of diffuse and collective responsibility.

The PCC lies at the centralised end of the prisoner self-governance spectrum. Born within the prison system, it metamorphosed into a hegemonic and bureaucratic organisation, with a codified ethos, stratified membership and a pseudo-legal disciplinary system,<sup>6</sup> that was able to extend its activities and power beyond the prison walls, acquiring a dominant presence as an organised crime cartel in many low-income urban communities. By providing survival goods to the mass of inmates, it assured its *own* survival as an organised crime syndicate, racketeering both inside and outside the prison, for which their governance of the carceral space was key. Unlike territories (carceral or non-carceral) where there are two or more gangs engaged in violent turf-warfare, the PCC imposed a 'pax monopolista',<sup>7</sup> regulating the use of violence by its members and those under its purview precisely because of the regular traffic between neighbourhoods and prisons where it operated, and thus allegedly reducing the homicide rates in both. Other structured criminal groups, such as the *comandos* in Rio de Janeiro and the *MS13* and the *Barrio 18* gangs

## The state's response was brutal, epitomised by the police killing of 111 prisoners during a disturbance in the House of Detention in Carandiru.

in El Salvador and Honduras.<sup>8</sup> moved in the opposite direction, from the streets *into* the prisons through widespread arrest and incarceration. They may exert monopolies inside individual prisons that the authorities have segregated by gang, but are not hegemonic throughout the system. These distinct dynamics require appropriate policy responses.

### Policy responses

Carceral self-rule, in its different stages and dynamics, has been produced by the state, either through *commission*, in its penal policies, or *omission*, in its poor governance. Mass incarceration has provided a ready constituency of prisoners desperate for their basic survival and personal security needs to be met, and from whom rents can be extracted by dominant inmate groups. Specific penal policies, such as those targeting 'gang members' or drug dealers/users, ended up strengthening originally rather weak collective identities or affiliation through incarceration and group segregation, giving organised crime groups a territorial base. Prisoner syndicates may operate as a parallel power in the physical absence of the state authorities inside the jails but they are also engaged in a 'deadly symbiosis' with legal/coercive actors reliant on them to control violence inside and outside the prisons, and thus shore up state legitimacy.<sup>9</sup> The São Paulo authorities have claimed credit for the drop in prison violence and homicides in PCC-influenced areas.<sup>10</sup> Similarly, the 2012 gang truce between the government and the *maras* in El Salvador was brokered from behind prison walls and resulted in a dramatic, albeit temporary, fall in murders.<sup>11</sup> Yet, the government's credit-claiming was ambivalent for it was simultaneously an admission of the state's inability to provide law and order. Overall, the state's ceding of the prisons and other areas is toxic to its legitimacy and ability to hold a monopoly on force as a key component

5. Dias, C. N. and Salla, F. (2013) 'Organized crime in Brazilian prisons: The example of the PCC' *International Journal of Criminology and Sociology* (2): 397-408. p 400.
6. Dias and Salla, this volume.
7. Biderman, C., Lima, R., Mello, J. M., Schneider, A. (2014) *Pax monopolista and crime: the case of the emergence of the Primeiro Comando da Capital in São Paulo*, Brasília: CAF Working Paper N° 2014/03 07/15/2014.
8. Carter, this volume.
9. Denyer Willis, G. (2009) 'Deadly symbiosis? the PCC, the state and the institutionalization of violence in São Paulo'. In: D. Rodgers and G. A. Jones (eds) *Youth Violence in Latin America* (pp. 167-181), New York: Palgrave.
10. Dias, C. N. (2013). *PCC: Hegemonia nas prisões e monopólio da violência*, São Paulo: Editora Saraiva.
11. Van der Borgh, C. and Savenije, W. (2015) 'Desecuritising and re-securitising gang policies: the Funes government and gangs in El Salvador' *Journal of Latin American Studies* 47 (1): 149-176.

of the rule of law. It is perhaps this paradox that often paralyses what might be sensible policies for reducing the need for survival-oriented prisoner self-governance, and thus the opportunities for rent-seeking prisoner syndicates.

Policy responses to date have largely consisted of denial and co-existence because the periodic outbreaks of violence within the jails with competing prisoner groups, or outside the jails, where monopolistic groups project their coercive and economic muscle, invite media attention and engender public insecurity. Two key policy areas that would address the more negative aspects of 'prisoner capture' of the carceral space are (1) the ratio of state resources to inmates, which involves both the supply side — how many prisoners are coming into the system — and the allocation of state resources, how much and to what purpose? (2) control and security issues, which include items such as the size of prisons, their architecture and regime. These in combination produce a high or low level of governance, and thus of legitimacy, for the state in relation to the prison system.

The PCC slogan 'peace, justice, liberty and equality' summarises the intangible *rule-of-law goods* denied to the carceral mass by the state, and which lead to prisoner self-rule. Therefore, the obvious policy approach to reduce rent-seeking prisoner organisations is for the state to provide these and survival goods so that prisoners do not have to turn to inmate groups. However, logical that may seem, Latin American penal policy is underpinned at local and national levels by a variety of overarching, and often political, not criminological, goals and underlying ethos. Modern prison systems claim to meet four objectives: incapacitation of the offender, deterrence of potential future offenders, legally-based punishment of a proven offence through the deprivation of liberty, and prevention of reoffending through education, job training, and psychological and family support. But in reality political, ideological and financial considerations prioritise some over others. These tensions are evident in the mixed successes of the key policies discussed below.

## Decarceration, diversion and dejudicialisation

Informal prisoner governance results from extreme overcrowding and overstretched administrative capacity due to incarceration as a default penal response. Criminal laws are often inflexible and externally influenced: the United States, the major bilateral donor in the region, made mandatory remand and custodial sentences one of the conditions of its funding to countries such as Colombia, Bolivia and Mexico in its 'Wars' on drugs and organised crime.<sup>12</sup> One in five prisoners in Latin America is currently held on a drugs charge. This has partly sustained the excessive — and often illegal and unjustifiable — use of remand which is causally correlated with prison corruption, the use of torture, the spread of disease, poverty for detainees'

families, and an undermining of the legitimacy of the criminal justice system, all of which lead ordinary inmates to place their trust and reliance in one another or in informal prisoner organisations.<sup>13</sup> Therefore, a key strategic response should be a determined reduction in the prison population, thereby draining the pool of new recruits or taxable inmates available to coercive rent-seeking prisoner organisations and freeing up resources to improve prison governance and enable inmate to thrive, not just survive.

By the end of 2014 Brazil had over 622,000 prisoners, some 40

per cent of whom were on remand and waiting on average three months to see a trial judge. Many will be acquitted, or receive a non-custodial sentence in the end. Whilst there is no straightforward correlation between levels of pretrial detention and informal prisoner governance, as the quality of governance and the sheer size of overloaded detention facilities are also determining factors,<sup>14</sup> the revolving door of arrest, detention and release sends around one million individuals through the Brazilian prison system every year and into the arms of predatory prisoner groups.<sup>15</sup> Slashing pretrial detention would free up resources (prison places, budgets for guards and services) for better governance of smaller prisons dedicated to serious offenders (convicted and

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12. Transnational Institute and Washington Office on Latin America (2011) *Systems Overload: Drug laws and prisons in Latin America*, Amsterdam, TNI, and Washington DC, WOLA.

13. Open Society Foundations (2014) *Presumption of guilt: the global overuse of pre-trial detention*, New York: Open Society Foundations.

14. Skarbek, D. (forthcoming) 'Covenants without the sword? Comparing prison self-governance globally' *American Political Science Review*.

15. DEPEN (2016) *Levantamento de informações penitenciárias InfoPen 2014*, Brasília, Departamento Penitenciária Nacional, Brazilian Ministry of Justice.

remand), and avoid these harms.<sup>16</sup> International organisations such as the Inter-American Commission on Human Rights and the Open Society Justice Initiative have thus urged countries to implement custody hearings requiring suspects to be brought quickly before a judge (typically between 24 hours and a week) to determine the necessity of pretrial detention.

If prison authorities generally welcome a reduced flow of new inmates into the system (assuming they are not extracting rents from them), they are frequently hindered by other branches of government: the legislature and judiciary.<sup>17</sup> Decarceration policies also founder on governance deficits, popular discourses on crime and in the discretionary sentencing practices and attitudes of judges, which end up denying the due 'liberty', 'equality' before the law, access to 'justice' and 'peace' (security) that the PCC promises to its members in substitution of the state. States in the region have introduced alternatives to remand such as electronic tagging, house arrest, regular reporting to a police station, and a home-based curfew, as well as diversionary programmes, such as drug courts that would send small-time users to therapy rather than to prison. Non-custodial sentences such as community services and fines have been introduced for less serious crimes. But their effectiveness depends on governance capacity. Lack of adequate infrastructure and funding for penal alternatives, and ambiguities in the wording of laws that leave them open to interpretation (for example, as to what a 'serious' crime is, whether an individual poses a 'risk', or what quantity of narcotics would be for 'personal use'), mean that judges default to the higher, rather than lower, levels of control. They are also influenced by both moral panics and penal punitivism in regards to socially marginalised populations — young, poor black men, or indigenous people — and a professional culture that neglects prisoners' rights. Between 2008-2016 volunteer lawyers from Brazil's National Justice Council, which oversees the country's judges, reviewed 400,000 prisoner case files across Brazil, granting 80,000 benefits to which the prisoners were already entitled

and freeing 45,000 detainees with spent sentences still in custody.<sup>18</sup> These rights should have been guaranteed by local circuit judges tasked with overseeing prisoners' sentences. With increasing criticism of the judicialisation of social relations and politics in the region, perhaps some aspects of the penal system, specifically post-sentencing, should be de-judicialised, a controversial proposal in a civil law system.

### Security, securitisation and super-max

A second policy challenge is how the state regains control of carceral spaces governed informally by substitutive, monopolistic groups. The Ecuadorian experience suggests a combination of transferring inmates to new prisons, removing all the sources of the group's rents, supplying basic survival goods and maintaining a differentiated control unit elsewhere to isolate ringleaders.<sup>19</sup> But again, it faltered on governance problems, viz. the state's commitment to its own plan and an entrenched culture of corruption among guards and police.

A more serious challenge is containment, especially of the ringleaders of predatory prisoner groups that project power throughout and outside the prison system. In Latin America, despite the porosity of the system and clear *lack* of state control in many units, prisons are still often seen as part of the state's security apparatus, and thus fall under the aegis of the ministries of internal affairs, public security, police or government. But securitisation of prisons is not new: super-maximum security regimes or facilities (geographically isolated fortress prisons, individual cells and very little association) existed since the nineteenth century. Indeed, another motive in the formation of the PCC was the torture and illtreatment experienced by 'disruptive' prisoners who were transferred to the rigid and abusive Taubaté disciplinary unit. Yet the state had no other tools with which to contain PCC leaders other than the regime that had fuelled the original grievance and collective action. When the PCC flexed its muscle by coordinating rioting in 29 prison units in 2001, the

A more serious challenge is containment, especially of the ringleaders of predatory prisoner groups that project power throughout and outside the prison system.

16. Inter-American Commission on Human Rights (2013) *Report on the Use of Pretrial Detention in the Americas*, OEA/Ser.LV/II. Doc. 46/13.

17. Detainees held long term in police lockups are more susceptible to extortion and unlikely to resist collectively, due to the very limited space and resources.

18. <http://www.cnj.jus.br/sistema-carcerario-e-execucao-penal/pj-mutirao-carcerario>

19. Nunes and Fleetwood, this volume; Tritton with Fleetwood, this volume.



prison authorities in São Paulo, Rio de Janeiro and then at federal level created a Differentiated Disciplinary Regime.<sup>20</sup> The PCC made it clear in its second ‘mega-riot’ in 2006 that it would resist transfer either to the federal units, or any other super-max facility. Conversely, transfers of leaders within the state prison system, or across state boundaries, seem to have facilitated the rhizomic spread of the PCC to other states in Brazil.<sup>21</sup> The more horizontal and co-operative the structure and culture of the inmate organisation, the more multipliers it has. Fluid positions within the group, a broad base of shared identity and norms among a large social class, combined with frequent prisoner release and re-imprisonment, will propagate rent-seeking inmate groups and prison-based gangs.<sup>22</sup>

However, prisons have to provide security not just for state and society in relation to violent offenders, but for all inmates under their purview. Again, policies have contradictory outcomes. Segregating competitive gangs in their own units, as in El Salvador, Honduras and Rio de Janeiro, will reduce immediate prison violence for the detainees swept up in that logic, but it does not remove the underlying threat of violence implied in the gangs’ control of the unit. It also strengthens the groups’ cohesion, providing them with a territorial base for power projection. Countries across the region are now reaching for imported control solutions. The US ‘super-max’ model has been vigorously promoted both by private sector security providers that have moved into prison management, and by the US government, particularly where it has leverage over countries through large-scale security sector financing (Plan Colombia, and Plan Mérida in Mexico).<sup>23</sup> New ‘everyday’ maximum security prisons are also now incorporating as a matter of course recognisable super-max architectural features such as remote surveillance and electronic control. They tend not to have riots and disturbances, although this is not because they are run by the private sector or in

public-private-partnerships, but rather because the contracts preclude any level of overcrowding, and often require a level of governance and service provision far beyond that required of state-run prisons. But they are criticised for being dehumanising, and focussing on control rather than on rehabilitation. Whilst they may reduce disruptive prison association, they also effectively preclude more positive prisoner association. In the absence of dialogue with the authorities, collective co-governance is impossible and prisoners are reduced to deploying everyday forms of resistance through a myriad micro-transgressions.<sup>24</sup>

### Co-production and co-governance

The biggest challenge for any inmate, anywhere, is how to survive prison. For those in well-ordered and controlled prisons, this consists in ‘doing time,’ dealing with mind-numbing routines, maintaining one’s sense of self, and navigating the institutional rules, whether consistently applied, or capriciously set aside by staff. However, in many of Latin America’s prisons prisoners and staff are mutually dependent for physical, not just psychological, survival.<sup>25</sup> Encouraging a structured form of co-governance would be a pragmatic response that recognises the complex and dense human relations that characterise most prisons, and which form the bedrock of successful management, order maintenance and rehabilitative approaches.

Formalised forms of co-operation between prisoners and prison authorities are not new, and in Latin America existed in the mid-twentieth century heyday of large, model, high security prisons. In Brazil the system of ‘trustee’ prisoners and block and cell committees was overturned in the 1990s by a more repressive view of prison management.<sup>26</sup> A return to structured co-governance seems a better guarantee for the core aims

However, prisons have to provide security not just for state and society in relation to violent offenders, but for all inmates under their purview.

20. Dias and Salla, this volume.

21. Lessing, B. (2010) ‘The dangers of dungeons: prison gangs and incarcerated militant groups.’ In: *Small Arms Survey 2010: Gangs, Groups and Guns* (pp. 157-183), Cambridge: Cambridge University Press.

22. Biondi, this volume, and Lessing, B. (2016) *Inside Out: the Challenge of Prison-based Criminal Organizations*. Washington DC: Brookings Local Orders Paper Series, No.3.

23. de Dardel, J. and Söderström, O. (2015) *The Rise and Fall of Supermax: how the US Prison Model and Ultra Punitive Penal Policy Travelled to Colombia*. Geneva: University of Neuchâtel, Working Paper 3-2015/E.

24. de Dardel, J. (2013) ‘Resisting ‘bare life’: prisoners’ agency in the New Prison Culture era in Colombia’ In: D. Moran, N. Gill and D. Conlan (eds.) *Carceral Spaces: Mobility and Agency in Imprisonment and Migrant Detention*, London: Routledge.

25. King, R. and Valensia, B. (2014) ‘Power, control, and symbiosis in Brazilian prisons’, *South Atlantic Quarterly* 113 (3): 503-528.

26. Alvarez, M. C, Salla, F., and Dias, C.N. (2013) ‘Das Comissões de Solidariedade ao Primeiro Comando da Capital em São Paulo,’ *Tempo Social* 25 (1): 61-82.

of the prison system, as well as for fundamental human rights protection, and in some of the carceral spaces abandoned by the state, non-governmental and religious groups have experimented with more democratic relations with prisoners. In the so-called APAC units (generally run by Catholic voluntary groups on their own or in partnership with the state) and the Resocialisation Centres (run by a variety of NGOs and the state in São Paulo), inmates were collectively and individually made co-producers of their own personal transformation.<sup>27</sup> These small, local prisons are successful by many measures: cheaper to run than state and privatised prisons, human rights compliant, devoid of violence and disturbance, and embedded positively in the local community. Yet they have remained marginal because often the higher echelons of prison management are dominated by a militarised view of the prison-as-barracks, in which obedience to rules and repressive responses to infractions are seen as key to order. As noted above, this tends to backfire and result in prisoner resistance and self-rule.

Both prison management and offender re-integration can be achieved, but the state must both

relinquish its fantasies of complete control of the prison environment, and fulfil its constitutional and international legal responsibilities to those it incarcerates. If the state is to successfully prevent rent-seeking by coercive inmate groups or corrupt staff, and gain the trust and collaboration of survival-oriented prisoner governing groups, it also needs to re-establish legitimacy. This would include reduction of the prison population to manageable levels to avoid destabilising co-governance through overcrowding pressures, proper separation of categories of prisoners (whether by seriousness of crime, propensity for rehabilitation, stage or sentence or other criteria), meeting prisoners' survival and rule-of-law needs, and ensuring *effective* external oversight of prison management. These conditions should make it feasible for prison staff to engage with detainees in some form of sustainable co-operative co-governance, albeit a necessarily asymmetrical one, that would humanise and protect the human rights of both, reduce fear and insecurity, and make the carceral space more than just survivable.

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27. Darke, S. (2014) 'Recoverers helping recoverers: discipline and peer-facilitated reform in Brazilian faith-based prisons'. In: Miller, V. and Campbell, J. (eds.) *Transnational Penal Cultures: New Perspectives on Discipline, Punishment and Desistance* (pp. 217-229), London: Routledge; and Macaulay, F. (2014) 'Whose prisoners are these anyway?' Church, state and society partnerships and co-production of offender 'resocialisation' in Brazil'. Also in: Miller and Campbell (pp. 202-16).

# Advancing Security and Human Rights by the Controlled Organisation of Inmates

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The abysmal situation in Latin America prisons has been widely documented by international human rights mechanisms, scholars, and civil society organisations.<sup>1</sup> Persistent overcrowding, unsanitary conditions, violence by authorities and other prisoners, and corruption are prevalent. Riots, hostage crises and fires have claimed the lives of hundreds in recurring incidents of mass death from Chile to Mexico.<sup>2</sup> The prison crisis in the Americas has intensified over the past two decades as rates of incarceration have risen steadily (and well beyond capacity) throughout the Americas. While in 2000, there were 648,523 people incarcerated in Central and South America, by 2014, this number had more than doubled, to 1,338,042.<sup>3</sup>

In practice, prison governance in the Americas has been characterised by two extremes. On the one hand are detention centres that operate as *de facto* systems of uncontrolled and abusive self-governance, in which frequently abusive prisoners exert effective control over delimited spaces, whether they be cellblocks, units or entire detention centres. Authorities are content to ensure external security. In this model, prison guards and higher authorities are frequently complicit in a wide range of corrupt schemes — in which virtually all aspects of ordinary life must be ‘purchased’ in the illicit market run by some prisoners in collusion with corrupt guards.<sup>4</sup> At the other extreme, a number of institutions follow a model of incarceration based on the United States’ model of exerting full (depersonalised, dehumanising) control over inmates. Neither of these models is in accord with international human rights norms, which require that the deprivation of liberty not imply other, unnecessary restrictions on rights. Worse, these extreme solutions fail to provide the minimum

conditions necessary for the rehabilitation and resocialisation of prisoners.

Drastic changes in prison management are both necessary and possible. This article argues that a new paradigm in prison management, based on the controlled organisation of inmates, holds the potential to revolutionise prisons in the Americas, rendering them rights-respecting, rehabilitative and cost-effective. To do so, we begin by considering existing taxonomies of prison systems — hierarchical, differentiated, and autonomous<sup>5</sup> — and prison management models — the control model, the responsibility model, and the consensual model.<sup>6</sup> We then briefly summarise relevant international human rights norms on the deprivation of liberty, which establish that inmates be subjected to the least restrictive regime necessary in order to guarantee safety, as well as provisions on respectful detention contained in the Third Geneva Convention. The article then turns to several successful examples of the model that we propose. We consider its written regulation in Costa Rica and Panama, as well as its practical functioning in a prison in Peru visited by the authors. We conclude with the identification of common elements in the controlled organisation of inmates.

## A conceptual framework: theories of prison systems and prison management

In 1975, Eric Steele and James Jacobs provided a taxonomy of prison systems that remains relevant to understanding the underlying logic of the most prevalent penitentiary regimes. Steele and Jacobs categorised prison systems according to the purpose and logic of their institutions,<sup>7</sup> which were the result of contrasting assumptions about ‘the etiology of crime, the treatment

1. For an overview, see Inter-American Commission on Human Rights (IACHR), (2011) *Report on the Human Rights of Persons Deprived of Liberty in the Americas*, Washington, D.C.
2. See press releases from the Inter-American Commission on Human Rights on this topic: [http://www.oas.org/en/iachr/pdl/press\\_releases/default.asp](http://www.oas.org/en/iachr/pdl/press_releases/default.asp).
3. International Centre for Prison Studies, World Prison Brief, <http://www.prisonstudies.org/world-prison-brief>.
4. Another possible effect of such arrangements can be the facilitation of the involvement of inmates in criminal activities outside of prison. The IACHR has expressed concern about these practices: IACHR, (2011) para. 97 (see n. 1).
5. Steele, E. H., and Jacobs, J. B., (April 1975) ‘A Theory of Prison Systems’, *Crime and Delinquency*, 21, 2: 149-162.
6. Dilulio, Jr., J. J. (1987) *Governing Prisons: A Comparative Study of Correctional Management*, New York: The Free Press.
7. Steele and Jacobs, 1975, p. 149 (see n. 5).

of criminals, and the maintenance of order.<sup>8</sup> Steele and Jacobs differentiated between a hierarchical, a differentiated, and an autonomous model.

For Steele and Jacobs, the hierarchical prison system is based on an assumption that criminality is untreatable. As a result, it does not provide for rehabilitation of offenders, but instead, maximises order and control through a highly coercive punishment-and-reward incentive structure. It places obedient inmates in lower security settings, and transfers disruptive ones to higher security prisons.<sup>9</sup> In contrast to this model, Steele and Jacobs identified a differentiated system, founded on the notion that criminality can be diagnosed and treated.<sup>10</sup> The placement of inmates in these institutions is thus guided by their treatment needs instead of by disciplinary considerations.<sup>11</sup> The third model Steele and Jacobs described is the autonomous system, which is based on a premise of 'benign neglect'<sup>12</sup> and holds inmates for 'a relatively long period at low cost' at remote locations.<sup>13</sup> It does not provide for the treatment of inmates, for a variety of reasons that range from the impossibility or undesirability of forcing prisoners to change, to budgetary considerations.

A second categorisation considers governance practices. In 1987, political scientist John Dilulio described three distinct managerial approaches based on his observations of U.S. state prisons: the control model, the responsibility model, and the consensual model.<sup>14</sup> The control model is based on a logic of coercion, and follows a punishment-and-reward incentive structure in which even minor offenses are subject to harsh sanctions.<sup>15</sup> In contrast, institutions run according to the responsibility model aim to place inmates in the least restrictive setting possible, maximising a sense of responsibility for their actions.<sup>16</sup> These instil responsibility by providing inmates with 'a greater voice in prison affairs'<sup>17</sup> — and by minimising symbols of authority.<sup>18</sup> The consensual model

fuses elements of the previous two models. Like the responsibility model, it is based on a power-balance between correctional officers and inmates and gives inmates a voice in prison affairs, as well as limited autonomy with respect to personal decisions, such as grooming.<sup>19</sup> However, its stronger emphasis on organisational hierarchy is more consistent with the control model.<sup>20</sup>

### **International standards on the deprivation of liberty: only strictly necessary restrictions**

The human rights norms relevant to prisons that are applicable throughout Central and South America are found in the United Nations' International Covenant on Civil and Political Rights (ICCPR)<sup>21</sup> and the Organization of American States' principal rights treaty, the American Convention on Human Rights (American Convention).<sup>22</sup> These norms have striking similarities.

Both conventions hold that the rights they establish apply, without distinction, to all people within each State's jurisdiction,<sup>23</sup> and that these rights must not be restricted more than is strictly necessary.<sup>24</sup> Moreover, they explicitly require that States apply the legal provision (whether by treaty, national constitution or ordinary law) that provides the greatest protection of human rights.<sup>25</sup> In practice, this means that international human rights law requires that these rights are applicable to imprisoned and free people alike, and that inmates be subjected to the least restrictive regime necessary to guarantee safety.

The conventions include other important norms, too. In addition to the absolute ban on torture and cruel treatment,<sup>26</sup> they establish that inmates be treated 'with respect for the inherent dignity of the human person',<sup>27</sup> and explicitly state that the aim of the deprivation of liberty as a punishment is the 'reform and social rehabilitation of the prisoners.'<sup>28</sup>

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8. *Id.*, p. 154.

9. *Id.*, pp. 151-2.

10. *Id.*, p. 154.

11. *Id.*, p. 156.

12. *Id.*, p. 158.

13. *Id.*, p. 160.

14. Dilulio, 1987 (see n. 6).

15. *Id.*, pp. 105-8.

16. *Id.*, p. 118.

17. *Id.*, p. 120.

18. *Id.*, p. 118.

19. *Id.*, p. 131.

20. *Id.*, p. 128.

21. International Covenant on Civil and Political Rights, (1966), ratifications: [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-4&chapter=4&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&lang=en).

22. American Convention on Human Rights (1969), ratifications: [http://www.oas.org/dil/treaties\\_B32\\_American\\_Convention\\_on\\_Human\\_Rights\\_sign.htm](http://www.oas.org/dil/treaties_B32_American_Convention_on_Human_Rights_sign.htm).

23. Art. 2 ICCPR; art. 1 American Convention.

24. Art. 5 ICCPR; art. 29 American Convention.

25. Art. 5(2) ICCPR; art. 29(b) American Convention.

26. Art. 4(2) and 7 ICCPR; art. 5(2) American Convention.

27. Art. 10(1) ICCPR (which also adds 'humanity'); art. 5(2) American Convention.

28. Art. 5(6) CADH; art. 10(3) ICCPR.

The ICCPR adds the treatment of inmates to this purpose.<sup>29</sup>

From this, we can conclude that of the models outlined above, only Jacobs and Steele's differentiated prison system, centred on the treatment of inmates, complies with international human rights norms. In terms of prison management systems, Dilulio's responsibility model, which places inmates in the least restrictive setting possible and gives them a voice in internal affairs — and possibly even the consensual model, with its greater emphasis on order — are most consistent with these norms. It would be much harder to justify the application of a hierarchical or control model under international human rights law, save in exceptional circumstances.

### **Third Geneva Convention: an interesting framework for respectful detention**

Another valuable set of standards on humane detention can be found in the Third Geneva Convention Relative to the Treatment of Prisoners of War.<sup>30</sup> The Geneva Conventions, designed to regulate war, include detailed norms on the treatment of those captured during battle. While these provisions do not apply to prisoners in the ordinary penitentiary system,<sup>31</sup> they provide carefully deliberated<sup>32</sup> and widely respected<sup>33</sup> norms that provide an interesting framework for rights-based detention regimes.

These norms are based on the respect for prisoners 'and their honour.'<sup>34</sup> The Third Geneva Convention establishes, for instance, that liberty of movement should be restricted only insofar as necessary,<sup>35</sup> and that the 'practice of intellectual, educational, and recreational pursuits' should be encouraged.<sup>36</sup> It also contemplates allowing prisoners to freely and periodically elect representatives, who must be approved by authorities.<sup>37</sup> These representatives, who may be assisted by advisors,<sup>38</sup> are tasked with liaising with authorities, furthering

prisoners' 'physical, spiritual and intellectual well-being,'<sup>39</sup> and may coordinate a 'system of mutual assistance'<sup>40</sup> to the extent that such a system is developed by prisoners. Authorities must facilitate such activities.<sup>41</sup>

Although these norms are not binding outside the context of armed conflict, they provide useful guidelines to orient the principles for the governance of detention centres more generally. In this regard, the core principle that animates the Third Geneva Convention — respect for prisoners — would be transformative if applied to ordinary detention centres. Below, we consider prison experiences in which this guiding principle appears to have been implemented, if not perfectly, at least to a significant degree.

### **Experiences with controlled organisation of inmates: communication and respect lead to pacification**

There are several interesting experiences with the controlled organisation of inmates in Latin America. Some countries, like Costa Rica and Panama, have established normative frameworks for the facilitation of these activities, while in at least one prison in Peru, there is a well-established but officially unregulated practice of controlled prisoner organisation.

#### **Costa Rica**

The Costa Rican penitentiary system held some 17,440 prisoners, divided over 33 detention facilities, in September 2014. Its prisons have an occupancy rate of 139.4 per cent. Out of every 100,000 inhabitants of Costa Rica, 352 are imprisoned. Since 2000, the prison population has almost doubled.<sup>42</sup>

In 1996, the Costa Rican Ministry of Justice issued a directive to regulate inmate organisations,<sup>43</sup> acknowledging the existence of such organisations exist and recognising the positive contributions these can make to inmates' well-being<sup>44</sup> and

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29. Art. 10(3) ICCPR.

30. Geneva Convention (III) Relative to the Treatment of Prisoners of War (1949), entered into force in 1950.

31. The 1960 Commentary to the Convention indicated that 'the internment of prisoners of war in penitentiaries is in principle prohibited because of the painful psychological impressions which such places might create.'

32. The 1949 Convention replaced an earlier comprehensive document from 1929. Before then, the Hague Conventions of 1899 and 1907 contained provisions regulating the treatment of prisoners of war.

33. The Third Geneva Convention has 196 States parties.

34. Art. 14 GC III.

35. Art. 21 GC III.

36. Art. 38 GC III.

37. In case of refusal, authorities must communicate their reasons. Art. 79 GC III.

38. Art. 81 GC III.

39. Art. 80 GC III.

40. Id.

41. Art. 81 GC III.

42. World Prison Brief (see n.3).

43. Dirección General de Adaptación Social, 'Instructivo para regular las organizaciones de personas privadas de libertad y su relación con la administración penitenciaria,' (27 Nov. 1996), published in *La Gaceta No. 88*, 9 May 1997.

44. Id, preamble, art. 4.

development.<sup>45</sup> The regulation allows for two types of inmate organisation: assemblies,<sup>46</sup> in which a large number of inmates participate, and committees,<sup>47</sup> consisting of three to five delegates chosen by the assembly to carry out specific activities.

The regulation enables the provision of institutional support to inmate organisations<sup>48</sup> while establishing considerable control by the prison's Technical Council (TC), an interdisciplinary body composed of the prison director, the director of security, and representatives of each area of expertise (such as psychologists) in the institution.<sup>49</sup> Organisations are required to send the TC quarterly communications about their planned activities.<sup>50</sup> A prison official designated as permanent liaison to inmate organisations is present during all meetings and ensures that all applicable rules are respected.<sup>51</sup> Organisations are also allowed to organise fundraising activities, under the strict supervision of prison authorities.<sup>52</sup> By means of such activities, inmates for example financed a new gym in San Sebastián prison.<sup>53</sup>

Importantly, the regulation establishes a democratic, participative framework for the operation of inmate organisations, which limits the possibility of abuse of power. It establishes, for instance, that those elected to the committees serve a one-year term and cannot immediately be re-elected,<sup>54</sup> that there will be no hierarchy within the committees, and that all members are allowed to speak and vote.<sup>55</sup> Moreover, it requires a written registry of decisions (taken by simple majority).<sup>56</sup>

Although, strictly, the TC cannot prevent the establishment of organisations, it can prevent them from operating: organisations require TC approval for

all meetings and activities they wish to organise.<sup>57</sup> The extent to which inmate organisations are active, is thus highly dependent on prison authorities' willingness to facilitate their operation. During a February 2016 visit, we observed active inmate organisations in San Sebastián prison. By contrast, in the La Reforma complex, these groups were much less active and successful. For example, inmates at La Reforma complained about embezzlement by members of the committee.<sup>58</sup> An in-depth study of how these organisations operate in different establishments would be highly recommended.

### **Panama**

In January of 2015, Panama held some 15,508 prisoners in 24 establishments. Like Costa Rica, it has a high prison population rate: 352 per 100,000 inhabitants. Its general occupancy level is 111.1 per cent.<sup>59</sup>

In February of 2016, the national prison director circulated a regulation among prison directors.<sup>60</sup> Although more limited and less detailed than the Costa Rican norm, it allows for the

establishment of committees in prisons to propose actions and present petitions to prison authorities, and to serve as a link between authorities and inmates.<sup>61</sup> These committees will consist of a maximum of three representatives (with two substitutes each) per prison unit represented and are to be elected for a period of one year by means of a secret vote.<sup>62</sup> Committees will meet bi-weekly.<sup>63</sup>

The regulation emphasises that these committees can only 'propose and inform';<sup>64</sup> the development of lucrative activities, as in Costa Rica,

## Organisations are also allowed to organise fundraising activities, under the strict supervision of prison authorities.

45. Id, arts. 16, 22.

46. Id, arts. 5-9.

47. Id, arts. 10-29.

48. Id, arts. 8, 13, 16, 23-25, 30-38.

49. Reglamento Técnico del Sistema Penitenciario, No. 33876-J.

50. Instructivo (see n. 43), art. 351 Id, arts. 13, 23-25.

52. Id, arts. 31-34, 39.

53. Interviews, 16 Feb. 2016.

54. Instructivo (see n. 43), art. 18.

55. Id, art. 17.

56. Id, art. 21.

57. Id, art. 3.

58. Interviews, 18 Feb. 2016.

59. Word Prison Brief (see n.3). However, this January 2015 number reflects the system's official capacity. It included 5504 places in new prison complex La Gran Joya, which had not been populated yet. Without counting the then-empty La Gran Joya, Panama's prison occupancy level was 184%.

60. Reglamento general sobre formas de participación de las personas privadas de libertad, <http://www.sistemapenitenciario.gob.pa/sites/default/files/REGLAMENTO%20DE%20PARTICIPACION%20C3%93N%20DE%20LOS%20PRIVADOS%20DE%20LIBERTAD.pdf>.

61. Id, arts. 1-3

62. Id, art. 9.

63. Id, art. 5.

64. Id, art. 7.

does not seem to be allowed, nor is it clear how much participation authorities have in committees' activities. However, as this is a new regulation, it will be interesting to monitor its effective application.

### Peru

Another example of the controlled organisation of inmates is one functioning in practice, without official regulation, in the all-male prison of San Pedro de Lurigancho (Lurigancho) in Peru. The prison is severely overcrowded: in November 2015, it held 9,885 inmates<sup>65</sup> in a centre with stated capacity for 3,204.<sup>66</sup> At any given time, there are about 30 guards and 120 police officers working in the complex — or one official per 66 inmates.<sup>67</sup>

Lurigancho has a long history of violence and conflict.<sup>68</sup> In 1986, it was the stage of one of Peru's most violent prison revolts, which cost the lives of 126 people<sup>69</sup> — more than 100 of whom were killed extrajudicially by Peruvian armed forces.<sup>70</sup> The State virtually abandoned Lurigancho between 1987 and 1992, securing only the perimeters of the prison. During those years, no guards were present inside the compound and the State did not provide food nor medicine.<sup>71</sup> Although a certain form of inmate organisation with elected leaders existed,<sup>72</sup> the absence of the State likely spurred a more sophisticated organisation. This situation was initially uncontrolled by authorities. As a result, the strongest, most respected criminals, *taitas* (who moreover controlled the drug trade) were the real leaders, and Lurigancho remained rife with violence and abuse.<sup>73</sup>

This situation has changed considerably over the past decade: Lurigancho has been transformed from an institution characterised by rampant violence in a setting of unhygienic anarchy, to a controlled system in which authorities and inmates communicate and

foster non-violent coexistence within the prison. This situation of calm enables inmates to move freely within the common areas of the prison compound, where they can work, study, socialise, and buy food and household items in the market area. All this further reduces tensions.

Both authorities and inmates assert that the current peaceful coexistence in Lurigancho is the result of its governance structure, which more closely resembles that of a town or neighbourhood than most detention centres. Lurigancho's inmates are housed in 24 pavilions, which generally hold between 400 and 700 inmates. Each pavilion elects a team of representatives or deputies (*delegados*), led by a single, general delegate (*delegado general*) who ensures that the pavilion operates smoothly.<sup>74</sup> Each representative or deputy (generally, nine in all) is responsible for a specific aspect of community life: food, budget, discipline and order, cleaning and infrastructure, sports, health, education, legal affairs, and culture. These deputies, in turn, work with a small team of aides. Since the State provides only some basic supplies, inmates pay a weekly

quota to fund these activities. As a result, living conditions have improved markedly: the buildings are tiled and freshly painted, the structures are clean and orderly, and meals are varied.<sup>75</sup>

The prison director and the pavilion representatives currently meet regularly (typically once a week) to discuss issues such as discipline, visiting policies, and ordering building supplies. Additionally, the pavilion representatives regularly meet amongst themselves. Every year, they elect a leadership committee for the entire prison, consisting of four people: a general representative, a representative for issues related to food, one for the budget, and one for order and discipline. This leadership committee liaises directly with

## The State virtually abandoned Lurigancho between 1987 and 1992, securing only the perimeters of the prison.

65. Information from prison authorities.

66. Instituto Nacional Penitenciario, (Aug. 2015) *Informe Estadístico Penitenciario*, Lima: Ministerio de Justicia y Derechos Humanos, p. 11, [http://www.inpe.gob.pe/pdf/agosto\\_15.pdf](http://www.inpe.gob.pe/pdf/agosto_15.pdf).

67. Information from prison authorities.

68. See José Luis Pérez Guadalupe, (2000) *La construcción social de la realidad carcelaria*, Lima: Pontificia Universidad Católica del Perú, pp. 170-224.

69. See Alan Riding, (Sep. 16, 1986) 'Peru's Prison Massacres: Can the Truth Come Out?', *New York Times*. Available at <http://www.nytimes.com/1986/09/16/world/peru-s-prison-massacres-can-the-facts-come-out.html?pagewanted=all>.

70. Comisión de Verdad y Reconciliación, p. 766; description of occurrences on pp. 737-768. Available at <http://www.cverdad.org.pe/ifinal/pdf/TOMO%20VI/Casos%20Ilustrativos-UIE/2.67.FRONTON%20Y%20LURIGANCHO.pdf>.

71. Pérez Guadalupe (2000), p. 36 (see n. 68).

72. Id., p. 38; interviews, Nov. 2014 and 2015.

73. Pérez Guadalupe (2000), pp. 170-224 (see n. 68).

74. Some pavilions hold annual elections by secret ballot, supervised by prison authorities. Others elect their leaders, who stay on until they lose legitimacy or leave Lurigancho, by consensus.

75. Interviews, Nov. 2014 and 2015.

prison authorities. All these regular meetings have had important results in reducing violence. For example, according to inmates, pastoral workers and authorities, physical abuse and rape have been almost eliminated from Lurigancho.<sup>76</sup>

Conversations with inmates, authorities, and NGO workers in the prison lead us to believe there are a number of essential elements to this unregulated transformation. First, since the State re-established its presence in Lurigancho, prison directors have opted to work *with*, rather than *against*, these structures of inmate organisation — probably at least partially out of necessity, since the prison remains severely understaffed. Second, authorities have regularly transferred out the most disruptive inmates to protect Lurigancho's non-violent coexistence. Third, communication between authorities and inmates has been made a priority and the prison director is often present inside the prison, instead of in his office.<sup>77</sup>

This is not to say that all problems have been solved in Lurigancho. It is certainly undesirable that inmates themselves are required to pay to live and eat in a State-run prison. Those who are unable to pay have often been expelled from their pavilions and forced to stay in the 'no-frills' pavilion run by prison authorities. Corruption has not been eradicated. However, the enormous improvements that have already been made suggest that more positive changes are possible.

### **Preliminary conclusions regarding controlled organisation of inmates**

Although more study is needed, reflection on the norms and practice as outlined above allows us to identify several basic, common elements in prison management systems that incorporate the controlled organisation of inmates:

1. Prison authorities are committed to creating an environment that is respectful, safe, and rehabilitative for prisoners, with as few restrictions to human rights as possible.
2. Either organically, or by legislation or regulation, norms and guidelines that set parameters for inmate engagement in governance are established.

3. The creation of a structure of inmate representatives<sup>78</sup> facilitates communication between inmates and authorities.
4. Both authorities and inmates value and nurture the mechanisms for communication and constructive collaboration.
5. The organisation of inmates increases communication between (groups of) inmates, which is likely to aid peaceful coexistence.
6. When internal efforts prove to be insufficient to contain disruptive inmates, such inmates might be transferred to other centres to maintain a peaceful coexistence in the prison.<sup>79</sup>
7. Inmates' engagement in educational and professional activities is actively encouraged, which aids rehabilitation and further reduces tensions.
8. The controlled organisation of prisoners helps to maintain order and provide services inside the prison, such as the cleaning and improvement of installations. This significantly improves detention conditions, which, in turn, may improve interpersonal relations in the detention centre.
9. Constructive activities also help to instil a sense of responsibility and purpose in inmates. This might contribute to rehabilitation.
10. Contacts with the outside world are facilitated where possible: visiting policies are expanded and outside (religious and social) groups are welcomed in, to develop activities. This 'normalisation' is likely a key element in prisoners' resocialisation and rehabilitation.

It follows from international human rights norms that the least restrictive setting must be applied in detention centres. The experiences discussed above suggest that the prison management systems that have incorporated the controlled organisation of inmates, have increased communication between inmates and between inmates and authorities, which has led to an improvement in detention conditions in these centres. The implementation of such systems in other prisons would be an important, attainable step that has the potential to transform prisons into institutions that are less violent, less abusive, and thus more rights-respecting and rehabilitative.

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76. Interviews, Nov. 2015.

77. Interviews, Nov. 2015.

78. Although the results of inmate elections should in principle be respected, it might be desirable for prison authorities to have effective veto power over the designation of representatives — for example, where these are demonstrably engaged in illicit activities — or the possibility to decide to not work with them, like in Costa Rica.

79. It might thus be necessary to maintain a number of prisons with a more restrictive environment for prisoners not willing to follow (community) rules.





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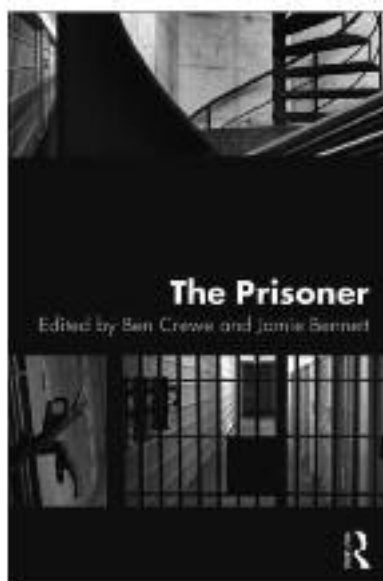
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