



## **THE NEW FIVE-YEAR PLAN FOR INCARCERATION IN ECUADOR**

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In the last five years, the incarceration system in Ecuador has recorded great transformation without precedent resulting in a new prison system. This model for prisons applies to 53 incarceration centers that operate in this country<sup>1</sup>. The Permanent Committee for the Defense of Human Rights considers it indispensable that Ecuadorian society speaks so little about the incarceration system, and the broken promises of the state in this matter of Human Rights.



One such governmental agency that has contributed to the change in policy in the prison system is The Ministry of Justice, Human Rights, and Religion<sup>2</sup>. Their responsibilities include the construction of jails, the hiring of personnel, security equipment, the classification of the incarcerated, and the process of visits. The Ministry of Justice, Human Rights, and Religion has made an investment of 400 million dollars to construct three centers of social rehabilitation (CRS) in the regions of Guayas, Cotopaxi, and Azuay. This new infrastructure will shelter close to 50% of the national incarcerated population<sup>3</sup>. These actions by the ministry also include the two states of emergency in June of 2007 and August of 2010<sup>4</sup>.

## Overpopulation

First off, the first dire human rights issue concerning prisons is overpopulation. In August of 2007 there was over 186,750 prisoners in thirty-three prisons in Ecuador<sup>5</sup>. Two years later

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<sup>1</sup> Diario Expreso, 8 Diciembre 2015

<sup>2</sup> Acuerdo 748, entre los objetivos del Ministerio de Justicia, Derechos Humanos y Cultos se anota "Coordinar, ejecutar y monitorear los programas y proyectos de las diversas entidades involucradas en el sistema de rehabilitación social, así como los programas y proyectos relacionados con la atención y protección al menor infractor." <http://www.justicia.gob.ec/wp-content/uploads/2015/06/DECRETO-748.pdf>

<sup>3</sup> <http://www.justicia.gob.ec/ledy-zuniga-el-2014-fue-el-ano-de-la-transformacion-penitenciaria/>

<sup>4</sup> Diario El Comercio, 9 Febrero 2012

<sup>5</sup> Defensoría Pública del Ecuador, Rendición de Cuentas, periodo 2007-2011, pág. 31. El hacinamiento carcelario en el 145% y 64% de PPL sin sentencia.

however, in August 2009 there was a great decrease of people in prison to 112,790 people. This resulted in a governmental campaign “Zero Prisoners without a Sentence”, and a pardon granted 2,221 drug traffickers freedom on the national level<sup>6</sup>. This gave some of the incarcerated liberty. Nevertheless, in juxtaposition to this in October of 2013 there were 24,203 people newly entering in to the prison system.<sup>7</sup> However, in August and December of 2014, the judge acquitted 1,718 people resulting in a favorable beginning to the human rights movement<sup>8</sup> and in September, the movement continued to decrease with a count of 26,821 people incarcerated<sup>9</sup>.

However, because there is still overcrowding, congestion is still a prominent issue in the new prisons of this country. This overcrowding helped to create a change in the penal code. This penal code included new rules concerning the protocol for anti-crime policies against organized crime, micro trafficking, and changes in the interrogation process<sup>10</sup>.

### **The Maximum Security Guards and the Politics of Prisons**

The province of Guayas has a concentration of 36% prisons, stretching for 10 miles<sup>11</sup>. These prisons hold adults that have broken law no1. In 1958 the Ministry of Justice constructed prisons for both men and women, but the prisons for adults break the Zonal 8 law, a regional law of population capacity in Guayas. The regional prisons like the Rock are especially notorious for this. These prisons are considered maximum-security prisons.

In addition, according to the Ministry of Justice, a new model of management has been enacted called, “the humanizer” which gives dignity to the incarcerated population by providing education, occupational therapy, and places for basic hygiene. For the CDH, the actual reality for the incarcerated in Ecuador is far different from this governmental campaign. In fact, we are witnessing a shift of incarcerated people away from society towards maximum security because of the control of the new prison regime.

An example of this is in Guayaquil in the past decade. There have been two maximum-security prisons. One prison called “The Rock” is similar to the famous Alcatraz prison in the United States. One of the first maximum-security prisons called the Social No2 Prison officially

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<sup>6</sup> Defensoría Pública del Ecuador, Informe de Gestión 2014, pág. 53

<sup>7</sup> Diario El Comercio, 3 Diciembre 2013

<sup>8</sup> Diario El Telégrafo, 3 septiembre 2014

<sup>9</sup> Defensoría Pública del Ecuador, Informe de Gestión 2014, pág. 55

<sup>10</sup> El Código Orgánico Integral Penal publicado en el Registro Oficial Suplemento N° 180 del 10 de febrero de 2014

<sup>11</sup> El Comercio, 6 diciembre del 2013

opened on July 24, 2010 and was demolished in 2014. It was the first of its kind Ecuador established because of the rigorous regime in need of inherent control. Another prison called the Littoral Penitentiary is located on Daule Row, adjacent to the Coast Prison, and north of Guayaquil. The CRS-2 had the capacity for 152 people in 84 cells on two floors, with impassable walls that were 20 centimeters thick. It also had panoptic cameras in every cell. Jamie Nebot, mayor of Guayaquil, managed this maximum-security prison half a decade ago to alleviate the capacity of the prisons and separate the dangerous offenders<sup>12</sup>. The principal idea was to designate the less “dangerous” prisoners for the prison guards and the national police for the “dangerous” prisoners. After the start of this process however, it was not clear what criteria the government used to transfer prisoners to the CRS-2.

The second maximum-security prison is a regional prison known as The Rock. The government of Rafael Correa and the Ministry of Justice and Human Rights constructed this prison in the year 2012. Prisoners started to inhabit this prison after August 5 2013. One hundred and eight inmates on the “Most Wanted” list lived here, and on December 2 of the same year, other inmates moved from the Littoral Prison to the Rock. This prison has the capacity to hold 3,412 inmates.

This marked the start of the Ministry of Security changing the rules for visitations in prisons, “visits would become a privilege for prisoners not a right, under the new conditions of the regime.”<sup>13</sup> Then, for months’ complaints were recorded because of the isolation of prisoners. There was clear confusion and anguish from their families because of the new visitation rights installed by the Ministry of Justice and Human Right<sup>14</sup>s.



<sup>12</sup> Ministerio de Justicia. (29 de octubre 2012). Nuevo Modelo de Gestión Penitenciaria se empieza a ejecutar en Ecuador. <http://www.justicia.gob.ec/nuevo-modelo-de-gestion-penitenciaria-se-empieza-a-ejecutar-en-ecuador-2/> Página consultada el 26 julio 2015.

<sup>13</sup> Ministerio de Justicia. (29 de octubre 2012). Nuevo Modelo de Gestión Penitenciaria se empieza a ejecutar en Ecuador. <http://www.justicia.gob.ec/nuevo-modelo-de-gestion-penitenciaria-se-empieza-a-ejecutar-en-ecuador-2/> Página consultada el 26 julio 2015.

<sup>14</sup> Diario Súper, 8 Diciembre del 2013

According to the Ministry of Justice, an inmate should develop a list of a maximum of 10 people. For every visit, the Ministry of Justice permitted only two people to visit or one person with a child under the age of 13<sup>15</sup>.

Furthermore, there is even new technology with video cameras, body scanners, metal detectors, and signal inhibitors on the cell phones that make visitations more difficult<sup>16</sup>. However, this did not prevent the trafficking of arms from entering prisons. Ammunition was leaking in to the prisons because of the paid off prison guards, because of this the Ministry of Justice put sanctions on 148 of the administrations of prisons in 2014 in Guayas<sup>17</sup>. Extensive police operations dismantled the corruption and initiated new judicial processes, including the sentencing of two months in a regional jail for arms trafficking<sup>18</sup>. Some of the accused regained their freedom months later due to lack of evidence<sup>19</sup>.

The Ministry of Justice created new requisitions for the Rock in 2010 and 2014, which demonstrated the trafficking of illicit materials including, cell phones, arms, kitchenettes, refrigerators, televisions, and other luxuries<sup>20</sup>. A continued collaboration among the prison guards and national police made this possible<sup>21</sup>.

Also, the prison guards created a classification that established how dangerous the visitors were. This classification among other things created the difference in treatment for visitors, depending if they were spouses, parents, or lawyers. In addition, the dangerous prisoners were allotted less time outside of their cell and were guarded more heavily.

## The Geographical, Social, and Family Estrangement

“After when they had forcefully taken all of it, I could give my son nothing. I brought a bottle of medicine for my daughter because of my deep love for her, but the guards told me I could not enter with it. They said, no miss give me the bottle.” This is a testimony of a mother named Maria Victoria who lost her daughter to the lack of medical attention inside of the prisons. Maria Victoria is an older woman with difficulties visiting the prison. There have been

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<sup>15</sup> Diario El Telégrafo, 14 noviembre 2015

<sup>16</sup> Ecuador inaugura nuevo modelo de gestión penitenciaria con traslado de internos de cárcel en Guayaquil, Andes Agencia Publica de noticias del Ecuador y Suramérica. (2 dic 2013). <http://www.andes.info.ec/es/noticias/ecuador-inaugura-nuevo-modelo-gestion-penitenciaria-traslado-internos-carcel-guayaquil.html> Página consultada el 20 julio 2015.

<sup>17</sup> 531 sanciones a Guías Penitenciarios, Diario El Telégrafo, 3 febrero 2015

<sup>18</sup> A dos meses de inaugurada se produce evasión en cárcel, diario El Universo 11 febrero 2014

<sup>19</sup> El principio de la inocencia, Diario El Universo, 22 junio 2015

<sup>20</sup> La Policía confirmó que halló electrodomésticos y celulares en la Roca, El Universo (22 Oct 2010).

<http://www.eluniverso.com/2010/10/22/1/1422/policia-confirmando-hallo-electrodomesticos-celulares-roca.html> Página consultada el 23 julio 2015

<sup>21</sup> Capturan banda delictiva que era dirigida desde dos cárceles, Diario El Universo, 15 agosto 2014

occasions where she did not have the money for transportation to return home because the guards had taken it. Occasionally though when she leaves she is lucky, enough to find money that she kept hidden from the guards.

Generally, the prisons are located in remote areas far away from the city. For the families of the incarcerated this distance is quite a hindrance and takes a lot of time and money. This limits the contact between the prisoners and their families.

In the year 2000, the International Federation for Human Rights created an international mission to observe the human rights atrocities in prisons in Ecuador. The team observed the bad living conditions in prisons, the outdated set up, the inhumane overpopulation, and the violation of the presumption of innocence, the administrative corruption, and the lack of training of the security guards.



However, more importantly the FIDH found that Ecuadorian prisons needed to provide visitation rights to prisoners because it brought families together, as well as provided an overall better quality of life for prisoners<sup>22</sup>.

Now, "The moral and emotional support provided by families is much less restricted and is currently promoted in the prisons of Ecuador. The isolation and restrictions on visits does not contribute to the rehabilitation process. This breakdown of family and social links, help to keep

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<sup>22</sup> Federación Internacional de los Derechos Humanos. (Junio 2000), *Las cárceles en Ecuador. Misión internacional de observación*. Informe n 293, p.20.

the prisoners in emotionally fragile conditions even after they are free from the prison systems.<sup>23</sup>”

The CDH has received many reports from families referring to this aspect and its acute condition of mobility.

Mrs. Davila Itrralde reported an extreme case of isolation. She claimed her husband suffered greatly, “Concretely in the case of my husband, he was not able to have his letters delivered that he wrote to his mother in Spain. The cards were absolutely inoffensive, and were a great emotional help for his situation.”

In another testimony of Angela Consiglio who was sick with cancer, was unable to call or listen to the voice of her son at Pabellon in a Medium Security Prison in Guayaquil on May 18, 2015. David could call only if he had money to pay for the telephone or smuggle the phone to make a call. If the prison guards caught him using the phone it could be punishable with an extra two years of incarceration. My son was incredibly lonely. In June of 2015 we received information that, “They took away his visits so no one could see him and also a fellow prisoner called us and told us that the guards mistreated him.”



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<sup>23</sup> Federación Internacional de los Derechos Humanos. (Junio 2000), *Las cárceles en Ecuador. Misión internacional de observación*. Informe n 293, p.20.

## **Restrictions to Health Rights**

There are various personal testimonies from prisoners discussing their difficulties in receiving adequate medical attention while in prison. The right of health for the incarcerated is a fundamental human right.

Inmates have made a public decree that Dislofenac and Paracetamol are the only medicine that exist in the prisons, and the treatment for all sicknesses. These two drugs are not adequate for the ailments they treat, let alone all sicknesses. In addition, the PPL wanted inmates, to pay for their own health care.

Another example of this is the case of David Daniel Deleg Farias who served 8 years in the Regional Prison. In May 15<sup>th</sup> of 2015 David's mother found her son very sick and warned the doctor that he needed emergency surgery. On June 14, the HRC went to the Red Cross to plead his case. The Red Cross responded that they would gladly plead his case after they received a court order. This case received no response.

The Ecuadorian government enacted a new law claiming humanitarian intervention was necessary to ensure the life and physical integrity of a prisoner.

Furthermore, another mom of a prisoner named, Jorge Alfredo Sanchez Trivino spoke out on January 19. She said, "On September 12<sup>th</sup> of 2013 my son suffered from a fracture in his right leg of his tibia, fibula, and ankle when he fell from a 20 feet fall after receiving an electric shock from an air conditioner he was supposed to fix at the Center of Deprivation of Liberty. This tragedy sparked the interest of the Ministry of Justice and Human Rights.

On December 2 2013, the guards transferred Jorge to the Zonal 8 Regional Social Rehabilitation Center of Maximum Security. Jorge did not receive medical attention after the prison system transferred him to the other prison. There were no x-rays or doctor's appointments, and Jorge's medical files were lost along the way. This situation forced the mother to join a protest outside of the prison on June 26, 2014.

The protest caught the attention of the media and the media showed the case to the Fourth Court of Criminal Guarantees that ensured her son's healthcare. Jorge received medical attention at the University Hospital, but as of today, the operation remains pending and his ankle is still deformed.



## **Vaginal Review, a Savage Practice Maintained**

Although the new prison model relies on modern technology, there are inhumane practices that still exist. This is the case for cavity searches of all women visitors.

The Permanent Committee for the Defense of Human Rights has documented the cruel, inhumane, and degrading treatment of relatives and lawyers of inmates. The prison guards force the women to remove their clothing and have their private parts touched and searched as a means of controlling the entry of illegal contraband.

On April 29, 2015, incarcerated families gathered in the “United We Are More” committee, to denounce, “Many of us visit with our small children and we are forced to strip down naked in front of them. There has been great progress in technology, but apparently not enough to stop this torture.”

The CDH requires that the exploration of bodily cavities of visitors to stop, and to publicize this issue so people understand their rights and that there be a movement towards technology to detect illegal substances from entering prisons.

## **The Dehumanizing Practice of Depriving People of Personal Property**

Prisoner’s wives, prisoner’s friends, and the prisoner’s lawyers; all to an extent have lost the freedom to wear flirty necklines, wear shoes with laces, or other things they enjoy<sup>24</sup>. A public chronicle called the Expreso Diary describes all of the suffering visitors’ experience. This includes giving their personal belongings to a stranger to watch over for fifty cents. In addition, the prisons do not allow visitors with infants to enter.

On April 29, 2015, families of inmates gave documents to the CDH detailing the visits to the prisons and their lack of personal property, “There are lockers that are for the families of the prisoners that they have to pay for outside of the prison. Every day they change the color or clothes that is acceptable to wear in to the prisons, some days they let us enter and some days the guards force us to change.”

There are among the 60 items that are prohibited in prisons are makeup, heels, short skirts, cleavage, piercings, jewelry, food, drinks, medicine, and personal hygiene products. The HRC considers these rules dehumanizing and depersonalizing, and an aid to the repression of cultural expression.

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<sup>24</sup> Diario Expreso, 25 agosto 2014

In this framework, we find the internment of prisoners unjustified. It is important prisoners stay clean for their health, but this limits their mobility and freedom within prisons.

## Homicides

The prison security system demonstrates the insufficient front of corruption and violence within prisons. After January of 2012 up to May of 2015, the CDH recorded 15 homicides in the Rock, the Regional, and the Literal Penitentiary that included the use of firearms<sup>25</sup>.

On May 6, 2015, the HRC received the complaint of death threats that Geovanny Chavarria Barre received while in the center of detention of adults in Zonal 8 of Guayas. According to the families affected by this situation, the responsibility of Geovanny's death falls on the prison officers for their inactivity. On June 27, 2015 the DPE at the request of the CDH, went to the prison authorities to ask for the possibility of a prison transfer to ensure he stayed alive. There was been no response to this case.

In addition, on May 5, 2015 the Regional Prison reported the death of Fernando Felipe Suarez Hallon. The prison guards found the body in the courtyard with gunshot wounds. The police report established that the night before the victim had shouted for help and the guard on duty had heard and did nothing<sup>26</sup>.



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<sup>25</sup> Muertes violentas en centros carcelarios de Guayaquil: José Arroyo Quiñonez 25.1.2012; Héctor Calderón, Jorge Álvarez, Miguel Pino 13.10.2012; Miguel Leonardo Manzaba Quezada, José Manuel TixiChacaguasay 7.1.2013; Oscar Caranqui Villegas 6.2013; Guido Barberan Espinoza 11.11.2013; José Elías Guerrero Pachito 1.12.2013; Jimmy Alcívar Chichande 5.12.2014; Abraham Casanova Castillo 19.1.2014; Ferney Correa Cárdenas 15.2.2014; Henry Vera Sánchez 28.4.2015; Fernando Suarez Hallo 5.5.2015; Christian Bermeo Hidalgo 10.8.2015

<sup>26</sup> Diario Expreso 7 mayo 2015

## Protests

On January 12, 2015, the CDH received information of a protest of a Nigerian man, Ekene Theophilus in a medium security prison. The PPL (The Private People of Liberty) had a sign that said, "We are people, not animals."



Then on March of 2015, the inmates of the maximum-security wing at the Prison in Cuenca Turi conducted a protest and the prison system punished 15 people for the sabotage of video cameras, chairs, and tables<sup>27</sup>.

On September 10, 2015, there was a report of a prisoner protest at the Latacunga Prison. The media released the facts after a fall of the second floor courtyard. It took three hours after the incident for the prison to evacuate the prisoners<sup>28</sup>. Internal cameras then show people on the roofs calling for, "Good treatment, good treatment." This was before the police and guards intervened.



<sup>27</sup> Diario el Telégrafo, 29 septiembre de 2015

<sup>28</sup> Diario El Comercio, 11 septiembre 2015

Furthermore, on May 11, 2015 the Committee of Relatives of Deprived Liberty formed a protest saying, "We are more together." They held a sit in at the provincial government building and then relocated to outside of The Rock. The thirty women were wearing orange like their incarcerated relatives. Some covered their faces in fear of retaliation for their incarcerated loved ones.



The protesters shook their signs as they watched their relatives in custody burn mattresses.



The justice system considered this protest an attempt at mutiny and so 26 prisoners are on trial for arson.

## Final Considerations

On May 12, 2015, the Ecuadorian state came together with seventeen other states that were a part of the United Nations and presented the draft for the New Minimum Standard Rules for the Treatment of Prisoners (Mandela Rules). This committee updated the guidelines adopted in 1955 by the Economic and Social Council.

We move to have the current condition of Ecuadorian prisoners checked against the Rules of Mandela and other Human Rights regulations. It is important that the current condition of the treatment of visitors, the health of prisoners, and the effect on isolation on prisoners rehabilitating in to society changes<sup>29</sup>. This is now an appropriate time to analyze the new model of prison management after three years of implantation.

Restrictions faced by Human Rights Organizations in Ecuador have independent records of the current condition of the incarcerated population. There needs to be strengthened communication to help make stronger the defense in ongoing cases and better training of officials.

Thanks to Astrida Rotsaert.  
In memory of Gloria Montaña.  
February 2016, Guayaquil



<sup>29</sup> Reglas Mínimas de NU para el Tratamiento de Reclusos - Reglas Mandela, Consejo Económico y Social, 21 mayo 2015, E/CN.15/L.6/Rev.1