

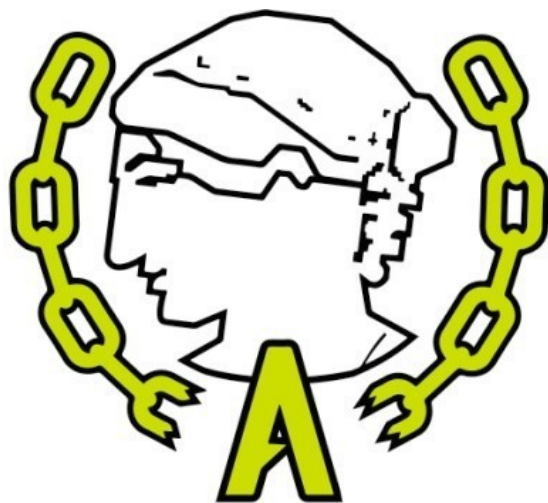
# ANTIGONE

Anno XV  
N. 1

**Have prisons learnt from Covid-19?  
How the world has reacted to the pandemic  
behind bars**



ANTIGONE



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## N. 1/2020 HAVE PRISONS LEARNT FROM COVID-19? HOW THE WORLD HAS REACTED TO THE PANDEMIC BEHIND BARS

edited by Susanna Marietti and Alessio Scandurra

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# SPAIN - Coronavirus management in Spanish and Catalan prisons

*Alejandro Forero Cuéllar<sup>1</sup>*

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## **1. Introduction<sup>2</sup>**

The news coming from Italy of several deaths following protests in its prisons, due to restrictive communication measures decreed by the government to control the Sars-CoV-2 pandemic, set off alarm bells among human rights organisations in Spain and Catalonia. As Sirecovi<sup>3</sup> since the beginning of the health emergency we have been concerned with analysing the consequences that the virus, and the measures taken to manage it, are having on the prison system. That is why we have carried out different campaigns in collaboration with other human rights organisations, family associations and in support of inmates, urging public administrations to adopt more respectful measures regarding the fundamental rights of inmates, in compliance with the many international recommendations<sup>4</sup>. On the other hand, after the impossibility we had of continuing visiting prisons due to the lockdown, we have had to think about strengthening other ways of obtaining information. After the first two months of

work, we decided to set up a structured research project which we called Monitoring the deprivation of freedom and police activity during the Covid-19 emergency. Its main objective is to carry out constant monitoring of the impact that the pandemic and the measures adopted to combat it are having on prisons, and the implications of police activity in their surveillance regarding restricting movement, activity or social distancing measures. As is clear, the end of the most restrictive confinement measures does not mean the end of the pandemic, and as public administrations are facing a very complex challenge, with possible advances and setbacks in the coming months, we have planned this monitoring at least until the summer of 2021.

What is presented in this article, therefore, in a very summarised way, are the conclusions of the analysis of the impact of the pandemic and the measures that have been taken to control it by the two prison administrations of the Spanish State (general and Catalan), not only in their quantitative (number of infections) but also in their

qualitative (right to communications, to treatment activities, or on reduction of the prison population) forms. The analysis carried out so far covers two periods: the first of the state of alarm (March-May), and second, on the de-escalation (May-July)<sup>5</sup>.

## **2. The pandemic and its management by the Spanish and Catalan prison administrations**

The Covid-19 pandemic has proved to be a very complex challenge in terms of public management in general, even more when we talk about closed institutions such as prisons. However, some of the measures taken, especially at the beginning, to radically contain the spread of the virus, have meant a reduction in the fundamental rights of inmates and their families.

We can highlight as positive the fact that the state administration (General secretariat of penitentiary institutions - Gspi) began to act well before the peak of the health crisis. Unlike what happened in the Catalan prisons, in February, the Gspi began to take action. However, the first stage of confinement was characterised by the fact that many of the measures were adopted or managed late, almost always in a reactive rather than a preventive manner. In the second stage of de-escalation, the management by the Gspi was more proactive and approved various regulations in which it gave indications and recommendations to develop - with limitations and in stages - many activities of daily life in prison. However, these indications were not protocolised, and although they allowed a necessary flexibility to be able to adapt to the pandemic development, they also caused a lot of improvisation and brought

about an uneven application for the inmates depending on the centre they were in. This improvisation and the constant changes in regulations led to confusion and misinformation among inmates and their families. In the case of the Secretary of penal measures, rehabilitation and attention to the victim (Smprav, in Catalan) also the de-escalation stage, unlike the previous one, was highlighted by a proactive and planned response, in this case, with a very detailed protocol for the implementation of different activities in centres.

## **3. Number of infections and deaths with Covid-19**

In relation to contagion, the impact has been moderate. In the case of the Gspi, in the lockdown phase, 51 inmates and 261 workers, a total of 312 people tested positive for Covid-19, resulting in 6 deaths of 4 workers and 2 inmates. In the case of Catalonia, the infections reached 140 (60 inmates and 80 workers), but there were no deaths. In the period of de-escalation, the number of cases in the Gspi prisons rose to 85 inmates and 280 workers, 365 in total. In the case of Catalonia, infections rose to 272, 102 inmates and 170 workers. It is clear that the numbers must be interpreted with caution, and that they only reflect positive cases, which depends on the number of tests that are carried out and the methodology with which they are applied.

## **4. Health measures**

The number of infections and deaths has been relatively low considering the great shortage of personal protective equipment (Ppe) for officials and inmates. In addition to this lack of protective equipment, in the case of the Gspi, the pandemic arrived in a



prison system characterised by a crisis in medical staffing. This situation led to many inmates feeling vulnerable and abandoned. An emergency open competitive exam for new staff had to be set up to cover part of this lack. And, even though these medical staff were supposed to be recruited into the workforce between June and July, by the middle of the latter month no such recruitment had taken place. Despite the fact that there is no particular shortage of medical staff in Catalonia, given that prison health depends on the public health system (and not on the prisons themselves as in the case of the Gspi), both workers and inmates denounced the shortage of Ppe and of diagnostic tests being carried out. This situation finally led to the intervention of the High court of justice of Catalonia, which required the administration to carry out the tests. And, despite having a good health care system in prison, the first hospital areas enabled in prisons were set up as a reactive response, as in the cases of the Brians 2 and Quatre camins centres in Catalonia. In the latter case, a module in reforms which was enabled for lockdown of inmates, resulted worrying, leading to complaints and protests from inmates and their families regarding the poor conditions of detention which made it impossible to implement the health authorities' recommendations.

### **5. Right to communication and family relations**

In March, both administrations bought smartphones for video calls (235 for the Gspi and 230 for the Smprav), something we had been calling for from the beginning of the pandemic. Calls could last 10 minutes. Both administrations also

increased the number of ordinary calls from 10 to 15 per week. Although these measures were welcomed by inmates, family members and human rights organisations, groups of family members highlighted some of their limitations. On the one hand, 230 telephones in Catalonia meant an average of approximately one telephone for every 35 inmates. In the case of the Gspi, the ratio rose to one phone for every 150 inmates approximately. The Gspi reported in May that 54,000 video calls had been made, as a great success, but if that number is divided by the prison population, the outcome is of 1.6 calls on average per inmate, in 2 months. Some inmates who were under closed regime could not make a single call. But beyond this clearly insufficient number, it is worth highlighting the conditions in which the video calls were made, especially the lack of privacy (always in the presence of a guard), their reduced duration, or connection problems. Given the complaints that occurred in the first period regarding the lack of privacy with the calls and other problems, the Smprav undertook to review the system for the de-escalation stage. It should also be noted that inmates with few resources could not take advantage of the increase in ordinary calls (calls cost even more than €20 per week), nor could those in a situation of poverty, since the money guaranteed by the administration was insufficient, increasing the situation of inequality among inmates.

### **6. The right to legal defence**

During the first period of confinement, the right to legal defence was also undermined. Although in Catalonia lawyers were allowed to go to the prisons, in the rest of Spain many lawyers

encountered problems in gaining access to centres. Likewise, the Prison legal advice service (which depends on the Bar associations and provides a free legal advice service) was not able to function normally in many prisons, leading to such serious situations as charging inmates for their telephone calls to speak to this service. Another limiting situation occurred during the de-escalation stage in Catalonia when, due to the confinement of the health area where the Ponent prison (Lleida) was located, the bar association was also closed and since no telephone assistance system had been implemented, the inmates in this centre were left without this legal service.

### **7. Prison treatment, work and training**

With regard to the so-called prison treatment, in the lockdown stage most of the programmes, activities and releases were interrupted, so that inmates were not able to follow their treatment and the Treatment boards were not able to evaluate them, which meant that their possibilities of accessing prison leave, regime progression or conditional releases were postponed. With the de-escalation, activities were gradually resumed and in some modules of some prisons, so that access to these rights continues to be delayed in many cases.

Although in the Gspi prisons, unlike those of the Smprav, productive workshops were stopped with the state of alarm, the fact that some of them resumed in the middle of the pandemic, disregarding international recommendations and the complaints of guards and workers who warned of the impossibility of guaranteeing health and security measures, also shows in prison how the

economic criterion prevailed over the health one, adding that inmates have worse working conditions than those at liberty.

Another discriminatory situation appears in the Catalan administration, which established in the de-escalation that those inmates who had work or activity assigned within the prison and, at the same time, could go on leave, were obliged to choose between the leave and losing their job, or keeping their job by giving up the leave. This is, of course, unacceptable.

### **8. Measures for prison population reduction**

In both administrations, the possibility for inmates who were under a semi-open regime to spend the lockdown in their homes was promoted from the beginning. While on 15 April this measure had been applied to 90% (1,655) of inmates in Catalonia, in the case of the Gspi prisons it had been applied to 77% of cases. As for women with children in prison, 88% of those under the semi-open regime were at home with their children by mid-May, but only 20% of women under the ordinary regime were at home in this situation.

In general terms, according to data from the Council of Europe, as of 15 April, only 5.4% of inmates had been granted release as a preventive measure related to Covid-19. In Catalonia this figure is more positive, as this percentage rises to 17%<sup>6</sup>. In any case, and even if this has been a positive measure taken, it is important to highlight that this measure is not a real release, but rather home detention. And although we very positively value the fact that the vast majority of people who were in a semi-open regime could be in their homes, this possibility was only given in a

very limited way to people in ordinary regime with a risk with respect to the pandemic, such as those over 70 years of age and, above all, people with high risk health problems with respect to the Covid-19. The Smprav then studied the situation of people over 70 (108 inmates), and tripled the percentage of these people in home detention (from 16% before the pandemic to 41% in mid-April), and continued to assess the situation of 28 other inmates, 25% more.

For the de-escalation period, the Gspi informed that it would study the situation of those who were serving their sentences at home so that they could generally continue there, but we have not been able to access real figures on this situation.

### 9. A few reflections

After 4 months of the pandemic we can say that opportunities are being lost to have less populated, more open prisons with measures to reinforce certain fundamental rights such as health or family relations. It is true that the management of the pandemic is becoming very complex and that in the case of the Gspi and the Smprav the situation has not got out of control. But the shortcomings have been evident for workers and inmates and many of the effective measures have had a very decisive impact on the fundamental rights of inmates.

And although the measure of having the vast majority of inmates in a semi-open regime in their homes has been welcomed, it is true that these measures are not having a determining impact on reducing the prison population. Nor are they, in the vast majority of cases, strictly measures of release, but rather involve house arrest (always related to the possibility of

re-entry in the event of non-compliance with conditions), and in many cases probably temporary for the duration of the pandemic, or the worst of it. This measure has also reached a very limited sector of the prison population and, as we have been requesting through civil society organisations, it should continue to be extended to other groups such as pregnant women or women with children in prison, people over 65 years of age, people with serious or chronic illnesses, and those with illnesses or pathologies that are at risk with respect to Covid-19.

Likewise, the pandemic must serve to ensure that, once and for all, measures are taken to improve the conditions of those who remain in prison: i) the real guarantee of equal access to health for inmates with respect to those at liberty, while public health systems are strengthened and recover from the looting to which they were subjected; ii) the extension and standardisation of internet access and the normalisation of videocalls, in conditions of greater privacy; iii) tackling the complex problem of the increase in cases of mental illness of inmates.

On the other hand, from Sirecovi we request that measures be taken regarding the time in which inmates have not been able to carry out programmes or activities that are important for their assessment by the Treatment boards. Understanding that, constitutionally, the aim of a prison sentence is rehabilitation, we consider that this time lost in which people have been detained without access to treatment should be rewarded or restored with formulas for sentence reduction, flexible access to prison benefits, or progression in prison regimes.

## Notes

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<sup>2</sup> This article is based on the work we have done during the pandemic within the OspdH-Sirecovi team (I am therefore grateful for the hard work from Cristina Garés, Sheila Marín, José Navarro, Katherine Oliveri, and Rachele Stroppa).

<sup>3</sup> The System for the documentation and communication of institutional violence (Sirecovi, in Spanish) is an alert system that is part of the University of Barcelona's Observatory on the penal system and human rights: [https://sirecovi.ub.edu/index\\_en.html](https://sirecovi.ub.edu/index_en.html) (accessed 20 November 2020).

<sup>4</sup> i.e. Urgent call from Un's Hchr, Michelle Bachelet, on 25<sup>th</sup> March: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E> (accessed 20 November 2020). Many other calls and guidelines from international bodies were issued (see OspdH-Sirecovi, 2020, Recomendaciones internacionales, estatales y nacionales sobre la gestión del coronavirus en las prisiones. Marzo-Mayo'20, [http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/recomendaciones\\_compressed.pdf](http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/recomendaciones_compressed.pdf) (accessed 20 November 2020).

<sup>5</sup> Complete reports made so far can be consulted (in Spanish and Catalan) at the following links (accessed 20 November 2020):

International, state and national recommendations on Coronavirus management in prisons: [http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/recomendaciones\\_compressed.pdf](http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/recomendaciones_compressed.pdf)

Coronavirus management in Spanish prisons: [http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/estado\\_cuestion\\_espana\\_compressed\\_1.pdf](http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/estado_cuestion_espana_compressed_1.pdf)

Coronavirus management in Catalan prisons: [http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/\\_estado\\_cuestion\\_catalunya\\_1\\_compressed.pdf](http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/_estado_cuestion_catalunya_1_compressed.pdf)

De-escalation management in Spanish prisons: [http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/info\\_rme\\_desconfinamiento\\_espana\\_1\\_compressed.pdf](http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/info_rme_desconfinamiento_espana_1_compressed.pdf)

De-escalation management in Catalan prisons: [http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/info\\_rme\\_desconfinamiento\\_catalunya\\_1\\_compressed.pdf](http://www.ub.edu/ospdh/sites/default/files/documents/publicacions/info_rme_desconfinamiento_catalunya_1_compressed.pdf)

We are currently finishing the reports for the next period, from mid-July to mid-September. English versions will be available soon.

<sup>6</sup> <https://www.europris.org/wp-content/uploads/2020/06/SPACE-I-Prisons-in-pandemic-time.pdf> (accessed 20 November 2020).

