Effects Of The Administration Of The Penitentiary System In Colombia. Between Overcrowding And Institutional Weakness

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Summary
Postmodern and globalized criminality puts the penal and penitentiary system before a far-reaching challenge that forces the institution to rethink the force of penalties on such a high scale that it exceeds the scope of the offender and reestablishes the security space that was lost with the reorganization of crime into transnational structures.
Colombia is facing an accelerated increase in criminal forms and their organization in pyramidal structures, while the penal and penitentiary system as a mechanism of institutional force to confront crime is insufficient and the effect of its administration progressively weakens the capacity of the State to respond to a more robust criminality. On the one hand, the criminal prosecution system is saturated with a backlog of unsolved cases that exceed 90% of the criminal news processed by the Prosecutor's Office, while, on the other hand, the national prison system is saturated and many penitentiaries and prisons have to house inmates in the bathrooms and corridors of the different pavilions. not to mention the crisis faced by temporary detention centers where overcrowding reaches 700%. This is because overcrowding levels in prisons and penitentiaries exceed 28.6% (INPEC, 2025).
It is intended to show that the prison system does not have the capacity to respond institutionally to the increase in the different forms of criminal organization, and that its administration does not have the capacity to respond to the growing criminal activity that occurs in Colombia.
The answer cannot be the return to the bodily space of the accused or to the death penalty of the offender to make effective the general prevention of the penalty, it is necessary to reformulate the penitentiary policy of the Colombian State to make the functions of the penalty effective.
This paper presents some results of the research project E1_2023_3- entitled "Analysis of Decision-Making and its Impact on Public Management in Santiago de Cali (2023-2024)" developed by the Political Praxis research group of the Higher School of Public Administration, in which a qualitative analysis of the institutional response of the prison system is carried out, in the face of the accelerated growth of local and global crime levels.

First, it will be shown that the crisis of the penitentiary system is the consummation action of an institutional body of state revenge that receives the stimulus of the exclusionary and victimizing practices of the bureaucratic policies of the Establishment (1), and subsequently, it will be shown that the insufficiency of the penitentiary system to meet the demand for institutional revenge as a response to the transgression of the social order, it obliges the State to conceptually reformulate crime to justify the decriminalization of practices that allow prisons to be vacated and to concentrate revenge on a type of crime of great importance (2).

1. Criminality as a result of exclusionary and victimizing bureaucratic practices

The State-society link is a sufficient condition for social groups or individuals to be affected by institutional actions or omissions. There is a particularity in this relationship, and that is that individuals or groups can become victims of actions or omissions that, being legal, affect the state of affairs and generate dissatisfaction in social agents. At this point, it will be shown how the transition from a victimized agent to a criminalized agent occurs.

The first thing to indicate is that in legally institutional bureaucratic practices a different variant of the conventional notion of victim emerges, which does not result properly from illegal practices, but from institutionally legal actions that generate exclusion and marginalization of certain social agents with harmful effects on them. This variant is based on the way in which the State recognizes its social agents through the different institutional policies, linking them with a differentiated recognition or marginalizing them by leaving them out of the reach of the government's social programs; In this case, we may be dealing with a victimization of an institutional nature within the legal order.

The lack of recognition of the individual by state institutions must be understood as a real possibility of difference between agents linked to the same state order, where the condition of victim due to marginality goes unnoticed thanks to the principle of equality before the law. This principle is what has prevented governments from understanding that the members of the collectivities have to understand and recognize each other as different and not as equals, in order to apply the law. Dussel (1988) considers that "there must be an awareness that it is necessary to recognize each participant as a distinct (not just equal) ethical subject," an Other distinct from the self-referential rest founded on the principle of dissent as a possibility that allows him to participate in the social context "with the right to the factual irruption of that Other as a new Other" (Dussel, 1988, p. 310).

In this sense, an individual who is not recognized in his or her difference can be understood as a victim of this lack of recognition, and that leads to being marginalized by state institutions, publicly condemned, and subjected to all forms of human suffering. Dussel's Philosophy of Liberation shows how political and economic systems generate large numbers of victims as a result of exclusion and domination. Dussel specifies that "a large part of humanity is the victim of profound domination or exclusion, being immersed in 'pain', 'unhappiness', 'poverty', 'hunger', 'illiteracy', 'domination'" (1988, p. 310).

The meaning of exclusion is related in this case to the impossibility for the individual to satisfy his needs and achieve his ethical ideal based on certain institutions that define the social order and individual and collective development, it is the discomfort that any

individual suffers when "he finds himself in situations in which he cannot realize what he desires and aspires for himself and for those he esteems". (Estivill, 2003, pág. 13)

In these conditions, the individual suffers an affectation from which he will try to repair himself at any time of his life, and in that order the search for mechanisms that repair him from the affectation of contempt and marginalization, will lead him, in some way, to seek his reparation outside or within the institutional legal order, seeking to seek refuge outside or within the law.

Dussel considers that the imperfection of systems, institutional acts and norms are fundamental factors in the victimization of individuals; "Since this is impossible, there are inevitably 'victims', who are those who suffer from the imperfections, errors, exclusions, dominations, injustices, etc., of the non-perfect, finite empirical institutions of the existing systems. That is to say, the "fact" that there are victims in every empirical system is categorical, and for this reason criticism is equally always necessary." (Dussel, 1988, p. 369)

Dussel warns that the critique formulated by individuals about the systems that hinder the development of life is what allows us to show their constitution as victims, "In the first place, abstractly and universally, the criterion of criticality or criticism (theoretical, practical, drive, etc.) of every norm, act, microstructure, institution or system of ethics is based on the real existence of "victims", whatever they may be for now. It is "criticizable" that which does not allow us to live. For his part, the victim is inevitable. Its inevitability derives from the fact that it is empirically impossible for a norm, act, institution or system of ethics to be perfect in its validity and consequences." (1988, p. 369)

From this, the problem of the victim emerges from the legal systems and institutional models that exclude social agents from the living conditions and public participation that are vital for their collective performance. The way in which the state of affairs of these subjects is affected is removed from the illegal nature that the victimizing action commonly entails, since the victim will appear as a consequence of a legally institutional performance. In such a way that the legally established institutional processes generate living conditions that affect the social agents, reducing their possibilities of performance thanks to the fact that they do not achieve recognition as political and social agents that should be immersed in government policies, and to the fact that they are marginalized from official projects and programs, as well as the processes of political participation in social decisions.

The way in which policies of exclusion, differentiation and marginalization are reproduced increases the capacity to victimize entire populations as a result of state actions that restrict access to favorable living conditions and individual and collective development. The same is multiplied more strongly in different entities and institutions of a private nature, where the value of the particular is imposed on collective interests, where the latter have to give way in the form of profits to increase individual capital.

The restricted view of the condition of victim will continue to pass through the sieve of legality, on the understanding that the notion of victim has to be associated only with the illegality of the action carried out by one agent against another. That is the principle with which the notion of victim is constructed within the framework of a globalized system where the law is imposed as the only possible reason.

Thus, victimization is possible through positive or negative actions associated with both institutional legal practices and illegal actions or executions. The first case is related to the performance and execution of actions by state or private entities within the framework of legality, it may be in the application of an institutional policy or with the issuance of a law in which the value of certain groups or individuals is enhanced to the detriment of others. In the second case, actions that transgress a normative order of which they are affected are necessarily involved.

Therefore, it is possible to think that some of the criminal manifestations are associated with the marginalization of social agents as a result of institutional policies established from the legal order.

2. The conceptual reformulation of crime as a formula to reduce the prison and penitentiary population

Anyone who intends to know the quality of a society, its mental health, the state of interpersonal relationships, respect for children and the elderly, the management of public goods and resources, and especially the respect and value of life, it is enough simply to review its code of criminal conduct. That will give an idea of who and what kind of subjects we are.

Given this, it is worth asking whether the increase in criminal practices responds to what was previously identified as legaliform institutional victimization, or is it the product of the paranoid impulse of the institutional apparatus to turn the result of exclusionary policies into a crime. The impossibility of responding to the complexities of social demands is due to the disproportionate increase in criminal types and the criminalization of all forms of expression derived from marginality and exclusion. However, it must be recognized that many other forms of criminality flourish for different reasons.

The fear of punishment, of disciplining the body and of public ridicule is seen as a way of addressing behaviors that affect private and public interests. Everything is solved by classifying a behavior as a crime, increasing the pages of the penal codes and subjecting the condemned person to the suffering produced by a precarious prison establishment that is insufficient to house the body of the prisoner in conditions of dignity.

Penal inflationism produced an avalanche of criminal classifications that turned almost all forms of behavior into crimes that merited deprivation of liberty as the only possibility of institutional revenge, going to the extreme of criminalizing economic misery and considering begging as a crime deserving of prison treatment, then that criminal type was suppressed; however, poverty and misery continue to be euphemisedly criminalized.

But the institutional response of using the force of criminal law to contain all kinds of practices that, in its opinion, are harmful to the general interest, has always been inversely proportional to the capacity of the penitentiary response to meet the institutional passion. The new types of crime and the increase in penalties exceed the capacity of an obsolete prison system, which is not very functional to make the resocialization of the inmate a reality, if that is what it can still be called, and widely limited to accommodate penal inflationism.

In the last 20 years, the number of criminal types requiring prison treatment has increased by more than 45%; and it is understandable that this is happening in a country where innovation and technology lead to an unconventional use of scientific advances. And since each technological advance brings its own misfortune (Virilio, 2006), which in our case would be, each technological advance brings its own crime. The emergence of

information and communication technologies brought with it computer crime and with it the need to protect a new legal asset such as *information and data.*

Law 1273 of 2009 created nine criminal types to protect information and data from practices in computer systems harmful to collective interests; and for that purpose, prison sentences of up to 10 years and fines of up to 1500 legal monthly minimum wages were established, about one thousand two hundred million pesos. for the crimes of abusive access to a computer system, illegitimate obstruction of a computer system or telecommunication network, interception of computer data, computer damage, use of malicious software, violation of personal data, impersonation of websites to capture personal data, theft by computer and similar means, non-consensual transfer of assets.

Without this being enough, conventional criminal types also began to venture into the computer age. Data kidnapping, libel and slander, child pornography and abuse, de facto violence, computer terrorism, among others, have been incorporated into the voluminous criminal compendium that is now latent in our work every time we open up to the world through an electronic device, tablet or personal computer.

But globalization also brings its share of criminal types that increase the volume of the Colombian penal code. In addition to drug trafficking, money laundering, front men and arms trafficking, trafficking in human organs, trafficking in radioactive material, transnational corruption, influence peddling, among others. In 17 years, 63 reforms have been applied to the Penal Code of the year 2000, an average of 3.7 modifications per year, which is equivalent to saying that every three months a modification was applied to Law 600 of 2000.

It can be said that the Penal Code became the tool for appeasing the mob eager to shed the blood of the convict, while the precarious and dehumanized prison stands as the majestic spectacle of the public tortures narrated by Foucault (1976, p. 242), which represent the crime institutionally legitimized by a retribution that becomes more opprobrious than the action of the criminal. despite the fact that prison is the instrument that changed the history of punishment by having "humanized" the punishment inflicted by criminal justice, "but also an important moment in the history of those disciplinary mechanisms that the new class power was developing: the one in which they colonized the judicial institution" (Foucault, 1976, p. 212).

Every time there is a harmful conduct that arouses media interest, it is the penal code that receives all the discharge of hatred and emotion that triggers the media handling of cases, as if criminalization were the exclusive solution to social ills. Then, legislators, in their eagerness to obtain electoral gains, appear publicly proposing increased penalties, more rigorous prison treatment and special legislation for behaviors that the *media* dictate to penalize with deprivation of liberty, even with life sentences. Prison thus becomes the instrument of institutional weakness, rather than a device of force to change a state of affairs.

The media impulse is the least reasonable justification to penalize any conduct that communicators can think of punishing with prison, and media punishment ends up being the best justification to punish, making criminal justice a propaganda artifact to win favors from the corporate media in search of electoral gains. forgetting that this punitive inflationism is disproportionate to the institutional capacity of the prison system, saturating a prison structure that is literally bursting with alarming levels of overcrowding.

According to data from the National Penitentiary and Prison Institute, INPEC (2025), overcrowding in the national prison system exceeds 28% of the installed capacity. The 125 prisons and penitentiaries have the capacity to house 81139, but to date the number of inmates exceeds 104379, which means that the number of inmates in overcrowded conditions reaches 25429, the equivalent of the population of the municipality of La Mesa in the Department of Cundinamarca.

Of all the detention centers, the Medium Security Penitentiary Center of Cali, Villahermosa is the one with the most critical overcrowding of the entire prison system in Colombia, with an overcrowding of 115.6%, followed by the Maximum Security Prison of Palmira with 71.1% and the Medium Security Penitentiary Center of Bogotá with 67.8%. Villahermosa was built to house 1,884 inmates, and today it is occupied by more than 3,742; The maximum security penitentiary of Palmira has an installed capacity to house 1,257 inmates and today it is occupied by 2,248 inmates, and the capacity of the medium security prison in Bogotá is defined for 2,662 inmates and today its population exceeds 4,468 inmates.

The buildings of the Villahermosa and Bogotá detention centers are more than 60 years old, and their physical structures present problems that compromise their resistance and the lives of the inmates. Faced with such a panorama, the Ombudsman's Office has insisted on the closure of these establishments, or in the best of cases on their structural reinforcement.

For example, in the Villahermosa prison in Cali, the building does not meet the conditions of infrastructure and health; there is deterioration in the construction, as well as loss of solidity of the concrete elements, and the masonry walls are worn and present permanent humidity that compromises the resistance of their physical structure.

The results of a visit carried out by the Human Rights Directorate of the Personería de Cali in 2013 had already highlighted the precarious conditions of the structure of the detention center. At that time, oxidation of the steel was found in the columns and beams that support the construction, obsolete pipes with the presence of moisture, defective electrical wiring exposed to manipulation by the internals, crumbling external facades and risk of fire due to short circuit due to deficiencies in the electrical system and irregular connections.

As long as no new pavilions are built, overcrowding in the prison system will continue to grow exponentially, as the prison population increases by an average of 4.8% per year, which means that 6,000 new people enter prisons and penitentiaries every year, that is, 16 detainees per day.

The precarious conditions of the prison system and the overflow of its operational capacity, turned this instrument of discipline of the body, which "humanized" the punishment of the condemned (Foucault, 1976, p. 211), into a system of torture that revealed the false humanism that hid the bodily control of the criminal that Foucault had already denounced.

(...) Prison was not at first a deprivation of liberty to which a technical function of correction was conferred; it was from the beginning a "legal detention" entrusted with a corrective supplement, or even an enterprise of modification of the individuals that the deprivation of liberty allows to function in the legal system. In short, since the beginning of the nineteenth century, criminal imprisonment has covered both the deprivation of liberty and the technical transformation of individuals. (Foucault, 1976, p. 213)

According to projections by the National Penitentiary and Prison Institute, INPEC, it is estimated that by the end of 2026 the number of inmates throughout the country will reach 131,190, and in the next five years that figure will reach 165,847. This means that by 2026 a total of 36,054 new inmates will have entered the national prison system, a population sufficient to fill the entire Pascual Guerrero Olympic Stadium in the city of Cali.

To all this, there is the insufficiency in the manpower and custody of the national prison system. Currently there are a total of 13,000 guards available who guard more than 104379 inmates, which is equivalent to one guard for every 20 inmates, when according to INPEC, 22,704 guards are required, which would correspond to one guard for every 5.5 inmates, which means that the system in the prison system lacks more than 10 guards to cover the minimum required.

In addition to penal inflationism, legal instability has contributed to the crisis of the prison system, and to this is added the lack of a reasonable criminal and penitentiary policy in the use of prison as the only resource for the punishment of the subject who infringes the criminal law, and in which alternative forms are opened that make the penal system effective in favor of the victim. to privilege the needs of the former rather than institutional remunerative interests.

For INPEC itself, the Law on Citizen Security, the increase in penalties and the constant reforms to the Penal Code to classify new forms of crime, have contributed in equal measure to the worsening of the national prison crisis. But the crisis of the prison system is not only evident in the capacity of offenders to accommodate criminal offenders, it is also evident in the ineffectiveness of the resocialization processes, one of the functions of the custodial sentence. According to INPEC data, 26 out of every 100 inmates who regain their freedom return to prison for recidivism in the crime.

And since the penitentiary is part of a system of discipline par excellence and of conditioning the individual to the demands of a world oriented by the logics of commerce, consumption and globalization, in which everyone is forced to build and live isolated in his own garden, it has become incapable of responding to the demands imposed on the subject. Prison, as Foucault points out, is a system that functions uninterruptedly in disciplining the body of the condemned under a power that controls everything that the individual must do in prison.

Prison must be an exhaustive disciplinary apparatus. In several ways: it must concern itself with all aspects of the individual, his physical education, his aptitude for work, his daily conduct, his moral attitude, his dispositions; Prison, much more than the school, the workshop or the army, which always imply a certain specialization, is "omnidisciplinary". In addition, the prison has no exterior or void; it is not interrupted, except when its task is completely finished; its action on the individual must be uninterrupted: incessant discipline. In short, it gives almost total power over the detainees; it has its internal mechanisms of repression – and punishment: despotic discipline. (Foucault, 1976, p. 216)

The system does not have the operational capacity to meet the demands of the resocialization of convicts. Overcrowding and the precarious structural conditions of detention centers make it difficult to resocialize through academic activities or work exercises. In the country's 125 prisons, there are only 544 common spaces for 125,131 detainees. The private company has 61 maquilas in the prisons, which offer work to 1,441

inmates. Only 12 out of every thousand inmates in Colombia have the possibility of being employed in these places, which also hinders the possibilities of remission of sentence for work and study; redemption that in some way could contribute to the release of inmates and the liberation of spaces for new detainees.

And while this is happening in the prison system, on the street the criminal dynamics continue their spectacular race of increase, according to data from the Attorney General's Office in 2025 theft in all its modalities increased by 11.1% with a total of 314,511 cases; which means that every 60 minutes in the country, 5 vehicles, 6 cell phones, 3 houses, 2 commercial premises were stolen and 14 citizens were extorted (FGN, 2025). Regarding the number of homicides carried out by common crime and organized crime, the figures continue to be high, during the year 2025 there were more than 12 thousand homicides throughout the country, with the cities of Cali, Bogotá and Medellín contributing the highest number of murders with an average of one thousand executions. This means that in Colombia 1.38 are murdered every hour (National Police, 2025). And, with regard to the crime of kidnapping, nearly 600 people were subjected to this crime in the same period, according to data from the National Police (2025).

According to the Global Organized Crime Index 2025, Colombia ranks second in the world in crime score, being after Myanmar the country with the highest criminal activity on the planet, and third in criminal market score after Mexico which ranks first and Myanmar which is in second position.

At the regional level, Colombia's position on homicides is not at all privileged. In the last year, Colombia ranked first in Latin America and the Caribbean in the number of homicides, with more than 13 thousand murders (National Police, 2025). In terms of homicides, the figure is still worrying due to the intensity of the actions of illegal armed groups residual from the former FARC guerrillas, armed structures of international drug trafficking and criminal gangs, which are putting upward pressure on homicide rates in the country. In 2025, more than 13 thousand murders occurred in Colombia. Despite the decrease in homicides in most countries in 2025, Latin America continues to be the most violent region in the world: with 8% of the population, it concentrates 34% of violent deaths worldwide, and the burden of murders contributed by Colombia is still very high: 13 thousand violent deaths in 2025, which were only surpassed by Mexico and Brazil. This is equivalent to a daily average of 33 homicides, that is, one murder every hour and a half.

To all the problems of the prison system, the State has done nothing more than respond with semantic strategies. The construction of new pavilions and the expansion of the accommodation capacity of prisons has been replaced by linguistic turns and conceptual reconfigurations of the crime that change the status of the criminal, so that he ceases to be a dangerous subject who requires prison treatment, and becomes an individual whose conduct no longer seriously harms the protected legal right.

The fear of the criminal is eliminated with a legislative stroke of the pen that ends the criminal category to make it less reprehensible. The linguistic turn resolves what the operational capacity of the State is incapable of: reducing prison overcrowding through semantic substitution of the category of crime. Thus, it would seem that the crisis of the prison system is reduced to a semantic and discursive problem that is resorted to every time penal inflationism shows the inability to meet the demands for social control over reprehensible behaviors that the State itself has elevated to the criminal category.

Although the State's capacity to respond to demands for protection is limited to the reform of the penal code, it is no less true that at the discursive level social realities and institutional relations are configured. That said, language has the capacity to operate as an instrument for the construction and modification of actions in criminal acts; it can be, either, at the moment when physical activities are transformed into facts on account of discourse and through discourse what the individual does is defined, or, in discursive action when the individual interacts with another or with others in intersubjective dialogue. Thus, it is possible that the individual has to deal with a constant passage between legality and illegality according to the contexts in which he or she performs or with which he or she relates, which concretely implies that the quality of the same action can vary according to the contexts.

This is precisely the case with the reform of the Code of Criminal Procedure and the Criminal Code carried out by the Congress of the Republic in the last year. Law 2477 of 2025 incorporates restorative justice mechanisms, promotes comprehensive reparation in some crimes as grounds for extinction of criminal action, and expands the benefit framework of reduced sentences for trespassing to charges and pre-agreements for crimes of lack of food assistance, aggravated theft, intentional personal injury, and even for serious crimes such as kidnapping and terrorism. In addition, the aforementioned law reduced the terms for preventive deprivation of liberty, which shortens the deadlines for accusing and prosecuting. This means that more than 7,000 people who are in pretrial detention and those who are serving their sentence, will be able to leave prison, alleviating the problem of prison overcrowding in Colombia by 40%, without this implying the solution to the problem of prison congestion.

This pragmatic discursive view of law conditions in advance the behaviors and actions of social agents, predetermining and conditioning the possibility that the individual has of disposing of himself, simply because language is an a priori of knowledge and action (Poulain, 2017, p. 37). Thus, the expressions used in normative propositions fulfill an emotive function that can at a given moment generate the same results that illocutionary acts achieve (with the intention of producing perlocutionary effects) when it is intended to change the quality of a human action from legal to illegal; in this way it is possible to show that the emotive influence of the expression used in the normative proposition on the addressee of the law is symmetrical with the perlocutionary effects of speech acts with a certain illocutionary force [1] (Habermas, 1999, p. 391), insofar as illocutionary acts and emotional function in the norm seek to achieve the same effect: to influence someone to do or do something, and in the same way to form a specific belief about a certain action and about a certain individual who performs that action, especially so that he believes that a certain action is abnormal and morally wrong, just like the individual who performs it.

[1] Illocutionary force is understood as the intention and conventional support of a speech act so that it produces a perlocutionary effect on the listener consisting of the listener doing what the speaker wants or generating a reaction in the listener or a change in the listener. According to Habermas "(...) Imperative manifestations of will are illocutionary acts with which the speaker openly declares his intention to influence the decisions of an interlocutor, having to resort, however, in order to impose his claim to power, to the complement represented by sanctions. Hence, with imperatives in the strict sense or with non-regulated requirements, speakers can unreservedly pursue illocutionary ends and, nevertheless, be acting strategically." See Theory of Communicative Action I: Rationality of Action and Social Rationalization, Madrid, Taurus, 1999, p. 391.

There are currently more than 400 types of prisons, which in the opinion of the Attorney General's Office makes everything a crime that deserves jail. During the year 2025, more than two million complaints were filed for different crimes, which must be attended to by a judicial system that has only a little more than 23 thousand prosecutors to investigate and bring these cases to trial. This means that more than 93% of these complaints do not advance, at least, to an accusation stage.

Against this backdrop, the view formulated by Alagia (2013) is more than pertinent, when he states that "criminal law seems lost in a dead end when its purpose is to make the state suffer. Also when it has as its center the degenerate delinquent or the subject free of self-determination. He feels secure in the terrain of the unjust culprit, that is, in the idea and doctrine of crime. The reason for punishment is the crime, period." (p. 55).

The pathological notion of the criminal law offender still gravitates in the imagination of jurists, health professionals, legislators and ordinary people, who continue to respond to the episteme of the nosopolitical discourses[2] of the nineteenth century that considered criminal law offenders as sick individuals who must be isolated from society to receive special treatment that makes them subjects capable of living in community.

The delinquent, more than a social problem, is an economic problem that needs to be controlled through corporal discipline in an isolation establishment. The logics of positivism that insert the notion of dangerousness that the subject entails in legal discourses conceive of dangerousness as a response to an economic requirement, a prior equation with which it is possible to calculate the exact measure between the indication of a danger, the capacity for social damage that it could cause and the cost required for its elimination (González Velasco, Alegría, & Arce, 2017, p. 439), therefore, the offender, conceived as sick or abnormal, has to be partially eliminated from the social environment, through prison isolation.

CONCLUSIONS

We are still very far from abandoning the old idea of taking the body of the offender as the only space available for criminal sanction, clinging to bio-punishment as a response to attack the offender to torment him and make him suffer in the same way or worse than what his victims suffered. And the matter becomes more complex, when the body of the convicted person does not have a place to be deposited, due to the precariousness of a prison system that does not have sufficient and modern infrastructure to respond to this biopenalty.

The criminal war against the "ordinary criminal" focused on the prison suffering of the convicted person must begin to de-escalate towards other forms of punishment that are more effective for the interests of the victims and not for general institutional prevention, in order to concentrate the efforts and capacity of the prison system by discouraging crimes of corruption entrenched in the institutions of the State. in justice, in health, in the prosecutor's office, in education, in territorial entities and on many other fronts.

The penal system is called upon to decisively appropriate more effective justice mechanisms such as restoration, the principle of opportunity, and comprehensive

[2] Nosopolitics is a eugenic program of racial regeneration of the lower classes, imposed since the end of the nineteenth century with the complicity of scientific knowledge. (González Velasco, Alegría, & Arce, 2017)

reparation, in order to partially alleviate the crisis of overcrowding in the prison system, decentralizing the prison as an instrument par excellence to confront all types of crime.
From a functional perspective, large investments are required in the construction of new penitentiary and prison establishments where the process of education, preparation and resocialization of the convicted person is possible; where the physical conditions for serving the sentence are in accordance with the principle of human dignity. In the same sense, it is necessary to modernize the establishments that show deterioration, while the custody and surveillance corps of the establishments must be reinforced. To address the deficit of more than 40,000 prison places in the prison system, it is necessary to build about 20 penitentiary and prison centers with capacity for 2,000 people each, just to meet the current demand of 40,000 people who require a dignified space to remain deprived of liberty. not including the projections of growth in the number of people deprived of liberty. For this, the State had to allocate on average more than 12 billion pesos, the equivalent of a tax reform.
But all this must start from the design of a criminal policy that deflates the Penal Code; as long as this is the amulet to appease the fears generated by a society that moves to the swing of interests and media scandals, it will not be possible to reduce the criminal overweight that the Code carries.
Penal inflationism derived from the lack of a criminal policy that confers the character of the last reason on criminal law constitutes the central cause of the overcrowding crisis facing the national prison system. This implies an abandonment of alternative forms to prison treatment to punish certain types of practices that, due to their low seriousness, do not need to resort to deprivation of liberty as the only sanction measure.

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