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The Human Rights of persons deprived of their liberty: Importance and Application

Review Article

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PROBLEM STATEMENT

The Superior Audit of the Federation identified a "limited effectiveness of reintegration treatments applied to inmates, processed and sentenced"; since in spite of the fact that in 2014, 88.3% of the penitentiary population in the Federal Centers for Social Reintegration participated in social

reintegration activities, 44% relapsed into the commission of one or more illicit activities, "which meant that a greater participation of inmates in reintegration activities is not associated with a considerable decrease in recidivism levels "(ASF: 2014).

The above represents the alarming failure of the National Penitentiary System

to comply with what became its main objective after the constitutional reform on criminal justice and public security of 2008: the social reintegration of individuals.

In prisons, improvisations, contradictions and incongruities of criminological politics explode and become evident. The problems of the penitentiary system have been exacerbated in the last two decades. The criminal policy has caused that in just a decade the penitentiary population has doubled; however, Mexicans do not feel twice as safe as ten years ago (Zepeda: 2014)

Surveys show that a fairly significant proportion of the population feels vulnerable to crime. In the 2011 national victimization survey conducted by the INEGI, 66.6% of respondents said they felt insecure within their state (34% higher than in the 2007 survey), 58.2% said the same degree of insecurity within their municipality (50% increase compared to 2007) and 24% of people were victims of a crime during 2011 (National Survey of Victimization and Perception of Public Safety).

METHODS

Our proposal of improvement strategy uses the Polya method, that is, it tries to:

1. Understand the problem adequately;
2. Conceive a plan to solve the problem;
3. Execute an action plan;
4. Examine the solution obtained.

CONTENT

The human rights of persons deprived of their liberty

In the year 1985, Günther Jakobs introduced the expression "criminal law of the enemy", according to which, the deal with the enemy must be fought for its dangerousness (Jakobs, 2003). This thesis, defends that those citizens who are no longer part of their own social and mutual pact are placed outside it, they should not be treated as persons. However, the Inter-American System of Human Rights, International Humanitarian Law, International Criminal Law and the Mexican legal framework defend the idea that even the individual who is no longer part of that contract or agreement is not found -or can not be found- exempt from respect for their human dignity, in open opposition to what is proposed by the German jurist.

Therefore, aware that the essential rights of man are based on the attributes of the human person and that precisely the basis of human rights is the dignity of the human being and in whose protection the existence of the State has its sustenance and legitimacy, Mexico approved a constitutional reform on human rights in the year of 2011. This reform, in addition to including the concept within the Constitution, guarantees - in its article 1 - that all people will enjoy the human rights recognized in it like the International Treaties ratified by the Mexican State, as well as the guarantees for their protection; It obliges all authorities, within the scope of their powers, to promote, respect, protect and guarantee human rights, in accordance with the principles of universality, interdependence, indivisibility and progressiveness, always

providing individuals with the broadest protection. To do so, it must prevent, investigate, punish and repair violations of them, thereby creating a new way of interpreting and applying the law, striving for the maximum protection of the human being and putting it before the state itself (Gómez, 2014).

In the last century, there has been an intense process of codification of human rights. At the international level, Mexico is a State Party within 250 international treaties in which it is obliged to protect them as a form of legitimacy.

Since 1948, it was recognized through the Universal Declaration of Human Rights that freedom, justice and peace in the world are based on the recognition of dignity - which is intrinsic to human beings - and equal and inalienable rights of all the members of the human family.

In turn, the Supreme Court of Justice of the Nation [SCJN] expressed that "in the human being there is a dignity that must be respected in any case, constituting as an absolutely fundamental right, basis and condition of all others, the right to be recognized and to live in and with the dignity of the human person; from which all other rights arise, insofar as they are necessary for individuals to fully develop their person, within which are, among others, the right to life, to physical and mental integrity, to honor, to the privacy, to the name, to the own image, to the free development of the personality, to the civil state and the own right to the personal dignity. [...] only through their full respect can we speak of a human being in all his conception (SCJN, 2009)". It should be noted that the right to be treated with the respect due to the inherent dignity of the human being is part of the hard-core, which is not subject to suspension in cases

of war, public danger or other threats to independence or security of the State (IHR Detention Court of Catia, 2006).

The foregoing, of course, includes the human rights of the LPPs, which likewise were consolidated in 2011 through the reform of Article 18 of the Constitution, which focused and organized the Mexican Penitentiary System on the basis of respect for human rights, work, training, education, health and sports as means to fulfill the objective of reinserting the sentenced to society, seeking their non-recidivism.

For such purposes, the National Council of Public Security, in its Thirty-eighth Ordinary Session, held on August 21, 2015, issued Agreement 09 / XXXVIII / 15, in which it instructed to develop a plan that strengthens the national policy of the penitentiary system, which includes, among others, review actions and, where appropriate, preparation of normative proposals that allow updating the operation of prisons, the criteria for prevention and social reintegration, as well as the necessary adjustments; with the objective of consolidating an integral strategy that allows the elimination of self-governments and the overpopulation of centers, as well as the adaptation, conditioning and improvement of their infrastructure.

Similarly, the Administrative Body Deconcentrated Prevention and Social Readaptation [ODPRS], which since 2001 assumed the functions of the general directorates of Prevention and Social Readaptation, Prevention and Treatment of Minors and the Board for the Social Reincorporation for Employment in the Federal District, designed an Integral Strategy for the Transformation of the Penitentiary System, based on 6 strategic axes. The sixth axis consists of

"developing a comprehensive system for the social reintegration of persons deprived of their liberty (PPL, 2016)".

However, in spite of the aforementioned efforts, the data produced by the Superior Audit of the 2014 Public Account, prepared by the Superior Audit Office of the Federation, indicate that from 2007 to 2014, the federal penitentiary population that relapsed into the commission of some crime increased by 634.6%, going from 1,484 repeat offenders in 2007 to 10,901 in 2014 (ASF). The results of the Ministry of the Interior were analyzed to address the public problem related to marginal social reintegration and the results related to prison security, infrastructure development, coordination of the National Public Security System and professionalization of the prison system. And it was concluded that "a greater participation of inmates in reintegration activities is not associated with a considerable decrease in levels of recidivism" (ASF).

According to the information collected and received in recent years by the Inter-American Commission on Human Rights [IACHR] through its various mechanisms, the problems presented in Mexican detention centers depend in part on the different levels of government to which they are subject. However, the Commission warns that federal and state prisons present common and structural patterns, such as overcrowding, corruption and uncontrolled self-government in areas such as security and access to basic services, violence among inmates, lack of medical attention, lack of opportunities for social reinsertion, lack of differentiated attention to groups of special concern, mistreatment by prison staff, and the lack

of effective mechanisms for the presentation of complaints (IACHR, human rights situation, 2015).

On the other hand, derived from its visit in 2015, the IACHR observed that the application of disciplinary sanctions is disproportionate in relation to the sanctioned act, and often responds to discretionary criteria on the part of the prison staff, in addition to the fact that these types of sanctions imposed do not have the independent and effective mechanisms to question them. The IACHR noted that one of the most common punishments is the imposition of solitary confinement in small cells and in deplorable conditions, for excessively long periods -even for months- and with restrictions on visits and calls with their families.

This situation is associated in the present text with the lack of mechanisms that make effective the unrestricted respect of the human rights of the people held in the different prisons of the country, which represents an impediment to reform their criminal behavior.

The Inter-American Court of Human Rights (Inter-American Court of Human Rights) has established in its jurisprudence that, in accordance with the provisions of Article 5.2 of the American Convention on Human Rights (ACHR), every person deprived of liberty has the right to live in conditions of detention compatible with their personal dignity and in addition, the State must guarantee the right to life and personal integrity (I / A Court HR, Neira Alegría). The State must assume a series of special responsibilities and take various special initiatives to guarantee inmates the necessary conditions to develop a dignified life and contribute to the effective enjoyment of those rights that under no circumstances

can be restricted, or those whose restriction it does not necessarily derive from the deprivation of liberty and, therefore, is not permissible. Otherwise, this would imply that deprivation of liberty deprives the person of title with respect to all human rights, which can not be accepted (I / A Court HR, Reeducación del Menor, 153).

In the opinion of the aforementioned Court, although "criminal sanctions are an expression of the punitive power of the State and involve impairment, deprivation or alteration of the rights of individuals, as a result of unlawful conduct" (I / A Court HR, Baena Ricardo: 106), injuries, suffering, damage to health or damage suffered by a person while he is deprived of liberty can end up constituting a cruel form of punishment when, due to the conditions of confinement, there is a deterioration of the physical, psychological integrity and moral. The situations described are contrary to the essential purpose of custodial sentences; that is, to the reform and social readaptation of the condemned (I / A Court HR, Berenson Mejía: 101); this not only restricts such human rights, but also violates the essential objectives of the prison, such as preventing them from re-offending and reintegrating into society; as an opposite effect, we have a significant increase in the commission of crimes, thus giving rise to the need to comprehensively rethink public policies and social reintegration programs; we must ensure that the prison is beyond a detention center that generates greater psychological damage to the offender who break the law; educational-training centers must be created not only to seek that the offender understands the transcendence and consequences of his actions towards himself and the society he has hurt, but that

he wants and is given the appropriate conditions of not doing it again.

Definitely, corporal punishment or any other method used to inflict a cruel, inhuman and degrading form of condemnation are described by the Court as an "institutionalization of violence" that is incompatible with the ACHR. Also, isolation, abuse and incommunicated detention or any threatening situation to an individual with torture can constitute an inhumane treatment. The isolation cells should only be used as disciplinary measures or for the protection of people for the strictly necessary time and in strict application of the criteria of rationality, necessity and legality. These places must comply with the minimum characteristics of habitability, space and ventilation and can only be applied when a physician certifies that the inmate can support them (I / A Court HR, 221). To this end, the Committee against Torture of the United Nations pointed out that isolation [...] cells in which there is no light or ventilation and can only be stood or bent, constitute in themselves a form of torture instrument, (IHR Court, Aranguen: 94) because otherwise we would have the opposite effect of non-recidivism and social reinsertion.

In this regard, the Inter-American Court of Human Rights has established, throughout its jurisprudence, that "detention in overcrowded conditions, with lack of ventilation and natural light, without bed for rest or adequate conditions of hygiene in isolation and incommunicated detention or with undue restrictions to the visitation regime constitute a violation of personal integrity "(Asto). So are the situations of prison overcrowding, permanent overcrowding, unhealthy cells, few hygienic facilities, no beds to sleep, poor nutrition, little

opportunity to exercise and / or perform recreational activities, lack of medical, dental and / or psychological appropriate ,punishment the isolation, the mistreatment and incommunication with the purpose of imposing discipline on the population of inmates, without a due separation between the accused and sentenced and / or without effective opportunities for people to reform and reinsert themselves into society.

Unfortunately, most of the centers of social reintegration of the Mexican Republic are within one or more of the hypotheses described above, a situation that goes against the human rights enshrined in the Magna Carta and International Treaties of which the State Mexican is part, to the detriment of people who compile their sentence in that place. These conditions of inhuman and degrading detention, with constant exposure to a climate of violence, insecurity, abuse, corruption and mistrust, where the law of the strongest is imposed with all its consequences, necessarily entails an affectation to the mental health of the PPL, adversely affecting the psychic development of his life and personal integrity.

Decent treatment and medical / psychological attention in detention centers, as a reintegration effect.

We believe that non-recidivism as an effect of adequate social reinsertion as an essential objective in detention centers will only be achieved to the extent that the treatment and care provided within the detention centers is consistent not only with human rights (respect for the minimum level of rights such as health, food), but under a decent life and

psychological treatment scheme according to each offender; that allows him to carry out that process of acceptance and behavioral change, a fact that will definitively begin by granting him the minimum floor of rights as an individual, which covers the physiological needs to aspire to those of self-realization (full social reintegration).

In this regard, Abraham Maslow defends in his psychological theory (better known as the Pyramid of Maslow), that the actions of the human being are motivated to cover certain needs, which can be ordered according to the importance for our well-being. As a humanist, his idea is that people have the innate desire to self-realize; that is, to fulfill his life project. Within the needs, distinguishes between "deficit" needs and "development of being", being the first ones that refer to a lack; it is important to satisfy them to avoid unpleasant feelings; those of "development of being" refer to the task of the individual and are important for personal growth; to aspire to the satisfaction of the last and most complex, the satisfaction of the simplest is necessary.

The Maslow Pyramid, has 5 levels of needs: physiological needs, security, affiliation, recognition and self-fulfillment needs. The physiological ones include the necessities vital for the survival and they are of biological order (for example, to breathe, to drink water, to sleep and to eat). They are necessary to live, but are at a different level than physiological. That is, until the first ones are not met, a second level of needs does not arise that is oriented towards stability and protection (for example, physical security, employment, income, family and health). The needs of affiliation, which make sense when the previous needs have been met,

are reflected in the desire to overcome loneliness (through love, affection and a sense of belonging). The recognition needs are those that are satisfied through personal security and the feeling of being valuable within society (self-esteem). Finally, at the highest level are the needs for self-fulfillment and development of internal needs, that is, the establishment and fulfillment of a life project.

Phillip Zimbardo, a renowned American psychologist, speaks of the "Lucifer Effect", as an "attempt to understand the processes of transformation that act when good or normal people do something evil or vile" (Zimbardo, 2008, 26). Examining this not as an internal or psychological effect, but provoked by stimuli and / or external situations. In the case of criminals, refers properly to the environment in which they are, from their cells to the places that are allowed for recreation and the inmates with whom they live; factors that directly interfere in the social reintegration of the same.

Similarly, Francisco Machado Ruiz, lawyer trained as a prison officer at the School of Criminology in Madrid, speaks of the need to improve hygiene in prisons to start working on the reintegration of prisoners (Rodríguez-Marín, 2007). Another important element that must be taken into account are the attitudes, availability and professionalism of the prison staff to generate positive results in the intervention and social insertion; it would be beneficial if there is a positive belief about the process and the results of the reinsertion program of those sentenced.

Machado indicates as essential conditions, the productive occupation of a part of his time -as it has been recognized by the Federal Government in the National Program of Public Security 2014-2018-, as

well as having the possibility of maintaining stable affective bonds, have social support networks - through CSOs, for example -, avoid drug use, carry out socio-cultural activities that stimulate family and social coexistence of the beneficiary population and the existence of a post-penitentiary program that covers the following fields : a work reinsertion program and another person development program.

We would accept that the deprivation of liberty brings with it, as an unavoidable consequence, the affectation of the enjoyment of other human rights in addition to the right to personal freedom; such measure must contain the minimum parameters of proportionality. This restriction of rights, as a consequence of the deprivation of liberty or collateral effect thereof, must be strictly limited. Only the restriction of a human right is justified when it is absolutely necessary in the context of a democratic society. Likewise, the State must ensure that the manner and method of execution of the measure does not subject the detainee to anguish or difficulties that exceed the unavoidable level of suffering intrinsic to the detention, and that, given the practical demands of imprisonment, his health and welfare are adequately insured "(I / A Court HR, Reeducation).

In this regard, the IACHR established the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, concerned about the critical situation of violence, overcrowding and the lack of decent living conditions in different places of deprivation of liberty in the Americas. Americas; it did so with the objective of protecting the PPL from all types of threats, acts of torture, execution, forced disappearance, cruel, inhuman or

degrading treatment or punishment, sexual violence, corporal or collective punishment, forced intervention or coercive treatment, methods that have as purpose to annul the personality or diminish the physical or mental capacity of the person; the IACHR adopted a series of principles and good practices, among which are human treatment, equality and non-discrimination, personal freedom, the principle of legality, due process of law, judicial control and execution of punishment, the request and response, the entry, registration, medical examination and transfer of sentenced persons, health, food and drinking water, shelter and minimum conditions of hygiene and clothing, education and cultural activities, work, freedom of conscience and religion, freedom of expression, association and assembly, measures against overcrowding, the need for contact with the outside world, separation by categories, the profile of personnel in places of deprivation of liberty, the disciplinary system, measures for combat violence and emergency situations and institutional inspections, all as a sine qua non requirement for the reintegration of the offender.

This document establishes that the physiological needs of the PPL, such as food and drinking water, should be covered in the same way, complying with quality, quantity and sufficient hygiene conditions, as well as adequate nutrition and taking into consideration the cultural and religious issues of the inmates. It must be provided at regular times, and its suspension or limitation as a disciplinary measure, shall be prohibited by law. Education must be accessible to all LPPs, without discrimination, and will take into account cultural diversity and special needs. The State must promote, progressively and according to the maximum availability of its resources,

secondary, technical, professional and higher education, equally accessible to all, according to their abilities and aptitudes; promote the cooperation of society through the participation of civil associations, non-governmental organizations and private education institutions. It also provides that libraries exist, with sufficient educational material and appropriate technology -according to the available resources-, and the possibility of participating in cultural, sports and social activities, in order to have a healthy and constructive recreation; the participation of the family, the community and non-governmental organizations will be encouraged (IACHR, Good Practices, 2008). As far as the work is concerned, it is provided that every person shall have the right to it and to receive adequate and equitable remuneration for it; in order to promote the reform, rehabilitation and social rehabilitation of the convicted, stimulate and encourage the culture of work and combat leisure. Likewise, they will promote vocational guidance and the development of technical-professional training projects; and will guarantee the establishment of permanent, sufficient and adequate work workshops.

We consider it of utmost importance that through these activities (education and employment), the inmate covers his most basic needs that allow him to respond to his obligations with the outside world and within the same criminal process in which he finds himself, obtaining with that an emotional stability and psychological, that allows him to focus and collaborate together his efforts in the process of reintegration, all this always having as a base and limit of action the respect for his human dignity.

Once interned, persons deprived of their liberty must be informed clearly and

in a language or language that they understand, of the rights, duties and prohibitions that they have in the place of deprivation of liberty. They will have the right to have a medical or psychological, impartial and confidential examination, practiced by the appropriate health personnel immediately after entering the prison establishment, in order to verify their physical and mental state of health, and the existence of any injury or damage. This information should be incorporated into the respective official registry (IACHR, good practices). From the foregoing, the right to health is understood, understood as the enjoyment of the highest possible level of physical, mental and social well-being, which includes adequate medical, psychiatric and dental care, the permanent availability of qualified and impartial medical personnel, the access to appropriate and free treatment and medicines, the implementation of education and health promotion programs, immunization, prevention and treatment of diseases, and special measures to meet the particular health needs of PPL belonging to vulnerable or high-risk groups risk.

Professionalism and training of prison staff.

As regards the personnel under their responsibility, the direction, custody, treatment, transfer, discipline and surveillance of persons deprived of their liberty, must be adjusted, at all times and in all circumstances, to respect for the human rights of persons deprived of their liberty and of their relatives. In addition, it must be selected carefully, taking into account its ethical and moral integrity, sensitivity to cultural diversity and gender

issues, professional capacity, personal adaptation to the function, and sense of responsibility.

Likewise, qualified and sufficient personnel will be placed in places of deprivation of liberty to guarantee security, vigilance, custody, and to meet medical, psychological, educational, labor and other needs. Their training should include, at least, training on human rights; about rights, duties and prohibitions in the exercise of their functions; and on national and international principles and rules regarding the use of force, firearms, as well as containment. For such purposes, the Member States of the Organization of American States shall promote the creation and operation of specialized training and education programs, with the participation and cooperation of institutions of society and private enterprise.

Appropriate and effective measures shall be taken to prevent all types of violence among persons deprived of their liberty, and between them and the personnel of the establishments. The personnel will not use force or other coercive means, except exceptionally, in cases of seriousness, urgency and necessity, always in a proportionate manner. It will be the last resort and in the indispensable measure to guarantee the security, the internal order, the protection of the fundamental rights of the population deprived of freedom, of the personnel or of the visits.

Obligations of the State in the Social Reintegration.

As regards the obligation to respect human rights, as mentioned above, the Mexican State is obliged to respect human

rights both nationally and internationally. At a strictly national level, article 1 of the CPEUM establishes that all Mexican authorities, within the scope of their competences, have the obligation to promote, respect, protect and guarantee human rights, in accordance with the principles of universality, interdependence, indivisibility and progressivity.

The Constitutional Article 18, provides that the Mexican prison system will be organized on the basis of respect for human rights, work, training for it, education, health and sports as means to achieve the reintegration of the sentenced to society and try not to re-offend, observing the benefits provided by law.

The obligation to respect means that the State -which includes all its agencies and agents, whatever the level of government- must refrain from doing anything that violates the integrity of individuals, social groups or puts at risk their freedoms and rights. The obligation to protect means that the State must adopt measures to prevent other agents or individuals from violating fundamental rights. The obligation to fulfill or perform means that the State must adopt active measures, including positive actions in favor of vulnerable groups, so that all the subjects of rights have the opportunity to enjoy them when they can not do it themselves (UN, OG 3, 1990).

With respect to the responsibility of States from a strictly international perspective, the Inter-American Court has reiterated that in cases of deprivation of liberty, they are in a special position as guarantors, since the prison authorities exercise a strong control or control over the people who are subject to its custody; in this way, there is a special relation and interaction of subjection between the

person deprived of liberty and the State, characterized by the particular intensity with which he can regulate his rights and obligations and by the circumstances of the confinement; In this case, the inmate is prevented from satisfying on his own account a series of basic needs that are essential for the development of a dignified life (I / A Court HR, Reeducation, 152). In summary, the State is the responsible and guarantor of the rights of detainees, to live in conditions compatible with their dignity, personal integrity and life.

The obligations that fall on the State under Article 1.1 of the ACHR, imply a negative obligation to respect the right to personal integrity; It also requires the State to adopt all appropriate measures to guarantee them, in compliance with its general duty established in Article 1.1 of the ACHR. Likewise, in its international obligation to guarantee to every person the full exercise of human rights, it must design and apply a penitentiary policy of prevention in critical situations.

The fundamental rights suppose precise obligations for the authorities of the different levels of government and, consequently, the vertical division of powers can not be alleged as an excuse to stop fulfilling those obligations (Carbonell). It is something that is made very clear from the international law of human rights. In this regard, Article 28 of the ACHR provides that the federal structure of an integrating State can not serve as an obstacle or impediment to fail to comply with the provisions of the Convention, which binds the State as a whole (Dulitzky).

In summary, Mexican authorities at all levels must not only respect rights by abstaining, but must do everything in their power to achieve the full effectiveness of

human rights in accordance with the provisions of the Constitution and the Treaties. Internationals, unable to wield any kind of competence structure to stop taking measures in favor of rights. What the 2011 reform did was to put fundamental rights at the center of the Mexican State's action, even over the distribution of competencies scheme, which is innate to the federal structure of our country.

PROPOSAL OF IMPROVEMENT STRATEGY

Before proposing a program for social reintegration, it is necessary to start from some essential premises:

- a) Those sentenced to be in a total confinement are in a completely different environment than any other human being faces in society; precisely for that reason the word readjustment for reinsertion was changed, because knowing that the person is in restricted conditions, must be integrated into a normal society (SSP, Support Notebook, 2008);
- b) Those who work in prisons must be highly qualified people; for that reason, it is proposed in the first place its professionalization through a Civil Career Service in the National Penitentiary System (2016);
- c) The interdisciplinary nature of both the personnel working in the detention centers and the reinsertion program is necessary to enrich their contents and their effectiveness, as well as the

participation not only of the public sector, but also of the private sector and organizations. of the Civil Society so that the resources are greater; Y

- d) Believe, that the reintegration of a sentenced person deprived of his freedom is possible.

Criminological Psychology: crime prevention and non-recidivism.

Claus Roxín (2000, 110) in his work *Criminal Politics and the Criminal Law System*, points out that in the problems of criminality, from an integral perspective, under uniform, systemic and rational criteria, undoubtedly, the protection of rights must predominate humans against the State; we must not lose sight of the fact that it is not only repression (or persecution) but also crime prevention that includes (as a good criminal policy): respect for security, justice, equity, the common good, institutional innovation, cultural renewal, and limiting principles as the one of humanity and proportionality.

Therefore, criminal policy should be focused on a broad and comprehensive view of society; hence the need to promote a public criminal policy from a social perspective, which is committed to the prevention of crime as a first option.

As we have said, the obligation of each authority in the field of its competences, to protect, respect, promote and guarantee the human rights of the people.

That is why we bet on education, as the only way in which those minds that are forged today see beyond an easy way to make a living, that they stop being the

seedbeds of organized crime, as a different approach to see the reality immersed in corruption, in mediocrity, in disinterest, individuality that has us absorbed and alien.

In this sense, at the international level, organizations such as the Economic and Social Council of the United Nations (UN) adopted two sets of guidelines for the prevention of crime in 1995 and 2002: the Guidelines for cooperation and technical assistance in the area of urban crime prevention (9) and the Guidelines for the prevention of crime, has underlined the fact that crime prevention strategies must go hand in hand with criminal justice reform; also, in its resolution 2005/22, it requested that due attention be paid to this topic with a view to achieving a balanced approach between that prevention and the measures taken in the field of criminal justice.

In 2002, for example, the UN General Assembly, in its resolution 56/261, invited Member States, inter alia, to promote close cooperation between sectors such as justice, health, education and housing, in order to support crime prevention and collaborate with civil society effectively.

For his part, Sotelo points out that the requirement of an interdisciplinary knowledge requires the incorporation of legal elements, specifically the concept of legal, legislative and administrative act. On the same theoretical level, the important distinction between the concepts of creation and execution of criminal public policies is also considered (78-80).

This Power of definition, Juan Bustos Ramírez and Hernán Hormazábal Malarée tell us, not only refers to the classification of a conflict as a crime, but also extends to the definition of the

offender; therefore, we must distinguish two moments in this process of definition, the time of creation of the rule or primary criminalization, or definition of the crime, and the time of application of the rule or secondary criminalization, or the accused, whose state applicants they are totally different from one another (legislative and judicial).

In that sense, the subjective criminal law, as a result, we continue to say Bustos and Malarée, not only is the power that the State has to define crimes (*iuspuniendi*) but also to prosecute the offender, but above all to prevent and opt for the most favorable public policy, that is, the aforementioned social policy, which includes, for example, the educational policy.

Since only the State is the depository of such power (monopoly of the punitive function), it also constitutes a duty, as it is an indispensable guarantee of the Rule of Law, to determine the punishable institutions and their threat of punishment prior to any repressive intervention (principle of legality or right of certainty and legal security). The State as a subject of the criminal power is empowered to impose the penalty that restores the legal order, based on the need of society itself to repress the acts that reveal greater socio-legal devaluation.

We believe that prevention of crime is of the utmost importance from a scheme of reinsertion of the offender and thus non-recidivism; Without a doubt, when being subjected to an internment center, the obligation of the state must focus on preventing the latter from committing another crime; the prison authorities have the duty to avoid that at the moment the offender goes out to the street he wants and feels as his own not to commit the same mistake again, for which

Criminological Psychology is fundamental during the inmate's treatment.

In effect, we understand criminal psychology as "the transmission of a truth that does not have as a function to endow a subject with attitudes, capacities and knowledge, but rather to modify the way of being of that subject"; the internment center should encourage reinsertion and, in this way, the inmate's non-recidivism, through resocialization treatments, where education plays a predominant role. In prison the treatments must have the character of interdisciplinary (Law, Medicine, Social Work, Psychology, Criminology, Security and the aforementioned Education) so that it modifies the endowment of attitudes, skills and knowledge, which will be the pillars of modification of the behavior of the inmate; in the case of adolescents in conflict with the law, the reintegrationist penitentiary puberty study is also fundamental (Salgado García, 2014).

For Enrique Pichon-Rivière, the association of education and psychotherapy according to the model of Dubois's psychogogy have to do with the resources of persuasion and, more directly, the assimilation of psychotherapy to an educational and self-educational action, that is, to seek "Cure" in the therapeutic value of affirming oneself through work oriented to reality (Pichon-Rivière, 1934); in plain words, that the offender conceives himself and his conduct in relation to himself and the outside environment and that he is given the necessary tools to change his behavior to the social values in which he develops.

Interdisciplinary and Integral Program

It is aimed at working in a general way with behavioral therapy "with a high psychoeducational content and aimed at reducing negative experiences and increasing positive experiences through patterns of behavior (Tomás Miguel, 2009)"; it also includes individualized therapies (based on the maslow pyramid, criminological and reintegrationist psychology) or collective, for which the training of personnel in relevant topics of educational psychology, emotional intelligence (Tere, 2012: 180), criminal and behavioral, such as the "Pygmalion Effect" and the "Lucifer Effect".

The first consists in that all those around the person treated (mainly the prison staff) focus their efforts on raising the expectations they have about it, generating in the individual the assurance that he can achieve the fulfillment of his goals (Stonemason, 1999). This has to do directly with the prison staff, when it is said that their attitudes should be positive and also participatory with respect to the programs that are carried out.

The results that are expected to be obtained are: a) Recognition of the abilities, aptitudes and abilities of each sentenced person; b) The adaptation of the tasks to the possibilities of each inmate within the penitentiary centers; c) Encourage participation; d) Recognize the effort made; e) To teach that error is part of the learning process; f) Focus on the strengths of the person, not on their shortcomings; g) Assist in the definition of their goals and motivations.

Considering all the ideas presented here, we propose:

Creation of an Interdisciplinary and Integral Program.

The creation of a Civil Penitentiary Service, integrated by professionals and technicians from different areas of knowledge, for its constant training and updating.

The Detention Centers must guarantee the minimum rights during each inmate's case, so the unrestricted right to food, health, education and personal integrity must be guaranteed, since they represent the fundamental aspects of satisfaction of basic needs (from the factors endogenous and exogenous), which allows to aspire to its reinsertion.

Private investment should be allowed for the purpose of creating paid employment programs within the center, in order to change the activities and their concentration with respect to the aptitudes and preferences of each inmate.

The participation by law of civil society organizations and the private sector in the maintenance of prisons (such as construction, repair, expansion and cleaning), in the development of programs for those sentenced and a job board to be encouraged must be encouraged. They have concrete job opportunities and according to the training provided to them in each detention center, on the understanding that when they are deprived of their liberty, in reality they are impeded from continuing to fulfill their obligations to the outside world. This fact places them in a situation of stress that undoubtedly inhibits their reintegration treatment.

The creation of an interdisciplinary program must be proposed for the human development of the sentenced persons, which responds to each of the specific

cases, based on the criminal types that they incurred using as a basis the psychogogy and / or the reintegrationist penitentiary puberagogy.

It is suggested that there be an effective post-penitentiary monitoring of the psychological therapies that were provided to them within the penal courts, for a reasonable period.

RESULTS

Achieve a reinsertion system applied based on work, training for it, education, health and sports, and the permanent approach aimed at not repeating criminal behavior; also that it has its essential base in: a) Initial evaluation; b) Classification; c) Interdisciplinary Technical Attention d) Monitoring and reclassification; e) Pre-release and reincorporation programs, and f) Probation. (Penitentiary Regulation).

CONCLUSIONS

The Mexican State is forced to respect the Human Rights of the PPL that are purging some penalty within the centers of social reintegration.

Compliance with the objectives of the National Penitentiary System can only be achieved by respecting the human rights of prisoners as a basis; since it is through the recognition of their human dignity, that their needs can be effectively covered and, therefore, generate a feeling of well-being: an absolutely necessary condition for reforming their criminal behavior and avoiding their recurrence.

Failure to respect the human rights - even the most fundamental - of the LPPs during the application of criminal sanctions, represents an impediment to reform the criminal behavior (intentions to reoffend) and ergo, can not effectively reinsert the individual into society; it betrays the very purpose of the penitentiary system.

In order to achieve the expected results with our proposal, it is very important to be understand that through education and employment, the inmate covers his most basic needs that allow him to respond to his obligations abroad and within the same criminal process in which he finds himself; he obtains an emotional / psychological stability, which will allow him to focus and collaborate together his efforts in his reinsertion process, all always having as a base and limit of action the respect to his human dignity.

Psychopedagogical treatments (using psychological therapy, psygogogy and / or penitentiary reinsertionist puberagogy) are fundamental to achieve social reintegration and thus the non-recidivism of the offender.

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