

THE HARDENING OF THE HEART

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In a resentful society, fearful and vindictive we will have sick citizens, fragmented disrupted, followers of revenge, disdain and hatred towards the other. In this way we will never be free nor will we find our real happiness. If for different circumstances the persons deprived of freedom commit mistakes, society cannot convert more perverse than it is already. The new Organic Comprehensive Criminal Code (COIP) which took effect on Sunday 10th August 2014 is the evidence, created from a narrow and miserly approach to life, as there is nothing more monstrous than increasing certain punishment, in a disproportionate manner, as if this were the best solution to stop delinquency and as if this way persons deprived of freedom could be rehabilitated through confinement which is not innate to human beings, to the Andean world view or to the idiosyncrasy of the Ecuatorian soul.

Whoever considers that the best way to protect society from delinquents, as they are called, is “cage” them, shut them up, increasing and hardening even more the punishments, as if this were the best solution to get away from the “undesirables” from the “waywards” of society, as for the majority of citizenship they have no forgiveness from God due to the crime they consciously or unconsciously committed. Whoever believes that is the case and supports the thesis of increase and hardening of the punishments with proposals who gives more to imprison the offenders of law, as if it were a public auction, considering ron la tesis del incremento y el endurecimiento de las penas, con propuestas de quién da más para encarcelar a los infractores de la ley, como si se tratara de una subasta pública, considers himself infallible, never have they committed or will they commit mistakes or horrors. Nevertheless, they forget that none of us is free from misfortune, as we are all potentially transgressors of norms which, the way they are drafted and implemented, are profoundly inhuman.

The increase and hardening of punishments is the reflection of our own wickedness, our own resentment. As we conceive others as our enemies which need to be extinguished, destroyed at any cost, and a mistaken way of doing it is their confinement, if it depended on us for their life-time, may they “languish” in prison.

The fact that punishments are accumulated for 40 years means that the real intention of the spirit of the Code is that persons deprived of freedom convert their confinement into their lives, this sanction is comparable to life imprisonment, that is if a person committed a crime at the age of 30 years, it means that if one day the person leaves prison or if he is killed in the “cage” he will be 70 years old, without option to work, professionally finished, dead in life.

In the case of sexual crimes which per se are condemnable, with no reduction of punishment, including in the case of good conduct of the person deprived from freedom, it means that the only mission of this Organic Comprehensive Criminal Penal Code (COIP) is punish to the fullest extent of the law, thus it is a lie that the aim is rehabilitation, even less reintegration of these persons in society.

Our souls are profoundly touched when we hear that adolescent delinquents are being punished with 8 years. What kind of adults are we forming? Persons who start shaping their spirits. Human wickedness of those who are responsible for drafting our laws.

These are just some examples of the Organic Comprehensive Criminal Code (COIP) which has some positive aspects, but our intention is to point out the fraud which characterizes the Code, the way it is conceived a judicial value human beings have, freedom, is in danger.

The way justice is conceived in our legislation, especially in the Organic Comprehensive Criminal Code, is the belief that justice is achieved by increasing punishments for certain crimes, “cage”

these persons for more years of confinement, in this human zoo that prison represents, which only deepens the social hatred accumulated over centuries. Hence the continuity of this outdated terminology which explains the illogical approach of the present Organic Comprehensive Criminal Code (COIP) as it undresses our inhuman condition. The State should accompany persons deprived of freedom during their confinement, their suffering, anxiety as they feel dead in life, in order to get to know and study the causes which made them commit a crime. How? Listen to them, put ourselves in their place, and most of all not judge them more than the judicial officials have already done. In some cases judging innocents and in other cases with punishments that are not proportional, and even more so as the Code only deepens the suffering of those deprived of freedom, and does not rehabilitate, repair or heal the wounds of society, but deepens them, we call this the hardening of the heart. Worsened by the awful cohabitation existing between these persons, product of overcrowding, rivalry to control the penitentiary space, the kind of hell they go through in their cells, and other factors. If one of them dies inside prison, the family members or any other person would have the right to sue the State as they entered alive and not cadaver. Hence, a real process of prevention needs to be put in place, not only rehabilitation but also reintegration of the persons deprived of freedom in their collectivity, based on forgiveness and spiritual healing. We need to look at prisons from a different angle if we denominate them rehabilitation centers. Then they have to fulfill this function, meaning they have to be converted into laboratories of the soul, observatories of forgiveness, sanatoria of regret, reconciliation, love. This is our proposal.

Society needs to make the necessary efforts to be creative, change the forms in which justice is conceived, not as sanctioning but as healing the wayward soul of persons deprived of freedom, if we want to convert them into authentic revolutionary and humanistic citizens. As exists the Criminal Law of the Enemy – the enemy is nobody else but we ourselves – the Healing Holistic Humanitarian Law conceived not only for the persons deprived of freedom but for all those involved in humanitarian problematic, with the aim to achieve a real rehabilitation and reintegration in society of this group of persons which deserve a new and different opportunity. We all deserve it. The Healing Holistic Humanitarian Law, as we denominate it, is based on serious processes of rehabilitation, the forgiveness through healing therapies to clean the stains of hatred and resent that feed the mind and the heart. The soul is ill, not calm, as it suffers from serious imbalances, and needs to be treated with urgency, spiritually healed.

The judicial framework needs to be destroyed starting with the content of the studies and the way Criminal Law is taught, -definitely it would not be denominated that way -, in our Law Faculties and Law Schools in our country, as we are being taught to litigate, to provoke more conflict, and not to solve human problems, but to deepen them, perhaps this is done due to other aspects that influence: the economic factor, as it is legitimate to earn your bread decently every day. Nevertheless, this occurs as we are all involved in a judicial system created to punish the offenders of the norm with all the “weight of the law”. Hence in some cases we have lawyers, advocates of the victims, and even Public Prosecutors who appeal the sentence dictated by the Judge or the members of the Criminal Tribunal as they consider that the punishment the offender receives is not the maximum one. Hence, in their understanding, justice is only being executed if the sanction is the maximum punishment possible. But perhaps it is not our fault, as it is rooted in our collectivity, which has enormous influence from our European imaginary and hardly and hardly anything from the Andean worldview, at the same time, Justice based on sanctions is not necessarily the best way to do justice. If the Criminal Code existed it would be to establish minimums and not increase of punishments.

The criminal law does not have to be seen as a sanction as expressed before, but as a holistic rehabilitation, which allows us to establish times for healing, if that were the case, it would not even be denominated Criminal Code, as implicitly includes the sanction. This requires a deep commitment, of a different way to conceive life, of treating human beings with dignity, with their human rights, even in the case of the worst criminals, they are persons, as we are, with the successes and failures.

The Organic Comprehensive Code, COIP, would not be studied article by article, and would not serve any longer to sanction, but to heal the soul of society. When eliminating Criminal Law, as mentioned before, it would be the Healing Holistic Humanitarian Law that would create and study professions such as: Life Project, Introduction to Forgiveness, Spiritual Healing or Life testimonies. Foundations of social rehabilitation, reintegration in society, Your history is my history, etc. These subjects would be studied not only from theory but primarily from the personal experience and living together, from affectivity of each of the involved and of all persons who desire to have a more self-critical vision, sensitive and generous with life. In this case, when studying the human behaviour of the persons deprived of freedom, other sciences would be created, other disciplines which will allow to understand human behaviour, and according to how these scientific studies, of affect, of love, were realized, our human relations would improve, hence, our living together in society.

The prison and court categories would not exist any longer, nor would the sentence, sanction, punishment, they would be there to remember that authentic, comprehensive and holistic rehabilitation of persons deprived of freedom is not achieved through that route. The persons deprived of freedom would not be denominated as such. In fact, the places where they live would not be called cells but healing and not humiliation places. They would be accepted into social rehabilitation centers which would convert into clinics of personal liberation, till rehabilitation is achieved before reintegration in society.

A Ministry of Holistic Humanitarian Healing should be created which would be in charge of monitor, observe, evaluate and execute humanitarian policies in favour of the involved, which means doing it from the generous humanity for the benefit of the collectivity. Depending on how the process of spiritual healing progressed, they would be in charge as well to rehabilitate their inmates, nobody better positioned to do this, through their life testimonies, they can understand them, tell the calvary they went through as human beings, and what caused them to commit crime.

At the same time as cleaning the soul of the persons deprived of freedom, the State and society have to care for and accompany the victims and their family members so that they learn to forgive, get rid of hatred and resentment, which shut us up even more, and converts us in prisoners of our prison, for the soul, the mind and the heart. Hence, we do not find our proper freedom either, our proper mental liberation and spiritual healing. It is necessary to work directly not only with those who confirm the penitentiary system in the country but between prison networks, which would not be called in the same way, and the citizenship in general as our society is not in a good state, socially ill and we need as well to be rehabilitated in a holistic way. Theoretical courses on human rights are not enough.

The justice officials should have psychological training. They have to be Social and Forensic Psychologists, Spiritual ones. They would be there to guarantee together with other professionals a decent reintegration of these persons into society. We know that it is not an easy task, due to the way our laws and form of thinking and acting of a part of society are conceived. But one has to start somewhere. And what better that a pilot project which allows to work with minor offenders and with women deprived of freedom, and later do the spiritual healing with men.

Justice would not have the symbol of the covered lady, blind on purpose, who rejects to look at the atrocities that are committed under her name, but it would be the generous mother, merciful, who with an infinite love embraces her children equally. This would be the symbol of justice.

Our proposal should have an echo in society, in the political class and in power. The proposal is not pro-offender, it is humanitarian, because it aims at healing the wounds of society, involving us all to rehumanize our humanity. It is inconceivable to bathe us in more hatred, of so much revenge, we should flood with forgiveness, remorse for ourselves and the others, if we want to be citizens without fear, free, responsables of our acts, our life.

¿Why do we reject progress?

