

THE DISCOURSE OF SOCIAL REINTEGRATION AND THE PENITENTIARY ADMINISTRATION IN ECUADOR 1979 TO 1986

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Prison as such has been a dynamic and variable space, has been adapting to the contemporary historical context and has obtained effective results in the processes of displacements, criminalization and appropriation as well as the invasion of big structures on poverty and misery.

It is for this reason that we could say that the dungeons, the prison, the penitentiary rehabilitation centers, the rehabilitation centers or centers of deprivation of freedom respond to a more severe structural necessity and to a specific socio-political context, independent from the mutation or adaptation of its concept.

The deprivation of freedom, a contemporary word which has been used to justify a new penitentiary regime, is a concept that was adapted long ago, similar to social rehabilitation, both terms that adapt according to the necessities of the of the penitentiary institutionalism or the penitentiary legislation. This phenomenon is repeated at many levels of the governmental and legislative machinery, in this case I will try to demonstrate how this formation of concepts configure a complex panorama, where various sectors of society intervene, el State as well as the Supreme Constitutional Court, the civil sector through NGOs and religious civil organizations.

This research incorporates a historic view at the present, it pretends to contribute to the history of laws as well as the social history, and proposes debates on the importance of unfolding a discourse in a specific context and space.

Our historiography has an important tradition, but it is necessary to incorporate a critical perspective, dynamic and variable as are society and its components. This work is a contribution for this historiography which tells the crisis of societies but not its achievements, progress or development.

The topic has been dealt with in the work of various intellectual sectors of society. A global paradigm, including Ecuador, goes through my project. In this context there exists a general concern about the social problem of seeing prisons as schools of crime, focal points of illnesses and overcrowding, or spaces of hard intra-penitentiary violence. This global paradigm that boast democracy and human rights is a pattern all over Latinamerica, the social movements, tecnology and the socialization of information allow that people get more or less interested in the stories of society.

*"He clarified that the current government is respectful with human rights and that this obliges to come to an end with the abuses and immoralities in prisons and penitentiaries."*¹

But why this emerging necessity to create an institutionalism that assumes the responsibility to correct all the problems caused by the penitentiary administration? There is a visible rupture as in many spaces of society this penitentiary crisis that does not respond only to insecurity and crime, but demonstrates at the same time an inoperative judicial system and an experienced and degraded criminal research service.

¹Narváez Napoleón Columnista, El comercio, Fracasos planes de rehabilitación de presos; Domingo 2-12 1979 pg#13

“El 18 de agosto de 1980 en la presidencia del Abogado Jaime Roldós Aguilera mediante el registro oficial # 254 del segundo año y bajo la dirección de Vicente Anda Manosalvas, se decreta la creación de la Dirección nacional de Rehabilitación social orientada a tratar el tema del sistema judicial , penal y punitivo en el país”²

Various versions of the code of execution of sentences and social rehabilitation can be found in the library of the Supreme Court, covering the period 1982 to 1991 approximately, with only minor changes related to drug trafficking and new specifications which come from the studies and researches of the Institute of Criminology of the UCE and the criminology sections of the General Public Prosecutor.

In the code of execution of sentences updated in the year 1986 a change and humanistic turn around towards prisoners can be clearly noticed together with the necessity to transform society, but society for whom and for what? This could be questions the historic facts themselves, and the existence of political prisoners could respond.

The political panorama in the country is that of many changes and transformations, what at one moment was presented as a humanistic paradigm that had human rights as a fundamental tool for action, ended up laying the foundation that allowed the exercise of power and social control to be more severe. In the case of Ecuador certain pattern is repeated, after a regime, populist, progressive or democratic, the one to follow is strictly conservative and powerful.

“Febres Cordero imposed a style of authoritarian government and the permanent confrontation with all sectors that expressed discrepancies with his political project. His violent discourse was always directed to attack the opposition, especially the sectors of the left. He tried to control the other powers of State, reason which caused permanent confrontations in the National Congress (current National Assembly), the Supreme Court of Justice (today, National Court of Justice) and the Court of Constitutional Guarantees (current Constitutional Court). He strived to discredit the representatives of these functions by accusing them to be accessories of terrorists and drug traffickers. He did not know the faculties of the Congress to designate a new Supreme Court of Justice and sent the Police to encircle the office to avoid the positioning of the magistrates designated for the term. He abused from the faculty which the Constitution gave him to co-legislate and sent dozens of economic emergency projects which put their validity in place illegally.”³

Apart from articulating an opportunistic tendency and completely hierarchical, Febres Cordero managed the legislative and judicial sustenance in a very particular manner to handle his social and political operating. All that had been addressed since the return to democracy⁴ in the country and all the progress in human rights that was realized from the legislative system was rapidly beclouded through mistaken and compulsive political, police and finally judicial operations. As an example of two organic laws, codes or decrees that contradict each other in the theoretical and practical objective is the application of the code of execution of punishments and social rehabilitation (1982) which proposes an interesting turn around for the penitentiary administration but afterwards with the political operating of the governmental administrations to come could not be realized in the administration of the penitentiary centers nor in the application of justice.

The concepts with which I will work in my research are complex concepts that have been varying and have been adapting overtime. The social rehabilitation as a discourse is constructed as a kind of institutionalisms and theorizing of this concept. This concept suggests an important turn around for the notions of punishment and criminality, as in their own terms a reintegration in society is suggested, a process of re-

²Informe del Registro Oficial; # 254 Por Vicente Anda Manosalvas ; 1980.

³Informe Ejecutivo Comisión de la Verdad ; página # 30 ; 2010.

⁴Presidencia De Jaime Roldós Aguilera 1979.

education of the behaviour that allows the prisoner or inmate to have a new opportunity to reintegrate into life in community.

The paradigm of social rehabilitation starts to lay its foundation in the progressive idea of a democratic country, the creation of a national direction of social rehabilitation was key for the formation of this concept. A notable differentiation is being put in place, during a decade, seen from the application of power and the legislative administration. Maintaining the order, civility or in more current terms the citizenship are complex structural constructions that do not respect minimum conceptions as human rights, but are in constant search for their legitimization as well as getting rooted in all daily human aspects of work and economy. These structural processes which are encouraged by the State nation since its creation are some of the aspects that we should bear in mind when proposing debates that pretend the restructuring of the same, because in one way or the other rehabilitated, reintegrated, executed or disappeared, in some way you will be silenced.