

THE INCIDENCE OF THE CRIMINAL POLICY IN THE CONFORMATION OF THE PUBLIC SPACE

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Key words: Public space, Criminal policy, crime prevention,

Abstract

Mexican Criminal Policy is distinguished by its historical repression, the strategies implemented by the current government affected directly the violence and crime index. These facts beat and modified the conformation of the public space. Recreational places, parks, streets, squares, etc., stopped having the dynamism that used to have. On the other hand, the global postmodern speech changes the conception of the city, nowadays is privileged the consumption, so the city has transform in order to achieve the goals of the capitalism, with resulting of disjointed public spaces, hindering social relations.

Therefore, it is proposed to promote a Criminal Policy with an integral and social well-being approach, these will have an impact on the conformations of public space in the city and also will be understood as policies of development and urban design.

The idyllic application of the Criminal Policy

The Criminal Policy is an activity of the public administration, as they are strategies designed to the crime prevention and repression. How to combat (or to prevent the crime) should be perform under a very careful study of: 1) The current conditions of the approaching issues, this means a critical diagnosis that shows clearly the current context, 2) The plans and programs to follow, 3) The prognosis and assessment of the probability of success, and, 4) Review, as any public policy, there should be a profound knowledge of the reality, the same as the context, secondly is needed to develop particularly actions that allows to execute, in an orderly manner, the indicated policy. With the prognosis of the reality, there will be available a guide and the guidelines about the expected results of the project's evolution, and finally, the review, which is relevant because it shows substantial information in order to decide if the strategies of the project remain the same or will be modified.

Crime is a complex phenomenon. This means that the factors and causes that originate it are multiple, therefore the Criminal Policy, in accordance with the idyllic vision, should intervene in the different phases of the crime: origin, development-evolution and retribution, a Criminal Policy will be effective insofar as it is integral. In other words, it will have the capacity to reach the desired target of prevention and crime control, in the same order that materializes the humanitarian and holistic- integrative vision of the criminal causes.

The Criminal Policy that seeks to be strengthened and diffused is the one that focuses in the preventive work, that is to say, that which prevails the structural-social actions over the punitive-reactive actions:

“A Criminal Policy that heeds the “before” of the criminal phenomenon will be oriented to put into practice social policies, fundamentally of preventive nature, to know: educational programs, job programs, solidarity participation programs, community integration programs, social security programs, among others (Bolaños, 2005, 6)

Unlike a Criminal Policy that traditionally has been absorbed by the Criminal law and that has given preference to actions that are limited themselves to the application of a penalty, the one that is referred by Bolaños, seeks to improve the social conditions: the general well-being of the citizens, such as freedom and integral security, so that the incidence of these politics will be reflected in divers fields (health, education, housing, etc.) but with the criminological finality of decrease and crime control. This approach is understood under a more humanistic point of view, since due to its own interest, it's observed as a social policy of State, which in order to generate the changes and results (crime prevention) expected, need to be supported by a strong empirical arguable work (diagnosis). If on the contrary, the reality is not known and incongruous programs, according to social needs are developed, the speech of the Criminal Policy as a preventive and integrative action, would remain in a political deceit, opportunist and clientelista¹. As a consequence, not only in Mexico, but in different countries, it is degenerated what can be a Criminal Policy into a simple one, or misnamed *política penal*², because by ignoring the real ontological nature of the problem that is pretended to be discussed, to be made support on empirical not verified and lack of the systematisation and coherence of a genuine policy, make that such actions may badly called at least penal policies (Bolaños, 2005).

Mexican Criminal Policy, the repression in a globalized world

The Mexican Criminal Policy, and its public administration in general, have been characterized by a negative history, infected with acts of corruption, impunity and an excessive exercise of power, which have been reflected in the cases of violations to human rights. Without going deeply into de political Mexican history, it is observed that in the different presidential periods, have had this regrettable constant. It is important to emphasize the general panorama of at least the latest administrations.

2000- 2006. Vicente Fox Quesada's administration

¹ There is no translation in English, one word that could be close to the meaning is: “lobbying”

² In Spanish there is a difference between *Política Criminal* and *política penal*. Political penal refers, mainly to the criminal law, and *Política Criminal* pretends to be more comprehensive and integral.

This president represented the alternation of party in the power, but it did not mean a change in actions, nor in the proposals. It was characterized by an assertive exterior politics, but in a contrasting situation, he continued the public security policies of the previous administration (which had relevant cases of violations to human rights), being so that “this model organizes into a hierarchy way, the punitive aspects and its quantitative factors, which remains reflected in the composition of the public exes, which priority destination is the prison infrastructure, the construction of quartels and, in general, the means and materials destined for the police institutions (Moloeznik 2007, p. 18).

2006- 2012. Felipe Calderon Hinojosa’s administration

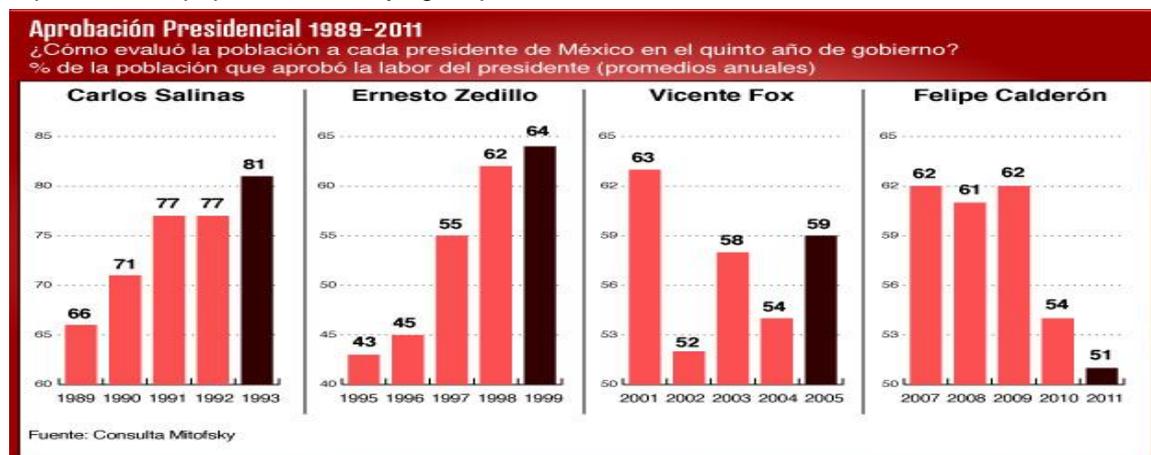
Polemic administration marked by the War against the drug trafficking, action of the federal government in opposition to the organized delinquency, which left a negative balance, as soon as human rights, inside the country. Civil organizations estimate 101 thousands 199 executed, and 344 thousand 230 indirect victims (México Evalúa, 2012).

On the other hand, though in his administration was developed the National Strategy of Crime Prevention and Combat, the actions were directed to the frontal fight of the criminal phenomenon (México Evalúa, 2014).

2012- Nowadays. Enrique Peña Nieto’s administration

He initiates the mandate with the promulgation of the Integral Law in support of the victims, but few advances have been had in cases of enforced disappearances and tortures. His administration has the tragic event of the disappearance of 43 students of Ayotzinapa and the extrajudicial execution in Tlatlaya. Facts that mark the complicity and corruption on behalf of the State.

As it is observed, the trend has been of supporting a repressive policy, where the use (and abuse) of the public force and the violations of human rights, have been the vertebral column of the administrations. In spite of the fact that this has meant aggressions against the population in general, it has had periods with high approval of the president, since such measures represented a populist and lobbying response of the State.



Source: AND político, 2012 (³)

³ Presidential approval 1989-2011 ¿How did the population evaluate each president in Mexico in the fifth year of government? % of the population that approved the job of the president (annual average).

These actions are gestated in relation to satisfying the idea promoted for the “risk society”⁴ and the idea of the “enemy out there”, or “the other as a threat to the peace”, which also served as a placebo in the face of the public alarm that demanded more safety and justice.

The upswing of the Criminal Policy of reactionary trend, was translated not only in the increase of the police and military activity in the streets, but it deeply affected the order and social stability, affecting this way, the relationships and the social fabric, therefore, it also modified the public space, in a physical as in a political way.

The change in the public space is not an isolated fact, since it conjugated with the current model of economic development that affects the physical and political conformation of the city:

The new patterns of settling and urban conformation alter the social fabric in the sense that, notions as sense of community, empowerment, social capital or community identity, have relegated the constructed environment occupied by the community, to a role of social relationships container (Berroeta & Rodríguez, 2010, p. 5)

The crime and the trend of public space modification, were conjugated resulting atomized cities, changing the forma of collective participation and the daily interaction. The panorama observed couple of years ago was, that due to the wave of violence, the public spaces were enjoyed in a minor way, instead of being used for activities of leisure and scattering, the “halcones”⁵ had been positioned of parks, streets, avenues (strategic points for their criminal purposes), for what somehow, these areas were abducted from the population.⁶

This way, the presence of the criminal groups was imposing the fear to the population and the places that used to have an important people flow, little by little they were running out of that dynamism. The life in the city, gradually became nullified, the fear grew every moment and the reason had an objective sustentation (the presence of the organize crime), so the defensive strategy and the redefinition of the public space was activated immediately (Aguirre y González, 2010).

As for the civil participation, which prevailed from that moment was the one that was bounded inside the neighbourhoods and suburbs. In an affirmative way, there was a management of the public space as Berroeta and Rodríguez indicates: “The public space is fundamental to place spatially the community practices and to base the processes of transformation than in its environment take place (2010, p. 5), nevertheless the changes that were proposed, were in a local way and represented an isolation and break with the other neighbourhoods, or even with the other streets. De Piero shares the personal view about: “it is not perceived in the region, rather than squares and similar others, which overcome the order of the vehicular traffic, to improve the compilation of the garbage, etc. There has been internalized an excessively local vision of the public space”. (2003, p, 14).

⁴ Concept used by *Ulrich Beck*: “Phase of the development of modern society where social, political, economic and industrial risks tend, increasingly to escape control institutions and the protection of industrial society” (*The society of risk*, 1992)

⁵ “Falcon”, given name to the person who is in charge of the monitoring and supervisión of a specific place, that is free of cops or another organized crime member.

⁶ Nowadays can not be assert that the public space has been recovered

The conformation of the public space in the age of the globalization

The design and current conformation of the cities is the representation itself of the globalization, it symbolizes de exclusion, the inequality and the disorder that this economic and political movement has unleashed. In the trace of the city it is possible to observe how the social relations of production have been formed, which in turn indicates the contradiction in which the urban-societal relationships are being developed and the importance, -therefore the summit-, given to goods. That is why, the social neoliberal model restored the public space privatization, marking a transition in the leaders and allowing to the multinational companies (or the power groups) to carry out important decisions about public local, national and global space. (De Piero, 2003). As Rogers suggest, the cities should be, over all, places of meeting between persons, nevertheless the space –the streets and squares-, and the current city have been invaded by vehicles (for mentioning one negative element) and therefore are design the spaces to respond to the needs of the traffic and visually full of signpostings (Rogers, 2000)⁷. The English author observes the vehicle highly harmful, in the Mexican case, it was not only that, but also the invasion of the organized crime.

In this order of ideas, the present public space issues the message opposite to the validation of the social practices and breaks with the intention of constructing a collective project. "The ethic consequences of these practices were the indifference and exacerbated individualism, that built a notion of the public thing as the space of the social dispute and of the pre-eminence of the particular interest of the group" (Livingston, 2006, p.7). Therefore, in a previous discussion is told that the practices and the social interaction-participation are still actives, but in a very targeted to the neighbourhood perimeter. Ellen Posner thinks about that:

As members of a nowadays profession devoid of ethics, the architects have not channelled well the problem. This way, many of the turn into accomplices of the urban segregation taking orders where there is explicitly asked them to install barriers and private roads, to separate the undesirable ones; contributing this way, to a privatization of the public space with strictly commerce ends" (quoted in Richards, 2000, p.69).

Posner throws a strong critique to the guild of architects as responsible of the urban design, nevertheless, the capitalist vision has invaded all the professions equally, this way it is possible to give an example of the criminologists who have contributed to the hegemonic speech creating the figure of the delinquent as that one that commits an outrage against the interests of this oligarchy. Therefore to change the reality, it demands a great responsibility and change of vision, of all equally. And as consequence of the economic- political model, and materialized for his workers, the chaotic cities have born⁸.

The chaotic cities demand practices and knowledge for which they are not prepared: " The deny city was born. Because, in the way in which the public spaces crossed themselves with the lack,

⁷ In the same way that the elevator made possible the skyscraper, the car has allowed that the citizens could live far from the center of the cities and has facilitated the division of the daily activities by compartments, separated from the offices of the shops and these from the houses [...] The cities around the world are being transformed to suit the needs of the car, although it is this, more than the industry, main factor of pollution of the planet [...] is also an irresistible culture icon that gives social class and charm. " (Rogers, 2000, p.35-36)

⁸ The city has finally been understood for being as a temple for the consumism. [...] The result of this stream is the decline in the vitality of the urban spaces (Rogers, 2000, p.9)

and the leader classes sheltered in a fragmented space, the chaos was restored in the urban relations and marked the public thing as the space that did not concern to anybody". (Livingston, 2006, p.8). The denied city, by means of his inaccessible spaces, which it is only for a few, is not a city for all, is not a city that it includes, but rather, it excludes, atomizes and fragments.

In this sense, De Piero (2003) he thinks that the question of the public space links itself directly to the crisis of the State, concludes this due to the fact that, from the Keynesian politics, it increased the public work, which materialized in the design of cities that it annihilated with the colonial order (2003):

Is so that in countries such as Argentina, Brasil or Chile, the public buildings begin to "compete" with the religious temples, in height and design, there are built companies of state property, that form the image of the progress and the construction of the industrialism to the interior of the " national project "; there is regulated of the stock market and the external market, which strengthens the capacity of the State to submit, in the public space, the private interests, etc. The accomplishment of these spheres begins to be, in different parts of the world, synonymous of a State - forceful nation, and even under opposite political rate: liberal capitalism, fascism, populisms or communism, all which display of a State that dominates the public scene across his companies or monuments accompanied in many cases on the worship to the personality, the charismatic leadership, new construction of the political leadership (De Piero, 2003, p.5)

The city has gone from being a public space to be a private one, where certain sectors are favoured and there are criminalized those who have been expelled from the hegemonic project, barriers are constructed instead of bridges. This is what the current intervention has been focused on, in which the physical transformation and the degrees of political participation, they are kept as islands, without interacting with others in similar conditions. Due to the fragmentation, the ability to gauge the neighbourhood, and therefore the city, is impossible, then there is no present the element of which to appropriate and to identify: "The constructive resultant characteristics, the uses and the meanings of the physical spaces of the neighbourhood constitute his urban dimension" (Berroeta y Rodríguez, 2010, p.5)

Situational prevention vs integral prevention. The modification of the immediate environment for the control of crime

The Criminology focuses in the crime prevention, and in this respect, the United Nations it lists four forms:

- Prevention through the social development (social prevention of the crime): it refers to those actions that increase the social well-being, for example, the health, education, employment, among others. It looks for the eradication of the the present vulnerability.
- Prevention in a local level or "community prevention ": It looks for strengthen the social bows and the social capital.
- Situational prevention: The approximation that involves a wide set of not penal measures, tending to prevent the criminal act through the modification of the particular circumstances in which a series of similar crimes are committed or can be committed.

- Prevention of the recidivism: aimed actions in order that, so far the victim or the victimizer do not relapse in the crime. (ONU-Habitat, 2010).

These approaches basically centre on improving the conditions of the daily safety and of the environment where this one claims to be developed, since for example, the neighbourhood, the parks or schools. Also since it is possible to observe, discusses measures that focus in the strengthening and development of the community social capital, which is sustained in the utilization of the qualities and community existing conditions.

The probability of success to the combat of criminality increase, the way these types of prevention combine, as there will be re-dressing the desired well, which they are the safety and the integrity of the citizens, from the major number of possible edges. The macro policies scope (structural changes), they are operations that can be observed in the long term, unlike those that are orientated to the modification of the urban environment, which they represent a rapid change. This due to the fact that, this approach centres on small actions but it sufficiently practical to solve in an immediate way, some criminal problem. For example: increase of surveillance cameras, gates, cards of identity, alarms, fences, meshes, etc., they are answers that do not solve the structural problem of the criminality, but yes they affect that one that occurs day by day. However it seems that, slowly immediate changes are being adopted, instead of that ones that demand profound changes, this because of several reasons, one is the waiting time to observe the results, other reason, because there is needed a huge politic and economical will.

As an example to the exposed, it is the modification to the urban environment what is prevailing nowadays, which means the closing of streets and neighbourhoods. They are actions that are contradictory to the position where the community union is the solution to the criminality. Similarly, it reinforces the idea of that the community prevention is being doing in a very local level, which restricts considerably the possibility of changes to structural level. Therefore, the meaning prevention " in - from-for " the community has been distorted and manipulated in agreement to another type of perverse interests, since the new projects of housings, constructed by private groups, are designed to satisfied the demand of specific consumers, and not to consolidate the existing neighbourhoods. And the solution is in the housing itself since, "the way of answering to the enormous demand and strengthening the existing communities, resides in the remodelling of the degraded and left areas, to produce dense, compact and mixed complexes around knots of public transport (Rogers, 2000).

The response of the society in the face of the alarming situation of insecurity, was through technologies of situational prevention. In a concrete way, it was the implementation of physical barriers (inner doors, surveillance, surveillance cameras, etc.), which have had a great summit and acceptance on behalf of the population itself, of the government (particularly de local administrations), and over all, to the constructions ones: a) For the population, it represents an "effective" and immediate response in the face of the disability of the State to offer safety, b) for the government it represents a minimal or null investment (the expenses are assumed generally by the neighbours) and does not demands a change on its policies of crime prevention and, c) For the construction ones, because it means the increase of his product inside the market (the

development of complexes clusters). In this sense, the Criminal Policy affects in the policies of development and industrial design in a negative way:

The closed spaces satisfy our whim of private consumption and autonomy and are, in this sense, very effective. Otherwise, the opened spaces contribute something in common: they group different parts of the society and feed a sense of tolerance, conscience, identity and mutual respect (...). The selfishness and the segregation are winning the game to the relationships and the community. In the new modalities of urban development, the activities that used to overlapped, now differ with the idea of making profitable to the maximum the interests of promoters and traders (Rogers, 2000, p.10).

The Mexican Crime Policy along with the economic system, they have generated a response through the change of the urban design, which symbolizes the criminalization of "other one" and is far from an of integration project. Inside the stance that are achieved to bring over to an alternative offer it is CPTED (Crime Prevention Trough Environmental Design), It offers very interesting solutions that integrate the modification to the urban space involving to the community, nevertheless, also it remains in a range of local interference, since they do not do a rethinking about the new conception of city, nor there is an offer of criminal policies as politics of development and urban integral design in its approach. As it was exposed before, the different strategies of prevention must be articulated as aggregations of the different scopes of each one, because they are complementary of a phenomenon as complex as it is the criminality.

Final thoughts

The public policies, therefore the criminal, must be integrated by those that they reflect results to short, medium and long term, though sometimes for political reasons, long-term ones are not possible to run. Here it resides part of the difficulty in observing that the humanitarian and integral proposals offer answers of a major positive impact in the society and this is the only way that is possible to speak about a suitable politics of development and urban design of an integral way. For Rogers:

"Thus, the public long-term needs would go ahead of the private interests, without limiting excessively the autonomy of architects and promoters. The creation of a quality of civil long-term life redounds to the public interest and this one is the reason for which a shared responsibility guarantees a coherent planning. The planning for the future London needs a governmental direction, the contribution of the best designers and the active implication of the citizens" (2000, p.116).

He talks about of the experience in London, nevertheless, the rest of the world does not escape from reality that he exposes. Economic and political interests have hindered the development of strategies that protect and promote the best quality of life, major cohesion and civil participation and therefore, the crime prevention. The repression continues to be the very first option of the governors, and where it is lived is in the public space, place where human rights are not respected, no freedom, no tolerance, no nothing. Therefore is that:

"To share the public spaces supposes breaking with the prejudices and force us to recognize the common responsibilities, consolidating this way the communities. The freedom of the public

space must be defended with the same enthusiasm that the freedom of expression". (Rogers, 2000, p. 153).

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