

TEMAS DE DERECHO PROCESAL PENAL I.

- 1. SISTEMAS PROCESALES.**
- 2. SUJETOS DEL PROCESO PENAL.**
- 3. ACTOS INTRODUCTORIOS.**

1. SISTEMAS PROCESALES.

Comenzaremos explicando que es un sistema penal y para el efecto se dice que es un conjunto de actuaciones desarrolladas por instituciones del Estado y por particulares que tienen sustento en normas sustanciales y procesales, con la finalidad de solucionar un problema concreto.-

El problema en este caso, es aquél que tiene que ver con el conflicto que genera el delito, o mejor dicho, con aquellos hechos que revisten las características de una conducta punible.-

Varias maneras de solucionar los conflictos se muestran diáfanas:

Aquellas formas de solución que buscan respuestas punitivas (sistema penal)

Aquellas formas que pretenden reparar los perjuicios (sistema civil)

Aquellas formas que tienen como fundamento los estudios de las enfermedades mentales y las respuestas a esas enfermedades (sistema terapéutico), muy estudiado por la criminología, ciencia ésta que busca responder a la pregunta por qué delinque el ser humano;

Aquellas formas que tienden a la solución pacífica de los conflictos (sistema conciliatorio).-

Ahora bien, la prevalencia de cualquiera de los sistemas mencionados, depende de las circunstancias temporo-espaciales de cada caso en particular. En algunos, el sistema penal se constituye en la única respuesta al conflicto generado por los hechos que constituyen conductas punibles, en otros tantos, la conciliación y por ende la reparación son el cometido de las actuaciones.-

En Colombia, la normatividad penal permite, sobre todo en delitos querrelables, la conjugación por decirlo de alguna manera, de los sistemas punitivos y conciliatorios. Claro está, que si los problemas resultan conciliados, la respuesta punitiva no se materializa.-

De lo anterior concluimos, que el sistema penal busca una respuesta punitiva que no es ilimitada, ni descontrolada. Por el contrario, todo sistema tiene su control y sus límites. El control social y los derechos humanos establecen una barrera infranqueable a todo sistema punitivo.-

Por último diremos que, un sistema penal depende en su estructuración concreta, de las tensiones que se generan en determinado momento histórico y de las respuestas políticas imperantes en ese entorno. Por ende, el poder institucionalizado

Temas De Derecho Procesal Penal

José Fernández de Cevallos y Torres

A red circular graphic with a gradient, appearing as a semi-circle or a stylized 'C' shape, located to the right of the author's name.

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