



Tensiones Derechos Fundamentales O Persecucion Sin Limites

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Tensiones Derechos Fundamentales O Persecucion Sin Limites:

Legacies of State Violence and Transitional Justice in Latin America Nina Schneider, Marcia Esparza, 2015-10-22

Legacies of State Violence and Transitional Justice in Latin America presents a nuanced and evidence based discussion of both the acceptance and co optation of the transitional justice framework and its potential abuses in the context of the struggle to keep the memory of the past alive and hold perpetrators accountable within Latin America and beyond The contributors argue that transitional justice understood as both a conceptual framework shaping discourses and a set of political practices is a Janus faced paradigm Historically it has not always advanced but often hindered attempts to achieve historical memory and seek truth and justice This raises the vital question what other theoretical frameworks can best capture legacies of human rights crimes Providing a historical view of current developments in Latin America s reckoning processes Legacies of State Violence and Transitional Justice in Latin America reflects on the meaning of the paradigm s reception what are the broader political and social consequences of supporting appropriating or rejecting the transitional justice paradigm

Derecho penal de la traición a la patria Amando Aquino Britos, 2023-11-01 El autor aborda la relación entre el derecho constitucional y el penal a partir del concepto de traición a la patria toma el delito de enriquecimiento ilícito como un atentado contra el sistema democrático y estructura una categoría jurídica que define como la teoría del traidor a la patria que la diferencia con la llamada teoría del derecho penal del enemigo Parte del análisis de democracia estado de derecho las garantías constitucionales del ciudadano como las prerrogativas del funcionario público y su situación ante la sociedad y el ordenamiento jurídico vigente Toma la constitución como premisa y la llamada teoría de la imputación objetiva del derecho penal para analizar tal problemática Desde allí cuestiona una instrumentación estatal de tipo infraconstitucional que no se compadece con los mandatos de nuestro máximo texto legal y que restringen los derechos del hombre como al que se le veda la participación y control de la cosa pública Propone alternativas para superar el déficit que encuentra entre la constitución y la práctica institucional

Hacia un derecho penal equilibrado. Plataforma razonable de política criminal Herrero Herrero, César, 2015-01-26 Es un hecho no menesteroso de gran contrastación la existencia dentro de un sector muy amplio de la sociedad española de una opinión constante sobre que en el nada exiguo campo de lo penal en su dimensión sustantiva procesal y penitenciaria puede y debe observarse al menos para el propio País muy relevantes desequilibrios Siendo los más llamativos los consistentes en trato desigual con respecto al reconocimiento de derechos y deberes de cada una de las partes naturales contendientes en el conflicto traído por el hecho criminoso Debidos principalmente gran parte de aquellos a determinados planteamientos y técnicas legales a algunas resoluciones judiciales sean de ámbito nacional o internacional recuérdese las últimas sentencias del TEDH versus España o a ambas Siendo llamativo también que sean según la precitada opinión los delincuentes más peligrosos midiendo la peligrosidad por la entidad y gravedad del bien jurídico por ellos quebrantado y por su modus operandi técnicamente avanzado y dolosamente sibilino los

mas beneficiados Todo ello a costa de la sociedad en cuanto tal y sobre todo de las victimas concretas directas o individualizadas Partiendo el autor de que a su juicio esas observaciones persuasiones de la ciudadania tienen fundamento dice ser exigible esta pregunta Dnde tienen su origen tales desequilibrios y lagunas Y en su respuesta viene a sugerir que Un examen sosegado de algunas de esas leyes de esas resoluciones judiciales sea en el ambito procesal o penitenciario permitir a segun l avanzar lo que sigue Que al tiempo de abordar la resoluci n de algunos conflictos penales complejos sea en fase legal judicial o penitenciario o en las tres parece no tenerse suficientemente presente por los sujetos activos de decisi n las exigencias impuestas para estos casos por los postulados fundamentales del Estado Social y Democr tico de Derecho O sea tenerse que resolver estas cuestiones de manera que sean respetados equitativamente los derechos y delimitados correlativamente los deberes de cada uno de los contendientes entre s sociedad como tal victimas concretas o directas y el reo o delincuente durante el continuum en que se extiende el contencioso del hecho criminal que se sustancia Las leyes resoluciones judiciales resoluciones administrativo penitenciarias que no satisfagan esa triple demanda de parte han de ser tildadas de injustas porque injusticia es no dar a todos y cada uno lo que en derecho les pertenece y en la medida en que les pertenece O agrandar los derechos de unos a fuer de aminorar il citamente los derechos de los otros Pero en consecuencia como es factible salir de este c rculo jur dico penal marcadamente deficitario y por lo mismo injusto Teniendo la decisi n eficaz por los responsables democr ticos de gestionar la res publica de crear un Derecho penal destinado a proteger por igual a dichas partes Naturalmente sin dejar de tener en cuenta claro est la distinta situaci n de cada una de ellas respecto a las consecuencias derivadas del fen meno delincuencial aqu y ahora contenido En esta obra se recalca desde luego la imperiosa necesidad de construir en serio un Derecho Penal tambi n para las victimas Pues bien Un Derecho penal en su triple vertiente con tales caracter sticas s lo puede ser construido si existe firme compromiso por los mencionados responsables de imponer como criterios informadores irrenunciables en la creaci n interpretaci n aplicaci n y ejecuci n del mismo los valores superiores tico jur dicos justicia igualdad libertad dignidad de la persona que campean en el frontispicio de los Estados Sociales y Democr ticos de Derecho Valores que por ello han de impregnar los principios espec ficos fundamentales de cada una de las ramas jur dicas aqu las tres ramas del Derecho penal Derivando el mensaje de aqu illos y stos hacia la elaboraci n interpretaci n y ejecuci n de sus leyes nica forma tambi n de que cobre medida el ejercicio de los derechos humanos que al tener que practicarse en sociedad ste no puede ser ilimitado pues se producir an invasiones excluyentes y por ello inadmisibles por il citas Para la realizaci n de esos fines ha de llevarse a cabo los correspondientes juicios de compensaci n entre s de tales principios bajo la gida de dichos valores He aqu el objeto de reflexi n de este libro para propuesta de alguna soluci n a cuestiones tan complejas Sociedad y fuerza pública ante los retos de la paz Luis A. Vélez Rodríguez, 2017-07-17 El escenario colombiano actual frente a la terminaci n del dilatado conflicto armado resulta marcado por un cierto halo de incertidumbre acerca de si el rumbo estipulado por el acuerdo de paz firmado por el gobierno del presidente Juan Manuel

Santos y la guerrilla de las FARC el 24 de noviembre de 2016 en el Teatro Colón de Bogotá traer consigo un cese definitivo a la cadena de horror y crueldades que llenan las páginas de los libros de historia y de la prensa no solo en Colombia sino en la región Tomado de la presentación **Detención preventiva y control de convencionalidad** Luis Blaimir Palacios

Mosquera, 2018-05-01 La detención preventiva más que cualquier otra institución jurídica más quizás que la propia pena pone en peligro los derechos fundamentales y la seguridad jurídica Esta medida que se aplica a quien por mandato constitucional debe ser considerado inocente y tratado como tal se ubica en el campo de tensión entre el deber estatal de perseguir el delito y el deber estatal de salvaguardar los derechos fundamentales Por esta razón la labor de regulación y aplicación de la prisión provisional resulta ser una actividad compleja y quirúrgica pues se trata de conciliar dos propósitos constitucionales de difícil sincronización La manera como se resuelva este conflicto revela la vocación democrática o autoritaria del Estado En consecuencia en el Estado Constitucional el gran escollo de la detención preventiva no está en su existencia como tal sino en su configuración legal y desarrollo judicial respetuoso de la dignidad humana y los derechos fundamentales En este orden de ideas el tema de este escrito se concentra en los fines de la prisión preventiva concretamente la causal de peligro para la comunidad prevista en la legislación procesal colombiana Se trata de evaluar dicha finalidad desde la perspectiva del Sistema Interamericano de Derechos Humanos para determinar su compatibilidad con el Pacto de San José y la jurisprudencia de la Corte IDH **Estudios de paz y justicia** Bernd Marquardt, 2023-02-01 Es una obra que explora la intersección entre la paz

la justicia y los derechos humanos en contextos de conflicto y postconflicto particularmente en América Latina Este libro reúne análisis y reflexiones sobre cómo construir una sociedad más equitativa y pacífica a través de la justicia El libro tiene como propósito ofrecer un marco teórico y práctico que permita entender los desafíos y oportunidades en la búsqueda de la paz y la justicia analizando experiencias concretas y modelos aplicables en diversas realidades *Castigar al prójimo* Roberto Gargarella, 2019-11-20 Mientras que las sociedades son cada vez más multiculturales la población de las ciudades continúa siendo notoriamente homogénea Cómo entender este desajuste Más que atribuirlo a una supuesta tendencia natural al delito entre los sectores más vulnerables cabe pensar que la ley penal aplica un sesgo sistemático y discriminatorio y que al hacerlo protege un orden injusto Como lo que está en juego aquí es el uso del aparato coercitivo estatal que implica la imposición deliberada de dolor el castigo no puede considerarse de manera superficial sobre todo en contextos de marcada desigualdad Para dejar atrás las trampas más frecuentes que perpetúan la brutalidad del sistema Roberto Gargarella se propone repensar el derecho penal desde los cimientos recuperando sus lazos con una democracia que apueste a la inclusión y a la deliberación colectiva Así discute con el populismo penal y sus políticas de mano dura contra el crimen amparadas en la voluntad de un pueblo al que nunca se consulta pero al que se atribuye el reclamo de penas más severas que los medios y las encuestas de opinión amplifican Y polemiza también con quienes desde posiciones más progresistas proponen la aplicación mínima del derecho penal como un mal menor al que habría que resignarse Unos y otros en definitiva alimentan el elitismo de la justicia

penal un ámbito refractario a la discusión abierta En diálogo controvertido e incisivo con autores como Carlos Nino Eugenio Raúl Zaffaroni Luigi Ferrajoli y Antony Duff entre otros Gargarella postula y defiende una visión alternativa que alienta la participación ciudadana en la justicia por la vía de mediaciones conferencias o jurados y experiencias innovadoras de reproche estatal Obra de uno de los especialistas más brillantes en el campo del derecho que conjuga la contundencia conceptual con la voluntad de intervenir en el debate público Castigar al prójimo abre el camino para revincular la justicia penal con la democracia

Encrucijadas del derecho penal internacional y del derecho internacional de los derechos humanos Daniel R. Pastor, 2009 **Propuestas penales** Pérez Álvarez, Fernando, Díaz Cortés, Lina Mariola, Heredero Campo, M.^a Teresa, Villasante Arroyo, Nathali Janeth, 2016-12-15 Las contribuciones aquí recogidas son reflejo de mucha y muy buena investigación La originalidad de sus aportaciones recorre múltiples aspectos que las Ciencias Penales reclaman en la actualidad ante los retos que la sociedad actual y globalizada nos plantea desde la tecnología a la internacionalización de los delitos el derecho comparado o la nueva delincuencia **En defensa del estado de derecho** Molineros, Viridiana, Pérez, Joan Lluís, 2017-04-29 La amenaza del terrorismo probablemente es uno de los grandes problemas que afronta el siglo XXI y no está supeditado a un territorio específico sino por el contrario es un mal que se extiende por varios continentes Esta obra resultado de un trabajo interdisciplinario de la Red interuniversitaria para el estudio de las transformaciones constitucionales del Estado presenta diversas investigaciones acerca de cómo este fenómeno ha impactado esferas sociales jurídicas y políticas y de qué manera generan limitaciones a libertades y a muchas conquistas históricas de los seres humanos

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