

Andrea Lombraña, Carolina Di Próspero and Natalia Ojeda

The Prisons of Democracy. Experiences* of Prison Management in Contemporary Argentina

The article presents a set of dissimilar experiences and a diversity of state responses in prison matters since the recovery of democracy in Argentina based on the identification of three relevant moments. The first is marked by the search for a politically progressive public policy and a democratic penitentiary practice (1983–1989); the second, by the design and implementation of the “Plan Director de la Política Penitenciaria Argentina” (Master plan for Argentine prison policy), aimed at the recovery of the correctionalist model and its institutional consolidation (1990–1999); and the third was sustained by an abrupt change of course embodied in the Sentencing Plan, following the models of “risk”, the desistance from crime and the Anglo-Saxon criminologies of “What Works” (2014–2020).

Schlagwörter: democracy, prison management, public policy

Die Gefängnisse der Demokratie. Erfahrungen aus dem Justizvollzugsmanagement im zeitgenössischen Argentinien

Der Artikel präsentiert eine Reihe unterschiedlicher Erfahrungen und eine Vielfalt staatlicher Reaktionen in Gefängnisangelegenheiten seit der Wiederherstellung der Demokratie in Argentinien, basierend auf der Identifizierung von drei relevanten Zeitspannen: Die erste war gekennzeichnet durch die Suche nach einer politisch fortschrittlichen öffentlichen Ordnung und einer demokratischen Strafvollzugspraxis (1983-1989). Die zweite war gekennzeichnet durch die Gestaltung und Umsetzung des ‚Plan Director de la Política Penitenciaria Argentina‘ (Masterplan für die argentinische Gefängnispolitik), der auf die Wiederbelebung des Strafvollzugsmodells und seine institutionelle Konsolidierung abzielte (1990-1999). Die dritte Zeitspanne war getragen von einem abrupten Kurswechsel, der im Sentencing Plan verankert ist, nach den Modellen des ‚Risikos‘, der Desistance und den angelsächsischen Ansätzen von ‚What Works‘ (2014-2020).

Keywords: Demokratie, Gefängnisangelegenheiten, öffentliche Ordnung

* The category prison management experiences is considered as a concept of native use within the penitentiary field in Argentina. It refers to all the discourses and practices produced around the treatment of issues related to the management of prisons that operate as a general orientation of public policy on the matter; and they are materialized, generally, in plans, projects and programs.

1. The Challenges of the Day After Political Imprisonment

The political prison (Garaño and Pertot, 2007) of the 1970s in Argentina can be read as part of the machinery of repressive governments which from 1930¹ deployed a systematic persecution of opponents throughout the country. Prisons then played a preponderant role and were a reflection of the struggles and contradictions of the period, offering themselves to the governments in power as scenarios for the resolution of political and social demands.

The Federal Penitentiary Service (SPF) was one of the main institutions receiving political prisoners. After the 1976 coup, the entire structure of the SPF was made available for the “fight against subversion” (Garaño and Pertot, Op. cit.) and progressively housed a large number of political detainees. During these years the penitentiary establishments were characterized by the common use of punishment and isolation cells, poor living conditions, the implementation of brutal seizures, the practice of torture and systematic threats, the absence of medical care, among other inhuman and degrading conditions.

The process that began with the return to democracy in 1983 brought with it a radical separation between two spheres that until then had functioned more or less in tandem: the political and the military (Frederic, 2008). This phenomenon took shape on the one hand in the “demilitarization of politics”, but also in its flip side: the “depoliticization” of the armed and security forces, with diverse consequences for prison management at the national level. It stands out as a central axis, in this context, the challenge that it meant for the penitentiary agency to begin to dismantle the distinction *political prisoner*² and *common prisoner* which until then had guided the treatment of the prison population, fundamentally from a strong process of amnesties developed between 1981 and 1983.

However, prison management in relation to the broader socio-political process that has taken place since the recovery of democracy in Argentina has not received systematic attention from local studies specializing in the field. This is probably due to the fact that the consolidation of the public and political problem of (in)security in relation to common crime has emerged late associated with prison management for most researchers in this field.

The academic production in this sense focused fundamentally on showing the issues associated with persons deprived of their liberty. Prison officers and prison policies implemented by them have not had further development except for some exceptions such as the production of Ivan Galvani (2016), Karina Mouzo (2010) and Beatriz Kalinky (2008). Kalinsky points out that prison work has little social recognition, “[...] it does not give prestige, it is poorly paid in relation to the demands it presents, it is highly hierarchical, and those who are in daily contact with the inmates have little decision-making power in situations that suddenly arise” (2008, p. 45). Galvani analyzes the training of prison personnel in the Province of Buenos Aires and from there, through the analysis of labor trajectories, he shows how they carry out their tasks, giving meaning to their practices. Karina Mouzo describes and analyzes a specific treatment program for the population of young adults housed in the SPF. Her contribution lies in showing

¹ “The civic-military coup executed on 6 September 1930, which installed conservative groups in power, carried out practices of political persecution of socialist and radical opponents, but in particular communist militants (...) After overthrowing the constitutional government of Hipólito Yrigoyen, a wave of political imprisonments was undertaken that altered the normal development of prisons” (Silva, 2012, p. 7-8).

² Throughout the article we use *italics* to refer to the concepts of native use, these are socially constructed categorisations that operate in practical life, recovered from the discourses of the actors in the field under study.

how the “resocializing” ideal on which this program is based “makes it possible to produce security (both for society and for the prisoners themselves) while respecting and protecting the rights of detainees” (Mouzo, 2010, 14).

In this line of inquiry, the article then presents a set of dissimilar experiences and a diversity of state responses in prison matters since the recovery of democracy in Argentina, based on the identification of three relevant moments: the first, marked by the search for a politically progressive public policy and a democratic penitentiary practice (1983-1989); the second, marked by the design and implementation of the Plan Director de la Política Penitenciaria Argentina (master plan for Argentine prison policy), aimed at the recovery of the correctionalist model and its institutional consolidation (1990-1999); and the third, sustained by an abrupt change of course embodied in the Sentencing Plan, following the models of “risk”, the distance from crime and the Anglo-Saxon criminologies of What Works (2014-2020).

This comparative analysis is part of a broader research project that aims to show, through the survey of: practices, meanings and central elements of institutional construction and organization, the recurrences and divergences in prison management during the period under study. This line of work constitutes a pending area of investigation at the local level within prison studies, there are no approaches that allow us to reflect on the strategic design of prison systems at the national level from this perspective. The importance of doing so lies in the possibility of rethinking prison practices from an integral perspective, considering that state responses to crime and its treatment in prisons require an open and pluralistic discussion that encourages citizen participation in the construction of new consensuses aimed at deepening and strengthening democracy in Argentina.

To this end, this text presents the results of the ethnographic approach to public bulletins and institutional magazines, as well as interviews with SPF officials who had management responsibilities during the period under analysis. The development of the methodology focused on analyzing the management of prisons as realities that are constructed in dynamic and contextualized social processes where native representations are elaborated, as well as practices and trajectories that escape technocratic structures and allow their functioning to be modified; at the same time, they show the creativity of the groups and individuals who act within these networks in the prison space.

From this perspective, the research work included a combination of different techniques according to the type of information that emerged as relevant at each stage of the fieldwork. The first instance was based on an ethnographic approach to different documents produced by the state (Tiscornia, 2004). Corrigan and Sayer (1985) understand that the forms in which the belongings of those who govern and those who are governed are organized are materialized through concrete rituals and routines of government, which are embedded in real institutions: laws, judicial decisions, administrative procedures, registers, forms and a whole series of acts through which the state nationalizes and regulates individualities. However, converting these graphic artifacts into analytical constructs and transforming them into a field of enquiry involved a series of tasks that Muzzopappa and Villalta (2012) described in detail. The authors understand that a first step is to deconstruct the documents as objects and reconstruct them as processes. Situating the documents found in their context of production, conservation and classification made it possible to account for the temporalities at stake and the social-historical processes involved in each of these stages, while avoiding literal reading operations. Secondly, examining how the realities that the documents refer to are constructed (and on which state intervention is required) allows the authors to inform about how the actors decide on their

legitimacy as those responsible for dealing with the “problem”. In the work with the public bulletins, therefore, special attention was paid to how each actor interpreted the conflict in question and in what way it claimed to be able to intervene as a representative of the state. Finally, Muzzopappa and Villalta point to the need to use complementary sources, such as participant observation in institutions involved in the production of these documents or through which they circulate, and interviews with agents who work or have worked in these institutions³. In this way, another instance of the research involved the development of non-directive interviews (Kandel, 1982) to prison officers and agents seeking to obtain experiential concepts (Agar, 1980) that would give an account of the way in which they conceive their task and assign content to their interventions.

2. The Democratizing Intention

This period of SPF management was characterized by the need to build and show a new face of the institution: a democratic institution, in stark contrast to the previous dictatorial period. The democratizing intention, installed by the national government⁴, constituted the north of the penitentiary management.

The socio-historical context marked by the restoration of the constitutional regime on the 10th of December, 1983 was a complex moment. The recent past was marked by the last civil-military dictatorship in Argentina (1976-1983) and the challenges that, for an institution that had been functional to the National Reorganisation Process (so called by its military ideologues), entailed facing a new democratic stage. In order to carry out these challenges, the new leadership of the penitentiary service framed its management within the much broader management of the national government. In this sense, recurrent reference was made in various institutional documents (articles in institutional magazines - *Revista Penal y Penitenciaria* -, Public Bulletins and public speeches in general) to the enormous task ahead of the new officials of the republican government and the prison institution in line with it. This aspect, derived from the inaugural character of the democratic period, also delineated a particular interlocutor: in acts and speeches of its main actors (the National Directors) the addressee was usually not only the penitentiary agent (or the universe of the penitentiary system) but the general public, the people of the Argentine Nation:

“The task will be no more arduous than that to be carried out in other areas by the new officials of the republican government that has been installed as of the 10th of this month by decision of

³ We conducted 15 interviews with correctional agents into the broader investigation. In this paper the names and other data of the people interviewed were reserved for the purpose of appearing in this publication. As it is sensitive information not doing so could collide with the right to personal integrity and safety of the research subject. We therefore consider that for the purposes of this study “their actions matter in relation to the structural place they occupy in a certain network of relationships... In addition, because the way in which they acted... is a form of regular action” (Tiscornia, 2018 ,12). In many cases, the places and dates of the reported events do not appear either, or appear modified, since we consider it sufficient to know of their existence in this case (Martínez, 2004).

⁴ The radical government of Raul Alfonsín ran from 1983 to 1989. The effectiveness of his discourse in the transition to democracy in Argentina lies in the fact that he managed to identify the political opening of 1983 as a point of rupture between an authoritarian past and a democratic future.

the people of the nation.” (Public Bulletin N°1 583, year 1983. Appointment of National Director Dr. Héctor Miguel Rossi. Act of possession of the post)

At the same time, there was a particular addressee within the corps of the SPF. While the leadership had undergone changes, the prison corps remained relatively intact. The interlocutors of the speeches were all the people who made up the prison corps, but it seemed to be a message aimed especially at those who sympathized with the former military governments; that is why the speeches emphasized “the decision of the people of the nation”. This addressee had to understand not only the inaugural character of a new stage of the institution, but above all, it had to join in the task of deconstructing the not only negative but also repudiatory role that had been played during the previous period. The message showed that these were not arbitrary decisions of force but of an entire nation that had elected a democratic government. Therefore, the magnitude to which the message referred implied the importance of compliance.

References to legal frameworks and rationality were recurrent in this period as a counterpoint to the irrationality of the dictatorships, as the following excerpt shows, from legacies of the past that symbolized a history of the institution that was memorable in positive terms:

“We are gathered here, commemorating in a different way, within the framework of the democratic legal order, the fifty-first anniversary of the creation of our institution, which was born when the Law of Prison Organisation and Sentence Regime was passed on 9 October 1933 as the General Directorate of Penal Institutions, the work of the inspiration and talent of Dr. Juan José O Connor, its first Director. This marked the beginning of a period of legal rationalisation in our country [...]” (Revista Penal y Penitenciaria N°191/194, year 1984. SPF Day. General closing ceremony and commemoration. Speech by the National Director (underlining by the authors))

There are numerous references to the excessive sanctions of the previous period, its denunciation and the search for a new direction, not only distant but also opposed to that action:

“Disciplinary sanctions other than those provided for by law shall not be permitted and shall contain no restrictions other than those which are indispensable. Accordingly, torture, ill-treatment, humiliating and humiliating procedures shall not be permitted.” (Public Bulletin No. 1 583, year 1983)

So, in addition to launching a new phase of the SPF, the most profound and urgent task was to build a force guided by principles that were symbolically and concretely opposed to those that had been followed during the dictatorship phase. The strengthening of a democratic penitentiary institution was carried out in a formal manner, above all by incorporating a series of existing international legislations, and taking up those that had been disregarded by the administration during the dictatorship government. Since the restoration of the constitutional regime, the federal administration had shown a “determined concern, both to ensure the effective and correct application of penitentiary legislation in accordance with the United Nations Standard Minimum Rules and to emphasize respect for the human rights of prisoners” (Revista Penal y Penitenciaria N°195/198, year 1985).

In the new democratic period, the laws of the penitentiary regime itself, which had been ignored during the state of military emergency, were once again given substance, while at the same time a prompt updating emerged as a priority. Law N° 11 833 already incorporated the United Nations Standard Minimum Rules for the Treatment of Prisoners (1955) and “modern criminological conceptions, compatible with the tradition and possibilities of our country” (Revista Penal y Penitenciaria N°195/198, year 1985).

The incorporation of the humanist perspective derived from international treaties was mainly translated into the *humanisation of treatment*, a recurrent terminology when it came to expressing a turnaround from the previous historical moment, in which “anachronistic restrictions” were practiced:

“Numerous measures aimed at humanizing the treatment of both defendants and convicted prisoners, and at promoting, facilitating and encouraging greater links between prisoners and their families and social environment, especially by eliminating anachronistic restrictions and reasonably increasing the frequency and number of people (family, friends, relatives) with whom prisoners can communicate, whether through interviews, correspondence or telephone contact. Housing conditions were also improved, partly as a result of a significant reduction in the prison population as a consequence of changes in procedural and penal legislation, as well as feeding programmes, repairing proven shortcomings.” (Revista Penal y Penitenciaria N°195/198, year 1985.)

In the fragment quoted above, it can be seen that the *humanisation of treatment* consists not only in widening the possibilities of action and improving the conditions of accommodation and food for persons deprived of their liberty, but also in promoting their social bondings. The shift is evident in the recognition of practices that should be repaired in this new stage. In this sense, Public Bulletin 1735 approves a new text for the internal regulations for the progressivity of the penitentiary regime and establishes a new regulation for the prison regime:

“[...] a thorough review of the current regulations in the light of the experience gathered, making them more flexible and updating the rules in order to make correctional treatment more effective, as well as the periodic and mandatory verification by the Correctional Councils of the transit of inmates through the Progressivity of the Penitentiary Regime.” (Public Bulletin N°1 735, year 1986)

In this bulletin the National Director of the penitentiary service resolved to repeal the Reglamento Interno de la Progresividad del Régimen Penitenciario, approved by resolution dated 17th December, 1976 and the modifications introduced in August, 1980, from the dictatorship period. As a result of this repeal, the periods of progressiveness established in article 5 of the Ley Penitenciaria Nacional, in force at the time, and the interest in the treatment of persons deprived of their liberty were reinstated:

“We shall endeavor to ensure that the conditions of the detained person in terms of work, education, culture and recreation are, as far as possible, similar to those enjoyed by a free person. The fact that this freedom is restricted by detention ordered by an authority outside the SPF does not mean that he is totally deprived of it and prevented from exercising the rights that constitute his personality.” (Public Bulletin N°1 583, year 1983. Appointment of National Director Dr. Héctor Miguel Rossi. Act of possession of the post)

As far as education is concerned, it is worth mentioning the signing of the agreement between the SPF and the Universidad Nacional de Buenos Aires (UBA), signed in 1986 (Public Bulletin N° 1 700, 1986). This agreement initiated the UBA XXII programme, for the teaching of university courses in prisons. The Centro Universitario Devoto began to operate shortly afterwards in what was then SPF Unit 2, of the Capital Federal. The Law degree was one of the first to be taught there, and one of the most popular.

Within this perspective, which emphasizes the importance of the *humanisation of treatment*, the work of persons deprived of their liberty was a matter of particular concern. The federal prison administration then took steps to address simultaneously certain aspects which it considered interdependent, and which required rapid solutions. These concerned the vocational

training of persons deprived of their liberty who required it, especially of young adults; the full employment of the prison population, including those in custody; the establishment of a remuneration for work that was significantly proportional to the wages of free life, among others. On the other hand, it was also made clear that the period during which inmates worked would be counted for social security purposes.

In line with this *humanisation*, treatment management proposed an individual approach, based on the social function of the institution:

“It is therefore essential, in order to achieve the social mission entrusted to us by the community, to focus our professional activity, in the broadest sense of the word, on the knowledge and understanding of the personality of the inmate, in order to make possible, through the use of the means that are indispensable in each case, his or her social reintegration.” (Revista Penal y Penitenciaria N°195/198, year 1985. Speech by the National Director. Act of the Fifty-second anniversary of the sanction of Law N° 11 833)

With regard to the function of the institution and its prison staff, then, reference is made to the primarily social character of the institution, which can also be interpreted as part of the same message to the penitentiary corps, tending towards the deconstruction of irrationality and the construction of a new force with a relevant social mission: “Prison staff should feel as an integral part of a community service that aspires to rehabilitate the inmate under their custody” (Revista Penal y Penitenciaria N°195/198, year 1985. Appointment of the new National Director Dr. Carlos Angel Daray. Act of possession of the post).

The democratic framework is frequently reiterated in the speeches of the authorities, as a fundamental requirement, derived from the historical obligations of the institution, a rational, legal and positive past to which they return again and again: “In the framework of respect for rights (...) we will promote the hierarchisation and improvement of the prison staff so that they can fully comply with the important social mission for which they were created” (Public Bulletin N°1 583, year 1983. Appointment of National Director Dr. Héctor Miguel Rossi. Act of possession of the post).

In the bulletins, the intention of a clear change of course is evident, driven by the nationally responsible task of building a democratic institution. The social function of the institution was clear: the rehabilitation of incarcerated persons in accordance with national and international regulations which were oriented towards the preservation of human rights. The concern to fulfill these aims is present in all the documents analyzed from the period as the guiding ideology of the institution.

Effectively implementing the idea of the democratization of the force, both within it and in the eyes of society, was therefore the main objective of the time, and was the focus of all the efforts of the SPF's management. To this end, it was a priority to incorporate, through resolutions in the public bulletins, the normative framework of human rights that had not only been disregarded but also trampled upon by the dictatorial governments of the previous period. We are talking about a series of international treaties with supra-constitutional hierarchy (such as the Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man; the “Pact of San José de Costa Rica”, 1969), international treaties with constitutional hierarchy (such as the Code of Conduct for Law Enforcement Officials, Resolution N°34/169, UN, 1979; Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN, 1975; Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955, UN).

On the other hand, in relation to the criminological currents of the time, a series of theoretical debates were taking place at an international level on the relevance or otherwise of the penitentiary system. It is worth mentioning that in the 1960s the theories of labeling and critical criminology favored the development of a progressive disbelief in the possibility of social reintegration within prison systems. The emblematic *Nothing Works* (Martinson, 1974) condensed these ideas that emphasized the negative effects of penal intervention and the inefficiency of the rehabilitative model to contain the increase in criminality. These currents put in tension the very definition of penitentiary treatment and the function of the custodial sentence, first in Europe and later, with the processes of democratic recovery, in Latin America (Aniyar de Castro, 1976; Bergalli, 1982; Del Olmo, 1973).

In the local academic university field, the work of Elías Neuman, criminologist, and Víctor Irurzun, sociologist, is noteworthy, as they carried out a valuable and thoughtful study based on empirical data. Their work: *La sociedad carcelaria* (with interviews with detainees and long days in prisons), can be inscribed within the critical criminological currents of the penal system in general, and the prison institution in particular. The authors define crime as a form of individual and social non-consent, “a kind of particular revolution, and would give the impression that the state appropriates freedom to tame (...) those who have escaped from Noah's ark” (Neuman & Irurzun, 1994, p. 12). They are in favor of the transition to alternative measures, substitutes for traditional imprisonment, which allow for the personalisation of the sanction. “A range of possibilities for sentencing in the most beneficial way for the man, his family, the victim and, in the end, the whole society” (Neuman & Irurzun, Op Cit., p. 13).

Although this type of criminological trend never took shape in the Argentine penal system, it should be noted that a certain reformist or revisionist ideology had influenced to some extent those responsible for prison management, first in their discourse and then in the normative modifications to the management of the institution:

“Experience teaches us that in Argentine society, as in other countries, changes are taking place which are reflected both in the increasingly complex manifestations of criminality and in legislative reforms which reduce the use of pre-trial detention and increase the use of alternatives to custodial sentences and modalities of execution which gradually limit the use of closed institutions.” (Revista Penal y Penitenciaria N°195/198, year 1985. Speech by the National Director. Act of the Fifty-second anniversary of the sanction of Law N°11 833)

In the words of the National Director Carlos Daray when he took office in 1985⁵ there was a certain resignation considering the adverse context to the idea of the unnecessary of prison, in the face of which he proposed, almost as an act of justice, to achieve the rehabilitation of the convicted person, in order to reach the degree of humanisation possible:

“It is clear that criminal law has become "humanized". No one today would even think of applying the heavy sentences that were accepted without hesitation until not so long ago. [...] Much has been written about the negative results that prison can have on the personality of the incarcerated, but nevertheless prison has not given up its place in the punitive spectrum, and it seems impossible that the illusion that it is unnecessary can be put into practice. [...] its purpose can be none other than the rehabilitation of the convicted person. A prison system that is incapable of achieving this aim is unjust. Hence the need to deepen the progressive regime, to multiply the measures

⁵ Héctor Miguel Rossi and, from 1985 to 1988, Carlos Angel Daray, were the civilians who held the post of Nacional Director in this democratic period. The following ones will be general inspectors (from penitentiary force) and only in 2007 a civilian will preside again.

aimed at the rehabilitation sought and to give firm support to after-care. The internal prison situation must strictly respect the principle of Article 18 of the Constitución Nacional.” (Revista Penal y Penitenciaria N°195/198, year 1985. Appointment of the new National Director Dr. Carlos Angel Daray. Act of possession of the post)

The ideology of the time directly linked democracy with respect for human rights. However, as Neuman and Irurzun (Op. Cit.) point out, the pattern of imprisonment continued to respond to social class factors: “[T]he same human beings: the most vulnerable, from the lowest social class [...]. It is the criminology of the poor devil, of the thieves of carafes and chickens [...]” (p. 12). This awareness of the structural condition of poverty was recognised by prison management in its humanist approach:

“It should not be forgotten that man’s conduct in society is also conditioned by the structure of society. It is not only the data of individual life that must be taken into account, but also the pressures and conditions that society exerts on the individual. Hence, any statistics that are reduced to taking into account the individual while omitting his or her historical social circumstances would only lead to erroneous inferences. The following must be taken into account: economic and educational policy, the degree of individual freedom and respect for the enjoyment of human rights, and so on. This is the only way to get a true picture of the defendant's situation and the pattern of his or her criminal behavior. Hence the need for a task that goes beyond that of the statistician and requires the concurrence of the social researcher.” (Revista Penal y Penitenciaria N°195/198, year 1985. Report prepared by the Secretariat of Justice of the Ministry of Education and Justice of the Nation)

As can be seen in the aforementioned report, the role given to the state is that of a fundamental actor in prison management, recognising the shortcomings of the previous period and attempting to remedy them from a structural view of the problem. In relation to this, Public Bulletin 1583, 1983, spoke of establishing agreements with post-penitentiary institutions to implement pre-release programmes and thus “face with greater opportunity and success the personal, family and social tensions and conflicts that are usually generated by the so-called release crisis”.

The debates that took place in the academic sphere permeated the penal system, as can be seen in the journals of the time. The Revista Penal y Penitenciaria gave a clear diagnosis of the current situation and the steps to be taken in the future:

“In any case, it is well known that at the present time, in terms of penology, the prevailing trend is to deinstitutionalize penalties, replacing imprisonment under a prison regime with other penalties that can be served without compulsory internment in prison. Our country only has conditional sentencing and parole. Neither community service nor weekend sentences have yet been adopted to replace custodial sentences. It is hoped that in the near future the reform of the penal code will lead to a change in the system of sanctions, so that it responds more adequately to the requirements of penal policy, and that the outdated penitentiary orientation will be abandoned as far as possible, as recommended by the conclusions of the latest United Nations congresses on the prevention of crime and the treatment of offenders.” (Revista Penal y Penitenciaria N°195/198, year 1985. Report prepared by the Secretariat of Justice of the Ministerio de Educación y Justicia de la Nación)

In the area of prison management, although there is no clear plan of direction for the institution during this period, there is an intention to lay the groundwork for a future programme.

“Since the democratic government took office in December 1983, a series of far-reaching reforms have been implemented in the national institutions. In effect, a change of mentality has taken place in the SPF, both in terms of programmes and tactics in practical achievements. [...] the Ministerio de Educación y Justicia de la Nación, together with the secretariat of planning and the

collaboration of the scientific associations which exist in the country and whose aim is to study the problems posed by delinquency, will have to develop together an organized effort, which will take the form of a criminal policy plan to be implemented in the immediate future [...].” (Revista Penal y Penitenciaria N°195/198, year 1985. Report prepared by the Secretariat of Justice of the Ministerio de Educación y Justicia de la Nación)

It was not until the 1990s, more precisely in 1995, that a penitentiary ideology was put into practice in the form of a comprehensive management plan: Plan Director de la Política Penitenciaria Argentina, which will be dealt with in the following section.

3. The Plan Director de la Política Penitenciaria Argentina. The Recovery of the Correctional Model and its Institutional Consolidation

The 1995 Plan Director de la Política Penitenciaria Argentina (PD) marked an event that left indelible marks on the treatment of various problems related to the deprivation of liberty. It changed the punitivist course of penitentiary measures, redefining the subjects to whom they were addressed and specifying the centrality of the state’s responsibility for the execution of such policies⁶. It was also notable for considering prison work in a comprehensive manner and not only as a security issue. In this sense, the plan constituted an unavoidable programme of action in the design of prison management.

The PD proposed as its main objective the construction of a solid penitentiary corps oriented towards the *re-socialisation* of detainees. To this end, in accordance with the United Nations Minimum Rules, it is established that *social justice* is the best way and means of preventing crime. It is also in favor of promoting the necessary reforms required by a society understood in its historical development and social dynamics.

The role of the state was central to the implementation of the prison system and its public officials were central to the planning of the comprehensive prison management. It was described as a fundamental task of the state to safeguard important values by articulating, on the one hand, issues of security and the defense of society and, on the other, the dignity of persons deprived of their liberty and their right to opportunities for reintegration into the community. In this context, the structuring of institutions in terms of their relevant obligations towards society and towards persons deprived of their liberty is fundamental for their change and social readaptation. Likewise, the systematization of the evaluation of results and the implementation of transformations and reforms to correct errors, deviations, mistakes or failures, together with a “social and community clarification of the execution of custodial sentences” (Plan Director de la Política Penitenciaria Nacional, p. 3), became vitally important for this proposal. As presented in the decree approving it, the DP assumed:

“[...] [A]n orderly, coordinated, rational and feasible set of measures to be implemented in simultaneous or successive stages and which will seek to close the gap between the diagnosis of the current prison situation, the concrete reality, and what is considered desirable and acceptable as development of the sector.” (Presidential Decree N° 426, year 1995)

⁶ In July 1989, President Carlos Menem assumed office. Although he came from the Peronist party with a national and popular tradition, he carried out a deep and unexpected ideological shift towards neoliberalism and a change in the discourses, traditions and ways of doing politics that existed up to that moment around the values of the “modernization of the State” (Fair, 2013).

Its planning required a division into programming projects by different areas of approach; among the main ones are: Legislative and Regulatory Area, Prison Architecture Area, Treatment Area, Personnel Area and Sectoral Integration Area.

With regard to the legislative and regulatory area, the PD was born with a markedly pro-guarantee approach in its legislative and normative principles. Likewise, it proposed to open the debate on the regulations in force at the time, during the years prior to their drafting and implementation in 1995. In this sense, was pronounced in relation to the following legislative and regulatory projects: Reform of the Criminal Code of the Nation, Modification of the Law on the Execution of Custodial Sentences (24 660), Regulation of Processed Persons for the Federal Penitentiary Service, Law on Penitentiary Training and Work, Organic Law of the Federal Penitentiary Service, and internal regulations. Equally, the Procedural Manuals were envisaged by the PD, although their implementation remained unfinished like some of the aforementioned projects.

Under the area of penitentiary architecture, this plan promoted the modernisation of the establishments, together with the replacement and relocation of buildings through the creation of new complexes. Some of the most urgent problems that it sought to resolve stemmed from the obsolescence of the physical plant infrastructure (around 30 % of which was more than 60 years old) and the inadequacy of the establishments with the principles of progressive sentencing on which the PD is based. In this sense, plans were made to equip the Buenos Aires Metropolitan Area with the construction of the prison complexes of Marcos Paz, Ezeiza and Agote (the latter still under construction), the expansion of some units, and the inauguration of two new establishments, one for women and the other for young adults.

In the area of treatment of persons deprived of their liberty, an ideology was adopted in favor of a “positive transformation of the subject so that in his social reintegration a situation is created which allows him to develop his life as a useful element for himself, for his family and for the community” (Plan Director de la Política Penitenciaria Nacional, p. 25). The maximum objective to be achieved through the so-called penitentiary treatment was the construction of a *new man*. It should also be borne in mind that the results of this path to be built were not linear, but depended on complex and changing personal and social realities.

In addition to the proposed legal framework, the requirements for prison treatment should be implemented by staff trained in *corrective pedagogy*, in an infrastructure in line with the proposed objectives and provide for the inclusive social participation of persons deprived of their liberty. The stay in prisons should be integrated by a set of actions that provide opportunities for the realization of this change. To this end, all available resources should be used so that the transformation is apprehended and shared by the person deprived of liberty. The aim should be to develop a profound, comprehensive and individualized educational, re-educational and reflective process, and fundamentally to address the problems that gave rise to the criminal practices.

In particular, the treatment of persons deprived of their liberty was design in an approach based on: the formation of homogeneous groups; a regime based on progressiveness; an orderly planning of release; the criminological orientation of individualized treatment; a disciplinary regime of defined duties, rights, sanctions and guarantees and their relevant reporting to persons deprived of liberty; opportunities for paid and formative work; education and instruction in its different levels, forms and modalities; the development of systematic medical, medical-psychiatric, psychological and social actions; programmed actions to deal with drug

addiction, assistance and treatment of addicts or consumers; spiritual assistance; social work with the families of persons deprived of liberty and the social environment.

Of all these aspects of treatment included in this plan, special attention was given to the problem of HIV-AIDS, where a deep concern was expressed with concrete interventions in view of the degree of progress that this disease had made decades ago in the general population. Likewise, the actions received for the assistance and treatment of addicts and/or consumers were also highlighted.

Education was a fundamental pillar, highlighting necessary and intense actions to be implemented at the primary and secondary levels. At the same time, the integrated and systematic development of educational, recreational, cultural and sporting activities that could be easily incorporated by the person deprived of liberty was contemplated. According to the framework of *social justice* adhered to in the PD, education at all levels emerged once again, not only as a restitution of rights but also as a real toolbox for life beyond the walls. Recovering then this therapeutic and pedagogical sense, a Socialising Pedagogical Methodology (MPS) was implemented, aiming, among other things, to: model and guide the behavior of young people through the internalization of certain coexistence guidelines, the self-regulation of persons deprived of liberty and their active participation (based on will and commitment) and trust in the community of peers. It was based on pedagogical and therapeutic techniques such as: direct supervision, rewards and punishments, therapeutic groups, making inmates responsible for their actions and utilitarian fragmentation of time (planned activities for each moment). The benefits granted to the inmates were linked to security and integration into a peer group.

The right to receive spiritual treatment by persons deprived of their liberty, as set out in the PD, was framed within the profound, comprehensive and individualized educational, re-educational and reflective process. In this sense, the person deprived of liberty could apply for registration, contemplating the religious worship he or she professed so that his or her freedom of conscience and religion would be respected and guaranteed; and at the same time, spiritual care and personal contact with a representative of the professed worship would be facilitated. At the same time, basic information manuals were designed for persons deprived of their liberty, which were drafted in two versions: one for men and the other for women. Both versions contained information on: the regime under which they were held, the rules of conduct to be observed, the disciplinary system in general, their rights and obligations, the bodies authorized to make requests or complaints, explanations of the visiting regime, details of the items allowed and not allowed to enter, addresses and contact telephone numbers of the public bodies to which they could submit complaints, denunciations or petitions.

In the context of implementing and carrying out an in-depth, comprehensive and individualized treatment, the DP states that the treatment should be based on social work with the family and the environment. Specifically, this translated into: guaranteeing the continuity of treatment linked to the HIV AIDS problem; providing individual and family guidance for the social reintegration stage; providing financial aid to cover the expenses of family members whose economic conditions and possibilities did not allow them to visit the detainees; creating nurseries in the places where mothers were housed; facilitating the entry of detainees' families into social programmes of food aid for children and the elderly.

The area of staff training was a crucial point within the PD given the role assigned to prison staff as executors and dynamizers of changes and projects within the establishments. In this sense, the *raison d'être* of the staff, who should embody the positive values of ability, experience and vocation of service, was combined on the one hand in relation to society and on the

other hand, in relation to the persons deprived of their liberty. According to this document, the problems related to the area of staff training were: changing prison management and lack of continuity in the professional profiles requested, lack of stability in the management of training processes, lack of homogeneity in the training of senior staff, and difficulties inherent in a job that is little recognised by society, but which has a high impact on the personal, family and social life of the officers. Given the identification of the aforementioned problems, the same PD projected solutions and alternative paths that had to do with: the reformulation of the identity of these officials together with their aims, objectives, plans, training programmes and functions (penitentiary, technical-professional and bureaucratic tasks); the creation of new refresher courses for all ranks; the establishment of the requirement of a university degree for access to management positions and a secondary degree for junior staff; and the redistribution of personnel for the correct allocation of resources.

One of the innovations proposed in this plan consisted in the concern to provide opportunities for paid work and training as a constituent element of the treatment of persons deprived of their liberty. In continuity with this horizon of penitentiary policy focused on the learning of trades by persons deprived of their liberty, Law N°24 372 of 1994 created within the Federal Penitentiary Service an autonomous entity called the Penitentiary Cooperative Entity (ENCOPE) with its own budget allocation, with the aim of improving the functioning and modernisation of the operational methods of the workshops. In addition to its relevance during the time of deprivation of liberty as a profitable training tool, the operation of ENCOPE was of fundamental and decisive importance in the social reintegration of the subject. The fulfillment of the goals stipulated for this autonomous body represented not only an obligation for the penitentiary establishments, but also specific challenges, requiring the use of specific logistical, engineering and planning techniques. The learning of trades by the inmates was to stimulate their participation in various workshops and training courses for the development of work skills. For their part, work activities in prisons constituted a right and a duty governed by the following principles: the activities were remunerated in accordance with labor legislation and were appropriate to the aptitudes and psychophysical conditions of the prisoners; the technologies available and the demands of the labor market; the acquisition and improvement of work habits; they were not forced, infamous, degrading or used as punishments.

Although many of the objectives of the PD remained unfinished, they marked an orientation that laid the foundations for the proposals of the following administrations. In this sense, it constituted a starting point which, years later during the first decade of the 2000s⁷, led to the inclusion of prison system debates on an Ibero-American scale. The humanisation of punishment was discussed as a more fruitful element of management than the correctionalist and normalizing aims of the previous model.

The various administrations of the SPF during this period dedicated a large part of their efforts to sustaining a generalized policy of social inclusion for the detained population through their insertion in work and educational activities, achieving very high ratios in comparison with Latin America, and even bringing about a considerable drop in the rates of overcrowding in the

⁷ In 2003 Néstor Kirchner assumed the presidency of the Nation. Subsequently, Cristina Fernández de Kirchner was elected as his successor in 2007 and re-elected to her position in 2011. The period of government called “Kirchnerista” thus extended until 2015. The legitimizing discourse that has accompanied the action The policy of the so-called “Kirchnerism” has developed around the concept of social inclusion since it came to power in 2003 (Messina, 2015).

federal establishments. These years also coincided with the government's decision to consolidate civilian leadership of the penitentiary agency.

However, this model was gradually challenged by discourses that favored the arrival of an increasingly punitivist approach and a criminal policy aimed at increasing repressive measures and tightening the rules of imprisonment and release from prison. This led to the progressive identification of prisons as the only solution to contain crime, limiting all types of activity linked to the treatment of persons deprived of their liberty, as described below.

4. The Sentencing Plan. Risk Models, Desistance From Crime and Anglo-Saxon Criminologies of What Works

In the context of the discussions currently taking place in Argentina on the direction of prison management, a number of news have emerged almost simultaneously throughout the region in recent years: the implementation of the R-N-R (Risk-Needs-Responsivity) and the Desistance from Crime models.⁸

After several years in which Argentine penitentiary policy, as we have described, organized prison management around the constant tension between critical criminological theories and the demands of a whole regulatory structure strongly oriented by the resocialising ideology, after the “crisis of 2001”⁹ this dynamic began to break down. Proof of this are the various reforms, all of a regressive nature, to which the law regulating the execution of sentences at the federal level was subjected between 2004 and 2017.

In 2004, through Law N° 25 886 (Blumberg Law), a number of serious crimes resulting in death were excluded from all pre-release institutions. Four years later, in 2008, Law N° 26 472 modified the requirements for home detention, and at the same time eliminated discontinuous imprisonment and semi-detention for convicted persons over seventy years of age whose home detention was revoked (Di Pino and Sicardi, 2022). Finally, in 2017, the most important reform was introduced through the enactment of Law N° 27 375, which eliminated the possibility of access to parole for repeat offenders or to any permanent release regime prior to the exhaustion of the sentence (parole or assisted release) and discontinuous imprisonment or semi-detention for persons convicted of certain crimes.¹⁰ The substitution of sentences of up to six months' imprisonment for community service was also eliminated in this instance, giving preference to imprisonment over any alternative measure.

⁸ In December 2015 Mauricio Macri assumed the presidency of the nation. The Cambiemos alliance marked a turning point in Argentine history, presenting itself as the expression of a “new” political time (Iglesias Et. al, 2020). The epistemological and political position that defined prison management during his government “recognizes a first discursive anchor in line with the rest of public policies at the national level: the language of management” (Manchado, 2020, p. 82).

⁹ The “crisis of 2001” is known as the process of institutional, political, social and economic destabilization that resulted in the resignation of President Fernando De La Rúa in December of that year, after leaving 39 people dead as a result of police violence against the demonstrations and hundreds injured. These events were the product of a long road ahead, and several of the factors that caused them had been in place for decades, causing effects that lasted for a long time, even with consequences for our country today (Ramírez, 2012).

¹⁰ Aggravated homicide, crimes against sexual integrity, unlawful coercive deprivation of liberty if the death of the offended person is intentionally caused, torture followed by death, kidnapping for ransom if the death of the offended person is caused, financing of terrorism, among others.

All in all, this set of regulatory changes resulted in an unprecedented increase in the prison population housed in federal establishments that culminated in the declaration of the prison emergency (Resolution N°184, year 2019 Ministerio de Justicia y Derechos Humanos de la Nación); where the state acknowledged housing inmates above the operational capacity declared at that time, and even projected a worsening of the situation for the following years. In this way, the submission of prison management to criminal and security policy was evident, which implied the abandonment of the progressive regime of punishment in Argentina, the underestimation of the deteriorating effects of prisons, and a profound reformulation of the right to social reintegration of persons deprived of liberty in national territory; even omitting the obligations assumed in international human rights instruments that concern the specific matter of imprisonment and prison management.

This context of transformation was taken up by the SPF through the comprehensive (re)design of the penitentiary treatment under its jurisdiction, which included a radical change in both the interpretation of the object of the sentence and in the modes of its effective execution in federal establishments. A large part of this epistemological shift was embodied in the so-called Sentencing Plan (SP):

“The Sentencing Plan is integrated into the institutional policy of reducing recidivism through the application of the Risk/Need/Responsivity (RNR) models and the Desistance approach (...) It involves in itself the evaluation of risk factors and protective factors (...) which implies a multidisciplinary and joint planning of the intervening areas.” (Public Normative Bulletin N°693, year 2019)

The SP then proposed to take up the ideology of rehabilitation, but reformulated in the light of the new orientation of the national regulations on penal execution (which prioritized public safety over citizen security) and from a reading strongly influenced by certain models of applied criminology theoretically developed in the 1980s from Anglo-Saxon countries as a response to critical perspectives. This emerging field of analysis, based on the question of What Works, had been guiding prison management mainly in Canada and England, through the implementation of the R-N-R model “for the assessment and treatment of offenders (...) developed and contextualized within a general theory of personality and the cognitive theory of social learning of criminal behavior” (Andrews, Bonta & Wormith, 2006, p. 8).

In general terms, the model consisted of stimulating the development of new actuarial technologies – based on disciplines such as statistics, mathematics and economics – in order to identify the *risk factors* of persons deprived of their liberty, in relation to the probability of becoming involved in criminal behavior again. From there, the *criminogenic needs* to be addressed in each case and the *protective factors* to be strengthened were defined, allowing the prison population to be classified and categorized according to the intensity and type of interventions to be administered. The latter were to be regularly adjusted according to the inmate's *responsiveness*, adapting them to their learning styles and abilities.

From this theoretical perspective, the SP replaced the focus of prison treatment and its scale of intervention in different aspects. Firstly, it established the constant need for the prison agency to produce data on and about the inmates, in order to build an empirical basis for the elaboration of various risk indices (recidivism, conflict, escape, suicide):

“[...] [I]mplementing an objective element of measurement is combined with the principle of risk, since the intervention should be more intense on inmates who present a high risk of recidivism,

thus maximizing the effectiveness of the implementation of the Sentencing Plan and of the programmes aimed at effective social integration, thus efficiently managing the resources available to the system.” (Public Normative Bulletin N°693, year 2019)

On the other hand, it promoted the displacement of the state's own responsibility to produce the necessary conditions for access to rights and the consequent re-socialisation, reintegration into the free environment and social inclusion of people in its custody, towards a set of interventions aimed primarily at identifying and producing a change in criminal identities in order to prevent crime and recidivism: “That the aforementioned What Works perspective exposes that (...) interventions can be planned effectively to reduce crime and contribute to public safety” (Normative Public Bulletin N°693, year 2019).

It also argued that the problem of recidivism was seen exclusively in terms of the individual offender:

“The conclusion drawn from these investigations is that [...] the factors that have played a key role or contributed to the commission of the offense must be addressed, being those that would put the person at risk of re-offending in the future if they are not properly addressed.” (Public Normative Bulletin N°693, year 2019 (Underlining by the authors))

Finally, it promoted the replacement of the criteria, experience and clinical judgment of prison professionals by administrative-bureaucratic procedures under an argument of objectivity:

“For each quarter the system will have a form available [...] during this period the information requested by the system must be completed. The empirical evidence obtained will be used to determine progress and/or setbacks [...]. The fields [...] must be completed by the areas involved (...) considering the reliability of the data by means of documentary evidence.” (Public Normative Bulletin N° 693, year 2019)

Simultaneously, the Desistance from Crime model was incorporated into prison management.

“[...] [I]n order to achieve a holistic approach, determining the strengths (factors and explanatory mechanisms for the absence of delinquent behavior), which the individuals present and which should be the object of the different interventions in terms of their determination and approach.” (Public Normative Bulletin N° 693, year 2019)

In this case, it is a field of study, inaugurated in the 1990s in England, which focuses on the processes underlying the termination of criminal careers by people who were regularly associated with criminal practices. From this approach, desistance cannot be explained through the simple measurement of recidivism, but rather, in order to understand it, the trajectories or *life courses* (Sampson & Laub, 1993) linked to the distancing from the world of crime must be analyzed, which do not necessarily imply the total abandonment of illegal practices, but rather a process with varying degrees of criminal abstention (Vigna, 2022).

Studies of desistance are broadly divided into three main streams: control theory, cognitive transformation theory, and social tension-support theory (Cid, 2021). The first one emphasizes the role of institutions and social ties in the control of desistance processes (family, friends, community) and the incidence of various events that mark the desistance process within a trajectory *turning points* (Sampson & Laub, Op Cit.). The second current focuses on the offender's willingness to change and the agency of the offender in the process of renouncing criminal practices. Some authors who work along these lines argue that desistance does not necessarily involve a profound change in values or beliefs, but can simply be the result of an individual's assessment of the risks and/or inconveniences that the continuation of the illegal practice

could represent for one's own life or for the immediate environment. Others, on the contrary, highlight the need to achieve a profound identity transformation through the use of *hooks for change* (Luna de Mora, 2019); which requires, in the first place, the maintenance of *desistance narratives* capable of fully demonstrating mastery over the decision, responsibility for the events that have led to the criminal conduct and a negative assessment of previous behaviors (Maruna, 2001). This argument is supported by the conviction that cognitive change is a precursor and necessary condition for behavioral change (Maruna, 2004). Finally, the last stream recognises the influence of structural and objective factors on individual decisions related to persistence in crime, and the relevance of *social supports* in the abandonment of criminal trajectories (Manchado, 2021).

In the SPF, the presence of the cognitive current has been woven into a series of resolutions and provisions through which procedures have been modified, forms have been drawn up and various treatment programmes have been stipulated. An example of this is Public Normative Bulletin N° 711, year 2020, which, among other things, established the obligatory elaboration of the *index of motivation for change* for the entire prison population, referring to the capacity for resistance and persistence in the discourse of criminal identity: “It is an element that is very significant when it comes to seeing how complex the situation being addressed is. It indicates an explicit willingness to face a process of transformation linked to the cessation of offending behavior” (Public Normative Bulletin N° 711, year 2020).

Something similar is identified in a series of forms designed for the Social Area, in the framework of the Specific Performance Criteria for Correctional Boards for Convicted Prisoners (Public Bulletin N° 67, year 2018) where the subtitles “Positioning before the crime” and “Positioning before the victim” were presented, and indicated the importance of recording the following elements: reflective and critical attitude towards the genesis of the criminal act; reflective and critical attitude towards the consequences of the criminal act in the family environment; acquisition of awareness of harm; establishment of empathetic capacity towards the victim (and, if appropriate, with their relatives); intention to repair the harm caused; improvements and/or setbacks in relation to all these variables with respect to the report of the immediately preceding period.

In the same vein, a series of treatment programmes were approved during this stage aimed at dealing with lawbreakers categorized according to the type of offense committed (Specific Treatment Programme for Gender Violence Offenders, Treatment Programme for inmates involved in cases of Homicide or Attempted Homicide, Treatment Programme for Sex Offenders, among others) which provided for the implementation of a series of cognitive-behavioral techniques aimed at “modifying the factors involved in the genesis of aggression” such as emotional awareness, empathy with the victim's suffering, cognitive distortions, defense mechanisms (which do not allow them to assume their responsibility for the crime), among other elements. All in all: “This model allows [the person deprived of liberty] to face the consequences of their behavior, to take responsibility for the abuses committed, to eliminate the rationalizations and justifications that they tend to use to avoid taking responsibility for their position in relation to the victim” (Public Normative Bulletin N°631, year 2017).

Although there have been various criticisms of the limitations of these models from different sectors, it is interesting here to point out just a few elements in order to acquire a more reflective and realistic position regarding their scope.

Firstly, the axis on which the comprehensive proposal of the SP was based was based on the confidence in the possibility of calculating, with a certain level of certainty, the future behavior

of persons deprived of their liberty in different aspects; among them, the most important, the repetition of criminal behavior. In this way, measurement made it possible to adapt the type of approach, its duration and the intervention strategies to the specific needs of the convicted person. However, even relying on the technology available for this purpose, these models ignore and make invisible a fundamental issue, the fact that the very idea of *risk* requires a prior definition that involves all aspects of social life: institutions, asymmetrical power relations, underlying forms of domination, and social structure. Thus, even when prison management applied instruments and techniques to measure risks, and their respective interventions to reduce them, the fact is that the definition of which groups of offenders were more *dangerous* or which types of behavior should be addressed in this sense, continued to be decided and interpreted outside the calculation that could be produced on the basis of any empirical research. On the other hand, the principles underlying risk-, need- and responsivity-based treatment argue that offenders did not incorporate appropriate socialization patterns in a timely manner and therefore lack values, attitudes, social skills and even present reasoning errors that would explain criminal behavior. The treatment proposal, then, consisted of teaching and incorporating these rules through specific programmes, designed on the basis of the identification of a series of indicators built exclusively on personal deficits and the consequent classification of persons deprived of their liberty according to these parameters. At the same time, the primary objective of the treatment was to reduce recidivism, which is why not all the needs of the subject were considered at the time of its design and implementation, but only those associated with the offending behavior. This resulted in a partial fulfillment of the normative mandate emanating from the enforcement law in force, concerning the responsibility of the state to ensure the adequate social reintegration of the convicted person. Finally, the guidelines established on the basis of the theories of desistance imposed the recording, in the inmates' narratives, of variables such as regret, feelings of guilt, emotions and positioning in relation to the criminal conduct (and its victims), to the sentence received and/or to the situation of imprisonment itself; at the same time as they provided for a series of treatment devices aimed at the progressive imposition of determined and homogeneous affective responses in all cases. These practices referred to inquisitorial procedures which only served to disperse the object of the state's socializing function. The meaning of the execution of punishment, the purpose of imprisonment, the development of criminological discourses and penitentiary practice have historically been intertwined with moral and religious discourses in our society. However, when values and ideals from these fields are extrapolated into penal and penitentiary practice as requirements for re-socialisation, a serious problem arises because they interfere with procedures that are already regulated by law and the constitution.

5. Conclusions

As is well known, there are multiple explanatory theories about the phenomenon of crime and transgression, which entail – more or less explicitly – very different positions on the appropriate conditions for designing and managing prison policy. These arguments correspond, as we have described, to different disciplinary inscriptions, approaches and contexts. All in all, it is a polyvalent field with porous and flexible borders, a broad space of knowledge where different currents of thought coexist.

However, as a complex social construct, the problem of crime requires a cross-cutting, multi-sectoral and interdisciplinary analysis that includes the knowledge produced by the social, human and legal-criminal sciences; it cannot be attributed to an exclusive way of producing knowledge on the subject or to a single way of analyzing it. Nor is there a definitive method applicable to all situations and contexts. Thus, the response to be developed by the prison agency requires (re)thinking the phenomenon and reviewing the practice from at least three aspects: (1) the constant critical analysis and relativisation of the epistemological paradigms that function as references for the task, (2) the recognition of the inconvenience of generalizing and the prioritization of concrete and contextualized knowledge, (3) the search for a work horizon sustained by the ethics of care and a humanist perspective, rather than the subjection to monolithic theoretical frameworks that condition and limit the professional task and institutional responses too much.

In order to reach a more adequate and specific explanation of the phenomenon of crime in contemporary Argentina, different authors have provided explanations about how individuals are subjectively involved in criminal behavior in our local reality (Kessler, 2012; Míguez, 2004; Míguez & Isla, 2010). These contributions have tended to focus their attention on those sectors that have suffered the hardest and most directly from the effects of neoliberal policies in recent years: unemployment and job insecurity, inequality, poverty, misery and marginalization. The relationship is evident when reviewing the composition of the population detained in the SPF (according to data from the National System of Statistics on the Execution of Sentences, 2020 Report): The majority are male (94.2 % of the total population), young (52 % of the population is between 18 and 34 years old), with low levels of formal education (26% have not completed primary school, 27 % have only completed primary school, and 13% have incomplete secondary school), with no access to employment (47 % of the inmates were unemployed at the time of entering the prison and 27 % only had a part-time job) and with low job qualifications (44 % have no trade or profession).

However, although it is undeniable that these variables have had a strong influence in our country, as in the region as a whole, it is no less true that the exclusive focus on deprivation has been insufficient to understand the particularities of transgressive behavior. Firstly, because they do not explain why, of all those who suffer such deprivation, only a tiny minority commit criminal acts. Thus, approaches that focus exclusively on structural or objective conditions are insufficient. On the other hand, the mere reference to deficits in the above-mentioned terms does not help in understanding the particular meanings that such behavior acquires in each case. It is necessary to avoid the problems of determinism and not to assume that, given certain conditions, people will inevitably be inclined to act in a certain way. Hence, risk prediction and theories based on risk measurement and management are at least problematic if they are used exclusively for the design of prison treatment.

Returning to the local context, specialized studies - particularly those of a qualitative nature - coincide in describing that crime in our area presents some shared features, namely: the preponderance of crime that is not very organized (over the existence of gangs and gangs), associated with social and cultural causes (which in some cases can coexist with work or other forms of income generation), and which in recent years has also developed its own subcultural traits (Kessler, 2010). Among the most widespread reasons for transgression are: the degradation of certain traditional values, the loss of effectiveness of the socializing weight of institutions, the generation of new symbolic references and the construction of identities that challenge normative precepts.

Considering these particularities, treatment efforts should be based on working with people deprived of their liberty, and not on them; highlighting that the incarcerated population in our case, presents characteristics where sophisticated risk measurement and management tools, in the terms of the model described above, are not entirely adequate to capture the essential dimensions of the problem presented to us in the local reality. Instead, interventions in the SPF should be directed at understanding life stories and trajectories, seriously considering personal goals and the value system that has guided decisions in each case, and stimulating personal commitment to both treatment and the design of a comprehensive life plan. At the same time, programmes will have to provide the competencies and opportunities to incorporate resources that enable new lifestyles that tend to recover the dimension of self-care and others; where the actions developed by the state are presented to the individual as an end in itself, and not as a means to an end.

It follows from the above that prison treatment should be focused on making effective the obligation of the state to provide the convicted person with the necessary conditions for adequate personal development that favors his or her integration into social life. Alderete Lobo (2016), in this sense, states that

“[...] all sentence enforcement measures should be aimed at [...] ensuring that custodial sentences have the least possible de-socialising and deteriorating effect, based on the deployment of material and human resources aimed at mitigating the effects of imprisonment and offering assistance to the convicted person in the free environment, for a period prior to their final release” (2016, p. 191-192).

In this way, the programmes through which prison treatment is developed should aim, in the first place, to prevent the transit through prison from having a negative impact on personal trajectories; that is to say, they should be oriented towards reducing the levels of deterioration inherent in prison confinement. On the other hand, treatment interventions should also take into account the relative positions and objective living conditions of the person deprived of liberty prior to and beyond their situation of detention, in order to establish or strengthen, as the case may be, both protection and security mechanisms and social and institutional support that impact on their opportunities and conditions of existence. The latest report produced by the Conference of Ministers of Justice of Ibero-American Countries (2021) states that: “The prison system cannot claim, nor is it its mission, to make men good, but it can, on the other hand, try to find out what those shortcomings are and offer the convicted person resources and services which he or she can use to overcome them”.

The same report points out that, in a strictly penitentiary sense, reintegration - or rather social inclusion - should move away from idealizing pretensions, such as achieving the reincorporation of the person into society with the guarantee that they will not commit new crimes, and limit itself to more concrete aspirations that are possible to achieve within the framework of the execution of the sentence: providing alternatives and specific resources that allow them to live better lifestyles and from there accompanying the construction of personal strategies that respect the rules established for social coexistence.

Resulting from the compilation made in this work about the last 40 years of the SPF in democracy described and analyzed here, and in the light of the different orientations of the prison administrations, looking to the future we believe that it is necessary to design and implement a new comprehensive plan. This plan should take as its starting point the democratizing conviction that guided the first National Directors in the 1980s, the contextualized view, the capacity for synthesis and concreteness of the 1990s and the Ibero-Americanist vocation of the

early 2000s. But above all, it must move away from the ideologies and designs proposed from a global north which, as argued in the last section and in these conclusions, are so alien to Argentina and the region's experiences.

References

- Agar, M. (1980). *The Professional Stranger: An Informal Introduction to Ethnography*. Academic Press.
- Alderete Lobo, R. (2016). Comentario exegético de los artículos 1 a 11 de la Ley 24660. In M. De Langhe (Eds.) *Código Penal y normas complementarias. Ley de ejecución de la pena privativa de la libertad comentada*. Análisis doctrinal y jurisprudencial, tomo XV. Hammurabi.
- Andrews, D., Bonta, J., & Wormith, S. J. (2006). The Recent Past and Near Future of Risk and/or Need Assessment. *Crime Delinquency*, 52; 7, <https://doi.org/10.1177/0011128705281756>
- Aniyar de Castro, L. (1976). *Criminología de la Reacción Social*. Publicaciones del Centro de Investigaciones Criminológicas de la Universidad del Zulia.
- Bergalli, R. (1982). *Crítica a la Criminología: hacia una teoría crítica del control social en América latina*. Temis.
- Cid, J. (2021). Teorías del desistimiento: ¿un nuevo marco para el ideal rehabilitador?. *Revista Electrónica de Ciencia Penal y Criminología*. RECPC. 23-18.
- Corrigan, P. & Sayer, D. (1985). *The Great Arch. English State Formation as Cultural Revolution*. Basil Blackwell.
- Del Olmo, R. (1973). Por qué la necesidad de una criminología crítica. In *Capítulo Criminológico*, (1), 83-85.
- Di Pino, C. & Sicardi, M. (2022). Algunos apuntes de la reforma a la Ley de Ejecución Penal: tensiones entre la prisión legal y la prisión real en Argentina. In *Estudios Socio-Jurídicos*. 24(2), 1-26.
- Fair, H. (2013). Posicionamientos político-discursivos de las principales fuerzas de oposición partidaria durante la etapa de sedimentación de la hegemonía menemista; Universidad Nacional de Mar del Plata. Facultad de Humanidades. Departamento de Sociología; vol 2, pp. 213-233
- Frederic, S. (2008). *Los usos de la fuerza pública: debates sobre militares y policías en las ciencias sociales de la democracia*. Universidad Nacional de General Sarmiento.
- Galvani; Iván (2016) Entre la arbitrariedad y la inflexibilidad. El personal penitenciario bonaerense y su relación con las reglas. Tesis de Doctorado en Antropología Social, In institutional repository Escuela IDAES/UNSAM. <https://ri.unsam.edu.ar/handle/123456789/262>
- Garaño, S. & Pertot, W. (2007). *Detenidos-aparecidos. Presas y presos políticos de Trelew a la dictadura*. Editorial Biblos.
- Iglesias, E. y Lucca, J. B. (2020) *La persistencia de la Argentina de Cambiemos*. Rosario: UNR Editora. Editorial de la Universidad Nacional de Rosario.
- Kalinsky, B. (2008). "El agente penitenciario: la cárcel como ámbito laboral". In *Revista virtual Runa*, Vol. 28, pp. 43-57.
- Kandel, L. (1882). Reflexões sobre o Uso da Entrevista, Especialmente a Nao-Diretiva, e sobre as Pesquisas de Opinião. In Thiollent, M. (Eds.) *Crítica metodológica, investigacao social e enquete operaria*. 191- 211. Editora Polis.
- Kessler, G. (2010). *Sociología del delito amateur*. Paidós.
- Kessler, G. (2012). Movilidades laterales: delito, experiencia urbana y cuestión social. In *Revista de Ciencias Sociales*, Universidad de la República, Facultad de Ciencias Sociales, Departamento de Sociología, 31(25).

- Luna de Mora, R. (2019). *Desistimiento delincencial y respuestas penales para consumidores de drogas. Estudio de caso en los Tribunales de Tratamiento de Adicciones de Nuevo León*. [Tesis doctoral presentada en Univseritat Pompeu Fabra, Barcelona]. Inédito.
- Manchado, M. (2021) “La salvación es personal”. Desistimiento, religión y narrativas de conversión en prisiones de Santa Fe (Argentina)”. In *URVIO, Revista Latinoamericana de Estudios de Seguridad*. (29), 59-77.
- Manchado, M. (2020). El castigo es una empresa. la búsqueda de la eficiencia penal en las políticas penitenciarias de cambiemos. In *La persistencia de la Argentina de Cambiemos*. Esteban Iglesias & Juan Bautista Lucca; compilado por Esteban Iglesias; Juan Bautista Lucca - 1a ed - Rosario: UNR Editora. Editorial de la Universidad Nacional de Rosario, 2020.
- Martínez, M. J. (2004). “Expedientes”. In *Revista Sistemas Judiciales*, No.7, Oralidad y Formalización de la justicia. <https://sistemasjudiciales.org/revista/revista-no-7-oralidad-y-formaliza-cion-de-la-justicia/> Fecha de consulta: diciembre 2019
- Martinson, R. (1974). What Works? Questions and Answers about Prison Reform. In *The Public Interest*. (42), 22-54.
- Maruna, S. (2001). *Making Good: How Ex - Convicts Reform and Rebuilds their Lives*. APA.
- Maruna, S. (2004). Desistance from Crime and Explanatory Style: A New Direction in the Psychology of Reform. In *Journal of Contemporary Criminal Justice*. 20(2), 184-200.
- Messina, G. M. (2015). *Continuidades y discontinuidades en el régimen de bienestar argentino entre 2003 y 2013: ¿Promoción de la inclusión o fragmentación de la política social?*. Universidad de Buenos Aires. Facultad de Ciencias Económicas. Instituto de Investigaciones Económicas. Centro de Estudios sobre Población, Empleo y Desarrollo.
- Míguez, D. (2004). *Los pibes chorros. Estigma y marginación*. Capital Intelectual.
- Míguez, D. e Isla, A. (2010). *Entre la inseguridad y el temor: Instantáneas de la sociedad actual*. Paidós.
- Mouzo, K. (2010). Actualidad del discurso resocializador en las cárceles argentinas. VI Jornadas de Sociología de la UNLP. Universidad Nacional de La Plata. Facultad de Humanidades y Ciencias de la Educación. <https://www.aacademica.org/000-027/476>
- Muzzopappa, E. & Villalta, C. (2011) “Los documentos como campo. Reflexiones teórico-metodológicas sobre un enfoque etnográfico de archivos y documentos estatales”. In *Revista Colombiana de Antropología*. 47(1), pp. 13-42.
- Neuman, E. & Irurzun, V. (1994) (1968). *La sociedad carcelaria*. Depalma.
- Ramírez, H. (2012). La crisis Argentina de 2001 en una clave de largo plazo. In *Estudios Digital*, (28), 53-71. <https://doi.org/10.31050/re.voi28.4673>
- Sampson, R. & Laub, J. (1993). *Crime in the making: Pathways and turning points through life*. Harvard University Press.
- Silva, J. (2012). *Las políticas penitenciarias del estado nacional entre 1930 y 1960*. VII Jornadas de Sociología de la UNLP. Departamento de Sociología de la Facultad de Humanidades y Ciencias de la Educación, La Plata.
- Tiscornia, S. (2004). “Detenciones policiales y muertes administrativas”. In *Antropolítica, Revista Contemporánea de Antropología e Ciência Política*. UFF, (16).
- Vigna, A. (2022). “Cambios y continuidades en la negociación del orden carcelario. Una mirada al proceso uruguayo reciente”. In *Prisiones. Revista digital del Centro de Estudios de Ejecución Penal*. Universidad de Buenos Aires, 1(1).
- Velázquez Ramírez, A. (2015). Regeneración y tiempo: el lenguaje político del alfonsinismo en la transición a la democracia en Argentina. In *Ariadna histórica. Lenguajes, conceptos, metáforas*, 4, pp. 147-170. <http://www.ehu.es/ojs/index.php/Ariadna/index>

Appendix

Type	Name	Nº	Year
Journal	Revista Penal y Penitenciaria	187/190	1983
Public Bulletin	---	1573	1983
Public Bulletin	---	1582	1983
Public Bulletin	---	1583	1983
Journal	Revista Penal y Penitenciaria	191/194	1984
Public Bulletin	---	1595	1984
Public Bulletin	---	1589	1984
Public Bulletin	---	1590	1984
Public Bulletin	---	1592	1984
Public Bulletin	---	1597	1984
Public Bulletin	---	1598	1984
Public Bulletin	---	1602	1984
Public Bulletin	---	1609	1984
Public Bulletin	---	1624	1984
Public Bulletin	---	1625	1984
Public Bulletin	---	1630	1984
Public Bulletin	---	1631	1984
Public Bulletin	---	1632	1984
Public Bulletin	---	1633	1984
Public Bulletin	---	1639	1984
Journal	Revista Penal y Penitenciaria	195/198	1985
Public Bulletin	---	1651	1985
Public Bulletin	---	1654	1985
Public Bulletin	---	1666	1985
Public Bulletin	---	1673	1985
Public Bulletin	---	1680	1985
Public Bulletin	---	1684	1985
Public Bulletin	---	1693	1985

Public Bulletin	---	1729	1986
Public Bulletin	---	1700	1986
Public Bulletin	---	1735	1986
Journal	Doctrina y Acción Postpenitenciaria	2	1987
Journal	Doctrina y Acción Postpenitenciaria	1	1987
Public Bulletin	---	1770	1987
Journal	Doctrina y Acción Postpenitenciaria	3	1988
Journal	Doctrina y Acción Postpenitenciaria	4	1988
Public Bulletin	---	1840	1988
Revista	Doctrina y Acción Postpenitenciaria	5	1989
Public Bulletin	---	1906	1989
Public Bulletin	---	2008	1991
Public Normative Bulletin	---	1/6	1993
Journal	Revista Penal y Penitenciaria	199/202	1994
Public Normative Bulletin	---	2/32	1994
Public Bulletin	---	2240	1995
Public Normative Bulletin	---	4/ 54	1996
Public Bulletin	---	2410	1998
Public Bulletin	---	2408	1998
Public Bulletin	---	2408	1998
Public Normative Bulletin	---	7/88	1999
Public Normative Bulletin	---	7/91	1999
Public Normative Bulletin	---	7/88	1999
Public Normative Bulletin	---	8/108	2000
Public Bulletin	---	2492	2000
Journal	Revista Penal y Penitenciaria	203	2001
Public Bulletin	---	2589	2002
Public Bulletin	---	2628	2002

Public Normative Bulletin	---	12/195	2004
Public Bulletin	---	2678	2004
Public Bulletin	---	2738	2005
Public Normative Bulletin	---	16/350	2009
Public Normative Bulletin	---	17/374	2010
Public Normative Bulletin	---	17/387	2010
Public Bulletin	---	2950	2010
Public Normative Bulletin	---	18/412	2011
Public Normative Bulletin	---	17/441	2011
Public Normative Bulletin	---	17/432	2011
Public Normative Bulletin	---	17/439	2011
Public Bulletin	---	2990	2011
Public Normative Bulletin	---	19/458	2012
Public Bulletin	---	3147	2013
Public Bulletin	---	3178	2014
Public Normative Bulletin	---	21/ 543	2014
Public Normative Bulletin	---	23/613	2016
Public Bulletin	---	3392	2017
Public Normative Bulletin	---	25/667	2018
Public Normative Bulletin	---	25 /674	2018
Public Normative Bulletin	---	26/693	2019
Public Normative Bulletin	---	27/711	2020
Public Normative Bulletin	---	27/710	2020
Public Bulletin	---	3503	2020

Kontakt | Contact

Andrea Lombraña | CONICET | Escuela IDAES UNSAM | andrealombrana@conicet.gov.ar

Carolina Di Prospero | CONICET | Escuela IDAES UNSAM | cdiprospiero@unsam.edu.ar

Natalia Ojeda | CONICET | Escuela IDAES UNSAM | nojeda@unsam.edu.ar