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THE PERSISTENCE OF THE PRISON CRISIS IN COLOMBIA

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Summary

This article analyzes the prison crisis in Colombia from a human rights perspective, based on the jurisprudence of the Colombian Constitutional Court, starting from the declaration of an unconstitutional state of affairs initially decreed by ruling T-153 of 1998, reconceivedin ruling T-388 of 2013, reiterated in decision T-762 of 2015, and extended in ruling SU-122of 2022. A qualitative methodology with a legal hermeneutic approach was used with a documentary design. First, the connotation of penitentiary and prison establishments fromthe perspective of Foucault, the legal framework, and the Colombian reality were addressed,then the main decisions of the High Constitutional Court were delved into, highlighting themost relevant findings of the persistence of the prison crisis in the country.

Keywords: Prisons, Unconstitutional State of Affairs, Human Dignity, Resocialization, Overcrowding, Constitutional Court.

Introduction

Colombia as a Social State of Law is framed in the protection of the human person based ondignity, an aspect that includes the reinforced respect for the principle of personal freedom, which can be restricted or limited concerning persons deprived of liberty, not being anobstacle to the violation of their rights, especially in the relationship of subjection that persons deprived of liberty have about the duties of the State, respecting minimum standards of basic conditions that allow the enjoyment of fundamental rights such as health, water, work, education, among others.

Its guarantee allows the development of re-socialization processes in penitentiary and prison establishments, promoting the physical and mental health of inmates and providing them with elements for their reintegration into society (Galvis, Jaimes, and Montero, 2021). Overcrowding or overpopulation is the main problem affecting human dignity, which has repercussions on a whole range of violated rights, and situations of unhealthiness, violence, extortion, and corruption.

The Constitutional Court, employing the unconstitutional state of affairs, responds to the prison crisis, as it is a massive and generalized problem of a structural nature that requires the adoption of coordinated measures by different state entities, carrying out an evaluationand monitoring of public policy. However, despite institutional efforts, the problem persistsand has even extended to temporary detention centers.

Methodology

This research was developed under a qualitative approach, which according to Sampieri(2006) is based on an inductive process, where it explores and describes, after which theoretical perspectives are generated, the qualitative process

is not linear, it is constitutedin stages to meet the objective of the research through data that will become information. Using a legal hermeneutic cut that allows the interpretation of the law from the norm, thephilosophy of law, and jurisprudence (Osuna Fernandez-Largo, 1996), from the analysis of judgments of the constitutional court, with a documentary design. Documentary research seeks to provide a basis from the collection of files, reports, or research on a specific topic,through the recovery, analysis, criticism, and interpretation of secondary printed, audiovisual or electronic data (Arias, 2012).

Results

1. Penitentiary and prison institutions

For Foucault (2002) prison is the penalty of civilized societies characterized by the deprivation of liberty since it is a right and a good that belongs to everyone in the same way, which allows providing an equal punishment for its loss since the offense committedby the person deprived of it harms the whole society, which merits the quantification of the penalty according to the variable of time (p. 212).

Accordingly, the Colombian legal system contemplates freedom in its Magna Carta, presenting it as a value and principle, originally in the preamble, developing it in its broadest expression as a prevailing right in the Social State of Law, which stands on the principle of human dignity and guarantee of fundamental rights.

Freedom is outlined in Article 28 of the Constitution, which stipulates that no one may be deprived of his or her freedom except by an order issued by a competent judicial authority, with legal formalities and based on a reason previously established by law. Likewise, its limitations are indicated in articles 6 and 7, and freedom is configured in specific areas in articles: 2 state protection in terms of rights and freedoms; 16 free development of personality; 18 freedom of conscience; 19 freedom of worship; 20 freedom of expression and information; 24 freedom of movement, all of which are recognized as fundamental rights (Political Constitution of Colombia, 1991).

In addition, Article 32 establishes an exception to the order issued by a judicial authority incases of flagrant delicto, so that freedom as a fundamental right is not absolute; it is a fundamental guarantee that may present limitations or restrictions, as long as its essentialcore is not affected.

From the Foucauldian perspective, prison relates the disciplinary with the juridical, transcending detention, it is recognized as an antidisciplinary entity, which uses coercion to achieve a total education that allows operating transformations in individuals, thus prison becomes the privileged place of realization of the panopticon, resorting to three schemes: (i) the political-moral one of individual isolation and hierarchy, by exercising on the condemned an unparalleled power; (ii) the economic one of force applied to compulsory labor as an effective technique of correction, translated into the effects it exerts on human mechanics as a principle of order and regularity in an industrialized society; (iii) the technical-medical one of healing and normalization, presenting itself as an instrument of modulation of the penalty where the criminal must be reintegrated into society (pp.211-236).

In Colombia, the prison situation has been critical since the beginning of the Republic, aspects such as the difficulty in financing, poor infrastructure, and the generalization and predilection of the prison sentence are maintained (Marquez-Estrada, José, 2013), this eternalization of the crisis leads to affirming that prison is the great failure of criminal justice, It is a space that becomes a factory of criminals, detention leads to recidivism, as it operates under the principle of abuse of power, building complicities among offenders, who are subject to stigmatization after imprisonment, in addition to the absence of viable alternatives for labor reinsertion (Foucault, pp.237), these scenarios make it necessary to channel efforts towards prevention and emphasize the resocializing vocation of imprisonment.

The restoration of guarantees is the first condition for restoring credibility to the law and atthe same time to the criminal jurisdiction (Ferrajoli, 2006, p. 66).), the guarantee as a synonym of constitutional rule of law, is constituted in an empirical and normative theory on the duty to be of criminal law, where guarantees are granted for

the protection of rights in the face of the disproportionate burden of suffering caused by imprisonment, that is to say, physical and psychological afflictions deprive prison punishment of its characters of equality, typicity, legality, and jurisdictional, mainly due to the living conditions in the different prisons (Ferrajoli 2006), which is why the implementation of alternative penaltiesshould be advocated.

In this sense, Colombian criminal policy refers to the decisions adopted by the State as a response to irreproachable conduct or social harm, to protect the essentialinterests of the Republic; these may be of a social, legal, cultural, administrative, or technological nature (Constitutional Court, C-646 of 2001), with programs of varying scope on alternative penalties, although only on paper (Observatory of Criminal Policy).

Several authors have discussed the prison system today. Waqar points out that prison overcrowding goes hand in hand with a "penal science" whose purpose is not to prevent crime nor to seek eventual resocialization but to isolate groups perceived as dangerous, mainly poor and marginalized (Wacquant, Loic, 1999, p.99), under structural discrimination and selectivity, subaltern to the criminality of power (Ferrajoli, 2006, p.74 and 83).

Despite this, after centuries of calling the prison a failure, it constitutesa success by continuing to exist, producing the same effects and not finding a replacementthat can overthrow it, a context that has been present for centuries, analyzed by Foucault in 1975 in his work "Surveillance and Punishment" and by a variety of authors today.

Meza Garcia (2014) states that the Colombian punitive system results in a formal and material impossibility to comply with the purposes of the regulations, on the contrary, it produces anti-legal effects due to the lack of investment in the prevention of criminalization (Meza Garcia, Sahiet, 2014). In the same sense Huertas, Mira, and Silvera (2016) point out that prison overcrowding and human rights violations of detainees constitute a scenario ofdisruptiveness or criminal school, punitive solutions are not adequate to the social reality of the country, the constant violations of human dignity due to the lack of access to basic needs perpetuate a structural crisis where there are no guarantees or capacity to address the methods and treatments of resocialization.

The resocialization of punishment is supported by the Political Charter, the clause of the Social State of Law, based on respect for human dignity and the primacy of the inalienablerights of the person; as well as the purposes of the State, including serving the community, promoting general prosperity and ensuring the effectiveness of the principles, rights, and duties outlined in the Constitution and finally the prohibitions of torture, cruel, inhuman ordegrading punishment. Likewise, the Universal Declaration of Human Rights, andthe Pact of San José, among other human rights instruments, as an integral part of the constitutional block, recognizing humane treatment for all individuals during the deprivation of their liberty.

In Colombian law the penalty can be located in the Penal Code, which in Article 4 establishes the functions of the penalty as follows: "The penalty shall fulfill the functions of general prevention, fair retribution, special prevention, social reinsertion and protection of the convicted person. Special prevention and social reinsertion operate at the time of the execution of the prison sentence". While in Law 65 of 1993 or the so-called Penitentiary andPrison Code, Article 9 establishes in its Article 9 as functions of the penalty "the penalty hasa protective and preventive function, but its fundamental purpose is resocialization (...)".

Now, taking into account the purposes of punishment and understanding that persons deprived of liberty by judicial sentence have committed a fault before society, this is not an obstacle for them to lose the quality of human beings, being an obligation of the State as guarantor to promote an effective enjoyment of rights, even when some of them are limitedas a result of the judicial sanction, especially the relationship of subjection between the State and persons deprived of liberty, which entails a constitutional and legal obligation in terms of surveillance, control, care and protection (Suarez, Flórez and Flórez, 2014).

The National Penitentiary and Prison Institute of

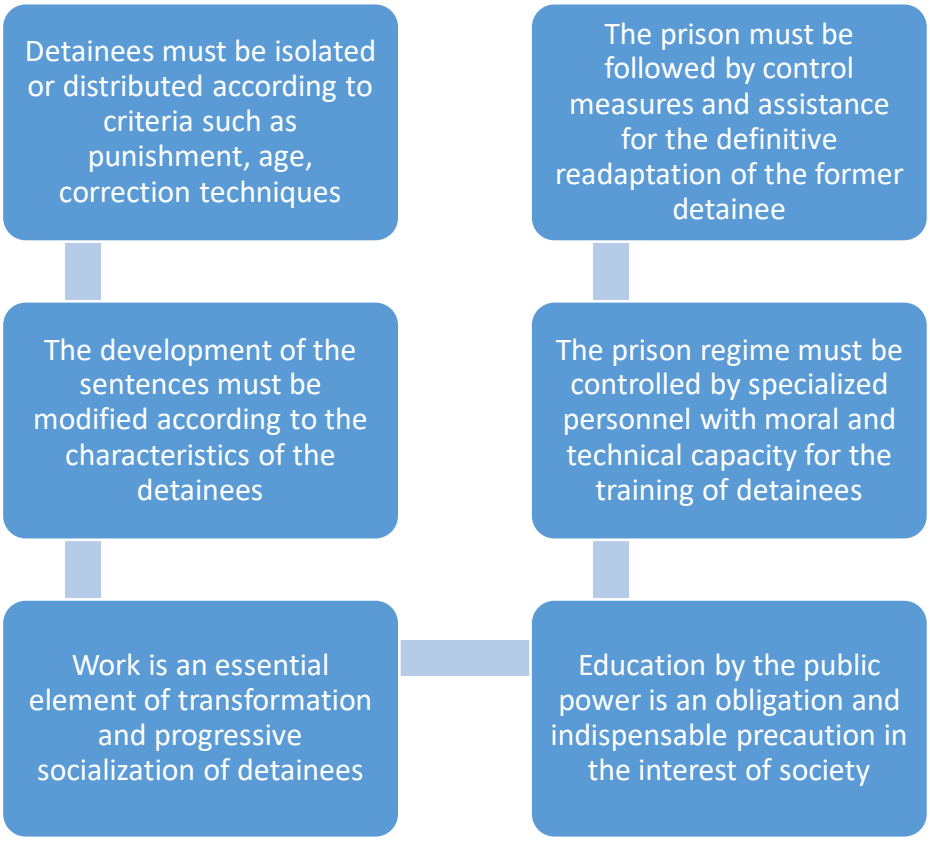
Colombia, INPEC, is the Colombian State entity in charge of the penitentiary treatment and therefore of the resocialization of convicted persons and persons deprived of their freedom in prisons. Re-socialization means to re-socialize, which means learning social expectations and internalizing behavioral norms. Resocialization is to become a social being again, according to society's wishes, which implies recognition. The technique used is the change of attitude and values. It is confused with the change from a delinquent to a good inmate (INPEC, 2016).

Theoretically, resocialization prepares the inmate to gradually become an active subject of change without the need for an excessive disciplinary aspect, allowing self-regulation and progress towards freedom (Pedraza, 2015), accommodating and adapting a person to the environment from which he was detached due to the conduct or crime committed (Hincapié and Paz, 2021) contrary to this, in reality, there is no consecutive presence of the staff that implements the programs (García, C., Marroquín, M. and Martínez, M., 2020), and once out of prison the possibilities of recidivism increase.

The respect for the fundamental rights of inmates is under constant debate, the absence of space, food, and mode of subsistence, hinders the process of re-socialization, the number of inmates differs from the number of places, overcrowding becomes a phenomenon that occurs in all prisons in the Country, more people enter than leave (Moreno, 2019), which has repercussions in inhumane conditions with physical and psychological affectations, as well as obstruction in the access and execution of the resocialization programs, turning the prison into a place of unproductive leisure, where the staff is insufficient or not trained, and the bureaucracy becomes a constant hurdle (Hernandez, 2018).

For example, women prisoners present a flagrant violation of their human rights to health, dignified life, education, and work, with special conditions such as pregnant mothers or the coexistence of their children in the prison (Moreno, Gómez, Bolivar, 2021).

The essential function of penal detention should be the transformation of the individual's behavior, accordingly, the community can and should be involved in the treatment and prevention of crime, as well as in the social reintegration of offenders (Segovia, 2011, p.84). Concordantly, Foucault points out the principle of good prison conditions, which must meet the following requirements:



Source: Own elaboration based on Foucault's postulates in "Surveillance and Punishment" pp.249-252.

In the Colombian case it is evident that the principle of good prison conditions has not been complied with, an aspect that is analyzed below through the jurisprudence of the Constitutional Court, in line with human rights instruments and institutions, which require dignified conditions for inmates such as hygienic places and implements, adequate sanitary facilities, clothing, living quarters, sufficient food and drinking water, sports, access to health services, prohibition of cruel, inhuman or degrading treatment and punishment, among others (UN, 2005).

2. The unconstitutional state of affairs in the Colombian penitentiary and prison system

The Constitutional Court is the highest body of constitutional jurisdiction in Colombia, by Article 4 of the Political Charter, and is responsible for the safeguarding and integrity of the supremacy of the Constitution and the prevalence of the Social State of Law. Within its pronouncements, the unconstitutional state of affairs - hereinafter ECI - becomesthe guarantee of the objective dimension of fundamental rights with the work of the constitutional judge in the review of Tutela rulings (Vargas, 2003).

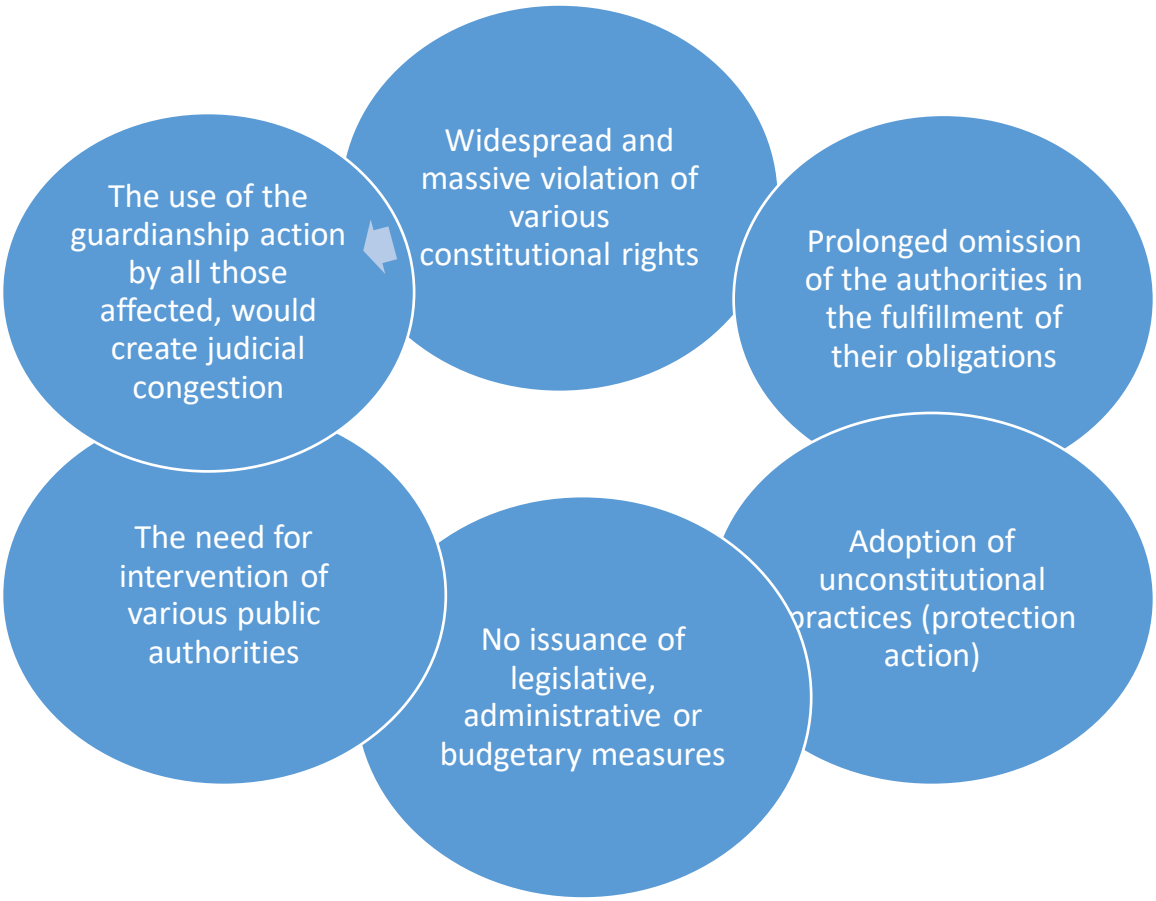
The doctrine of the unconstitutional state of affairs is located in neoconstitutionalism, with antecedents in the *structural remedies* of common law, characterized by judicial activism, where the constitutional judge adopts progressive and liberal decisions, with powers on political-legal issues in the defense of fundamental rights, but from a critical perspective causes a disarticulation of the organization of the State, resulting in a co-government by the Court when it establishes mandatory parameters in public action and a direct governmentwhen it issues rulings contrary to the principle of separation of powers (Romero, 2012), in the government of the judges, the judicial operator ceases to be a passive mechanical applicator of the norm and starts to create law (López, 2011).

The Colombian State is a constitutional State, which structures its purposes within the pillars of justice, equality, freedom, and peace, in that order of ideas and framed within a democratic and participatory constitutional legal system, seeks to guarantee the political, economic, and social order of the country, so that the Political Constitution is no longer just a formula for the distribution of powers, but includes the institutionalization of values such as principles, provisions and fundamental rights, materially guaranteed and that can be legally enforceable not only through the Constitutional Court but also through the ordinary judges who become constitutional judges by way of title.

In Colombia, the ECI was declared for the first time in judgment SU-559 of 1997 with the lack of affiliation of teachers to social security, despite having deducted from them the contribution corresponding to the payment of social benefits. In this case, the Court identifies structural failures that affect a large number of people, which requires harmonious collaboration between the branches of government per Article 113 of the Constitution.

Later, in judgment T-068 of 1998, this figure was again applied concerning the administrative inefficiency and ineffectiveness in attending to the petitions of the retirees of the National Social Security Fund (Caja Nacional de Previsión). Subsequently, in decisionT-153 of the same year, the ECI was declared concerning the country's prisons, a decision of interest in this investigation. Various situations have led to the declaration of the ECI in cases such as the failure to call a competition for notaries (SU-258 of 1998), the lack of protection of human rights defenders (T-590 of 1998), the delay in the payment of pension payments (T-525 of 1999).

But the configured elements of the ICS were specified by the Court until Ruling T-025 of 2004, whose subjects of protection were the internally displaced persons due to the armedconflict, such factors are:



Source: Own elaboration, extracted from sentence T-025 of 2004.

Among the consequences of the ICS is the permanence or preservation of jurisdiction over time by the constitutional judge, following Article 27 of Decree 2591 of 1991, using follow-up orders (Hernández, L., Osorio E., and Ayala e., 2021, p.872).

The complex situation that the country's detention facilities are going through has merited several pronouncements of the High Constitutional Court where the state of unconstitutional things has been declared (Hernández Jiménez, Norberto, 2018), first in judgment T-153 of 1998, again in judgment T-388 of 2013, reiterated in judgment T -762 of 2015 and expanded in providence T-122 of 2022. Since the second half of the 1990s, the Constitutional Court has played a leading role in Colombian political life with progressivism that translates into judicial activism that favors the guarantee of the rights of people, mainly of the vulnerable population (Uprimny, Rodrigo and García, Mauricio, 2016),determining the scope of legal norms resignifying decisions and public policies (Feoli, 2016).

Persons deprived of liberty are considered vulnerable subjects as they do not have full enjoyment of their rights due to the penitentiary regime (Quintero, J., Navarro, A., and Meza, M., 2011).

The following is an analysis of the main pronouncements already mentioned regarding the prison crisis in Colombia, showing the persistence of the same since the first pronouncement of the ICS on the matter, until the most recent decision in 2022, which again ratifies the ICS in prisons and extends it to temporary detention centers, demonstrating the extent and seriousness of the human rights problem, and the violationsof human dignity due to overcrowding (León, J., Ruiz, H., and Serrano, J., 2013).

2.1. Decision T-153 of 1998

This ruling became the first pronouncement on the ECI in prisons. In 1998, the Court studiedthe case of the National Model Prison in Bogota and the Bellavista District Prison in Medellin, conducting judicial inspections and requesting information from all the entities involved, concluding that it is a generalized situation in all types of prisons in the country. It points out that the ECI is a figure that is applied when a multitude of people suffer theviolation of their fundamental rights due to structural causes, requiring the joint action ofvarious entities to solve the problem. Likewise, a variety of scenarios are identified about social problems, through reports and judicial inspections, such as overcrowding, insufficient public and assistance services, violence, extortion, corruption, and the violationof the rights to life, personal integrity, family, health, work, the presumption of innocence.

Overcrowding causes people to be housed in numbers exceeding the capacity of each space,in cells, corridors, bathrooms, traffic circles, and stairways, therefore, in subhuman andunsanitary conditions, understanding that this is a notorious fact in society and a phenomenon that has been present since 1938, The deterioration and deficient maintenance of the infrastructure, its age, and the use of buildings that were built for purposes other than those for which they are being used, some of which do not even havea water supply or adequate electrical installations, despite the investment made toimprove their conditions.

At the same time, there are irregularities in the administration ofthe prisons and the contracting of all types of services, allocating resources for theorganization of overcrowding and not for its eradication. Another difficulty is the impossibility of categorizing inmates in contravention of Law 65 of 1993 so that the prisons become places that do not guarantee the security, habitat, and treatment of the inmates. The causes of prison congestion include inadequate infrastructure, the increase in crime, judicial congestion for the resolution of all stages of judicial processes, lack of budget andpersonnel, the crisis of values in society, the obstacles generated by legislative changes, which among other aspects has led to a lack of clarity in the competence of the responsible entities and the

prohibition of parole for various crimes.

Overcrowding results in the non-fulfillment of the objectives of the penitentiary system; theminimum conditions for a dignified life in prison cannot be guaranteed, much less re-socialization, not even separation by categories of prisoners, mixing convicted and untried prisoners. While imprisonment brings with it the suspension of rights such as political rights, physical freedom, and freedom of movement, and the restriction of rights such as personal and family privacy, assembly, association, free development of personality, and freedom of expression, other rights are fully preserved in line with the recognition and respect for human dignities, such as life, personal integrity, health, due process, petition,recognition of legal personality.

2.2. Decision T-388 of 2013

The establishment of the ECI decreed in prisons in 1998 had been considered partially overcome, despite this, in 2013 as a result of the avalanche of Tutela actions, the Court considered it necessary to re-declare the ECI in penitentiary and prison establishments, pointing out the role played by the press and academia in making the excluded visible (Cabrera, 2002).

This is a problem that is generally recognized in Latin America, where the judiciary has optednot to intervene, carry out structural reforms, close prisons, or control and reduce confinement; in Colombia, due to the magnitude of the crisis, there has been a repeated failure to comply with judicial decisions that seek to resolve the situation, rather than a lackof interest on the part of the State, the measures adopted have been inefficient.

There is a predilection for custodial sentences and legislative production aimed at criminalizing all types of conduct, although overcrowding is identified as the main problem, from which violence, corruption, and extortion derive, coupled with the absence of a consistent and long-term criminal policy, which favors punitive populism, without responding to the causes or specificities of the context, accompanied by institutional weakness.

e problem includes similar causes to the previous declaration, due to overcrowding, the constitutional rights of persons deprived of liberty are violated in a massive and generalizedmanner, along with the obligations to respect, protect and guarantee them in a prolonged non-compliance.

Unconstitutional practices have been institutionalized in the daily functioning, allowing the establishment of de facto regimes inside prisons that charge money for basic goods and services such as beds or cells, even when the circulation of money is prohibited, the inmatesfind another currency of exchange and control. However, the situation from 1998 to 2013 shows a transformation in terms of the relevance given to prison circumstances in public policy and national agenda, even the national government declared a state of emergency due to the collapse in the provision of health services to prisoners, but the measures adopted have not been sufficient to ensure the enjoyment of rights or prevent the violationof rights. In this sense, the competence regarding the monitoring of the previous ECI is notretaken and is declared again.

A criminal and prison policy that respects human dignity must strike a balance between attitudes and policies that view prisoners as criminals whose rights must be limited and their conception as persons in a relationship of subjection that entails the protection of rights, using criteria of reasonableness and proportionality.

It is especially relevant to consider that the ECI does not exempt the judge of Tutela from studying each specific case related to the prison and penitentiary system. Similarly, the need for measures that allow an effective reintegration into society and a solution to overcrowding, as well as the violation of human dignity does not translate into a right to bereleased in the head of the person deprived of liberty, but to the design and implementation of favorable and sustainable policies.

2.3. Ruling T-762 of 2015

This decision reiterates the ICS, emphasizing

Colombia's criminal policy, which has been reactive, populist, unreflective, volatile, incoherent, and subordinated to the security policy characterized by the excessive use of custodial measures, ignoring its preventive nature, where criminal law is the last resort.

Accordingly, the stages of criminal policy are evaluated, including the formulation and monitoring, pointing out the common problems that were studied in previous pronouncements, in search of a change of perspective that is based on verifiable minimums, with a constitutional standard and respectful of human rights that achieves the primary goal of the effective re-socialization of convicts.

It is oriented to energize the criminal policy, through the follow-up of the orders issued dueto the ECI, entrusting its leadership to the Ombudsman's Office, in line with its role of promotion and dissemination of human rights. This assignment should be channeled towards the evaluation of the fundamental rights of inmates to the conditions ofdignified existence, the return to a minimum criminal law, and the resocializing function of punishment. Monitoring is then assigned to the Office of the Attorney General of the Nation, and the articulation of the entities to the Ministry of the Presidency of the Republic, all of which must orient their commission to obtain results, without prejudice to the role of the Constitutional Court.

Likewise, committees are created to unify measurement criteria with a differential approach to identify data on minimum incarceration for the creation of an information system, the evaluation of the contribution of each intervening entity, and the compliance threshold for overcoming the ECI, which depends on the results but not the means, in terms of the following conditions: (a) overcrowding, (b) infrastructure causing septic and subhuman conditions, (c) precariousness of health care services, (d) impossibility in resocialization programs, (e) impossibility to differentiate location and treatment between accused and convicted, (f) delays in requests for remission of sentences and parole, (g) lack of access to drinking water, (h) insufficient and unhealthy food supply, (i) impossibility of spaces for conjugal visits, (j) lack of personnel.

2.4. Ruling SU-122 of 2022

At this point, it is necessary to recall that one of the consequences of the ICS is the maintenance of the Court's jurisdiction through follow-up orders; about the prison the crisis only in 2022, orders 854 were issued on the measures of prevention, attention, and control regarding Covid-19; 896 about access to information and entry to prisons by the entities in charge of monitoring; 1629 with the follow-up of the structural orders issued within the framework of the ICS.

Through this unification sentence, the ECI was extended to the so-called transitory detention centers, for example, inspections, police stations, substations, immediate reaction units -URI-, and similar places, these spaces have also been called detention rooms, provisional detention centers, or transit rooms.

As in the previous pronouncements, several tutela actions were studied, in this case, nine accumulated, this being the mechanism of protection against the violation of fundamental rights. This decision evidences the magnitude of the prison crisis, which even with the monitoring carried out has increased, overcrowding as the central axis of the problem persists and consequently has overflowed the penitentiary and prison centers, which is whypeople captured with a legal situation already defined by a judge remain in the temporary detention centers.

Respect for human dignity is also contemplated in the Minimum Rules for the Treatment ofPrisoners, which cover both accused and convicted persons, and are reiterated in the set ofprinciples for the protection of all persons subjected to any form of detention or imprisonment and the International Covenant on Economic, Social and Cultural Rights, both of the United Nations so that the violation of vital minimums can be configured in cruel, inhuman or degrading treatment.

Both accused and convicted persons remain deprived of their liberty in temporary detention centers, as their name implies, they are places of transit without a physical, technical and human capacity for re-socialization since they do not have the infrastructure to detain people for prolonged

periods, so the violation of fundamental rights is more acutethan in prisons and jails, and they are also under the responsibility of the National Police and the Attorney General's Office, entities that cannot care for and custody of inmates within their competence.

According to figures from the Ombudsman's Office, by 2021 these facilities were 189% overcrowded. Specifically, the absence of differential approaches and the lack of clarity about the disciplinary regime applied within them were identified, as well as violations of the right to health, work, education, food, water, visitation, voting for the accused, prison treatment, re-socialization, and sentence redemption.

Due to the orders issued in 2015, it was established that to ensure basic minimums, overcrowding should be reduced by denying the acceptance of persons in an establishmentif the occupancy level was not increased, a decision that was called the application of the rule of decreasing balance that could lead to the closure of prisons, but caused the externalization of overcrowding, since no structural measures were adopted for its proper implementation, ignoring that to proceed with the closure of establishments thereshould be no other measures for the protection of rights.

In this regard, the need to use alternative measures, the early termination of proceedings through restorative justice, and the harmonious collaboration of state entities at the central and territorial levels, including financial collaboration, is emphasized. Finally, to reducethis scenario, the transfer from these sites to penitentiary establishments or residences in the case of preventive detention at home or with house arrest, the adaptation of the centers, and the monitoring of the ECI until the use of temporary detention centers is definitively eliminated and the expansion of prison capacity in adequate conditions shouldbe encouraged.

3. Conclusion

Penitentiary and prison facilities have been in crisis since the beginning of the Republic, obstacles in the financing, infrastructure, and the predilection for prison sentences have been present despite the regulatory framework that proscribes it, contrary to the purposes of criminal policy, prevention, and the restorative role with a focus on re-socialization and alternative measures.

Respect for the human dignity of persons deprived of liberty is illusory given the magnitudeof the problem, two declarations of an unconstitutional state of affairs, several follow-up orders, and jurisprudential reiteration by the Constitutional Court have allowed the evaluation of public policy in this area, however, even today the crisis not only persists buthas spread to temporary detention centers, despite the efforts of all state entities that converge in the implementation of criminal policy.

The human rights of inmates require continued monitoring but at the same time the adoption of structural measures in a coordinated manner, mainly in terms of overcrowding that leads to multiple violations, implementing solutions with financial sustainability and a human rights approach that allows the conception of the person in prison as a human beingwith the guarantee of minimum living conditions.

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