

# The Punitive Exacerbation: A Fallacy in the Conception of the Social State of Law

Maria Alexandra Ruiz Cabrera<sup>1</sup>

## Abstract

*This article aims to highlight the obstacles faced by negotiation methods within the reward system and restorative justice contemplated in Law 906 of 2004 of Colombia. It acknowledges that the possibility of achieving outcomes within figures such as plea bargains and pre-agreements is discarded as a negotiated way out of the criminal case due to increasing prohibitions, coincidentally for the most committed crimes in Colombia territory. This turns the criminal justice system into a scenario of inexorable oral trials, for which the burdens in capacity, institutionalization, and functionality are not given. Through these lines, we also seek to understand the importance of the emergence of a legal figure, in this case, a trial system, and the challenges it faces from the producing country to provide a post-implementation assessment. Perhaps from there, possible solutions can be derived, especially if a justice reform is proposed for the current year, 2024, with its main focus on the proper and swift performance of the trial system as a commitment to the opportune management of *ius puniendi* and criminal policy.*

**Keywords:** Prohibitions, Reward Justice, Restorative Justice, Oral Trial, Accusatory Criminal System, Criminal Policy.

## INTRODUCTION

The purpose of this brief is to unveil the need to scrutinize without resorting to a self-righteous discourse, frankly and directly, regulatory reforms of greater lineage, such as that of handing over to the Attorney General's Office, the broad power to sign agreements with the accused and his defense, without being impeded or limited by a legal plexus that prohibits it from promoting an early termination of the process under that modality consensual, when it comes to specific crimes, with an extensive catalogue, as is sadly happening in the Colombian penal system, putting an end to the desire outlined in the past by the Constituent Assembly, to seek the application of the criminal justice service in a timely manner.

In order to be able to pursue the proposed objective, it will begin by recalling how the accusatory criminal system was adopted to the Colombian reality, with the task of complying with the guarantees that were pending to materialize in the system that operated in domestic legislation until 2004, more closely related to the constitutional text of 1991, taking into account that the expectation also lay in the possibility of pre-agreeing between the parties on the criminal responsibility of those who perpetrated conduct punishable, which essentially involve a confession on the part of the perpetrator or participant and, with it, achieve conviction figures, based on the reconciliation of concepts such as truth, justice and reparation, within the framework of swift but reliable decisions.

In a second part, it is incorporated into the work, how the phenomenon of the statute of limitations and the passage of time with respect to the evidentiary activity, become two great impediments to achieve material justice, while it is predicted that the vast majority of matters that knock on the doors of the criminal process end up in the winding path of the oral trial. It is necessary to rethink policies to reactivate the bargaining figures and thus allow the system to offer solutions of the same size as the collective desires. In the same space, an account will be made of the main prohibitions provided by the legal system, whether express or tacit, to carry out a pact that ends with a conviction, regarding the nature of different crimes contemplated by the legislator.

Finally, with the help of comparative critical models, a post-transplant evaluation will be carried out, which will allow us to verify that the accusatory criminal system, in the place of reward justice and restorative justice, is failing to achieve the purposes for which this figure was imbricated with the Colombian legal system.

---

<sup>1</sup> Docente pregrado y posgrado Facultad de Derecho Universidad de Nariño, Colombia., E-mail: alexaruiz05101@udenar.edu.co

## **THE ACCUSATORY PENAL SYSTEM AND ITS FORMS AS A LEGAL TRANSPLANT**

It is not a secret and, with many criticisms in addition, the entry into force of the accusatory penal system in Colombia, as a legal transplant that has become American norms; These accusations come from the same commitment to the implementation of the same economic model and, of course, from the unification of a system of prosecution for Latin American countries as recipients framed in a global south. Under this understanding:

The Colombian government agreed with the U.S. government to import the accusatory penal system to Colombia to replace the inquisitorial penal system established by the 1991 Political Charter. The importation of this set of norms and institutions, which seek to strengthen the rule of law and the administration of justice in an underdeveloped country such as Colombia, was concretized in Legislative Act No. 3 of 2002 (...). From the moment of its incorporation, the Colombian accusatory criminal system has sought to mimesis the solid U.S. legal system (Bonilla Maldonado 2012, 15).

In the long run, all those conjectures, which are supported by a strong doctrine, turn out to be attenuated when verifying that the path of this new legal system has stronger guarantees for the parties, especially for those who resist the burden of a penal system.

The ideological struggle is becoming an increasingly current problem for Latin American countries, since this problem arises from several topics; one of them is the prison system incapable of resisting the number of people prosecuted and convicted, becoming absent of dignified conditions and alerting more and more problems of overcrowding and the reproduction of crime from the confinement itself. From these spaces, the dichotomy begins to be posed, focused on whether one wants a system of guarantees or a system loaded with efficiency, in the light of theories of utilitarianism and others, as is evident, permeated by mandates of categorical imperatives regarding the dignity of the individual who submits to a criminal case.

From the characteristics of the accusatory penal system, there are features that allow the construction of a truth provided by the parties, based on what has been achieved in the course of proceedings, which are filled with immanent particularities of punitive accusatory law, such as: the immediacy of evidence, concentration, publicity and, fundamentally, contradiction, aspects present in all stages of the process. which are often complemented in the so-called contingent hearings and, also when the evolution of the process begins in the strict sense, either with the formulation of an indictment, when it is an ordinary process or, with the transfer of the indictment, if it is an abbreviated process.

This is followed by the hearings for the reorganization of the case, the formulation of the accusation, the request for evidence and the diligence in which the requested body of evidence is acted upon and put into practice, in order to descend on the allegations and the meaning of the ruling. All these sections, which make up a procedural path, also loom over that discussion: a more guarantee-based model is required or, in the guidelines of a mode of efficiency in criminal law; As will be seen below, this is the result of a criminal policy that is appropriate for the context and needs of the country where it will be applied.

Returning to the exact point of the arrival of the accusatory criminal system in Colombia, by means of a constitutional modification and developed normatively, aspects of the context of the receiving country were neglected. By way of example, in Colombia one of the biggest problems in terms of the accusatory criminal system lies in the high congestion of processes, in such a way that:

The terms stipulated in the law are rarely complied with and the mechanisms for resolving processes by means other than sentencing have not had the expected impact. The high congestion of the system has turned the principle of speed into a utopian ideal that, although it must be guaranteed, is far from overlooking the problems that afflict it. As a consequence of the lack of speed, the credibility of the criminal process also suffers a decrease on the part of the victim users (Sarmiento 2016, 16).

However, the place where the accusatory criminal system was created, the United States, understands that it is not functionally possible to hear all the cases that are initiated within the system as trials, since it turns out that it would overwhelm it and that the much-feared impunity would achieve a wide space in the statistics and that, as a logical consequence, the statute of limitations would reign. or due to the simple passage of time, the difficulties in collecting evidence, aspects that will be analyzed below.

## **THE STATUTE OF LIMITATIONS AND THE DIFFICULTIES OF COLLECTING EVIDENCE AS HARMFUL EFFECTS OF THE PROHIBITIONS ON BUSINESS FIGURES**

The statute of limitations is twofold: on the one hand, it is a guarantee for the suspect and a sanction for the state apparatus in charge of investigating crimes. This figure was instituted by the modern State and is based on legality, seeking to take away the powers of the accusing entity and owner of the persecuting activity, to deny the continuation of an investigation according to time limits, and in this way be a mechanism that allows to provide the persecuted with the prerogative of legal certainty. being able to know how long you will be able to withstand the follow-up involved in an investigation. At present, it is also a guarantee for the victim, who can count on the exercise of his or her rights, to obtain truth and reparation within a certain period of time.

That is why talking about the imprescriptibility of both the process and the penalty, although from international instances, is endorsed as a valid request to achieve other rights in sensitive crimes for people, *ius gentium*, can sadly lead to an apathy of the authorities that do not have time limits, which mark the course for a good pace of investigation and punishment.

As a simple opportune appraisal and that is raised as a suggestion in the iconic text "On Crimes and Penalties", it still seems pertinent to deal with this point of the statute of limitations as it was proposed in those years, that is, that this figure could operate according to the evidence and the supposed certainty of the crime, the subtraction with the escape of the accused, the commission of minor and obscure crimes, among others (De las Casas, 2008).

Far from wanting to enter into the debate of raising the issue of statute of limitations, but demarcating the importance of criminal cases having time limits and that the authorities in charge have the deontic mission of giving life to the criminal process, since they must diligently carry out the work entrusted to them to satisfy all the rights that are at stake, but it is understood that it would overwhelm the functional and institutional capacities, if all the cases lead to public hearings, since all the strength of the State that is required to investigate, punish and serve the sentence, far exceeds any current economy destined to the judiciary and its various areas.

On the other hand, the other point of the need to reevaluate the prohibitions and obstacles in the pre-trial justice is that in those cases where the procedural spaces are dilated in order to exhaust all the stages that are contemplated normatively in the punitive process, it is very feasible that the evidence arrives weak or non-existent at a criminal trial. Either because the passage of time turns out to be an enemy for the memories of the witnesses, because it is no longer possible to locate the deponents, because those who carried out the evidence as investigators are no longer performing the same functions, or because technology is incapable of reviving certain events that criminalistics has been given as a task.

With what has been said, what can be observed is that compliance with punitive law through the channels of the accusatory criminal system must be sought without all the processes reaching the practice of the oral trial hearing; Well, if this statement does not turn out to be novel, it must be understood in its extension as a requirement for the survival of the system.

The obstacles to which reference has been made, crystallized in express or tacit prohibitions for negotiation pacts, clarify the problem and ultimately the punitive exacerbation, which is clearly harmful to a democratic and even liberal system; Note that this is an idea that has been discussed for a long time: "Penalties that exceed the necessity of preserving the deposit of public health are by their nature unjust; and the more just the penalties, the more sacred and inviolable the security and the greater the freedom that the sovereign preserves for his subjects" (De las Casas 2008, 11).

With what has been said, it is necessary to approach the prohibitions established by the legislator, according to its legal reserve, which are the obstacles to achieve the irradiation of the rewardal justice, the humanization of the process, and the dignification of the parties and intervenors.

## **MAIN PROHIBITIONS ON ENTERING INTO NEGOTIATIONS IN THE ACCUSATORY CRIMINAL SYSTEM**

Let this be the moment to look at what are the prohibitions that hinder the materialization of a rewardal and restorative justice within the modality of raid to charges and pre-agreements, which these two, as figures contemplated by Law 906 of 2004, were intended to be the solution for the humanization of the system and its labor burdens. derived from the simple notion according to which a quick solution to the penal tension offers a better guarantee of success and attenuates the drastic effects of the penalty.

Thus, one of the first blows dealt against the mechanisms instituted for the early termination of criminal proceedings, under the aegis of the concept of preemptive justice, was given by the legislator himself through the issuance of Law 1453 of 2011. with the inclusion of an unusual reduction in the benefit of the leniency of the penalty for those who were caught in flagrante delicto, which, in principle, was estimated at up to 50%, but as a result of this legislative decision, it could not exceed the range of a quarter.

Such a situation brought enormous confusion in the judicial benches, which led to dissimilar judicial proposals that ranged from the flat and plain application of the rule, to the opposite of, making use of the hermeneutic tool of exception of constitutionality, many judges opted for the non-application of the new rule, in short, because they saw that it became shadowy and even invasive in the context of the concept and nature of flagrante delicto.

However, the vertical jurisprudence, frankly unexpectedly, endorsed the enforceability of this rule, through judgments C-645 of August 23, 2012 of the Constitutional Court, and promptly followed by the Supreme Court of Justice, with the proclaimed ruling of July 11, 2012, with file number 38285.

The consequence of this development was conclusive, but certainly not surprising. From these legal and jurisprudential events, the unilateral searches of charges, which had been offering a fairly satisfactory functioning, were disdained in the course of the criminal proceedings, until, it could well be said without risk of equivocation, that at the present time this figure is in almost absolute disuse. And, although we accept that such a limitation mutated the possibility of agreements, these, as we will see, do not represent the practical possibility of offering prompt justice, thanks to the fact that, fundamentally, the list of prohibitions to sign them impedes the desired development.

However, the evolution of Article 351 et seq. of Law 906 of 2004 has limited and tamed the capacities of the parties, so that in the celebration of a legitimate act they can converge on an acceptance of responsibility in exchange for a benign recognition of the specific situation of the accused.

It should be remembered that, when the system began, the ideology of the producing country was strong with respect to the possibilities of accepting charges in exchange for access to more significant and dignified forms of a sanction, whether for a degradation of punishable conduct, for the elimination of a charge, for the percentages in the discounts, etc. or because a more modest and lighter way of purging the sanction was in the future (Ruiz & Solarte, 2023).

What has been said, from the point of view of fair or indirect retribution, could be alarming and even despicable, but the truth is that on the plane of reality, if there is no return to measures as such, needless to say, with the elimination of obstacles to advance negotiation processes and their consequent hearings, the consequence will be immediate impunity. the discrediting of the administration of justice, the nugatory of the rights of victims and the lack of trust in the entire system, situations that definitely do not combine with the qualities of a democratic State, as proclaimed by the current Colombian constitutional text.

Rather, it is only from the point of view of resocialization, in a country with a social ideology entrenched and marked by the jurisprudence that radiates from the Inter-American Human Rights System (IAHRS), that it is

possible to justify the confinement of a person, to whom other adjacent and interdependent rights are limited, only because of the possibility of returning to a society that will be able to receive him, under the noble connoisseur, who rethought his actions, who served a penalty, and because he can now become part of the associates aware of the duties that concern him, among them, respect for the legal rights protected.

On the point of resocialization, it is also necessary to specify an aspect very specific to the criminology of the convict, which stipulates that to the extent that a freedom can be observed as feasible, the behavior of the person deprived of this right will become regular, seeking precisely to obtain all those gifts that allow him to obtain that right as soon as possible; otherwise, When a person is evicted by the punitive quantum that has been imposed on him to purge, his behavior, his socialization process and his reincorporation into social life cease to matter.

So, the entry into force of the accusatory criminal system with the multiple forms of negotiations and pre-agreements, as said, has had multiple modifications that have undermined the possibilities of rising in one of these pacts, and finally, after there being palpable refusals to negotiate, since there are no other paths left, it ends in an oral trial that from the outset goes with an exhausted fiscal theory and with a tendency to failure.

More profoundly, as the list of crimes for which the law prohibits the signing of agreements between the parties has been growing exponentially, and particularly those that are most perpetrated, the judicial apparatus is doomed to a growing congestion, which, measured in consequences by the passage of time, is diluted and puts at risk the need for judicial success. It has already been said at sufficient length, how true is that aphorism according to which the passing of time is the truth that flees; Statute of limitations and impunity are dangerously lurking phenomena.

To begin with, there have been the prohibitions demarcated in the name of the protection of minors, eliminating all forms of granting benefits, including restorative justice pacts, in the case of crimes committed against children or adolescents, by virtue of the Children and Adolescents Act, which predominates axiologically in Colombia; After the valid argument of the protection of subjects who deserve a reinforcement in constitutional protection and care was raised. In addition to the above, the Colombian Constitutional Court (2017) has established some application criteria with respect to the principle of the best interests of the child, especially when cases arise where the rights of children and adolescents are endangered. In this context, certain legal and factual conditions must be reviewed, the former constituting:

Normative guidelines aimed at materializing the pro infones principle: (i) guarantee of the integral development of the child, (ii) guarantee of the conditions for the full exercise of the fundamental rights of the child, (iii) protection against prohibited risks, (iv) balance with the rights of parents, (v) provision of a family environment suitable for the development of the child, and (vi) the need for there to be compelling reasons to justify the intervention of the State in parent-child relationships (Constitutional Court Colombia 2017, 27).

The laudable purpose pursued by the regulations may have an outcome far from the proposed objective, taking into account the situations that have been described regarding the possibilities of reaching the last of the public proceedings with evidentiary material, to which is added that the risk of the statute of limitations will have been strengthened, when such a figure is appropriate. It is important to mention that for years, crimes of this nature have not had a statute of limitations, running the other risk that was outlined above, when dealing with the imprescriptibility.

In this scenario, the situation for the victim turns out to be exhausting and revictimizing, since what is intended is to recreate in public and under the guarantees of contradiction, events that turn out to be reprehensible in the light of the eyes of criminal law, while achieving it through a pre-agreement or another form of negotiation. It would attenuate the situation, achieving a prompt conviction and, therefore, the right to judicial truth and reparation for the victim, so that he can continue with his life project without major setbacks, except those derived from pending criminal litigation.

The prohibition of negotiation possibilities has also been extended to crimes of extortion, which leads, as is already known from criminal policy studies, to greater events of commission of the punishable offence, in fact, of higher costs at the time of execution, since the active subject assesses the possible consequences for whoever

is caught in the commission of this type of conduct. The statute of limitations and loss of probative value becomes high and there would be a greater risk of impunity if, because of what has been described, the criminal proceedings are no longer pursued or if it culminates in an acquittal.

The prohibitions given for all crimes against the legal good of the administration of justice, although they have their *raison d'être* in strongly combating the scourge of corruption, end up exacerbating the problem, since it ends up in an exhausting trial, which generally entails difficulties in both objective and subjective classification; that it will be after many years of the commission of the conduct and loss of the ability to test; no indexed amounts of the sums of money committed; with the death of the active subject; without reparation to the social reality from which the attack on the juridical good is predicated; topics that would have been capitalized quickly and effectively, if the realization of the pre-agreements was contemplated.

The red flag that cannot be ignored is that the crimes for which explicit or tacit impossibilities of pre-agreement have been marked, subtracting for some of the events, only the agreement of a penalty, which in purity does not turn out to be a benign treatment for those who recognize the commission of a punitive conduct. Added to all this is something curious and worrying; Those crimes that are agglomerated in the protection of children and adolescents, the legal good of the public administration or because of the high rate of commission, such as the case of extortion, are the most common crimes that occur in Colombia, so there is no reason to prohibit the forms of pre-agreements and negotiations. vetoing all the possibilities of winning convictions, with greater possibilities of humanizing criminal cases, a need for which he added reasons to embrace this normative figure. With this, it is important to examine whether the legal transplant at the point under analysis has been useful, or if, on the contrary, urgent measures must be taken for its operationality.

## **THE POST-TRANSPLANT OF A NORMATIVE FIGURE**

In this section, a post-transplant evaluation will be carried out according to the question: is the accusatory criminal system implemented in Colombia, with reference to the possibilities of pre-agreements and negotiations, giving the results for which it was adopted in the domestic regulations?

To do this, we need conceptual inputs that come from the understanding of a post-transplant evaluation and the assessment of the doctrine with which we agree, regarding the ineffectiveness of figures of restoration and prize justice. In this order of ideas, it is transcendental to recreate what a post-transplant evaluation consists of, since this is how it is defined doctrinally:

As a result of the absence of a comparative methodology for the Ecuadorian and regional case, the *theoretical features* have commonly been the product of an exercise of imposition rather than comparison, it is essential to question their true hegemony and to discover, from this, whether there is a current of thought or theory of local law. Along these lines, the comparative analysis proposed with this methodology will allow us to verify what the path of transplantation has been, and whether there has been a process of mere reception, transmutation, manipulation or even production of rights. In this field, it will therefore be possible to undertake the relevant evaluations of the transplanted objects and make the necessary corrections, but from the contextual dimension, in order to prevent the transplant object from failing. These post-transplant evaluations may result in formal reforms, reinterpretations or other forms of modification of the law, but always taking into account the sociological dimension of the system and not necessarily from the theoretical *ius* component that is considered standard or correct (Alarcón 2018, 144).

Now, the assessment also derived from the doctrine regarding the usefulness of the figures of negotiations and pre-agreements and clear, unanimous in accordance with what is stated here:

However, it has begun to fall into disuse, although it is true that with the punitive increase that occurred with Law 890 of 2004 it was intended to reactivate the figure of agreements and pre-agreement, giving the prosecutor's office greater tools and margins to negotiate the penalty with the accused, who found it more attractive and beneficial to settle and obtain the

reductions of the criminal penalty. where an early termination of the process was generated, justice was imparted and all parties won, and with Law 1098 of 2016 in its article 199 and Law 1121 of 2016 in its article 26 expressly prohibits the reduction of sentence for acceptance of charges, or in the case of Law 1761 of 2015 in its article 5 against the crime of Femicide, that although it does not restrict it, it limits the applicability of it, then, a figure that, although at its beginning when it was erected intended to speed up the delivery of justice, in an agile, timely, real and effective way, with the continuous reforms and modernization of the system directly attack the nature of these figures, which are increasingly inoperative (Zabala and García 2020, 17).

Therefore, as can be seen, the accusatory criminal system in the strict point that concerns the application of restorative justice mechanisms, in a post-transplant evaluation, is not compatible with the need for its incorporation into Colombian regulations, this in view of the broad consecration of prohibitions that are legally contemplated, it must be said without hesitation, it stands as a mechanism that, from the point of view of the simplest simplicity, hinders the constitutional fulfillment of offering prompt and timely justice by the State, thanks to the fact that, in the face of the impossibility for the parties to sign liability agreements, inexorably the common scenario where the debate will be defined will be located in the oral trial. which in itself implies that the rulings will be issued with irremediable delay.

It cannot fail to be mentioned that if the idea that encouraged the strengthening of the list of punishable behaviors affected by the prohibition to enter into agreements, is to impose high penalties on people based on a despicable discourse of terror, this constitutes a discourse that has been defeated with the sad reality of inefficiency. because for years, it is not so much the severity of the sanction that persuades people to commit crimes, but the premise of the effective application of the penalty, even if it is less light, a basic point of criminal policy that Colombia must carry out.

## CONCLUSIONS

The search for peaceful coexistence and a just order is an axiological content that is contemplated from the preamble of the Political Constitution of Colombia, this means having, within the punitive area with the possibilities of reaching agreements between the parties that are convened within the course of an action, a solution that also allows the humanization of the criminal process. prompt justice and the enhancement of the rights of victims. The possibility of materializing what has been said lies in the legal transplantation derived from the accusatory criminal system, which has been gradually implemented in Colombian territory since 2004.

That system had as an immanent characteristic high possibilities that the cases would be resolved by means of negotiation bets or pre-agreements, figures that were instituted such as the raid on charges and the pre-agreements, as the two best known. At first, the tax offers around benefits were attractive for the accused, together with the due advice of the defense, to reach a consensual solution, with possibilities, increasingly wider, by the jurisprudence, to end with an early sentence. In spite of that initial optimal functioning, the criminal policy became entrenched in the commitment to establish express or tacit prohibitions for the benefits of the pacts, so that there are fewer and fewer processes that conclude with an anticipated formula and, on the contrary, the cases arrive dangerously in the oral trial, which due to the passage of time, They run the risk of prescription or of the tests diminishing their persuasive power.

That is why an assessment of the functioning of the legal transplant was carried out, concluding that despite the orientation of criminal policy, it is correct to assess the prohibitions raised in favor of minors, of the frequent commission of conduct by common criminals or, the protection of the legal good of the public administration or, failing that, to expand the powers of the accusing entity so that the channels of justice are enabled again of the negotiations and with it the return of restorative justice.

It is not ignored that on account of a juridical and political tradition in a State that, contrary to the grain of proclaiming itself Social and Democratic by law, where the center and end is the human person, has seen as an extreme solution to face the varied and profound social problems that it suffers, precisely that of resorting to

the punitive route as a mechanism of social control, without exploring other possibilities focused on prophylactic alternatives, anchored in the most severe and almost cruel idea, such as criminal law.

That is why, only as a subsidiary proposal, the possibility of a reform that limits to the maximum the prohibitions for the conclusion of agreements to end the criminal conflict early, since, at least with these limitations, the accusatory criminal system is blurred and, teleologically speaking, the purposes that lead to the establishment of the aforementioned prohibitions are not achieved.

## REFERENCES

- Alarcón, Pablo. 2018. *A Critical Comparative Methodology Applied to the Ecuadorian Constitutional System*. Quito: Universidad Andina Simón Bolívar. Accessed January 26, 2024. <https://bit.ly/496uo2H>.
- Bonilla Maldonado, Daniel, ed. 2015. *Constitutionalism of the Global South*. Bogotá: Siglo del Hombre.
- \_\_\_\_\_. 2012. *Legal Theory and Legal Transplants: The Structure of the Debate*. Bogotá: Siglo del Hombre.
- Campos, Juan, trans. 2011. *Justice: Do we do what we must?* Barcelona: DEBATE.
- Constitutional Court of Colombia. Constitutional Judgment No. 645/12. M.P. Nilson Pinilla Pinilla (August 23, 2012). Accessed January 26, 2024. <https://bit.ly/3Hyxocf>.
- Constitutional Court of Colombia. Constitutional Judgment No. 113/17. M.P. María Calle Correa (February 22, 2017). Accessed January 26, 2024. <https://bit.ly/49aOZDa>.
- Supreme Court of Justice of Colombia. Judgment of the Criminal Cassation Chamber File 38285 of 2012. M.P. Fernando Castro Caballero (July 11, 2012). Accessed January 26, 2024. <https://bit.ly/3vNOMXT>.
- Costantini, Francesca. 2020. "Introduction to Convict Criminology: Contributions from an Inner, Critical, and Autoethnographic Perspective." *Prologues Journal* 12: 105-132. Accessed January 26, 2024. <https://bit.ly/42h85Fk>.
- De las Casas, Juan Antonio, trans. 2008. *Of crimes and penalties*. Madrid: Tecnos.
- Durán, David, comp. 2006. *Persons Deprived of Liberty: Jurisprudence and Doctrine*. Bogotá: Office of the United Nations High Commissioner for Human Rights in Colombia.
- The Spectator*. 2024. "Ecuador Situation: There Are More Than 100 Hostages in Five Prisons," January 10.
- Huertas, Omar. 2014. "The Principle of Non-Applicability of Statutes of Limitations to Crimes against Humanity and its Application in the Colombian Legal System. A Study from Human Rights and Legal Interpretation". *Journal of Legal Mission* 7 (7): 199-227. Accessed January 25, 2024. <https://doi.org/10.25058/1794600X.80>.
- Act No. 906 of 2004, Code of Criminal Procedure. Official Journal 45.658 of 1 September 2004. Last modified March 8, 2023. Accessed January 24, 2024. <https://bit.ly/3Si2j1L>.
- Act No. 1098 of 2006, the Code of Childhood and Adolescence. Official Journal 46.446 of 8 November 2006. Last modified July 1, 2022. Accessed January 26, 2024. <https://bit.ly/496uPtR>.
- Law 1121 of 2006. Official Journal 46.497 of 30 December 2006. Accessed 26 January 2024. <https://bit.ly/496OZny>.
- Law 1453 of 2011. Official Gazette 48.110 of 24 June 2011. Accessed 26 January 2024. <https://bit.ly/47LAsMY>.
- Law 2081 of 2021. Official Gazette 51.577 of 3 February 2021. Accessed 26 January 2024. <https://bit.ly/3HxXfky>.
- Ruiz, María and Franco Solarte. 2023. "Pre-agreements in Colombia today: The aftermath of the latest jurisprudential advances." *Codex Scientific Journal* 9 (16): 19-41. Accessed January 26, 2024. <https://bit.ly/487dhNv>.
- Sarmiento, David. 2016. "Analysis of the Congestion Problem in the Accusatory Criminal System of Law 906 of 2004 (Code of Criminal Procedure) in Colombia." Undergraduate Thesis at the Faculty of Law of the Universidad de los Andes, Colombia.
- Zabala, María and Sonia García. 2020. "Punitive Populism and Alternative Ways to Trial." Degree project for Specialization in Criminal Law from the Universidad Libre, Colombia.