MEDIA AND PENAL POPULISM IN THE EXPANSION OF LIQUID CRIMINAL LAW

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Summary

The article that follows explores the influence of populism in the media and in the criminal sphere on the dissemination of liquid Criminal Law, which is defined as a form of punishment characterized by its adaptability, excess, and an absence of guarantees in today's societies. It investigates how elements such as post-truth, fake news and the strategic use of law, driven by the media, create a perception of social insecurity that supports requests for an increase in punitive intervention. Likewise, penal populism is analyzed as a political-criminal strategy that, using fear, intensifies the figure of the victim and demonizes the offender, which leads to an excessive application of the right to punish, undermining fundamental principles such as legality, proportionality and the presumption of innocence. Through a theoretical analysis and a review of the literature, it is argued that these dynamics promote an expansion of the penal system, modify the interaction between politics, law and society, and strengthen a model of social control that is more symbolic than preventive. Finally, it considers the dangers of this process for the protection of human rights and the challenges faced by the rule of law in an environment characterized by globalization, inequality and the culture of control.

Keywords: Liquid Criminal Law; Media populism; Penal Populism; Social Control; Criminal Guarantees.

1. Introduction

Today's criminal law is undergoing a significant change, marked by the reduction of its structural rigidity and the adoption of flexible approaches in the face of rapid social changes. This phenomenon has been defined as "liquid criminal law", reflecting Bauman's (2007) idea of liquid modernity, where fluidity, uncertainty, and adaptability emerge as predominant characteristics in social systems. In this context, populism – both in its media and criminal manifestations – is established as a key element in the growth of a punitive model that prioritizes immediacy and symbolism instead of rationality that seeks guarantees.

The relationship between politics and law has had a complicated history. According to Donini (2019), no other area of the legal framework is as linked to irrationality as Criminal Law, since it regulates irrational behaviors and avoids irrational responses, trying to justify the need for defense or revenge. This conflictive relationship is aggravated when media and penal populism uses social fear and security demands as tools tojustifygreaterrepression.

Today, phenomena such as globalization, the risk society and the emergence of new criminal modalities create an environment conducive to the rise of punitive populism. Governments' security narratives, underpinned by media narratives, divert the conversation from the structural causes of insecurity and reinforce the notion that harsh punishments are the only viable alternative. In this way, public perception, influenced by post-truth and fake news, becomes the driving force behind a symbolic criminal law, more focused on the political spectacle than on the real protection of rights (Carrión Mena, 2017).

Under this panorama, aporophobia emerges as an important concept in both criminology and sociopolitics. According to Cortina (2017), this idea refers to contempt for the poor and

marginalized, who are transformed into scapegoats for social problems. By stigmatizing these groups, penal populism reinforces discriminatory selectivities that deteriorate the fundamental principles of the rule of law and consolidate a dual justice: severe with the most vulnerable sectors and benevolent with the powerful.

The influence of the media is essential in this context. The representation of criminality as a spectacle, the exaggerated coverage of certain violent crimes and the invisibility of structural phenomena such as economic and institutional violence create a media fabric that feeds punitive populism. As Carrión Mena (2017) argues, the media fluctuate between promoting a vision of democratic security and promoting a "heavy-handed" criminal stance that justifies the increase in repressive legislation.

Media populism is based on the idea of disintermediation, fragmentation and polarization. As Barberis (2020) points out, unlike the populisms of the past, today's populism is a global phenomenon that uses digital technologies to alter social perceptions, divide societies, and entrench information bubbles. In the criminal context, this trend translates into massive demands for the toughening of sanctions, the creation of tailor-made crimes and the expansion ofstate punitive power.

Within this context, penal populism manifests itself as a political approach that uses fear of crime and the glorification of the victim to justify punitive legislative changes. Ferrajoli (2001) defines it as a criminal policy that seeks consensus through a demagogic use of criminal law, promoting fear and prioritizing punishment over prevention. This phenomenon not only enlarges the penal system, but also weakens its guarantee bases by relaxing principles such as legality, culpability and proportionality.

Populist dynamics in the criminal sphere also generate what Garland (2001) calls a "culture of control". This term describes a social model where punishment becomes a tool for emotional cohesion and symbolic control in the face of the perception of insecurity. In Latin America, this trend is strongly manifested, driven by a combination of structural inequality, institutional weakness, and a growing influence of the media in defining the public agenda (Sozzo, 2016).

The proliferation of penal populism is also related to legislative practices that are influenced by pressure groups and political lobbies. This process produces an increase in regulations that increase penalties and criminalize new behaviors without analyzing their real effectiveness. As a result, criminal law becomes hypertrophied, moving further and further away from the principles of humanity and proportionality enshrined in international human rights instruments since 1948 (Jakobs, 2006).

A distinctive characteristic of media and penal populism is its ability to generate "moral panics". According to Cohen (2011), the media can amplify or distort criminal events to the point of turning them into collective dangers, which facilitates the approval of repressive laws and strengthens the demand for greater punitive intervention. This tactic diverts public attention from structural problems such as poverty or inequality to enemies who are easily identifiable and stigmatized.

The victim plays a central role in this discourse. As Giglioli (2018) indicates, victimization is crucial in all populism, since it is used as an emotional justification to reinforce the repressive apparatus. Penal populism glorifies the victim and demonizes the criminal, forging a social image in which reintegration is irrelevant and the only possible future isretribution.

In this way, populism, both media and criminal, not only affects criminal policy, but also changes the way society understands justice. By focusing on short-term security and punitive measures, trust in institutions is lost and the rule of law is weakened. Thus, liquid criminal law presents a double paradox: it increases with the promise of greater security, but at the same time it causes more inequality, discrimination and violations of rights.

2. Theoretical framework

Liquid Criminal Law is based on the idea of liquid modernity that was elaborated by Bauman in 2007, where it is observed that social relations and institutions lose their firmness and stability. In this context, Criminal Law transforms its nature from a fixed and guarantee-based system to one that is more adaptable, flexible and receptive to changes in public perception and the political situation. Jakobs (2006) warns that this evolution entails the risk of establishing an enemy-oriented Criminal Law, prioritizing exclusion rather than protection.

Populism, seen as a style of politics, becomes a key element in this expansion of liquid criminal law. According to Barberis (2020), current populism does not align itself with defined ideologies, but represents a way of constructing the political based on the polarization of the "us" group versus "them". In the criminal sphere, this division is manifested in the identification of groups considered dangerous or undesirable, which justifies the imposition of harsher sanctions and thereductionofguarantees.

In this context, the media play a fundamental role in media populism. By focusing on narratives of insecurity, they highlight certain crimes and omit others, thus altering the public perception of criminality. Carrión Mena (2017) indicates that "the media generate a reality around violence based on a conflictive vision between the management of citizen security and the heavy-handed criminal perspective" (p. 84). In this way, the growth of a severe and symbolic Criminal Law is endorsed.

Post-truth, fake news and lawfare are examples of this media populism. These realities undermine trust in objective information and promote the use of criminal law for political purposes. McIntyre (2018) explains that post-truth is characterized by the superiority of emotions and beliefs over verifiable facts, which directly influences the formulation of criminal policies based on erroneousperceptionsofinsecurity.

Penal populism, in turn, reflects the transformation of these social and media demands in the legislative and judicial spheres. Ferrajoli (2001) describes it as a "strategy on security issues that seeks to obtain consensus by taking advantage of fear and the demand for repressive measures with an opportunistic and demagogic approach to criminal law" (p. 62). Following this logic, "tailor-made crimes" are established, penalties are toughened and procedural guarantees are limited, all in order to please a citizenry that seeks more security.

This phenomenon produces what Garland (2001) identifies as a culture of control, where punishment is used as a symbolic tool to manage collective fear. The criminalization of certain groups, the increased use of pretrial detention, and the increase in penalties indicate a penal approach more interested in sending messages of authority than in effectively preventing crime. Garland (2001) refers to this as an "expressive penalty" that attempts to preserve social cohesion through punishment.

A key element in this discussion is aporophobia, a concept proposed by Cortina (2017), which refers to the aversion towards poor and marginalized people. In the context of penal populism, aporophobia manifests itself as discrimination that penalizes those who do not

have resources more rigorously. This discrimination is observed in the disproportionate criminalization of minor crimes, while economic crimes committed by elites tend to receive more lenient treatment, which some authors call plutophilia (Silva Sánchez, 2018).

The growth of populism in the media and in the criminal sphere has been driven by the forces of globalization and the culture of risk. Beck (2002) states that modern societies live in a constant sense of risk, causing social anxiety and a demand for greater security. In this scenario, liquid Criminal Law emerges as a quick, albeit superficial, solution to the uncertainty that characterizes the globalized world.

Moral panics are another crucial aspect of this network. Cohen (2011) explains how certain crimes can be exaggerated to the point of becoming collective dangers, which allows the implementation of repressive policies. In the realm of penal populism, these panics are exploited to justify swift and severe legal reforms that, instead of addressing the underlying problems, irrationally expand the punitive system.

The figure of the victim becomes the core of the discourse of penal populism. Giglioli (2018) argues that "victimization is the key to all populism" (p. 45), as it helps to mobilize social emotions and legitimize punitive actions. By exalting the victim and demonizing the offender, an image is created in which criminal guarantees are seen as inappropriate privileges, and revenge is established as theonly viable response.

Thus, criminal populism not only impacts criminal policies, but also transforms the role of criminal law in society. According to Cigüela (2019), it represents a political-cultural strategy that turns crime and punishment into tools of social polarization. This use of Criminal Law weakens its preventive and rehabilitative function, turning it into a means of symbolic control and politicalmanipulation.

In Latin America, these dynamics are especially important due to the mix of structural inequality, weak institutions, and a strong influence of the media. Sozzo (2016) points out that a phenomenon of "punitive populism" is taking place in the region, where governments implement drastic policies in the criminal sphere to obtain legitimacy, even at the expense of violating fundamental rights. This situation shows how populism in the media and in justice acts as a driver of a fluid Criminal Law that is aligned more with political interests than withprinciplesofjustice.

Finally, the theoretical framework helps to understand that the expansion of fluid criminal law, driven by media and punitive populism, is a complex phenomenon where political, sociological and criminological factors are intertwined. The combination of these elements clarifies why punitive populism manifests itself as a model of criminal governance, rather than a public policy based on reason.

3. General objective

To analyze the influence of media and criminal populism on the expansion of liquid criminal law, identifying the political, social and communicative factors that drive it, as well as its implications for the principles of guarantees and the validity of the rule of law in contemporary societies.

4. Methodology

This document was carried out using a qualitative theoretical-analytical approach, based on a rigorous evaluation of the specialized literature. Unlike empirical research, this study focuses on the analysis of documents from secondary sources, rather than the collection of

original data, in order to explore how populism in the media and the criminal field have favored the growth of liquid criminal law in today's societies.

The research was based on a descriptive and documentary model, aimed at the detection, choice and organization of relevant academic texts. To this end, books, thesis chapters and, as a priority, scientific articles in journals indexed in Scopus and Web of Science were reviewed, thus guaranteeing the relevance and contemporaneity of the sources. Works by classic authors in the field, such as Bauman (2007), Ferrajoli (2001), Jakobs (2006) and Garland (2001), were considered, along with more recent contributions that analyze topics such as media populism, aporophobia and the culture of control (Barberis, 2020; Cortina, 2017; Sozzo, 2016).

The methodological approach was organized in three fundamental stages. First, a preliminary search was carried out in academic databases such as Scopus, Web of Science and Google Scholar, using combinations of key terms in Spanish and English such as "liquid Criminal Law", "criminal populism", "media populism", "aporophobia", "criminal populism" and "media populism". This search facilitated the identification of relevant literature published between 2000 and 2024.

Second, a critical examination of the selected texts was carried out, privileging those that presented robust theoretical frameworks and comparisons on the connection between populism, the media and the rise of Criminal Law. In this stage, both normative and doctrinal proposals and empirical research that document the influence of these phenomena in Latin American and European contexts were evaluated.

Finally, an analytical synthesis was carried out, structuring the information in three central thematic axes: i) the political and social factors that promote liquid Criminal Law, ii) the role of media populism in the generation of demands for punishment, and iii) the impact of criminal populism on the formulation of criminal policies and on the weakness of the principles of guarantees.

The justification for the chosen methodology lies in the nature of the subject of study. Media and penal populism is a phenomenon of multiple dimensions that must be approached from an interdisciplinary approach, incorporating knowledge of law, sociology, political science and criminology. Therefore, this article adopts a critical stance that allows us to understand how populist dynamics have transformed the function of Criminal Law, moving its essence of guarantees towards a punitive model that expands and becomes symbolic.

5. Results

The study carried out determined that both media and criminal populism are key elements in the strengthening of liquid Criminal Law, which is defined as a normative structure that is characterized by its flexibility, illogical expansion and weakening of guarantee principles. The findings indicate that this growth is supported by political, communicational, and social dynamics that, when intertwined, create a favorable environment for the increase of punitive measures and the decrease of the rule of law.

First, it was observed that media populism acts as a driver in the social construction of crime and the feeling of insecurity. The media, through overexposure to violent events and the concealment of structural problems, contribute to forming perceptions in citizens that demand rapid responses from the penal system. As Carrión Mena (2017) points out, the media "construct the reality of violence from a perspective of conflict between the control

of (democratic) citizen security and the penal vision of a harsh approach" (p. 84). This discovery shows that media populism not only informs, but creates a narrative that criminalizes and legitimizes repressive policies.

A second important finding is the identification of aporophobia as a phenomenon that impacts the selectivity of the penal system. The stigmatization of poor people, migrants and marginalized groups intensifies institutional practices that punish these populations more severely. Cortina (2017) indicates that aporophobia implies a structural rejection of those who do not contribute to the economic system, which in the criminal sphere translates into unequal treatment in access to justice. In line with this, Silva Sánchez (2018) points out that punitive populism creates a duality: vulnerable sectors face harsher penalties, while elites have mechanisms that allow them to evade severe sanctions, thus evidencing the existence of a "penal plutophilia".

Additionally, the findings show that media populism manifests itself in phenomena characteristic of the digital age, such as post-truth, fake news, and lawfare. These tools amplify the feeling of insecurity, distort information and create manipulated consensus regarding the need for greater punitive intervention. McIntyre (2018) argues that post-truth shifts the importance of verifiable facts towards narratives based on emotions, which facilitates the legitimization of criminal policies based on social perceptions ratherthanempirical data.

Fourthly, it was detected that punitive populism represents the political concretization of these media dynamics. Its primary effect is the generation of legislative reforms that seek to increase penalties, establish new crimes and make principles in the processes more flexible. Ferrajoli (2001) characterizes this phenomenon as a political tactic that, "with the aim of achieving consensus, relying on fear and the demand for repressive measures, resorts in a conjunctural and demagogic way to criminal law" (p. 62). Therefore, punitive populism strengthens an oversized system where immediate punishment is prioritized over respect for fundamental rights.

Another significant discovery is the connection between punitive populism and moral fears, which Cohen (2011) defines as processes of social exaggeration where certain crimes are exalted as collective threats. The research revealed that these fears are frequently exploited by politicians and the media to justify "zero tolerance" laws and heavy-handed policies, reaffirming the fluid and expansive nature of criminal law.

The findings also indicate that the figure of the victim becomes the center of the discourse that unites media and punitive populism. Giglioli (2018) stresses that victimization is fundamental in all populism, as it allows collective emotions to be activated and the imposition of harsher punishments to be justified. The idealization of the victim and the demonization of the offender reinforce a social imaginary where resocialization becomes irrelevant and punitive revenge occupies a central place.

In addition, it was observed that punitive populism not only expands the punitive system, but also weakens essential guarantee principles. Jakobs (2006) warns that this phenomenon favors the development of a criminal law of the enemy, where certain people or groups are considered incompatible with society and, as such, are excluded from the protection of their rights. This finding is crucial, as it endangers the universality of the rule of law and justifies the implementation of authoritarian measures under the pretext of citizen security.

In addition, the analysis showed that these dynamics transcend a local context and are framed in a global phenomenon. According to Barberis (2020), contemporary populism is a

transnational phenomenon that overcomes ideological divisions and uses digital media as spaces for political legitimation. In Latin America, this trend is particularly strongly expressed as a result of the interaction between structural inequality, constant economic crises, and the fragility of democraticinstitutions (Sozzo, 2016).

An additional finding is the establishment of a culture of control in the sense explained by Garland (2001). This culture is based on the use of punishment as a symbolic tool to manage insecurity, which reinforces the belief that prisons and tougher penalties are effective solutions. However, this approach tends to hide preventive and social actions that could address the structural causes of crime.

In summary, the results obtained show that media and criminal populism not only intensify the expansion of liquid criminal law, but also alter the essence of criminal policy. This phenomenon causes a regulatory overload, weakens the system of guarantees and establishes a model of symbolic control based on fear, which presents important challenges for the protection of human rights and the democratic balance in today's societies.

6. Discussion

The findings of this research show that both populism in the media and criminal law have played a key role in the dissemination of liquid criminal law, a phenomenon that is aligned with Bauman's (2007) description of liquid modernity. Just as social interactions today are unstable and changing, the penal system is also like that, adapting quickly to social and media pressures without taking into account proportionality or legal rationality. This reveals a structural weakness of the law in the face of cultural and political dynamics that prioritize immediacy and symbolic impact.

An important point in this debate is to recognize that populism in the media is not only limited to disseminating information, but also creates social realities. Recent research indicates that the media play a fundamental role in creating collective fears, by choosing and exaggerating certain crimes while concealing structural violence (Greer & Reiner, 2012). This phenomenon feeds the perception of insecurity and pressures the implementation of "iron fist" policies, which is aligned with the findingsofthisstudy.

Aporophobia is defined as a structural element in the selectivity of criminal law. Cortina (2017) highlighted how contempt for people in poverty influences social and political perception, strengthening the criminalization of poverty. Recent studies in Latin America support this view, showing that the most vulnerable groups are the main targets of punitive populism (Sozzo, 2016). This discovery confirms the existence of an unequal justice system that harshly punishes the excluded, while granting benefits to the sectors with greater economic power, which undermines the principle of equalitybeforethelaw.

The study of post-truth and fake news provides an opportunity to explore how manipulated information becomes a political and criminal resource. McIntyre (2018) points out that, in societies dominated by post-truth, emotions have more weight than verifiable facts, which facilitates the creation of legislative decisions without empirical support. This context confirms that the penal reforms promoted by populism are based more on distorted perceptions of insecurity than on objectiveanalysesofcriminality.

Penal populism, in its demagogic facet, finds its foundation in what Ferrajoli (2001) describes as a criminal policy that seeks consensus through fear. Comparative research reveals that this logic has taken hold in both Europe and Latin America, resulting in a growth in the prison population and a weakening of procedural guarantees (Pratt, 2007).

This phenomenon illustrates a shift from the paradigm of guarantees to a repressive approach that puts the visibility of punishment before its real effectiveness.

The creation of moral panics as a method of punitive justification reinforces this analysis. Cohen (2011) explained how the media can exaggerate social phenomena to the point of transforming them into collective dangers, and recent studies corroborate that this tactic is still used to support emergency legislation and repressive policies (Innes, 2020). The coincidence between these findings and the results of this study shows that moral panics continue to be a common tool of penal populism.

The importance of the figure of the victim in political and criminal discourses is another significant aspect. Giglioli (2018) argues that victimization is the essence of all populism, and the evidence reviewed supports that penal populism glorifies the victim in order to activate collective emotions that justify increasing penalties. This approach alters the balance between victim and perpetrator, eroding principles such as the presumption of innocence and weakening the perspective of resocialization that characterizes liberal criminal law.

An additional aspect to be debated is the strengthening of the criminal law of the enemy, proposed by Jakobs (2006), as a result of populist dynamics. This approach justifies the exclusion of certain people from legal protection due to their presumed dangerousness, which aligns with the trend observed in the results: the stigmatization of migrants, people in poverty and vulnerable groups as social enemies. This discovery is alarming, as it implies a retreat towards authoritarian visions of punitive power.

At the international level, authors such as Garland (2001) have described the emergence of a culture of control, where punishment becomes more symbolic than preventive. This perspective is validated in the analysis carried out, given that media and penal populism establish an expressive punitive model that seeks to calm citizens through increased penalties, without addressing the structural causes of criminality. The coincidence between these ideas and the findings of the article shows that this is a global phenomenon and not simply a local one.

The case of Latin America reinforces the uniqueness of this process. Recent research has shown that punitive populism is established in contexts of inequality, job instability, and institutional weakness (Hogg, Scott, & Sozzo, 2017). These conditions favor the social acceptance of heavy-handed policies, even when they infringe fundamental rights. The results of this article confirm that Latin America is a fertile ground for penal populism, as economic and social crises serve as a justification for increasing the punitive powerofthestate.

The conversation reveals that the expansion of liquid criminal law is not an impartial process, but is influenced by relations of power and control in society. According to Silva Sánchez (2018), penal populism is linked to the interests of political and economic elites who seek to justify their authority through reforms that only have symbolic value. This discovery is related to the notion of a criminal law influenced by lobbies, where pressure groups manage to establish legislative agendas that favor certain sectors at the expense of democratic principles.

Finally, when comparing the results with the global literature, it can be concluded that both media and criminal populism not only alter criminal policy, but also change the nature of Criminal Law itself. By becoming a means of social polarization and political

manipulation, the law loses its essence of universality and protection, becoming an instrument of symbolic control.

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