

III Scientific Congress on the Law of The Philippines & Spain
III Congreso Científico sobre el Derecho en Filipinas & España
GLOBALIZATION AND THE WELFARE STATE.
CURRENT CONSTITUTIONAL DEBATES IN EUROPE AND ASIA
LA GLOBALIZACIÓN Y EL ESTADO SOCIAL: DEBATES CONSTITUCIONALES ACTUALES EN
EUROPA Y ASIA
University of Málaga, Spain / Universidad de Málaga, España
May 10-11 Mayo 2017

Proposal of communication for the fourth panel:

Crisis of the Welfare State and new democratic challenges
La crisis del Estado del Bienestar, nuevos retos para la democracia

Title of the communication:

“The punitive turn in Spain. Is the welfare state able to resist it?”

Deborah García Magna*

Introduction

In recent years there is a tendency to carry out penal reforms in Spain very often, as it also happens in other countries. During its twenty years of existence, the Spanish penal code has already been modified more than 30 times, on an average of more than one penal reform by year. Most of them have increased punitiveness by widening the categories of crimes, raising the penalties, and making the penitentiary system less flexible, especially for some criminal offences, all leading to a very high prison population.

Although there are no alarming crime figures in Spain and experts consider it appropriate to decrease punitive pressure in some areas, it seems that this could only happen for utilitarian reasons, within a context of economic crisis that makes it unsustainable to maintain such a high prison population.

The investigation has shown that there are many processes and practices indicating that the law and order model is consolidating itself in the Spanish penal system, leading to a punitive turn. Nevertheless this process has a different intensity at each phase, being stronger at the legislative stage and softer in the penitentiary enforcement phase. One of the main conclusions is, therefore, that the designed instrument is ideal for measuring the degree of penetration of the model throughout the system.

The most striking results of the research will be presented at the III Scientific Congress on the Law of The Philippines & Spain, and some proposals to resist the punitive turn will be made.

* Profesora de Derecho penal en la Universidad de Málaga (Public Law Department).
Teacher and researcher at the Institute of Criminology of Málaga (Instituto andaluz
interuniversitario de Criminología de Málaga).