

The Theory of Isolationism as an Instrument of Criminal Policy and the Confrontation of Organized Crime in Brazil

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Abstract— The purpose of this paper is to address the relevance of confronting organized crime in the Brazilian scenario upon the disorderly structures of prison systems that provide, with the constant transfer of prisoners, the communication between leaders of criminal factions, and the isolation of leaders, that is, the “intelligence” of organized crime as a new paradigm of criminal policy. The levels of violence are alarming and generally rising, with each new research published in the media, which justifies the concern with the theme. It starts, firstly, with the different species of sentences and their function in the Brazilian prison system, examining their origin and evolution. It was also analyzed the Organized Crime and its action in the global scenario, as well as the relevant legislation. Addresses the topic of criminalizing the poor of Wacquant and diffuse criminality, starting from a legitimizing concept of the penal system, which analyzes the problem of mass incarceration in Brazil, in order to separate dangerous leaders from subjugated prisoners. by power structures in prison. Finally, we study the regulation of organized crime by the violence, the impact on homicide reduction and lastly, the direct correlation between them. It is concluded that the disarticulation of transnational Organized Crime and the isolation of the command of these organizations are a new necessary paradigm to be incorporated into the Brazilian punitive system, in the phase of criminal execution.

I. INTRODUCTION

The article deals with the instruments of criminal policy, and their limits and possibilities in confronting organized crime in the Brazilian scenario, especially the disarticulation of transnational Organized Crime and the isolation of the command of these organizations, as a new paradigm of necessary incorporation into the Brazilian punitive system in the phase of criminal execution.

The general objective is to demonstrate the relevance of confronting organized crime in the country, given the

disordered structures of prison systems, which provide over the years, communication between leaders of criminal factions, (to the point of enabling its spread to all Brazilian states), and the enrulement of the Theory of Isolationism of these leaders, as a way to mitigate intelligence actions, logistics and administration of organized crime, in order to constitute a new paradigm to be adopted in the execution of criminal policies in Brazil.

The levels of violence are alarming and generally ascending with each new research disseminated in the media, which justifies the concern with the theme. Mass

incarceration and the fundamental right to public safety are compared, while discussing the movement of prisoners between state and federal prison models, which follow different prison methodologies and end up contributing to the dissemination of information, and expansion of prison gangs, with the stimulation of the emergence of new collectives of prisoners active in prisons in the federal states. This whole chain of events impacts on the monopoly of violence and on state control of prisons, without government agencies realising or presenting solutions to the problem.

The methodology used consists of bibliographic research, with operational description of the terms, and use of the deductive method.

In the first item, the functions of the penalty and the transition between repression, retribution and resocialization will be analyzed. Then, we analyze the lack of intimidation of Organized Crime, which increasingly expands its ballast of action and addresses the criticisms of the inoperability of the functions of the penalty that means the ineffectiveness of the penalty as an instrument of intimidation to organized crime. The problem of the criminalization of the poor of Wacquant, the overcrowding in prisons in Brazil, and diffuse crime are addressed. Next, in the third item, the phenomenon of Organized Crime and its worldwide expansion constitute the theme of the discussion. In this sense, with Roxin's theory, the criminal pronouncement is subdivided in the phases of: incrimination conducts, application or fixation of the penalty and criminal execution. In this last phase lies the issue of maintaining chains of command and the actors of Organized Crime and their ballast of action even when the leaders of criminal organizations are arrested.

Organized Crime extends around the world on the global stage. Thus, the Palermo Convention was held, projecting its reflections and implications in the Brazilian and other countries' legal framework. Incarceration in Brazil and diffuse crime is the object of bibliographic research a fundamental right to public security. The following question arises: does incarceration solve the issue of Organized Crime?

Isolationism in the confrontation of organized crime is compared in the final item of the work, where the consequences of the disordered structures of prison systems are discussed, which eventually promote communication and exchange of information between leaders of criminal factions.

The influences of criminal networks on patterns of violence and the need to break the logistics chain of the actions of these Organizations are discussed, as a way of weakening their illicit activities. In addition, the issue of

regulating violence by organized crime and the impact on the reduction of homicides.

Mitigating the actions of intelligence, logistics and administration of organized crime, as a new paradigm to be adopted in the execution of criminal policies in Brazil is what is proposed to the debate in the article.

II. PEN FUNCTION

2.1 Retribution, Prevention, Repression and Resocialization

In order to discuss the feasibility and understand the importance of adopting certain preventive measures during criminal execution, such as the implementation of isolationism, it is relevant to evaluate the essential positions around the purposes of the penalty, developed by sociological, criminological and criminal doctrines.

In Roxin's doctrine, in his work, "Meaning and limits of the state penalty", the author states that Criminal Law is a kind of last trench. He questions the bases and assumptions justify the fact that a "group of men associated in the State deprives some of its members of liberty or intervenes otherwise conforming their life". [1]

Only in the event of a violation of the legal good of great value to society, is it legitimate that the action of the punitive power of the State is shown. This action should reflect the need for proportional and reasonable pacification to the social reality. The penalty, however, despite the theories formulated, "cannot be reduced to a single point of view", since its foundations make up a "highly complex reality", [2] thus "it is a social necessity – ultima ratio legis, but also indispensable for the real protection of legal goods", the penalty must be, in a democracy, "always fair, inrenably attached to the culpability (principle and dogmatic category) of the author of the punishable fact". [3] Criminal law only interferes in the social environment to protect citizens, to allow them to live in a society free of danger, [4] thus serves to protect legal assets of greater relevance.

Incident about this interference of criminal law, that is, in this area is that the "limits of political democracy, understood as the power or will of the people and, therefore, of the majority". [5] Only with these assumptions will the legitimacy for punishment be found. The idea of pen as a means of resocialization was a theoretical-practical construction that was forged over time. Several stages were overcome in this process, such as theories of state or social revenge.

The Absolute Theory of Punishment was formulated based on the idea that the penalty should serve to repay the unjust practiced. [6] It was his own end and found self-

legitimization by applying sanctions under the legislation, thereby practicing justice.

Another theory, called Relativistic Theory, values the prevention of crimes through the application of the penalty, which can happen in two ways: the first is the general prevention that relates to the control of violence, limiting it or even reaching its inoccurrence,[7] or an obstruction by "deprivation to the perpetrator" or by the "intimidation" resulting from the application of the sanction, "which will result in the inhibition of other criminal conducts. [8]

Carnelutti argues that the penalty boils down to inflicting suffering on those who committed the crime, that is, it aims to offer a disincentive:

[to] the committing of others; therefore punitur ne peccetur, that is, in order to try to dissuade the condemned to put himself in a position to have to be punished again. In this respect, criminal law operates on necessity, constituting a link quo necessitate adstringimur alicuius... rei faciendae vel non faciendae; the criminal obligation, which deals with the science of material criminal law, is the expression of the preventive purpose of Criminal Law. [9]

For Dieter, the functions of the pen, from a formal point of view, are constantly redefined. However, they lean on prevention, now for resocialization, but in their critical view, the legitimate arguments of the penalty, such as retribution and prevention, would only wish to "perpetuate the power relations defined by the unequal distribution of modes of production", stating that there is an "abyssal cleavage between the declared functions and the reality of their execution". [10]

After retribution and prevention, the idea of general prevention arises, which can be negative or positive. The first, positive general prevention, occurs when it can be demonstrated that the criminal law is valid and is able to be applied to any specific case. The negative, according to Feuerbach, considered the father of modern criminal law, is that capable of influencing the mood of the agent, who will be affected by a fear, of a "psychological coerce", which will discourage him to commit crimes.

The second subcategory of the Relativistic Theory of The Penalty deals with special prevention, which is intended directly for the condemned. At this point, it differs from the previous one (general prevention), because it is not intended for the collectivity, but for the person who commits the crime. Special prevention can also be positive or negative.

The special positive prevention seeks the resocialization of the condemned, who, after the execution of the sentence, must the individual present himself with full aptitude for normal social interaction. By special negative prevention, it leads to intimidation of the condemned, so that he no longer commits criminal acts in order to avoid recidivism. There is also the Mixed or Eclectic Theory, which combines the function of the penalty as an instrument of retribution to the condemned, of the evil practiced by him, without overlooking the preventive disincentive to the practice of new criminal crimes.

Albergaria states that this theory aggregates the various stages and phases of the sentence, each one, fulfilling different scopes: "at the moment of the threat of the penalty", where the criminal legislator must act, the idea of general prevention is decisive, while "at the time of the application of the sentence, the idea of retribution predominates", and in its execution, the so-called "special prevention, because then the reeducation and socialization of the offender" will prevail. [11]

Therefore, a multi function of feathers is recognized. Retribution, prevention and resocialization, and this was the position adopted by the Brazilian legislature, as can be seen from the command of Article 59, caput, of the Penal Code. [12]

Despite the technical adjustments in relation to penalties, it is reputed that in order to have resocialization, it is necessary to implement the legal guidelines of criminal execution and promote effective means for social reintegration, removing from the hands of experienced criminals, people in situations of economic and socio-environmental vulnerability, which pushes them to the webs of organized crime.

The starting point for such success is to give attractive options for the promotion of emancipatory education,[13] as well as offering the acquisition of legal professional techniques, through the learning of crafts, development of skills and abilities and thus provide ways for the inpenados of yesterday, to be received in society as holders of rights and duties, and in particular as citizens able to develop productive activities.

2.2 Crime, transnationality and daring: what to expect when Organized Crime is not intimidated?

Despite all the theories addressed about the functions of intimidation of the penalty, organized crime is increasingly bold and globalized. Anthony Giddens, in "The world in the age of Globalization" stated that globalization transforms the world into one, that is, into something unique. "Solid like granite" companies can fall apart from one hour to the other, pressured by external competition. Globalization brings advantages and disadvantages. [14]

The morphology of the culture of "Network Life" constitutes a "drastic source of] reorganization of power relations", [15] and also of crime.

The Internet is one of the means of communication, dissemination of information and exchange of ideas that represents the globalized era, but also becomes an instrument that organized crime makes use of, expanded its actions and reach. Several types of crime are "offered", via the worldwide network of computers. Through it are applied scams, drugs are sold, crimes are ordered, finally, all kinds of violation of the law occurs in this medium.

The advance of Organized Crime, empowered by access to "easy money", and permeability in social and even political bodies, affects not only the internal environment of states. Criminal organizations, but become increasingly transnational, entremeand by the inland border zones of several countries, affecting the local and global economy. One of the biggest challenges faced by governments is the advance of transnational organized crime in global society since crime acts in a way that operates in a way that is rampant in networks, this process expands with globalization, especially in the last decades of the twentieth century.

The transnational character, a phenomenon of the globalized era, has made organized crime more specialized, more professionalized and dynamic. The increasing integration of world economies, trade and financial flows and also the transit of people, whether due to work or the scientific area (technology) intensify this process, which permeates the most diverse areas of social life, promote the "revolution in information and communication technologies and practices"; it causes the "erosion of the national state and the rediscovery of civil society to the exponential increase in social inequalities", which highlights the problem of "emigrants, tourists or shipwrecked people", as well as the "protagonism of multinational companies and multilateral financial institutions, of new cultural and identity practices to globalized consumption styles". [16]

The global electronic economy " means that companies, managers and investors can transfer large sums of capital" with a simple touch of hand, and with that, they can also destabilize economies that once demonstrated robustness. [17]

Organized crime uses these tools and is not intimidated, often being open ly on social networks of the worldwide computer network, including offering "services" of delivery of weapons, drugs, prostitution, etc. Through the virtual environment, various crimes are committed, such as fraud, fraud, and even virtual kidnapping, in which a computer virus is manipulated that "crashes" that of the

recipient (kidnapped), usually companies, and for the release of the machine, is extorted a sum of money. The Judge of the TJ SP, Dr. José Carlos, described in his work a typology, in which he can kill himself by computer, as in the case of a mafia whistleblower who had his relative killed by a hacker hired in Switzerland, having succeeded in invading the patient's medication system, hospitalized, leading him to death for revenge. [18] It is possible to easily commit murders with a hacker, computer and internet.

Scams such as bitcoin and other cryptocurrencies are common to Organized Crime. The report called "Organised Crime in Australia 2017", points out that the use of bitcoin currency and other cryptocurrencies, by organized crime, have been very efficient formoney laundering and financial movements that go off the radar. These virtual currencies are used in an abusive manner since they can be sold anonymously online, without control or dependence on a central bank or financial institution that can oversee transactions. [19]

If, on the one hand, organized crime is not intimidated, there is a problem of the inoperability of the penalty and the criminalization of the poor, issues of which we will start to address.

2.3 Criticism of the inoperability of the functions of the sentence and the problem of the criminalization of the poor in Wacquand

This item addresses the effectiveness of the application of the penalty as a preventive means, that is, to avoid the occurrence of new offenses, which reveals the inoperability of the penalty. At first historical moment, man, organized in society, realized the ineffectiveness of the application of the penalty, in the midst of enlightenment philosophical discussions.

The prison emerged as the "centre of gravity of political-criminal schemes", widespread from the second half of the 17th century in Europe. To date, it has not succeeded in achieving an effective system that would replace prison, but it has been profoundly modified over time.

In Brazilian legislation, the adoption of pecuniary and restrictive penalties of rights is highlighted, especially in the systematics of the Law of Special Justices No. 9099/95, which emphasizes the alternative penalties of scarcerizadoras, pointing to the incorporation of reformulations of new concepts, theories and ideas about criminal law and its norms.

However, Amaral writes that there is a paradox between these new decriminalizing rules and the resurgence of legislation, giving "broad prestige to the exasperation of

deprivation of liberty (v. g. Laws 8072.90, 9034/95, 9455/97, 9503/97 (CTB) and 9613/98)". [20]

Scholars began to openly criticize the application of torturous punishments and use of inhuman esum misins as a form of punishment to offenders. The idea of revenge is replaced by preventive contours.

Beccaria states that the best cost-benefit is in preventing crimes, rather than having to punish them, because "every wise legislator should seek rather to prevent evil than repair it", being good legislation, the art of "providing men with the greatest possible well-being and preserving them" from evils such as suffering. [21] Faced with the ill-fated crisis of legitimacy of the penal system, markedly in relation to the foundation of the penalty, and the existence of selectivity, new theories and criticisms of the inoperability of the penalty are increasingly presented in the scenario where the directions of criminal politics are discussed in Brazil and in the world. In this context, the penalty, it is said, was "humanized", having abandoned its contours of human degradation, although the issue of "humiliation" may be present, justified by the need for social regulation.

Veloso says that the crisis of legitimacy of the penal system is partly caused by society itself because "there are other ways of repressing the offender", which is not necessarily "the seclusion in cells as if they were animals", however, social claims, in part, are triggered by the media, sensationalists, who lead to believe that prison is the only way to guarantee punishment of offenders. [22] The worse the environment, the better, without realising that it aggravates the problem, it does not solve it.

Jus puniendi, over the years and the development of new theories, the humanization of penalties became a necessary agenda, required "by men themselves, by scholars", so that the updated penalty is content to "deprive man of his rights reaching his greatest conquest, freedom", and thus we move to a more human "concept of pity" by undressing the individual with greater humiliation, "for only the fact of being judged, even if cleared, is a bitterness". [23]

Aggravate the situation, elements of destructuring of the penal system, such as: a) Reproduction of violence, b) Creation of conditions progression of simple conducts for other more harmful, c) Institutionalized corruption, d) Concentration of power and social vulnerability, e) Destruction of "horizontal and/or community relations". [24]

In particular with the case of social vulnerability and the conversion of part of the population in a situation of miserancy to the functional frameworks of trafficking, it is necessary to discuss what some authors [25] call the criminalization of the poor based, especially on

Wacquant's thinking, for whom "punitive management of poverty", ghettoization and ethnic marginalization have been forged as a "component of neoliberalism". [26]

According to Wacquant, in the United States, "a new policy" and a new "management device for urban marginality" emerged, (which seems to spread across the continent), from a state action that restricted social policy, with "the replacement of protective welfare with compulsory workfare", employing a growing and expansive penal policy. [27] There is the "regulation of the poor" by welfare: on one side is the left hand with the obligatory workfare and on the other, the right hand of the State unite resulting in the "'double punitive regulation' of the untapped fractions of the post-industrial proletariat"[28].

Regarding Latin America, the author states that:

The same logic is on the scene in Latin America, which is where I finally take the reader, in order to examine the militarization of poverty in the Brazilian metropolis as revealing the profound logic of penalization (cf. Wacquant, 2008b). In a context of extreme inequalities and rampant street violence, backed by a heritage state that tolerates routine judicial discrimination, caused by both class and color and police brutality without restraints, and considering the terrible conditions of confinement, imposing punitive restraint on residents of decaying slums and degraded housing estates amounts to treating them as enemies of the nation. This policy is ensured by feeding the disrespect of the law and the routine abuse, as well as the uncontrolled expansion of criminal power, which, in fact, is observed throughout South America in response to the joint increase in inequality and marginality (cf. Müller, 2012). This Brazilian excursion confirms that the penalty vector always acts in an extremely selective way, reaching, as a matter of structural priority, those categories doubly subordinated in the material order of class and in the symbolic order of honor. [29]

With this thought it is justified that, in the absence of a criminal justice system with greater operation, to apply the penalty of restriction of freedom, with greater efficiency and / or effectiveness to the intricacies of the command of Organized Crime. But prison is still the means that the State can and must use to protect not only the so-called unavailable, unrepensible and indispensable legal assets, but also the population itself, which is held hostage to the threats and lack of choice of life and maintenance of this (subsistence), inserted in this concept, physical integrity and social peace. There is a sense that the government is always drying up ice on this issue: much is incarcerated and little resocialized, and there is no social

peace. Violence predominates, resulting in more criminal status and repressive policies.

The need to isolate and make it impossible for the individual to commit crimes is what provides the legal and legitimizing foundation that, in turn, served as "a basis for the construction of maximum security prison units", [30] as well as, enabled the adoption of the so-called RDD – Differentiated Disciplinary Regime, which will be better explored in the last topic of work, with the necessary analysis and critical confrontation. For now, we are committed to the discussion of organized crime as a global and local phenomenon.

III. ORGANIZED CRIME: A WORLDWIDE AND BRAZILIAN PHENOMENON

The term organized crime was well defined from the Palermo Convention in Italy on December 15, 2000, which, in its art. 2, qualified as "Organized criminal group" all those groups that form structured, composed of three or more people, and is "existing for some time [...] acting concertedly for the purpose of committing one or more serious offenses" or other offenses mentioned in that Convention, "with the intention of obtaining, directly or indirectly, an economic benefit or other material benefit". [31]

The Convention was necessary since organized crime was structured around the world under the most diverse configurations, purposes and denominations: mafia, gangs, gangs, gangs, commands, triads, yakuza etc. acting nationally and transactionally. [32]

Several previous attempts to print satisfactory legislation had already been the subject of the legislative interest of the countries. In Italy, on July 31, 1874, the report entitled "Organized crime in the Balkan region" was published at the request of the Ministry of the Interior, referring to a Law of 1875, where Giocchino Rasponi defined the mafia as a "city rascal". [33]

The Italian mafias in the 19th century were structured and organized according to codes of conduct, and initiation rituals. In the 20th century these organizations branched out around the world, becoming transnational, the Cosa Nostra (Sicily), Ndrangheta (Calabria) and Camorra (Naples). Each, with approximately 25 (twenty-five) thousand members and 250 (two hundred and fifty) thousand affiliates around the world.

In Brazil, organized crime has controversial origins according to the author Lidiany; Nivaldo *apud* Silva, 2003, while for other authors its origin would be in the Brazilian Northeast through the cangaceiros of the time the so-called "gang of Lampião and Maria Bonita" since these criminals

were already organized hierarchically, making extortions, kidnappings, threats and counted on the collaboration of corrupt politicians and police. [34]

But it is claimed that organized crime actually emerged in Brazil, in the prisons of the 1970s and 1980s, with the formations of criminal groups. Others defend the idea that it would have arisen in Rio's favelas due to the lack of adequate public policies by the state in what the author calls the "generation of excluded". [35]

This item will deal with the denominations of Organized Crime and its ballast of action in the Brazilian scenario.

3.1 Actors and denominations of Organized Crime and their ballast of acting in the Brazilian scenario

In the internal scenario, the situation is very serious, which makes urgent the need to rethink actions in internal public security, markedly in prisons. The prison system as it works today, is serving, now as an "office", or "college" for Organized Crime. [36]

Sergio Oliveira Souza, in Brazil, prisons have been transformed into "offices for organized crime leaders, conditions of overcrowding and precariousness show that, without planning, there are no possibilities for rehabilitation and resocialization of detainees"[37]. These factions absorb a "generation of excluded who in response to this exclusion and with great insight and intelligence organized themselves in order to meet their basic survival needs." [38]

Organized Crime studies, is "qualified" for its illicit activities. In July 2014, it was reported that the "bosses" of the criminal factions were living and "studying" abroad in order to specialize with cartels in Mexico and Paraguay. Others preferred to command the actions from the United States, defying the intelligence of that country. Police investigations have found that leaders of the First Command of the Capital (PCC) organize trafficking and other criminal activities in the state directly from abroad [...] the top leader of the faction, Marco Williams Herbas Camacho, Marcola, is now called Russian." [39]

The tentacles of these Criminal Organizations are also spread across the three powers. [40] In prisons, the war on drugs, like the American model, [41] caused an over-incarceration that provoked a revolution in the organization of these establishments. "From within the jails, the main collective of crime in the state was strengthened. This [criminal] policy is bankrupt, but it continues to operate", this collective is the First Command of the Capital, which is one of the large Criminal Organizations active in Brazil, "present in 22 States of Brazil, and has become a major supplier of weapons and drugs to other factions". [42]

News nationwide[43] and local[44] are broadcast every day, and report arrests and the blunt practices of lawyers co-opted by Organized Crime.

The heads of these factions are not intimidated, nor with federal intervention for public security, even less with threats of legislative change.

The red phalanx was created in the 1970s, the red command would have appeared in the maximum security prison of Ilha Grande, having as mentor Rogério Lemgruber, known as Bagulhão (the acronym C.V.R.L. Comando Vermelho Rogério Lemgruber is created). The faction was forged in the "maximum security prison of Ilha Grande during the years of the dictatorship, when the guerrillas of the armed struggle mingle for four years with common prisoners those who practiced the crime of theft and robbery". [45] It was this faction that originated the Red Command. [46]

Comando Vermelho – CV, was formed by some members of the red phalanx, and originated in bangu i prison, having as main founder the famous "Escadinha", a Chilean fugitive from the Pinochet dictatorship. The faction stemmed from the union of ordinary prisoners and political prisoners, who within the prisons had access to the teachings of guerrilla manuals. Some authors claim that the Brazilian left helped the Red Command: "whatever the case may be, one thing is certain: if the militants of the armed left trained guerrilla bandits inside the prison, those on the unarmed left, outside it, are consistently following their initiative", because they help the faction to conquer a position of popular political leadership, "artificially legitimized". [47]

Primeiro Comando da Capital - PCC became known in the media as a response to the police intervention of Carandiru (1992). In this episode 111 (one hundred and eleven) prisoners collected in the prison were killed. "Carandiru prisoners after their deactivation were transferred to prisons throughout São Paulo state and in 2001, they would have begun to organize." The leader of this faction, Marco Willians Herbas Camacho, (Marcola[48]), commanded from inside the Prison of Venceslau Braz, in the interior of São Paulo, this response with cellular use, determining the attack on the main civilian and military targets of the State of São Paulo and Brazil.

It is estimated that the faction currently controls 137 (one hundred and thirty-seven) prisons, that is, 90% (ninety percent) of the prison system of the State of São Paulo, making 123 million reais, in crimes of drug trafficking, raffle, toll and monthly fees that are paid by inmates and family members. [49] There are authors who argue that with the control of the PCC in prisons decreases the number of deaths,[50] since the focus of the faction

ceased to follow the molds of a union, to defend prisoners, and went to objective profits as a company. [51]

Currently, the prison population of São Paulo is around 210,677,000, or 40% (forty percent) of Brazil's prison population. Having 155 (one hundred and fifty-five) prisons to house these inmates, according to the Secretary of Penitentiary Administration.

The PCC has several rivals of other criminal organizations, such as the Satanic Sect, which originated in the Detention House of the City of São Paulo in 1994, by Ildefonso José de Souza, sentenced to 22 (twenty-two) years for latrocinium. "In June 2001, he was found in the Mario de Moura Albuquerque Penitentiary in Franco da Rocha, a document that translates the oath" of entry, where one should despise God and swear allegiance to hell. [52]

Comando Democrático da Liberdade – CDL, was created in the penitentiary of Avaré, in 1996. It controls some prisons in São Paulo and riots in the interior of the State of São Paulo.

Comando Revolucionário do Crime Brasileiro (CRCB) was founded in Guarulhos prison in 1999. The faction is responsible for assaults, kidnappings and attacks on public targets. Mauá, in the article that informs that the rivals of the PCC are the ones who kill the most in prison, says that this faction acts motivated by "greed, extortion, cowardice, unpreparedness, mental disability, disrespect to visitors, rapes of visitors, war within their own domains", which generates the chaos of the Criminal Act of the State of São Paulo. It states that one cannot live with such "garbage, scum, animals without the slightest sense of rationality", that they could not and should not live with other prisoners who have their families taken almost hostages and fight against the difficulties of our country". [53]

Terceiro Comando da Capital – TCC, was created by César Augusto Roris da Silva, alias Cesinha, former leader of the PCC, "hunted" and killed in 2006. [54] After his death the organization would have lost strength in prisons. According to the President of the Union of Prison Security Agents of the State of São Paulo (SINDASP), Daniel Grandolfo, the TCC is extremely rival to other criminal factions such as the PCC and makes this very clear, not usually acting behind its back. [55]

Família do Norte – FDN, at the moment, is currently the largest criminal organization in the North and third largest faction in the country. Created in the State of Amazonas, its leaders are the drug traffickers Zé Roberto da Compensa, João Branco and Gerson Lima Carnaúba. They operate mainly on the route of drug and weapons trafficking. Its enemies declared the criminal organization of the PCC, which resulted in a recent massacre in the prison complex of Manaus in 2016.

The violence in the Capital of Amazonas culminated in the murder of 38 (thirty-eight) people in just three days known as "Bloody Weekend" spreading in all national and international media as in the New York Times.

The sheriffs are also responsible for determining several massacres that triggered one of the greatest atrocities that occurred in prisons of the States of Amazonas, capital Manaus, and Rondônia, in the capital of Porto Velho, in recent years, had repercussions in all national and international media, mainly due to great violence that carried out as torn bodies, without head, burned alive, mutilations etc.

According to the La Muralla Report[56] it was concluded that virtually all drug negotiations in the State of Amazonas have tentacles of the FDN, with this it can be observed how it is a highly structured transnational organization and seek not to have direct submission to other known criminal organizations of the country as is the case of pcc (São Paulo) and CV (Rio de Janeiro) in what leads us to analyze that organized crime grows alarmingly with the emergence of new factions in Brazil and in the border strip.

They flaunt their weapons, threaten and have prosecutors, judges, delegates, servants, police and penitentiary agents executed, in short, all who put themselves in their way. Many of these orders, departing directly from prisons spread across the country.

Organized crime in Brazil, especially in the Northern Region, also presents transnationality as a characteristic. Public safety, at the state and federal level, cannot face the expansion of existing criminal practices. Several groups form, groups already formed dispute power among themselves, change, other groups combine, and thus, these alliances begin to exercise an increasing dominance, and their actions are increasingly violent.

Criminals form species of societies, from groups that use violence and symbolic actions to establish their power and the so-called delinquent economy, which consists of allowances, tolls, imposing restrictions on trade on certain days and places, curfew, etc.

3.2 The Brazilian legislation on organized crime and the reflections of the Palermo Convention

Until the emergence of Law 12,694/12, the Brazilian legal system did not even have a legal definition of "criminal organization". That is why the definition given by the Palermo Convention was adopted. The Supreme Court, however, in a trial of habeas corpus filed by members of the Church Reborn in Christ, accused of the practice of money laundering, ruled that the use of the Palermo Convention would violate the principle of legality, before

the lack of law in a formal and material sense that defined what should be understood as a criminal organization. [57]

On July 24, 2012, inspired by the Palermo Convention, Law 12,693 was published, with the case and the first-degree collegiate trial of crimes committed by criminal organizations. [58]

The route chosen was the edition of a Decree (5.015/04), which passed incorporated the concept into the Brazilian legal framework, where, by criminal organization, it was understood that structured by three or more people, pre-existing for some time that acted in a coordinated way, with the purpose of committing serious infractions and thus the intention to obtain, directly or indirectly, an economic or material benefit.

Following the new guidelines and trends of the United Nations - UN and international conventions such as the Palermo Convention Against Transnational Organized Crime, it became necessary to issue a law more appropriate to the current reality law No. 12850/2013 on Criminal Organizations.

From there, the norm incorporates and several changes arise from the new law of organized crime, Law 12.850/13, which has as main differential the concept of criminal organization, being characterized as an organized structured activity, markedly by the division of tasks. [59]

Not only the mere association for the practice of crimes, it is necessary that it is at least structured among its members, there is the so-called hierarchy in different nuclei.

Another differential in the previous law used the term "crimes" in law no. 12,850/13, in its paragraph 2 covers the term "criminal offenses". It was also sought, in paragraph 1, to punish that subject who prevented or in any way would embarrass the investigation of criminal offense involving criminal organization, which complies with the provisions of the United Nations Convention against Transnational Organized Crime – that is, in the Palermo Convention, promulgated through Decree No. 5,015/2004, art. 23, which gave greater punishment to those who wish to obstruct evidence.

There is also an aggravation of the penalty of the person who becomes head of the criminal organization, even without personal practice of execution. The penalty will be increased from 1/6 (one sixth) to 2/3 (two third) if there is participation of child or adolescent, in known cases of mediata authorship when criminals use inimputable in the practice of their crimes. It also refers in Article 2, item II, to the aggravation of the penalty when there is a public official competition, with a view to the "betrayal" of that official in relation to state designs. [60].

IV. THEORY OF ISOLATIONISM AND COPING WITH ORGANIZED CRIME

This item discusses the consequences of the disordered structures of prison systems, which eventually admit, if not promote, communication and exchange of information between leaders of criminal factions. The collectives of prisoners increasingly become a reality in Brazilian prison institutions, which in turn begin to organize themselves to insert themselves into the democratic system, including electoral, their representatives.

From within prisons, when the execution of their sentence, criminals, administrators and managers of trafficking, extend the tentacles of their criminal organizations, forcing minor criminals to join their organization,[61] getting new "deals", and also, raising partnerships, co-opting lawyers "partners" in their crimes, people from other communities and align or fight with other criminal factions, all at the expense of society and the criminal system.

Criminal networks in the patterns of violence, nodded in homicides in Brazil, have to do with the greater or lesser freedom of action for these criminals. Therefore, the need to break the logistics chain of the actions of organizations for crime is justified, as a way to undermine their illicit activities. This permeates the following questions: How to establish a regime that can prevent the communication of leaders with their subordinates, in order to isolate the actions of command, logistics and planning of organized crime through criminal isolationism?

Is the disarticulation of transnational Organized Crime and the intelligence of these organizations a new paradigm necessary to be incorporated into Brazilian criminal policy?

It seeks to analyze the enstallment between the isolation of organized crime intelligence and a new paradigm of criminal policy in a scenario of expansion of criminal factions in prisons in Brazil. Mitigating the actions of intelligence, logistics and administration of organized crime, as a new paradigm to be adopted, which aims to asphyxiate the command of factions, in the execution of policies, criminal in Brazil is the proposal discussed here.

4.1 The disarticulation of transnational organized crime and the isolation of organized crime intelligence as a new paradigm of criminal policy

The disarticulation of Organized Crime is impartin transnational intelligence actions and cooperation between police in the main drug-producing countries. That's because these cops and their staff must be more organized than the leaders of the drug trade.

When he was imprisoned in the Prison of Papuda, Brasília-DF, "Marcola created an arm of the PCC called by the

criminals of Partido Liberdade e Direito (PLD)". After the investigations carried out by the Special Division to Combat Organized Crime (Deco) it was possible to identify the creation of this faction, which "followed the molds of the creation of the PCC, including in relation to the rules contained in its statute". According to these parastate norms, the "dome" passes the guideline to prisons, which are called "towers" and thus, the "criminals responsible for the transfer of information" are the so-called "pilots" - who are "prisoners chosen to coordinate the members of the PCC who were behind bars". [62]

Looking at the information about the transfers, I found that Marcolinha (Marcola's brother) would have been transferred to Papuda. 'But is it the Benedito' who transferred him to the site that previously his brother would have founded a branch of the PCC in one of the criminogenic policies of the State of SP? As absurd as that is, unfortunately it's another truth. In the transfer of 'Marcolinha' (Marcola's brother) they transferred him to Brasília, the same place where his brother (thanks to the State of SP) founded the PLD. [63]

There is also a very well organized arm of the PCC, long-standing, active in the Federal District, having been recorded by police investigations at the start date: March 5, 2001, after the commander in chief of the organization had spent a period collected in the Federal Capital. [64]

After a pilgrimage through several prisons in the country, Marcos Herbas Camacho, the "Marcola", was collected to the Center for Hospitalization and Reeducation (CIR). Although the stay was short – he was imprisoned until February 8, 2002, he left deep marks, both in the mentality of the prison mass and in the public safety of the Federal [...] The surveys made by the police mapped that the organization chart of the PCC would be rigid and similar to a military structure, with hierarchical levels of command, divided into levels according to the power exercised by the members and their respective functions within the faction. The criminal organization also built a network of collaborators, formed by lawyers, family members, girlfriends and visitors. [65]

Although the oldest and most powerful prison gangs operating in Brazilian prisons have emerged in the states of Rio de Janeiro and São Paulo, today, there is no right address. They present themselves in Brazil or abroad, controlling their actions remotely.

Organized crime, based on the techniques of militias, he quickly evolved his modus operandis to act in networks, which consolidated themselves in other axes outside Rio-São Paulo[66], in particular, "when transferred to other states" because they coordinated with other prisoners,[67] contributing "to the incentive and help in the constitution of

new organized collectives of prisoners"[68] that led to the density of a "culture of delinquency". [69]

The Brazilian prisons, which already suffered without physical structure and human resources, "buffeted by a growing prison mass (mostly poor and unassisted)", a situation aggravated by the adhering, often compulsory for the "formation of criminal groups, of brotherhoods of crime", [70] they found themselves unchecked and became what commonly adjoined from powder barrels, marked by the constant massacres that shame the nation and systematically violate the human rights of those collected from the nightmare of the Brazilian prison system.

The situation is less painful in federal prisons, created 2000, the Federal Penitentiary System (SPF), materialized by the need to confront organized crime. To create it, it was necessary to regulate art. 86, 1 st of Law 7,210 of July 11, 1984, the Criminal Enforcement Law. The Federal Penitentiary System was created through the National Penitentiary Department (DEPEN-MJ)", decree 6,061 of March 15, 2007, with the implementation of "maximum security prisons and drawing an adequate profile of prisoners who could be referred to a federal penitentiary, as directed by Decrees 6,509/2007 and 6,877/2009". The federal prisons that make up the Federal Penitentiary System, today in number of five (Catanduvas - PR, Campo Grande - MS, Porto Velho - RO, Mossoró - RN and Brasília - DF), each is "maximum security prison unit", with 208 (two hundred and eight) vacancies. "In addition, each federal penitentiary also has 14 (fourteen) isolation cells, differentiated disciplinary regime (RDD)" [71], stricter regime applied to those who do not have good prison behavior.

Far from presenting a ready and finished solution to the problem, it is necessary to rethink the systematics of the constant transfers of prisoners and readapt the regime of execution of punishment of prisoners who have proven to perform the role of head and direction of criminal factions. [72] The constant transfers of prisoners between prisons – some indicated by the prisoner himself, fostered the interaction and dissemination of the plans "of criminal groups and also of their criminal leaders". According to Manso and Dias, some rebellions were provoked with the premeditated goal of the leaders being transferred, functioning the transferred individual, as an instrument for disseminating the ideals of the dominant criminal factions in new units [74].

It is necessary, first, to ensure that these leading prisoners stay as far away from their places of action as possible, secondly, that these people are kept in systems of Differentiated or similar Disciplinary Regime, as far as necessary, in order to undermine the control of the places

in which they operate, so that their threats no longer have any effectiveness, including prison officers, who often find themselves threatened without any state shelter.

There can be no inversion of values and social rights, where the right of a high-risk incarcerate, with a function of command of great ballast in the factions is more privileged than the communities held by the criminal desideratos, deceived by the easy money coming from trafficking and related crimes. [75] At the end of the day, the whole society becomes subdued and unprotected.

In this discussion, in addition to the fact that prisoner transfers contribute to the articulation between the factions, one still has to deal with disputes and the fact that support houses for the relatives of prisoners has functioned as "HQ's" of crime, as Teixeira warns:

[...] in federal penitentiators, where prisoners from different states and different criminal factions are sheltered, the conviviality and possible alliances between the prisoners collected there are inevitable, which can be confirmed by the studies of Dias (2011) Manso and Dias (2017, 2018) and also Santos (2016).

Therefore, there is no doubt that, in fact, there is interconnection between members of the same faction or even between prisoners of various factions, inside federal prisons, being certain that such agreements can be complemented in support houses, where the elements that support the criminal faction are found. It then becomes the house of support, an important point of intersection between criminals of the same gang of prisoners or between these prisoners and their sympathizers, future soldiers to join a criminal organization. [76]

It is necessary to adjust the function of the penalty for certain individuals who use their high degree of knowledge and administrative specialization to promote, direct and guide criminal actions. However, the simple use of prison does not lead to the desired result, it is necessary a systematic, lasting and joint action of all those involved in the criminal system, such as government, police, judiciary, prosecutors, prison officers, civil society and their organizations, in short, all those interested in a less violent world and with fairer distribution of the penalty, since these measures are restricted to the high command of organized crime. It is the conscious use of selective state violence. [77]

This is because, proven and absurdly, the greater or lesser violence in cities is directly or indirectly linked to the actions of these imprisoned criminals, [78] moreover, it should be considered that "worldwide research concludes that criminal occurrences in association with drugs have increased worldwide, even in those where drug policy has been relaxed".

Temperance is necessary, because there is an erroneous common sense that: if all criminals (excessive generalization) are not applied the penalty of deprivation of liberty, Brazil is confirmed as a country of impunity where everything that is wrong, "ends in pizza". [80]

The possibility of applying the restrictive penalty of rights, for certain crimes, has better effects than the restrictive penalty of freedom itself, in so far as it is "paid" to what has been done – "but because of this feeling of impunity [or fear of it], the State, in the figure of the judge, is very modest in its application". [81] The most drastic measures in the execution of the sentence should be reserved only to those inprisons with a high degree of dangerousness and manipulation of subordinates internal and external to prisons for the committing of their crimes and administration of their business.

As Teixeira said, the "problem of gangs of prisoners has no simple solution", there is no methodology, rule or standard pre-established to combat them, but "represents social and political intelligence the adoption of measures that can reduce their powers, including, of course, the reduction of mass incarceration" replacing this practice with "better use of prison spaces, including, of course, the Federal Penitentiary System", reserving them only to the leaders of criminal factions and prison gangs. [82]

However, for the members of the criminal organizations command it is necessary to insert these individuals, in different regimes, in order to dismantle the Central Committee of Crime – a direct byproduct of the system of transfers of prisoners between federal prisons. As soon as the high-ranking inmate in the chains of command of crime enters at the beginning of criminal execution, due to its dangerousness and capacity to generate social damage, it should be placed in "very rigorous programs for the treatment of the prisoner, asloeing him in an isolated cell, without contact with other prisoners, with supervised visits and without intimate contact" and with the supervised contact with his lawyer, for the sake of collective security so destitute in the current legal-criminal scenario of today. [83].

V. FINAL CONSIDERATIONS

The work presented intended, through bibliographic, documentary research and direct observation, to study the intentions of the penalty and its ideological-historical evolution, focusing on criminal execution, to later deal with isolationism, as a form of disarticulation of criminal organizations in Brazil, undermining their strategies of action, logistics, co-optation of "members" and places, neighborhoods, slums, places where the State has no interference, but especially the forms of issuing orders,

exchanging information and monitoring criminal activities, by those who are inserted in the prison system.

The functions of the penalty in criminal law are a reflection of the state criminal policy program, which the criminal dogmatics institutes, from the attribution given to the penalty. This, in turn, configures the official response in the face of conduct or the punishable fact, exarada by the criminal justice system – in which are inserted the police, the judiciary and its powers, and prison institutions and their executive developments. It happens that the functions of prevention, disapproval, normative-criminal repression by themselves have not achieved the necessary success for the confrontation of criminal organizations. When organized crime is not intimidated, the result can only be the expansion of its violent domains, increased associated crime and expansion of its highly profitable businesses, a fact capable of shaking world economies.

Transnational organized crime, far from retracting, growing and innovating, therefore, requires specific, intelligent and coordinated actions between the police and other financial and public security surveillance agencies. But not only that, once these coordinated actions are successful, it is necessary to ensure that the regions, previously dominated by trafficking, have new educational, professional and occupational perspectives (sport, leisure, etc.). And that the "economy" previously practiced, to end, replaced by these activities. It is necessary to decriminalize the poor, to reject the ghettoization and favelization, and to educate them, to professionalize them and to insert them in activities that can guarantee them subsistence and dignity, because the way Mainardi would say, a good way to get rid of the poor safely, is to make them a little less poor.

The proposed objective was achieved, since it was sought to demonstrate the relevance of confronting organized crime in the country, in view of the disordered structures of prison systems, which provide over the years, communication between leaders of criminal factions, resulting in the creation of a Central Committee between leaders – which reinforces the urgency of mitigating the actions of intelligence, logistics and administration of organized crime. The isolation of leaders, even if this measure is not unanimous, is a possible way to adopt in the execution of criminal policies in Brazil, to reduce violence in the country.

As for the questions, on how to establish a regime that can prevent the communication of leaders with their subordinates, in order to isolate the actions of command, logistics and planning of organized crime through criminal isolationism, several joint actions and transnational cooperation are necessary, in order to dismantle the chain

of command, logistics and communications, either by physical or by signs. These actions should be thought of as a new paradigm necessary to be incorporated into Brazilian criminal policy.

The actions necessary to confront Organized Crime are to obstruct communication, to make the integrations between the leaders, that is, between those who exercise some form of management of drug trafficking, theft of charges, virtual crimes, transnational actions, in short, which cloud the mediatas and immediate instructions emanating from a command to their cells linked to some criminal group or faction. The most drastic measures and socio-criminal restraint, which we call isolationism, should be reserved only for prisoners with a high level of dangerousness and who manipulate their subordinates intra and extrapenitentiary to commit their crimes and administer their business.

Given the organization of criminals, it is essential to direct the function of the penalty to certain individuals, who use their intellectual qualities and administrative specialization to promote, direct and guide criminal actions. Nevertheless, the mere use of prison does not lead to the end of crime. It takes a systematic, lasting and joint action of all those involved in the criminal system, such as government, police, judiciary, prosecutors, prison officers, civil society and their organizations.

The custodial sentence, as seen, still represents a central element of the penal system, and a means still considered effective, to protect the social body from criminal obstinacy, whether arising out of or promoted by cultural, economic or social factors. When using it, it is necessary to have in mind its limitation to those who have a high level of command of crime, according to the most up-to-date doctrines and criminal policies.

In addition, it is not overseen that social policies, such as education, health and the promotion of decent work, are the best preventive means of crime, organized or not, in accordance with the reference legislation.

REFERENCES

- [1] ALBERGARIA, Jason. Das Penas e da Execução Penal. Belo Horizonte: DelRey, 1996.
- [2] ALMEIDA, Andreia Alves. Crime organizado transnacional na região norte do Brasil: A necessidade de um modelo sistêmico. Tese de Doutorado. Itajaí: UNIVALI, 2019.
- [3] AMARAL, Augusto Jobim do. Ensaio sobre uma teoria agnóstica da pena: fronteiras entre o político e o direito penal. CONPEDI. Manaus. Disponível em: <http://www.publicadireito.com.br/conpedi/manaus/arquivo_s/anais/salvador/augusto_jobim_do_amaral.pdf>. Acesso em 30 mai. 2019.
- [4] AQUINO, Jose Carlos G. Xavier de. O crime organizado e a globalização. Disponível em: <<http://www.aopmbm.org.br/aopmbm-em-acao/vale-a-penal-de-novo/218-o-crime-organizado-e-a-globalizacao>>. Acesso em 19 fev. 2019.
- [5] AZEVEDO, Solange. A estranha ascensão de Marcola. Revista Isto É. Disponível em: <<http://www.terra.com.br/istoe-temp/edicoes/2087/imprime155568.htm>>. Acesso em 26. fev. 2019.
- [6] BECCARIA, Cesare. Dos delitos e das penas. S.l. Ed. Ridendo Castigat Mores, (1764). Disponível em: <<http://www.dominiopublico.gov.br/download/texto/eb000015.pdf>>. Acesso em 23 mai. 2019.
- [7] BRASIL. Código Penal. Decreto-lei nº 2.848, de 7 de dezembro de 1940. Disponível em: <http://www.planalto.gov.br/ccivil_03/decreto-lei/del2848compilado.htm>. Acesso em 12 mai. 2019.
- [8] CARONE, Carlos. PINHEIRO, Mirelle. Ramificação do PCC no DF funciona há 14 anos e tem até cooperativa de crédito. Metrôpoles. 2015. Disponível em: <<https://www.metrôpoles.com/distrito-federal/seguranca-df/ramificacao-do-pcc-no-df-funciona-ha-14-anos-e-tem-ate-cooperativa-de-credito>>. Acesso em 31 jul. 2019.
- [9] CABETTE, Eduardo Luiz Santos. A desmistificação do caráter da pena: a ineficácia do Direito Penal como fator de contenção da criminalidade. Jornal Jurid, 2016. Disponível em: <<https://www.jornaljurid.com.br/print/doutrina/penal/a-desmistificacao-do-carater-da-pena-a-ineficacia-do-direito-penal-como-fator-de-contencao-da-criminalidade>>. Acesso em 04 abr. 2019.
- [10] CAMPOS, Lidiany Mendes e SANTOS, Nivaldo. O Crime Organizado e as prisões no Brasil. MPPA.
- [11] CAPEZ, Fernando. Curso de Direito Penal Parte Geral. Vol.1.São Paulo. Saraiva, 2011.
- [12] CARNELUTTI, Francesco. Lições Sobre o Processo Penal. Vol. 1, 1ª ed., Campinas: Bookseller, 2004.
- [13] CASTELLS, Manuel. A sociedade em rede. A era da informação: economia, sociedade e cultura. 17. ed. São Paulo: Paz e Terra, 2016.
- [14] CAVALCANTI JUNIOR, Jose Divanilson; SOARES, Lúcia Dídia Lima (2016). Crime organizado: um nova luta pelo domínio da territorialidade. Revista de Sociologia, Antropologia e Cultura Jurídica. On line. Florianópolis: CONPEDI, 2016. Disponível em: <<https://www.conpedi.org.br/publicacoes/y0ii48h0/i80k5078/UJfP3FG170knvMgh.pdf>>. (Em cache). Acesso em 04 abr. 2019.
- [15] COSATE, Tatiana Moraes. Regime disciplinar diferenciado (RDD): um mal necessário? Revista de Direito Público. Londrina, V. 2, n. 2, Maio/Ago. 2007, p. 205-224.
- [16] DALAPOLA, Kaique. Justiça reduz pena de 12 advogados supostamente ligados ao PCC. R7. 2018. Disponível em: <<https://noticias.r7.com/sao-paulo/justica-reduz-pena-de-12-advogados-supostamente-ligados-ao-pcc-29102018>>. Acesso em 01 jun. 2019.
- [17] DIETER, Maurício Stegemann. A função simbólica da pena no Brasil. Breve crítica à função de prevenção geral positiva

- da pena criminal em Jakobs. Revista da Faculdade de Direito UFPR. Disponível em: <<https://revistas.ufpr.br/direito/article/view/7036>>. Acesso em 20 mai. 2019.
- [18] FÁBIO, André Cabette. Como a superlotação das cadeias contribui para o fortalecimento do crime organizado. Nexo jornal. 2016. Acesso em: <<https://www.nexojornal.com.br/expresso/2016/05/03/Como-a-superlota%C3%A7%C3%A3o-das-cadeias-contribui-para-o-fortalecimento-do-crime-organizado>>. Acesso em 01 jun. 2019.
- [19] FERRAJOLI, Luigi. A pena em uma sociedade democrática. In: Discursos Sediciosos: crime, direito e sociedade. Ano 7. n. 12. Rio de Janeiro: Revan, 2002.
- [20] FROTA, Hidemberg Alves da. Necessidade concreta da pena e princípio da proporcionalidade. Revista CEJ, Brasília, Ano XII, n. 41, p. 24-32, abr./jun. 2008, pp. 24-32.
- [21] GARZÓN-VERGARA, Juan Carlos. Regulação da violência pelo crime organizado e a redução de homicídios. In GARZÓN-VERGARA, Juan Carlos. Qual é a relação entre o crime organizado e os homicídios na América Latina? Instituto Igarapé. 2016.
- [22] GIDDENS, Anthony. O mundo na era da globalização. Tradução de Saul Barta. Editora: Presença. 6. ed. Lisboa: Editorial Presença, 2006.
- [23] ISTO É. Chefes do PCC comandam tráfico da prisão, dos EUA e do Paraguai. 2014. Disponível em: <https://istoe.com.br/373097_CHEFES+DO+PCC+COMANDAM+TRAFICO+DA+PRISAO+DOS+EUA+E+DO+PARAGUAI>. Acesso em 01 jun. 2019.
- [24] KILDUFF, Fernanda. O controle da pobreza operado através do sistema penal. Rev. Katál. Florianópolis v. 13 n. 2 p. 240-249 jul./dez. 2010.
- [25] LUPO, Salvatore. História da máfia: das origens aos nossos dias. Trad. Álvaro Lorencini. São Paulo: Unesp, 2002.
- [26] MENDRONI, Marcelo Batlouni. Comentários à lei de combate ao crime organizado: Lei nº 12.850/13. São Paulo: Atlas, 2014
- [27] MAUÁ, Thales. Rivals do PCC são os que mais matam em presídio. Disponível em <<http://www.diariodolitoral.com.br/conteudo/26429-rivals-do-pcc-sao-os-que-mais-matam-em-presidios>>. Acesso em 26. fev. 2019.
- [28] NETO, Arthur da Motta Trigueiros. Direito Penal: penas até extinção da punibilidade. São Paulo: Saraiva, 2012.
- [29] POLÍCIA FEDERAL. Relatório final IPL 222 de 2014 DRE – Operação la muralla. Disponível em: <<http://politica.estadao.com.br/>>. Acesso em 10 mai. 2019.
- [30] PRADO, Luiz Regis Prado. Curso de Direito Penal Brasileiro. Vol.1, 5ª ed., São Paulo: Revista dos Tribunais, 2005.
- [31] REVISTA SUPER INTERESSANTE. Crime Organizado. São Paulo, 2014.
- [32] RIBEIRO, Fabrício. O Estado contra o Estado. São Paulo: Editora Clube dos Autores, 2017.
- [33] RODRIGUES, Galtieri e CARNEIRO, Mariana. Assistente de juiz e advogado são presos suspeitos de venda de sentenças para facção em Goiás. Jornal O Popular. Disponível em: <<https://www.opopular.com.br/noticias/cidades/assistente-de-juiz-e-advogado-s%C3%A3o-presos-suspeitos-de-venda-de-senten%C3%A7as-para-fac%C3%A7%C3%A3o-em-goi%C3%A1s-1.1768965>>. Acesso em 29 mai. 2019.
- [34] RONDONIAGORA. Advogados são presos acusados de entregarem carta de facção criminosa a presidiário em Porto Velho. Disponível em: <<https://www.rondoniagora.com/policia/advogados-sao-presos-acusados-de-entregarem-carta-de-facao-criminosa-a-presidiario-em-porto-velho>>. Acesso em 01 jun.2019.
- [35] ROXIN, Claus. Problemas fundamentais de direito penal. Lisboa: Vega, 1986.
- [36] SÁ, Victor. Bitcon está causando a proliferação do crime organizado, Diz Governo Austrálio. Disponível em: <<https://portaldobitcoin.com/bitcoin-esta-causando-proliferao-do-crime-organizado-diz-governo-australiano/>>. Acesso em 30 mai. 2018.
- [37] SANTOS, Ana Paula Medeiros dos. Família do Norte: Estudo de caso acerca de uma organização criminosa tipicamente amazônica. 2016. Dissertação de Mestrado. Manaus: UEA/AM, 2016.
- [38] SANTOS, Boaventura de Sousa. (Org.). A Globalização e as Ciências Sociais. São Paulo: Cortez, 2002.
- [39] SOUZA, Sérgio Oliveira de. Presídios brasileiros são escritórios para líderes do crime organizado. Disponível em: <<https://sergioliveiradesouza.jusbrasil.com.br/artigos/128105251/presidios-brasileiros-sao-escritorios-para-lideres-do-crime-organizado>>. Acesso em 13 mai. 2019.
- [40] SOUZA, Arlen José Silva de. As Políticas públicas de enfrentamento às drogas no direito comparado e a política pública brasileira de drogas utilizada na Amazônia Ocidental, na Comarca de Porto Velho/RO. Tese de Doutorado. Porto Alegre: UFRGS, 2018. Disponível em: <<https://www.lume.ufrgs.br/bitstream/handle/10183/189512/001088333.pdf?...1>>. Acesso em 31 jul. 2019.
- [41] SUPREMO TRIBUNAL FEDERAL. Habeas Corpus 96.007 - São Paulo. Disponível em: <<http://portal.stf.jus.br/processos/downloadPeca.asp?id=124306255&ext=.pdf>>. Acesso em 3 jul. 2019.
- [42] TEIXEIRA, Sérgio William Domingues. Muros altos e rios de sangue: o sistema penitenciário federal e a expansão das facções criminosas. Tese de Doutorado. Porto Alegre: UFRGS, 2018. Disponível em: <<https://lume.ufrgs.br/handle/10183/193205>>. Acesso em: 31 jul. 2019.
- [43] THUMÉ, Paulo Renato. Uma abordagem acerca das penas e sua execução na legislação penal brasileira. Santa Cruz do Sul: UNISC, 2015. Disponível em: <<https://repositorio.unisc.br/jspui/bitstream/11624/865/1/Paulo%20Renato%20Thum%C3%A9.pdf>>. Acesso em 15 mai. 2019.
- [44] TROMBETA, Mayara Maria Colaço. O Crime Organizado e o instituto da Delação Premiada. Revista Intertemas: São Paulo, 2010.
- [45] VELOSO, Cesar Cury. Função social da pena. 2011. Disponível em:

- <<https://www.direitonet.com.br/artigos/exibir/6439/Funcao-social-da-pena>>. Acesso em 23 mai. 2019.
- [46] WACQUANT, Loïc. Punishing the poor: the neoliberal government of social insecurity.
- [47] Durham/Londres: Duke University Press, 2009.
- [48] WACQUANT, Loïc. Marginalidade, etnicidade e penalidade na cidade neoliberal. *Tempo Social*, revista de sociologia da USP, v. 26, n. 2, 2014, pp. 139-164.
- [49] WILLIS, Graham Denyer. The killing consensus: Police, organized crime, and the regulation of life and death in urban Brazil. Berkeley, University of California Press, 2015.
- [50] ZALUAR, Alba. "Condomínio do diabo: as classes populares urbanas e a lógica do ferro e do fumo". In: PINHEIRO, Paulo Sérgio. (Org.) *Crime, violência e poder*. São Paulo: Brasiliense, 1983.
- [51] ZAFFARONI, Eugenio Raúl. *Em busca das penas perdidas: A perda de legitimidade do sistema penal*. Rio de Janeiro: Revan, 1991.
- [11] Roxin, Claus. **Fundamental problems of criminal law**. Lisbon: Vega, 1986, p. 15 es.
- [12] PRADO, Luiz Regis Prado. **Brazilian Criminal Law Course**. Vol.1, 5º ed., São Paulo: Revista dos Tribunais, 2005, p. 567
- [13] PRADO, Luiz Regis Prado. **Brazilian Criminal Law Course**. Vol. 1, 5º ed., São Paulo: Revista dos Tribunais, 2005, p. 567
- [14] Roxin, Claus. **Fundamental problems of criminal law**. Lisbon: Vega, 1986, p. 27.
- [15] FERRAJOLI, Luigi. The penalty in a democratic society. In: **Sediciosos discourses: crime, law and society**. Year 7. n. 12. Rio de Janeiro: Revan, 2002, p. 31.
- [16] NETO, Arthur da Motta Trigueiros. **Criminal Law: penalties until the extinction of punishability**. São Paulo: Saraiva, 2012, p. 18.
- [17] NETO, Arthur da Motta Trigueiros. **Criminal Law: penalties until the extinction of punishability**. São Paulo: Saraiva, 2012, p.15.
- [18] THUMÉ, Paulo Renato(**An approach on penalties and their execution in Brazilian criminal law**. Santa Cruz do Sul: UNISC, 2015. Available from: <<https://repositorio.unisc.br/jspui/bitstream/11624/865/1/Paulo%20Renato%20Thum%C3%A9.pdf>>. Access on May 15. 2019, p. 23.
- [19] CARNELUTTI, Francesco(**Lessons on Criminal Procedure**. Vol. 1, 1º ed., Campinas: Bookseller, 2004, p. 73.
- [100] DIETER, Maurício Stegemann. The symbolic function of the penalty in Brazil. Brief criticism of the function of positive general prevention of criminal punishment in Jakobs. **Journal of the Ufrpr LawSchool**. Available from: <<https://revistas.ufpr.br/direito/article/view/7036>>. Access on May 20. 2019, p. 3. In the current search for new argumentative resources that authorize the penalty, appears in German doctrine – based on a new sociological construction – the rescue of the function of positive general prevention, based on the need to maintain normative behavioral expectations (*Idem*).
- [111] I'D HARBOR, Jason. **Penalties and Criminal Execution**. Belo Horizonte: DelRey, 1996, p. 20.
- [121] Art. 59 - The judge, in view of the guilt, background, social conduct, personality of the agent, motives, circumstances and consequences (SIC) of the crime, as well as the victim's behavior, shall establish, as necessary and sufficient for disapproval and prevention of the crime: (Writing given by Law No. 7,209, of 7.11.1984)
- I - the penalties applicable among the cominadas; (Writing by Law No. 7,209, 7.7.1984)
- II - the amount of penalty applicable, within the limits provided for; (Writing by Law No. 7,209, 7.7.1984)
- III - the initial regime for the execution of the custodial sentence; (Included in Law No. 7,209, 7.11.1984). Brazil. IV - the replacement of the custodial sentence imposed by another type of sentence, if appropriate. (Included in Law No. 7,209, 7.7.1984) (our griffin).
- Brazil. **Penal Code**. Decree-Law No. 2,848 of December 7, 1940. Available from: <http://www.planalto.gov.br/ccivil_03/decreto-lei/del2848compiled.htm>. Access on May 12. 2019. The provision was reappropriated by Federal Law No. 7,209/1984, where the concept of main and ancillary penalties was replaced and appropriated to Article 32 of the CP. In the Brazilian criminal legal system, the penalties will be: custodial, restrictive of law and fine.
- [131] Beccaria, Cesare. **Crimes and penalties**. S.L. Ed. Ridendo Castigat Mores, (1764). Available from: <<http://www.dominiopublico.gov.br/download/texto/eb000015.pdf>>. Access on May 23. 2019, 70.
- [141] Giddens, Anthony. **The world in the age of globalization**. Translation by Saul Barta. Publisher: Presence. 6. Ed. Lisbon: Editorial Presença, 2006, pp. 20-21.
- [151] Castells, Manuel. **Networksociety**. The information age: economy, society and culture. 17. ed. São Paulo: Peace and Earth, 2016, p. 498.
- [161] SANTOS, Boaventura de Sousa. (Org.). **Globalization and the Social Sciences**. São Paulo: Cortez, 2002, p. 11.
- [171] Almeida, Andreia Alves. **Transnational organized crime in northern Brazil: The need for a systemic model**. Doctoral thesis. Itajaí: UNIVALI, 2019.
- [181] AQUINO, Jose Carlos G. Xavier de. **Organized crime and globalization**. Available from: <<http://www.aopmbm.org.br/aopmbm-em-acao/vale-a-pena-ler-de-novo/218-o-crime-organizado-e-a-globalizacao>>. Accessed Feb 19. 2019.
- [191] Sa, Victor. **Bitcoin is causing the proliferation of organized crime, Says Australian Government**. Available from: <<https://portaldobitcoin.com/bitcoin-esta-causando-proliferacao-do-crime-organizado-diz-governo-australiano/>>. Access on May 30. 2019.

- [20] CABETTE, Eduardo Luiz Santos. The demystification of the character of the penalty: the ineffectiveness of criminal law as a factor of containment of crime. **Jurid Newspaper**, 2016. Available from: <<https://www.jornaljurid.com.br/print/doutrina/penal/a-demysmysificao-do-carater-da-pena-a-ineficacia-do-direito-penal-como-fator-de-contencao-da-crime>>. Accessed On March 4, 2019.
- [21] Beccaria, Cesare. **Crimes and penalties**. S.L. Ed. Ridendo Castigat Mores, (1764). Available from: <<http://www.dominiopublico.gov.br/download/texto/eb000015.pdf>>. Access on May 23, 2019, p.67.
- [22] Veloso, Cesar Cury. **Social feather function**. 2011. Available at: <<https://www.direitonet.com.br/artigos/exibir/6439/Funcao-social-da-pena>>. Access on May 23, 2019.
- [23] Veloso, Cesar Cury. **Social feather function**. 2011. Available at: <<https://www.direitonet.com.br/artigos/exibir/6439/Funcao-social-da-pena>>. Access on May 23, 2019.
- [24] AMARAL, Augusto Jobim do. Essay on an agnostic theory of the penalty: boundaries between the political and the criminal law. **I'VE CONMANI**. Manaus. Available from: <http://www.publicadireito.com.br/conpedi/manaus/arquivos/ana-is/salvador/augusto_jobim_do_amaral.pdf>. Access on May 30, 2019.
- [25] For example, Kilduff says, that "In a context characterized by the backsliding of social policies", since it was observed, in the American penal system an "increase in the criminal and police functions of the state" that came to occupy "the place of social policy, with a strong displacement of public resources from social areas to the area of 'public security', thus, the "basically repressive and punitive policies" were favored, which in addition to expanding the penal system, elected it "as a privileged strategy by capitalist states to contain and manage in a criminalizing way the growing and increasingly complex manifestations of the 'social issue'". KILDUFF, Fernanda. Poverty control operated through the penal system. **Rev. Katál**. Florianópolis v. 13 n. 2 p. 240-249 Jul./dez. 2010, pp. 240-241.
- [26] For the French sociologist Wacquant, prison is the substitute for the ghetto or the urban precarious. WACQUANT, Loïc. Marginality, ethnicity and penalty in the neoliberal city. **Tempo Social**, sociology magazine of USP, v. 26, n. 2, 2014, pp. 143-145. Zaluar concludes that the problem of crime is not exclusive to poverty, and there is a complexity in the surroundings. ZALUAR, Alba. "Devil condo: the urban popular classes and the logic of iron and smoke". In: PINHEIRO, Paulo Sérgio. (Org.) **Crime, violence and power**. São Paulo: Brasiliense, 1983.
- [27] WACQUANT, Loïc. **Punishing the poor: the neoliberal government of social insecurity**. Durham/Londres: Duke University Press, 2009, pp. 11-17.
- [28] WACQUANT, Loïc. Marginality, ethnicity and penalty in the neoliberal city. **Tempo Social**, sociology magazine of USP, v. 26, n. 2, 2014, pp. 143-145.
- [29] WACQUANT, Loïc. Marginality, ethnicity and penalty in the neoliberal city. **Tempo Social**, sociology magazine of USP, v. 26, n. 2, 2014, pp. 143-145.
- [30] TEIXEIRA, Sergio William Domingues. **High walls and rivers of blood: the federal prison system and the expansion of criminal factions**. Doctoral thesis. Porto Alegre: UFRGS, 2018. Available from: <<https://lume.ufrgs.br/handle/10183/193205>>. Access: 31 Jul. 2019, p. 36.
- [31] UNODC. PALERMO CONVENTION. Available from: <http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2004/decreto/d5015.htm>. Accessed On April 22, 2019.
- [32] Spread around the world, organized crime is present on several continents, more identifiable in countries such as Mexico, Colombia, Africa, Japan (Yakusa); in the Balkans and China (Triads).
- [33] LUPO, Salvatore. **Mafia history: from the origins to our day**. I'm sorry. Álvaro Lorencini. São Paulo: Unesp, 2002, p. 15.
- [34] CAMPOS, Lidiany Mendes and SANTOS, Nivaldo. Organized Crime and prisons in Brazil. **MPA**. S.D., p.10.
- [35] CAMPOS, Lidiany Mendes and SANTOS, Nivaldo. Organized Crime and prisons in Brazil. **MPA**. S.D., p.10.
- [36] Understood as "the security-oriented collective based on identity and association, in which work is usually subdivided to generate goods and/or services established as illegal by existing States". WILLIS, Graham Denyer. **The killing consensus: Police, organized crime, and the regulation of life and death in urban Brazil**. Berkeley, University of California Press, 2015, p. 08.
- [37] SOUZA, Sergio Oliveira de. **Brazilian prisons are offices for organized crime leaders**. Available from: <<https://sergiooliveiradesouza.jusbrasil.com.br/artigos/128105251/presidios-brasileiros-sao-escritorios-para-lideres-do-crime-organizado>>. Access on May 13, 2019.
- [38] CAMPOS, Lidiany Mendes and SANTOS, Nivaldo. Organized Crime and prisons in Brazil. **MPA**. S.D., p.10.
- [39] This is- THAT'S IT. **PCC chiefs command drug trafficking in the U.S. and Paraguay's prison**. 2014. Available at: <https://istoe.com.br/373097_CHEFES+DO+PCC+COMANDA+M+TRAFICO+DA+PRISAO+DOS+USA+E+DO+PARAGUAY/>. Access on Jun 1, 2019. Investigations of the Civil Police of São Paulo. The Civil Police has information that Wilson José Lima de Oliveira, the Neno, is in Orlando in the United States. According to Giudice, the suspicion is that he traveled to learn how Mexico's drug cartels organize.
- [40] RODRIGUES, Galtier and CARNEIRO, Mariana. Assistant judge and lawyer are arrested suspected of selling sentences to faction in Goiás. **Newspaper O Popular**. Available from: <<https://www.opopular.com.br/noticias/cidades/assistente-de-juiz-e-advogado-s%C3%A3o-presos-suspeitos-de-venda-de-senten%C3%A7as-para-fac%C3%A7%C3%A3o-em-go%C3%AAs-1.1768965>>. Accessed May 29, 2019.

- [41] WACQUANT, Loïc. *Punishing the poor: the neoliberal government of social insecurity*. Durham/Londres: Duke University Press, 2009, p. 61.
- [42] FABIO, Andre Cabette. How overcrowding of jails contributes to the strengthening of organized crime. **I'm not a newspaper**. 2016. Available at: <<https://www.nexojournal.com.br/expresso/2016/05/03/Como-a-overcrowding%C3%A7%C3%A3o-das-cadeias-contribui-para-o-fortalecimento-do-crime-organizado>>. Access on Jun 1. 2019.
- [43] DALAPOLA, Kaique. Justice reduces penalty of 12 lawyers allegedly linked to the PCC. **R7**. 2018. Available at: <<https://noticias.r7.com/sao-paulo/justica-reduz-pena-de-12-advogados-supostamente-ligados-ao-pcc-29102018>>. Access on Jun 1. 2019.
- [44] RONDONIAGORA. **Lawyers are arrested accused of handing over a letter from a criminal faction to the inmate in Porto Velho**. Available from: <<https://www.rondoniagora.com/policia/advogados-sao-presos-acusados-de-entregarem-carta-de-facao-criminosa-a-presidiario-em-porto-velho>>. Accessed On 01 Jun.2019.
- [45] Veloso (2003, p. 1)
- [46] FRANCE, Ronaldo França and CARNEIRO, Marcelo (March 5, 2003). **State of Calamity**. SEE online. Available from:<http://veja.abril.com.br/050303/p_036.html >. Access: 13 May. 2019.
- [47] RIBEIRO, Fabricio. **The state against the state**. São Paulo: Editora Clube dos Autores, 2017, p. 44.
- [48] Marcola was sentenced to 40 years in prison and also went on trial for having been one of the commanding officers of the murder against judge-correctionantonio Antônio José Machado Dias, murdered in 2003, in the city of Presidente Prudente. The victim was allegedly chosen because he was too strict with the prisoners and as a symbol to soften the faction's power because PCC leaders were under their jurisdiction.
- [49] SUPER INTERESTING MAGAZINE. **Organized Crime**. Sao Paulo, 2014, p. 24.
- [50] The PCC has the domain of approximately "90% of São Paulo prisons and for this time these deaths no longer occur. In the chains controlled by the PCC there are almost no murders." MAUÁ, Thales. **Rivals of the PCC are the ones who kill the most in prisons**. Available at <<http://www.diariodolitoral.com.br/conteudo/26429-rivais-do-pcc-sao-os-que-mais-matam-em-presidis>>. Accessed Feb 26. 2019.
- [51] Azevedo, Solange. Marcola's strange ascent. **Magazine This Is**. Available from:<<http://www.terra.com.br/istoe-temp/edicoes/2087/imprime155568.htm> >. Accessed Feb 26. 2019.
- [52] TRUMPET, Mayara Maria Colaço. Organized Crime and the Award-winning Delation Institute. **Intertemas Magazine**: São Paulo, 2010, p 25.
- [53] MAUÁ, Thales. **Rivals of the PCC are the ones who kill the most in prison**. Available at <<http://www.diariodolitoral.com.br/conteudo/26429-rivais-do-pcc-sao-os-que-mais-matam-em-presidios>>. Access in 26. Feb. 2019.
- [54] After having Marcos Williams' wife Herbas Camacho killed, Marcola, another PCC leader.
- [55] MAUÁ, Thales. **Rivals of the PCC are the ones who kill the most in prison**. Available at <<http://www.diariodolitoral.com.br/conteudo/26429-rivais-do-pcc-sao-os-que-mais-matam-em-presidios>>. Access in 26. Feb. 2019.
- [56] FEDERAL POLICE. **Final report IPL 222 of 2014 DRE - Operation la muralla**. Available from: <<http://politica.estadao.com.br/> >. Access on May 10. 2019.
- [57] BALDRECA, Raecler(**The definition of competence for the prosecution and prosecution of crimes committed by criminal organizations**. São Paulo: USP, 2016. Available from: <<https://tede2.pucsp.br/bitstream/handle/19548/2/Raecler%20Baldresca.pdf>>. Access on 31 Jul. 2019.
- [58] SUPREME COURT. **Habeas Corpus 96.007 - Sao Paulo**. Available from: <<http://portal.stf.jus.br/processos/downloadPeca.asp?id=124306255&ext=.pdf>>. Access on 3 Jul. 2019. On August 2, 2013, Law 12,850/2013 was published, defining criminal organization in its article 1, §1, as: "the association of 4 (four) or more people structurally ordered and characterized by the division of tasks, even if informally, with the aim of obtaining, directly or indirectly, the advantage of any kind, through the commission of criminal offenses whose maximum sentences are more than 4 (four) years, or which are transnational", thus expanding the minimum number of members (from three to four) and the penalty to be considered (before or greater than four; now more than four years).
- [59] LEMOS JÚNIOR, Artur Pinto de; OLIVEIRA, Beatriz Lopes de. **Organized Crime and Law 12,850/13**. São Paulo: Verbatim Publishing House, 2014, p 17.
- [60] MENDRONI, Marcelo Batlouni(**Comments to the law against organized crime: Law No. 12,850/13**. São Paulo: Atlas, 2014, p. 17.
- [61] According to Santos, "To remove this leadership of oppressors of other prisoners, almost always occasional and occasional criminals, of little or no dangerousness is, above all, an act of humanity." SANTOS, Astério Pereira *apud* COSATE, Tatiana Moraes. Differentiated disciplinary regime (RDD): a necessary evil? **Public Law Magazine**. Londrina, V. 2, n. 2, May/Aug. 2007, p. 208.
- [62] CARONE, Carlos. PINE, Mirelle. Branching of the PCC in df works for 14 years and even has credit union. **Metropolises**. 2015. Available at: <<https://www.metropoles.com/distrito-federal/seguranca-df/ramificacao-do-pcc-no-df-funciona-ha-14-anos-e-tem-ate-cooperativa-de-credito>>. Access on 31 Jul. 2019.
- [63] VICTORIO, Diorgeres. **Plan "(c)anticrime" and isolation of "leaders" of the pcc. 2019**. Available at: <<https://www.sifuspesp.org.br/noticia/colunas/coluna-do-diorgeres/6439-plano-c-anticrime-e-isolamento-de-lideres-do-pcc#deny>>. Access on June 7. 2019.

- [64] BARBIERI, Gaius. From the government to the opposition, df politicians repudiate marcola's coming. **Metropolises**. 2019. Available at: <<https://www.metropoles.com/distrito-federal/politica-df/do-governo-a-oposicao-politicos-do-df-repudiam-vinda-de-marcola>>. Accessed 29 Jul. 2019.
- [65] CARONE, Carlos. PINE, Mirelle. Branching of the PCC in df works for 14 years and even has credit union. **Metropolises**. 2015. Available at: <<https://www.metropoles.com/distrito-federal/seguranca-df/ramificacao-do-pcc-no-df-funciona-ha-14-anos-e-tem-ate-cooperativa-de-credito>>. Access on 31 Jul. 2019.
- [66] The arrest of some amazonian drug lords and the transfer of these to federal prisons in the early 2000s was the starting point for the installation of organized crime in the state, driving away the family mercancia, because the first factions emerged, namely: the Northern Family - FDN and the First Command of the Capital - PCC. A series of murders rocked the struggle for territories of the two preponderant factions. CAVALCANTI JUNIOR, Jose Divanilson; SOARES, Lúcia Dídia Lima (2016). Organized crime: a new struggle for the dominance of territoriality. **Journal of Sociology, Anthropology and Legal Culture**. On line. Florianópolis: CONPEDI, 2016. Available from: <<https://www.conpedi.org.br/publicacoes/y0ii48h0/i80k5078/UJfP3FG170knvMgh.pdf>>. (Cached). Accessed On Apr. 4, 2019, pp. 201-202.
- [67] According to the report of the Federal Police, "The northern family - FDN was born from the union of Gelson Lima, federal police regional superintendence in the amazon DRE - Police Of Repression of Narcotics 20 carnaúba, alias "G" and JOSÉ ROBERTO FERNANDES BARBOSA, alias "Z", "MESSI" and / or "PERTUBA", known criminals of the State of Amazonas, who after spending a season serving time in federal prisons, returned to Manaus determined (or oriented) to structure themselves as a criminal faction". They have created a "STATUTE [...] containing rules and rigid pillars of hierarchy and discipline, for dissemination through extreme violence to inmates of the Amazonian prison system." **FEDERAL POLICE. Final report IPL 222 of 2014 DRE -Operationla muralla**. Pdf. Available at :<<http://politica.estadao.com.br/blogs/fausto-macedo/wp-content/uploads/sites/41/2017/01/Relat%C3%B3rio-final-IPL-222-de-2014-DRE-opera%C3%87%C3%83o-la-muralla.pdf>>. Accessed on March 02, 2019.
- [68] TEIXEIRA, Sergio William Domingues. **High walls and rivers of blood: the federal prison system and the expansion of criminal factions**. Doctoral thesis. Porto Alegre: UFRGS, 2018, Available at: <<https://lume.ufrgs.br/handle/10183/193205>>. Access: 31 Jul. 2019, p. 60.
- [69] OLD, Gilberto. Violence, reciprocity and inequality: an anthropological perspective. In: VELHO, Gilberto & Alvito, Marcos (Orgs.). **Violence and citizenship**. Rio de Janeiro, Ufrj/Editora FGV, 1996, p. 290-304.
- [70] TEIXEIRA, Sergio William Domingues. **High walls and rivers of blood: the federal prison system and the expansion of criminal factions**. Doctoral thesis. Porto Alegre: UFRGS, 2018. Available from: <<https://lume.ufrgs.br/handle/10183/193205>>. Access: 31 Jul. 2019, p. 60.
- [71] ARRUDA, Élcio. Federal prisons. **Revista CEJ**, Brasília, Ano XIV, n. 50, p. 52-61, Jul./Sept. 2010.
- [72] As Teixeira points out, there would be a challenge about the "idea of labeling, that is, who will be labeled as more dangerous, more violent, more perverse, or even as effectively identifying the behavior that should be addressed to disabling policies". For the author, "punishment, as well as crime, is within normal limits, and is therefore acceptable." TEIXEIRA, Sergio William Domingues. **High walls and rivers of blood: the federal prison system and the expansion of criminal factions**. Doctoral thesis. Porto Alegre: UFRGS, 2018. Available from: <<https://lume.ufrgs.br/handle/10183/193205>>. Access: 31 Jul. 2019, p. 37.
- [73] DIAS, Camila Caldeira Nunes. PCC: **Hegemony in prisons and monopoly of violence**. São Paulo, Saraiva, 2013, p. 186.
- [74] MANSO, Bruno Paes; DIAS, Camila Nunes. PCC, Prison system and management of the world of crime in Brazil. **Brazilian Journal of Public Safety**. São Paulo, v. 11, nº 2, 10-29, Aug/Sep 2017, p. 16.
- [75] Crimes such as: "Arms smuggling, trade in illicit goods, gambling, loan sharking, kidnapping, extortion, counterfeiting of goods, bank bonds and financial papers, mercenary killings, prostitution, human organ trade, sales of stolen goods, smuggling, money laundering and narcotics trafficking, then become part of modern organized crime." TEIXEIRA, Sergio William Domingues. **High walls and rivers of blood: the federal prison system and the expansion of criminal factions**. Doctoral thesis. Porto Alegre: UFRGS, 2018. Available from: <<https://lume.ufrgs.br/handle/10183/193205>>. Access: 31 Jul. 2019, p. 59.
- [76] TEIXEIRA, Sergio William Domingues. **High walls and rivers of blood: the federal prison system and the expansion of criminal factions**. Doctoral thesis. Porto Alegre: UFRGS, 2018. Available from: <<https://lume.ufrgs.br/handle/10183/193205>>. Access: 31 Jul. 2019, p. 124. In addition to support houses, other forms of communication and interaction between prisoners, family members, lawyers, who submit to assist organized crime, end up occurring, as reported by "A confidential report of the Federal Police of Mato Grosso reported that prisoners from Amazonas who were serving time in the federal prison of Campo Grande had had contact with the members of the group of 'mega drug trafficker' Luiz Fernando da Costa, the 'Fernandinho Beira-Mar'. That this would have received instructions on how to organize to face the actions of the police. Lawyers and relatives of the Amazon traffickers stayed together with the Beira-Mar group in a pension rented by the trafficker. For the prosecutor Fábio Monteiro the prisoners come back with their heads full of new ideas to invest in their criminal actions. SANTOS, Ana Paula Medeiros dos. **Northern Family: Case study about a typically**

Amazonian criminal organization. 2016. Master's thesis. Manaus: UEA/AM, 2016, p. 55.

[77] The attitude of the legal operator, not only of the magistrate, must be aware of its tragic character, [...] always resisting punitive power. If punitive power is an 'irrational' force and criminal law must give way only to that part of it that less compromises the 'rationality' of the rule of law, the penal selection must be 'rational', to compensate – as far as it can – at selective ('irrational') violence from the punitive torrent. AMARAL, Augusto Jobim do. Essay on an agnostic theory of the penalty: boundaries between the political and the criminal law. **I'VE CONMANI**. Manaus. Available from: <[http://www.publicadireito.com.br/conpedi/manaus/arquivos/ana is/salvador/augusto_jobim_do_amaral.pdf](http://www.publicadireito.com.br/conpedi/manaus/arquivos/ana%20is/salvador/augusto_jobim_do_amaral.pdf)>. Access on May 30. 1596, 2019.

[78] "In some places in Latin America, homicide rates are stable or declining. In some cases, this is due to the presence of robust public institutions and the improvement of social and economic conditions. In others, however, it stems from the ability of organized crime to regulate the use of violence." GARZÓN-VERGARA, Juan Carlos. Regulation of organized crime violence and the reduction of homicides. *In* GARZÓN-VERGARA, Juan Carlos. What is the relationship between organized crime and homicides in Latin America? **Igarapé Institute**. 2016, p. 9. It is a fact that criminal organizations operate retaliation when arrests or deaths of their leaders occur. And on the other hand, they do not allow certain "minor" crimes to occur so as not to disrupt "business."

[79] SOUZA, Arlen José Silva de. **Public policies to combat drugs in comparative law and the Brazilian public drug policy used in the Western Amazon, in the District of Porto Velho/RO**. Doctoral thesis. Porto Alegre: UFRGS, 2018. Available from: <[https://www.lume.ufrgs.br/bitstream/handle/10183/189512/001 088333.pdf?...1](https://www.lume.ufrgs.br/bitstream/handle/10183/189512/001088333.pdf?...1)>. Access on 31 Jul. 2019, p. 149.

[80] CF. FROTA, Hidemberg Alves da. Concrete need for the penalty and principle of proportionality. **Revista CEJ**, Brasília, Ano XII, n. 41, p. 24-32, Apr./Jun. 2008, p. 31.

[81] Veloso, Cesar Cury. **Social feather function**. 2011. Available at: <<https://www.direitonet.com.br/artigos/exibir/6439/Funcao-social-da-pena>>. Access on May 23. 2019.

[82] TEIXEIRA, Sergio William Domingues. **High walls and rivers of blood: the federal prison system and the expansion of criminal factions**. Doctoral thesis. Porto Alegre: UFRGS, 2018. Available from: <<https://lume.ufrgs.br/handle/10183/193205>>. Access: 31 Jul. 2019, p. Forty-nine.

[83] It is agreed that the National Penitentiary System has as its proposal the maintenance in strict federal custody, only "the most dangerous criminals, the leaders of factions, the exponents of national and international crime, removing their harmful influences and avoiding the deleterious contamination that imposed in the state penitentiary system, thus seeking the disarticulation of criminal organizations". TEIXEIRA, Sergio William Domingues. **High walls and rivers of blood: the**

federal prison system and the expansion of criminal factions. Doctoral thesis. Porto Alegre: UFRGS, 2018. Available from: <<https://lume.ufrgs.br/handle/10183/193205>>. Access: 31 Jul. 2019, pp. 49-50.