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Presentation of the content

In the first article we present, *Second round of elections or ballotage: an option for president of the Mexican Republic*, by QUEVEDO, Noé, with adscription in the Universidad Autónoma de Sinaloa, in the next article we present, *The importance of the General Theory of Obligations in legal acts and in everyday life*, by SANROMÁN-ARANDA, Roberto, with adscription in Universidad Autónoma del Estado de México, in the next article we present, *The role and current projection of "Corporate Social Responsibility" case: CSR certification in hotels in Mazatlan, Sinaloa, Mexico*, by OLIVAS, Claudia, with adscription in the Universidad de Occidente and Universidad Autónoma Indígena de México, in the last article we present, *The implementation of community justice in the province of Buenos Aires*, by FURLAN, Federico, with adscription in the Universidad Mayor Real y Pontificia de San Francisco Xavier de Chuquisaca.

Content

Article **Journal-Law and Economy**
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Second round of elections or ballotage: an option for president of the Mexican Republic

Segunda vuelta electoral o ballotage: una opción para presidente de la República Mexicana

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Abstract

This article presents the opinion of Sinaloa's voting society regarding the second electoral round as an option to elect the president of the Mexican Republic. The information obtained through a survey reflects not only the valuation of different age groups and educational level, but also the level of knowledge they have about the concept of the second electoral round or ballotage. Is the functioning of the second electoral round really recognized? Under what scenarios is it applied? Does it really solve problems such as abstentionism, in governability, or social nonconformity? Does society values the second electoral round as a way in which its vote and opinion is validated not only in the exercise of the vote, but in the entire administration of the elected governor?

Ballotage, Electoral, Electoral, System, Government, President

Resumen

Este artículo presenta la opinión de la sociedad votante de Sinaloa respecto a la segunda vuelta electoral como opción para elegir al presidente de la República Mexicana. La información obtenida a través de una encuesta refleja no sólo la valoración de los diferentes grupos de edad y nivel educativo, sino también el nivel de conocimiento que tienen sobre el concepto de segunda vuelta electoral o ballotage. ¿Se reconoce realmente el funcionamiento de la segunda vuelta electoral? ¿En qué escenarios se aplica? ¿Resuelve realmente problemas como el abstencionismo, la ingobernabilidad o el inconformismo social? ¿La sociedad valora la segunda vuelta electoral como una forma en la que su voto y opinión es validada no sólo en el ejercicio del sufragio, sino en toda la gestión del gobernante electo?

Ballotage, Electoral, Electoral, Sistema, Gobierno, Presidente

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Introduction

This paper focuses on analysing the assessment of Sinaloan citizens of voting age regarding the viability of a second electoral round to elect the president of the Mexican Republic. The second round of elections is a viable alternative to solve the problems of legitimacy and abstentionism in our country's democracy. For this reason, the concept of the electoral system will be addressed, from which the second electoral round or ballotage will also be defined.

The political situation in Mexico will be briefly described, followed by the results of a survey of the Sinaloa voting society, consisting of 500 people of different ages and levels of schooling, in order to find out the opinion held on the second round of elections and how the different population groups defined by these variables respond to it.

The concern of this research lies in proposing solutions and/or improvements to our electoral system in order to resolve the different problems that revolve around the electoral exercise and which are mainly due to the population's dissatisfaction with the elected rulers.

The second round as an alternative to the electoral situation in Mexico

In the democratic exercise, the methods used to elect government representatives influence their scope, levels of reliability, and even their capacity for governability and governance; thus, it is not only important that the people elect who they elect, but also how they do it.

Electoral systems can be understood as the strategies of political parties in power to consolidate themselves through the vote; their preference for a certain type of electoral system has to do with the way they can ensure their stay in power, that is, to keep political power within their reach. In this sense, electoral systems are also subject to political decisions by political actors, who seek to promote their interests. Jean-Jacques Rousseau states that choosing an electoral system is not a problem in itself, it is more about the distribution of seats (seats) taking into account the suffrages (votes) cast by the voters (1969, p. 178).

Electoral systems can be defined as the set of normative elements that regulate the election of representatives to public office. Put another way by Gemi José González López, electoral systems are the way in which the voter manifests - through the vote - the candidate or party of his or her preference, votes that are then converted into seats (p. 4).

The electoral panorama in Mexico is one of great abstinence, whether because voters distrust the electoral process, the choice of candidates and the reliability of their proposals, all of which contributes to a situation of fatigue and distrust, mainly towards political parties. Hence, it is necessary to consolidate a democracy that includes reforms to electoral laws, alternatives that provide security or legitimacy to the voter, among these alternatives are the electoral systems of absolute majority, that is, the second electoral round or ballotage.

The main feature of the second round of voting is that voters vote again, in other words, they vote a second time, unlike in other electoral systems, which only give them one chance to vote. Absolute majority systems are distinguished from relative majority systems in that, regardless of whether or not an absolute majority of votes is reached, the candidate wins by a majority of votes. It is through the relative majority that the president of the United Mexican States is elected.

The ballotage, in this sense, allows voters to reflect on their decision. This is why the first ballot is considered to be a selection to then choose between the two options with the majority of votes. The two most preferred candidates compete in a second ballot one or two weeks after the first.

The hypothesis of this paper is to demonstrate the viability of the second round of elections as an electoral system for electing the president of the Republic. In this regard, the concepts of legitimacy, abstentionism, governability, among others, will be addressed. In addition, a seven-question survey was conducted in the city of Culiacán Rosales, Sinaloa, among 500 people in three age groups: 18 to 30 years old, 31 to 59, and 60 and older.

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In the same way, the survey included people from three socio-economic levels (low, medium and high). It is worth noting that the survey reflects the position of sectors of the voting-age population with respect to the second round and its viability as an electoral system in Mexico.

In the first instance, the intention of the second electoral round, according to Nava Treviño, is to achieve a greater consensus in favour of popular representatives, which in turn leads to the legitimacy of the elected representative; it also aims to reduce the number of political parties created in an improvised manner in order to benefit from proportional representation in terms of legislative or popular representatives (1999, p. 308).

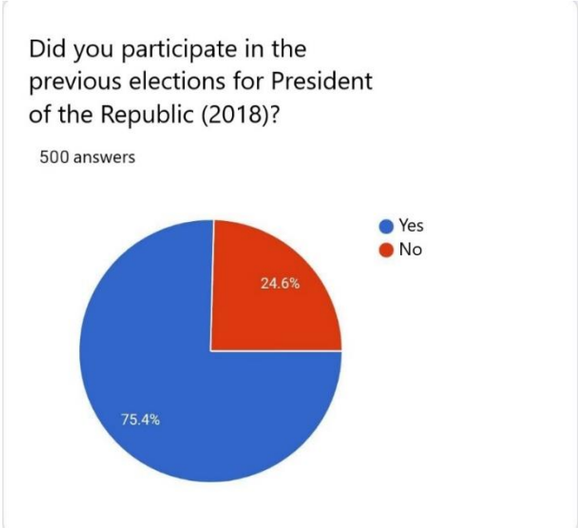
As a background, France was the first country known to implement this type of electoral system. Other countries where it has been implemented include Argentina, Peru, Portugal, Hungary and Russia, to name a few. Now, why is it relevant to implement the second round in Mexico? The key example is the 2006 elections, where Felipe Calderón Hinojosa was elected president of the Mexican Republic. The case is controversial because the margin by which he won was less than 1%, generating distrust in the authorities and in the process - the Federal Electoral Institute at the time. If there had been a system that allowed for a second vote, we would be talking about the election of an (absolute) majority and the legitimacy of the incumbent president would be reaffirmed. In short, the percentages of such a vote reveal that the majority of the people disapprove of the winning candidate, generating a great lack of support from the citizenry.

This is why the legitimacy mentioned above would result in stronger governments with greater support from the governed, as well as greater citizen participation not only at the polls but throughout the democratic exercise, and even post-electoral conflicts would decrease precisely because the winner would have an absolute majority.

The political situation in Mexico is defined by four political actors: the PAN, PRI, PRD and MORENA, the other existing political parties are defined more as coalitions than actors that influence the country's politics. This results in a polarisation of the vote and public opinion. Electing the president of Mexico is a difficult task in this scenario in which the chances of the elected candidate being elected by the majority are low; all because of the existence of alliances only in the electoral process and, therefore, the division of the vote. As a result, the majority of citizens may be dissatisfied with the president-elect and in subsequent elections abstain from voting.

An example of how the context of abstentionism is shown in the action of going out to vote can be seen in the first question of the survey. The survey was conducted in the city of Culiacán, Sinaloa, and most of the respondents were between 31 and 59 years old, corresponding to 233 of the 500 people surveyed. However, it is interesting to note that the last predominant level of education in the survey was bachelor's degree with 290 people, followed by high school with 205. This reflects the fact that a large part of the older population does not yet have professional degrees, and this could be noticeable in their information and perception of the functioning of the Mexican political system.

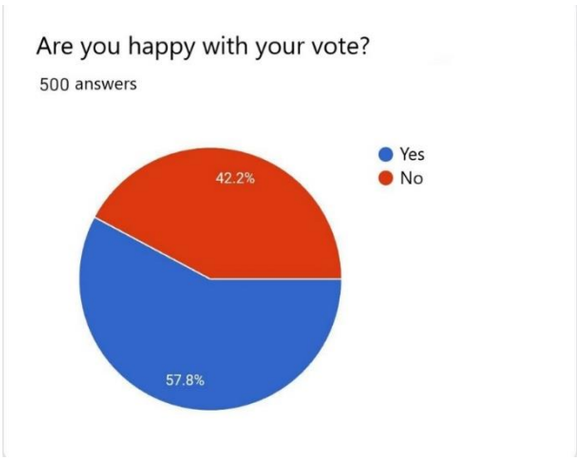
The first question asks respondents whether they participated in the 2018 elections for President of the Republic, as represented in the following Graphic.



Graphic 1 Number of people who participated in the 2018 elections for president of the Republic of Mexico, in percentages

While it is true that in this sample the number of people who voted (75.4%) is higher than those who did not (24.6%), in addition to a notorious citizen participation that denoted in the election as winning candidate Andrés Manuel López Obrador; compared to the 2012 elections where 29 348 670 citizens did not vote - out of 79 492 286 of the nominal list -, in 2018 the number of people who did not attend was 32 649 100 out of 89 250 974 of the nominal list, i.e. 36.92% versus 36.58%, correspondingly. This indicates that abstention levels in the country are high, due to generalised distrust, perceptions of the uselessness of the electoral process or even historical fears on the part of citizens.

At the same time, the discontent of the population was reflected in the following question, where 42.2% of the sample responded that they were not happy with their vote, the majority being concentrated in the 18-30 age group, the second largest group in the sample, which indicates that unlike in previous years, young people are beginning not only to exercise their vote, but also to express their discontent or feedback on the matter.



Graphic 2 People who are satisfied or dissatisfied with their vote in the 2018 presidential election

The lack of legitimacy of some results in representative election processes, especially when the winning candidate wins by less than five percent, is a general feeling among citizens. This is why political actors and academics recognise the second round as a symptom of progress in Mexican democracy.

An example of this is that several deputies have already presented different law initiatives proposing the second round of elections, such as Rafael Alberto Castilla Peralta Peniche (National Action Party) in 1988, Luis Miguel Barbosa Huerta (Democratic Revolutionary Party) in 2002, Jesús Martínez Álvarez (Convergence Party) in 2002, and Jesús Martínez Álvarez (Convergence Party) in 2002. Jesús Martínez Álvarez (Partido Convergencia, today Partido Movimiento Ciudadano) in 2005; and a more recent one proposed by the Partido Sinaloense through the local deputies of the state of Sinaloa, Héctor Melesio Cuén Ojeda, María del Rosario Sánchez Zataráin and Robespierre Lizárraga Otero, on 25 September 2014, before the Chamber of Senators of the H. Congreso de la Unión.

With this in mind, it is not surprising to see in the survey that the population not necessarily dedicated to the political sphere does recognise or understand the notion of the second round of elections. Of the sample taken, half say they know what the second round of elections consists of, compared to the other 50% who do not know what it is. It is true that there is a lack of information, which is evident in the fact that 84.6% do not know of any country in which this system is practised; in other words, even though half of them can define the second round of elections, only 15.4% have information on any country that applies it. However, the countries mentioned are many, such as Cuba, Colombia, Bolivia, Brazil, France, the United States, Argentina, Chile, Venezuela, Ukraine, Canada, England, Peru and Costa Rica. France and Brazil were the most predominant among the respondents.

Regarding the relationship between legitimacy and the second round of elections, the legitimacy of the second term is based on the fact that this system is of absolute majority, where the winner must have at least 50% plus one of the total valid votes, thus having greater approval from the people.

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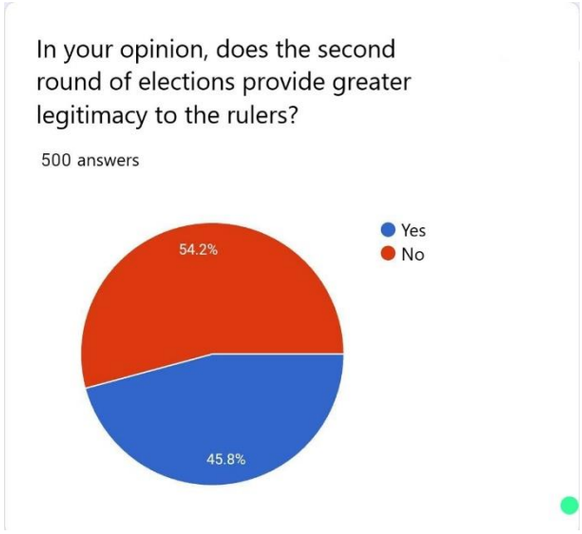
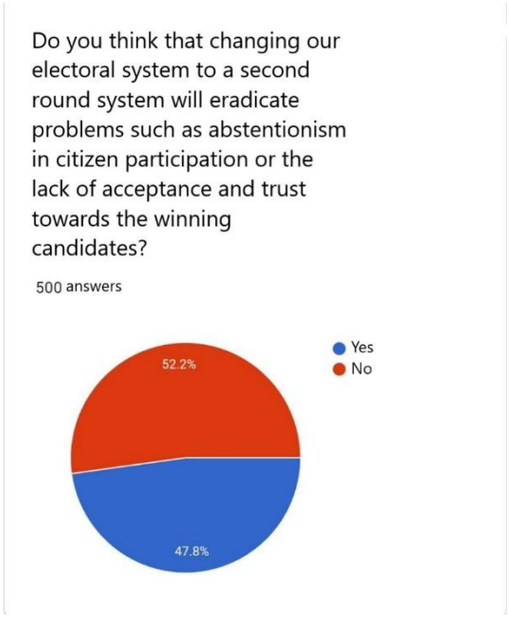
This conception of legitimacy is addressed by Martínez-Sincluna when he establishes that legality is not synonymous with legitimacy, understanding this precept to mean that the population has already exercised its sovereignty by electing its representatives, who created the legal norms regulating the electoral process, the consensus was established independently of the subjective judgement it may have with respect to the results of the election. Martínez-Sincluna disagrees: "it cannot be reduced, as positivism does, to the formula that identifies legality as synonymous with legitimacy, since the latter concept implies a valuational content that may or may not comprise the legal norm" (1991, p.10). In such a way that legitimacy itself entails a subjective judgement about who should be in power, and this judgement may be based on legality.

Based on the above, the following two questions from the survey will be addressed. The first question asks whether they consider that the second round of elections provides greater legitimacy to those in power.



Graphic 3 Assessment of the second round of elections as a system that provides greater legitimacy to those in power



Graphic 4 Second round of elections as a solution to abstentionism, lack of acceptance and trust in the winning candidates

Both responses reveal that the majority do not consider the second round of elections as a system that establishes legitimacy or solves the abstentionism of citizens in the exercise of democracy. However, the percentage difference between those who consider it to be viable under the above conditions is minimal. Therefore, the lack of viability of the ballotage is not decisive.

It is important to note that among the two dominant groups in the sample, those aged 18 to 30 and 31 to 59, the younger group responded that they considered that a second round of voting would lower abstention levels and provide greater confidence in the elected candidates -123 out of 224 people in this group-; this is in contrast to the older group, where the majority -131 out of 233 people- responded no. The latter group tended to think that a second round of voting would lower abstention levels and provide greater confidence in the elected candidates -123 out of 224 people in this group.

The tendency of this second group to say no is also reflected in the third age group (60 years and older). This allows us to reflect on the fact that it is the new generations of voters who, in order to seek changes in our democracy to improve it, are more open to other proposals in the exercise of the vote.

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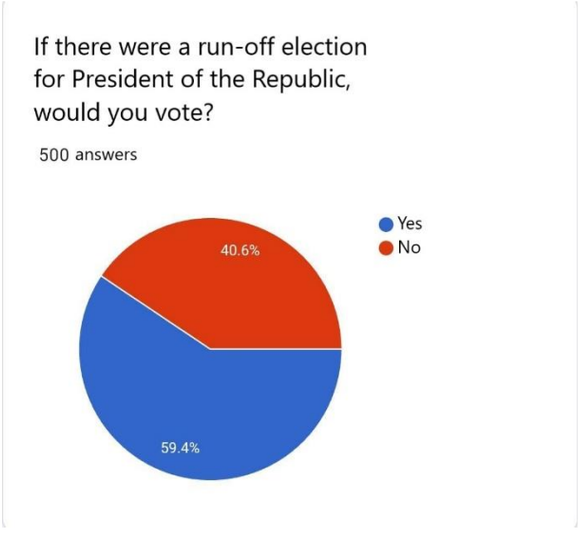
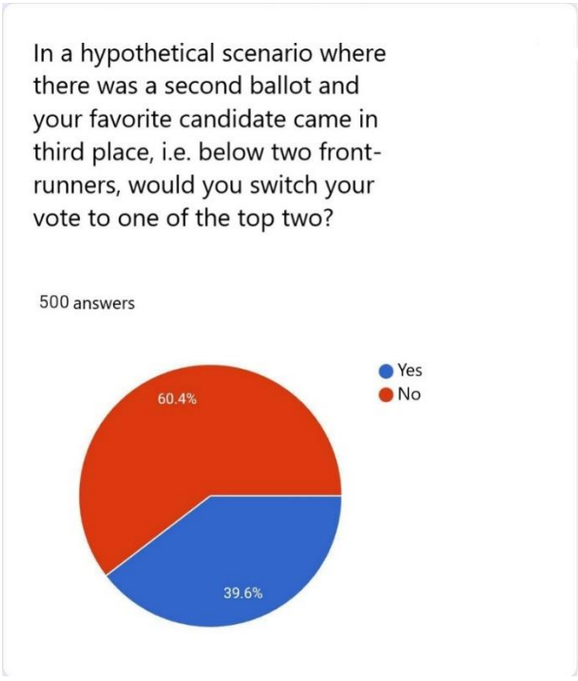
Even with this very similar panorama in terms of the population's perspective of this system, with a minimal negative outlook, the majority agreed that if there were a second round of elections for President of the Republic, they would vote, in other words, they would exercise their right to vote in a second ballot.



Graphic 5 Percentage of likely voters in a second round of elections for President of the Republic

Based on this, respondents were asked a hypothetical scenario in which a second round was used and in the first ballot their favourite candidate came in third place, in the second ballot would they change their vote to one of the first two places?



Graphic 6 A hypothetical run-off election scenario

Here it is revealed that in a scenario in which their favourite candidate did not make it to the second ballot, the voter would no longer be interested in choosing another candidate. If we consider this in reverse, in a scenario in which their favourite candidate was one of the two highest runners-up, the tendency would probably be that they would vote for him again and that one of the keys to being the winner is to reach that public that was left without a candidate in the last ballot.

This is why academics point out that in run-off election systems there is a tendency for parties to form alliances in the last phase of voting precisely to win over their voters. D. W. Rae states that the second round of elections encourages multipartyism, in the sense that it allows each party to try its luck in a first ballot without the maximised divisiveness of the tendencies leading to its defeat (1971, p. 111). Likewise, Juan Linz points out that the second round also makes it possible to form electoral coalitions with the sole purpose of defeating the candidate with the highest number of votes in the first round (n.d., p. 67).

However, Juan Linz himself points out that because every regime - be it presidential or parliamentary - depends on the support of society as a whole (p. 81), it allows voters and candidates to reflect and make more intelligent decisions by recognising which alliances are more convenient for them to establish for the second round. In other words, it is not as arbitrary a decision as it might appear to be.

Proposals

Although the survey does not substantially indicate that the second round of elections is the answer to consolidating democracy in Mexico, it does at least indicate that the Mexican population is open to options that would, above all, give legitimacy to those in power and thus lower the levels of social discontent.

To achieve this, changes are proposed to some articles of the Political Constitution of the United Mexican States:

- Reform section A of Article 41 to read as follows:

1. When in the ordinary or extraordinary elections held for President of the Republic and the formulas for senators and deputies, none of the contenders obtains an absolute majority of the valid vote cast in the country and federal entity or district in question, the following will take place:

   a. The electoral authority shall pronounce the declaration of the election for President of the Republic or in the federal entities or electoral districts in which a second ballot shall be held.

   b. In the same act, it shall summon the political parties that nominated candidates for President of the Republic or the formulas of candidates for Senators or Deputies or independent candidates that have reached the two highest percentages of the valid vote cast, so that in the same act they are considered formally registered to contest in the second ballot.

   c. If none of the second-place candidates declines to participate in the second ballot, the National Electoral Institute shall consider them to be legally registered to contest the second ballot. Likewise, in the event that they expressly withdraw, the National Electoral Institute shall declare the candidate or candidate formula that obtained the highest number of votes in the first ballot to be elected.

   d. The date on which the election day corresponding to the second ballot shall be held shall not exceed ten days from the date of the declaration referred to in subparagraph a) of this section. This election day, in all cases, shall precede the date on which the President of the Republic or Senators or Deputies begin the constitutional term for which they are elected, and shall include the period within which the last of the appeals that have been lodged must be heard and resolved.

   The National Electoral Institute shall publish the above-mentioned date and the names of the candidates and the contending formulas in the Official Journal of the Federation.

Furthermore, none of the candidates or members of the competing formulas may be replaced, except in the case of death, disqualification or incapacity.

2. A second ballot shall not be held in the following cases:

   a) When in the country, entity or district concerned more than fifty per cent of the electors registered on the respective nominal list have voted.

   b) When the candidate or ticket in first place has obtained at least forty percent of the valid vote cast in the country, entity or district in question, and there is a difference of five or more percentage points between the winning candidate for President of the Republic and the second place candidate in relation to the vote obtained by each.

   c) When none of the candidates for President of the Republic or of the contending formulas for senator or deputy have obtained at least forty percent of the valid vote cast, but the difference in votes between the candidates for President of the Republic or the formulas for senators or deputies in first and second place is greater than ten percentage points in relation to the valid vote obtained by each of the candidates or formulas.

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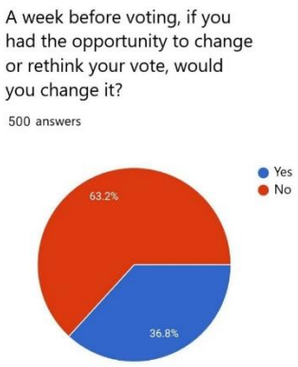
Conclusions

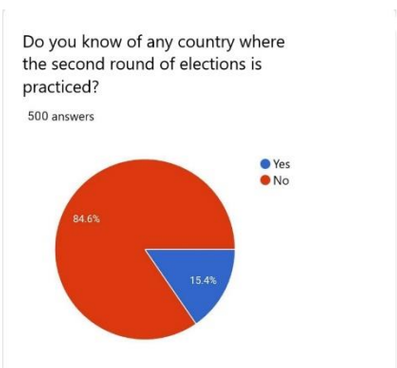
The above is just a reform, an exercise in approaching the second round of elections as a viable proposal that people know about and are well informed about how it works, as well as its advantages and disadvantages, but above all, the possibility of changing our way of electing our rulers to respond more to the opinion of the majority and not to the interests of parties that make use of reaching the necessary points to win, not to really have the support of the citizenry.

Although there is still work to be done in terms of informing, analysing and proposing, the opening is already in place and both non-conformity and distrust - a growing tendency towards representatives - are exceeding the limits of those who seek to consolidate Mexican democracy and thus attack problems such as abstentionism, weak governments, and improve the image of the president of the Republic, as well as the terms of legitimacy, governability and governance.

Annexes



Graphic 7 Rate of vote change within a week of the election



Graphic 8 Percentage of people who know and do not know of any country in which a second round of elections is held

25	Masculine	Bachelor's Degi	Yes	Yes	No	Yes	No
60	Feminine	Bachelor's Degi	No	No	Yes	Yes	No
59	Feminine	Middle School	Yes	Yes	No	No	No
59	Feminine	Master's Degre	Yes	No	No	Yes	No
38	Feminine	Postgraduate	Yes	Yes	No	Yes	Yes
59	Feminine	Master's Degre	Yes	Yes	Yes	Yes	No
59	Feminine	High School	Yes	Yes	No	Yes	No
32	Feminine	Bachelor's Degi	Yes	Yes	No	No	No
41	Feminine	Bachelor's Degi	Yes	Yes	Yes	Yes	Yes
59	Feminine	High School	Yes	Yes	No	Yes	Yes
63	Feminine	Bachelor's Degi	Yes	Yes	No	Yes	Yes
53	Feminine	Bachelor's Degi	Yes	Yes	No	No	No
53	Feminine	Bachelor's Degi	Yes	Yes	No	Yes	No
59	Feminine	Bachelor's Degi	Yes	No	No	Yes	No
59	Feminine	Bachelor's Degi	Yes	No	No	Yes	Yes
61	Feminine	Bachelor's Degi	Yes	Yes	No	Yes	Yes
59	Feminine	Technical caree	Yes	Yes	No	Yes	No

Table 1 Excel table with answers from the survey conducted

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The importance of the General Theory of Obligations in legal acts and in everyday life

La importancia de la Teoría General de las Obligaciones en los actos jurídicos y en la vida cotidiana

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Abstract

The theory of obligations is fundamental for the student of the law career, and the Law Degree, as well as other disciplines. All matters related to legal science have to do with obligations; For this reason, they must be studied from their origin to the present. As well as knowing what makes up the General Theory of Obligations. A large number of legal acts also involve it, for this reason we will dedicate a reflection on its origin, elements, importance, application, among other aspects, that impact us on a day-to-day basis. As well as how important it is to relate them to the ethical aspect, unless they are applied in different legal cases.

Obligation, Legal acts, Importance, Contracts, Theory

Resumen

La teoría de las obligaciones es fundamental para el estudiante de la carrera de Derecho, y de la Licenciatura en Derecho, así como de otras disciplinas. Todas las materias relacionadas con la ciencia jurídica tienen que ver con las obligaciones; por ello, deben ser estudiadas desde su origen hasta la actualidad. Así como conocer lo que conforma la Teoría General de las Obligaciones. Un gran número de actos jurídicos también la involucran, por ello dedicaremos una reflexión sobre su origen, elementos, importancia, aplicación, entre otros aspectos, que nos impactan en el día a día. Así como lo importante que es relacionarlos con el aspecto ético, a menos que se apliquen en diferentes casos jurídicos.

Obligación, Actos jurídicos, Importancia, Contratos, Teoría

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Introduction

The General Theory of Obligations must be known by law students as well as by professionals, insofar as they apply it in their field they will provide better solutions to the situations that arise, as well as to day-to-day problems. It should also be known by other professions, such as accountants, to name one. To the extent that the General Theory of Obligations is applied correctly and fairly, we will be more ethical, or we will comply with our society, e.g. paying taxes to finance public expenditure. Once the reflection has been developed, we will proceed with some conclusions, and end with an opportune bibliography, so that the reader who wishes to deepen the subject has material for their expansion.

General and particular aspects of the obligation and its application

The Romans were a very prosperous civilization in engineering, military, and especially in legal science, to whom we owe our bases of law. They studied and envisioned the subject of obligations, which has been defined as follows: "It consisted of a legal bond by which they were necessarily constrained to perform a service." (Jiménez, 2013: 1) It has also been conceptualized as: "A legal bond by virtue of which a person called a creditor, an active subject, has the right to demand (constrain) from another person called a debtor, a passive subject, a specific service, which may consist of giving, doing, or not doing. Likewise, said bond gives the possibility of forcing the debtor in case of non-compliance with the obligation." (Sanromán, 2018:4)

Starting from any norm, which establishes an imperative that can fix our right and impose obligations, in other cases a duty, said relationship is justified by virtue of said norm from which secondary norms can derive, which also legitimize said relationship and generate the same obligations and rights of different subjects, whether they are creditor and debtor, to fulfill a service, that is, to carry out a specific conduct and thereby fulfill the obligation in question.

From dawn until dusk we are involved in many legal acts, which involve us with different people, whether physical or moral, whether we enter into a contract, carry out a banking transaction, some administrative procedure before a government agency, among others. Continuing with the same idea, at the moment we carry out said acts we are acquiring rights and obligations, facing a third party called creditor, who can demand a specific service from us, such as paying for the object we acquired in the case of a sale, subjecting ourselves to certain obligations with the bank when obtaining a credit card, or acquiring rights and obligations before a government agency to obtain a construction permit, as we can see we obligate ourselves to many things without being fully aware of how relevant they can be.

Undoubtedly, committing ourselves will bring us the realization of a conduct that could be the delivery of an object or money, for the sale of a television; carrying out a specific conduct, such as defending a client in a judicial process in the provision of professional services; or refraining from another e.g. an exclusive pact to sell a product in a certain area, not being able to do it anywhere else. Since we will be complying with the obligation to the extent that we do not carry out a specific conduct.

It is important to remember that the sources of obligations are found in civil legislation, which are: contracts, unilateral declaration of will, business management, illicit act, objective liability, professional risk. These sources are involved in the law career, as is the case of the civil subject in its different courses, the criminal subject which, in the case of the commission of a fraud crime, will have as a basis the illegitimate enrichment contained in the civil code and material. According to the above, other areas of law draw on the essence of obligations contained in civil legislation to be applied in their respective fields. This underscores the importance of the general theory of obligations throughout a student's legal education.

To provide a more explicit example, consider tax law. A significant portion of the population, whether domestic or foreign, natural or legal persons, is obligated to contribute to the state. Therefore, they must comply with the obligations associated with that burden, and all of its elements come into play.

This is not the only subject in which this can occur; rather, as previously mentioned, it applies to all subjects in the legal field and even in other professional disciplines.

To clarify the matter at hand, we can say that if tax law requires payment of a tax to fund public spending, the power of the state to demand that tax arises from the Constitution of the United Mexican States, which in Article 31 states: "Article 31. The Mexicans' obligations are as follows:

IV. To contribute to public spending, both the Federation and the States, the City of Mexico, and the Municipality where they reside, in the proportional and equitable manner prescribed by law."

The obligation of Mexicans is based on the preceding precept, as well as its regulatory law, which is established in the Federal Tax Code. The Code states in Article 1 that natural and legal persons are obliged to contribute to public spending in accordance with the respective tax laws. The provisions of this Code shall apply in the absence of contrary provisions in international treaties to which Mexico is a party. Only by law can a contribution be earmarked for a specific public spending.

Furthermore, Article 5 of the same Code establishes that tax provisions that impose burdens on private parties and those that indicate exceptions to such burdens, as well as those that establish infractions and sanctions, shall be strictly applied. Rules that refer to the subject, object, base, rate, or tariff are considered to impose burdens on private parties. Other tax provisions shall be interpreted by applying any method of legal interpretation. In the absence of express tax regulations, the provisions of the common federal law shall be applied supplementary when their application is not contrary to the nature of tax law.

Based on the above, we can deduce that the Constitution establishes the obligation that generates the tax burden. The Federal Tax Code as regulatory law stipulates who is obliged to pay taxes, according to Article 1, and Article 5 specifies the subjects, recognizing that there is an active subject, namely the authority, in this case, the Secretariat of Finance and Public Credit (SHCP), through the Tax Administration Service (SAT).

The passive subject is private parties and persons referred to in that provision, among others. What legitimizes the collection of the tax is contained in the same Federal Tax Code and Special Laws, depending on the type of tax involved, such as the Income Tax Law. The direct object of the obligation will be the relationship between creditor and debtor, which generates rights and obligations. As soon as I receive income, I fall within the legal framework of the law in question, in this case, the aforementioned Code, which generates the payment of the tax burden. Finally, the performance required is to pay a sum of money as tax payment based on the same Code, derived from the Political Constitution of the United Mexican States as the Supreme Law and the Federal Tax Code as the Regulatory Law, and the Income Tax Law as the Special Law. In conclusion, "Thus, the tax obligation is the duty that the tax liability holder has in favor of the treasury, which is the entity entitled to demand compliance." (Rodríguez, 1997: 1186).

In light of the foregoing, and as we have already mentioned, other examples can be presented in various examples in different subjects of the Law Degree can be found, so it is only necessary to break down the assumption to apply it and understand how important the General Theory of Obligations is for Law students and future lawyers. It is even used in the development of the Bachelor of Law and other careers where it is also utilized, for example, the Bachelor of Public Accounting.

Just as there are fiscal obligations, there are also labor, commercial, administrative, criminal, among others, and all of them take their general theory from civil law to apply it in their field, their object of study, and to ground it in the daily aspect of human relationships in accordance with their specialty and area of knowledge.

As mentioned before, being aware of the importance of celebrating any legal act, due to its implications in its field, we must understand all aspects of the General Theory of Obligations, its sources, modalities, transmission, effects, and extinction of obligations to apply them when we find ourselves in a situation and solve different problems within its legal sphere, and above all, apply justice, that is, give each person what belongs to them. In this way, its existence in the society to which it is directed is justified.

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Complying with an obligation in accordance with what is agreed upon or what the law says, will be just to the extent that the agreement is fair or the law itself is fair, except for a public order law that could be unjust for one party. However, as it must benefit the community, or if a contract stipulates it as a specific obligation, the obligation imposed on the governed or the person to whom that norm is directed will be justified. For example, a worker in labor law has the obligation to attend a specific training course required by the employer, which will benefit the workers of that company, contributing to better work quality, even if the worker does not like the course. Another example is that a company has the obligation not to monopolize the entire market to sell its products since it would constitute a monopoly, which would go against the Federal Law of Economic Competition, benefiting an entire society both as a consumer and producer, commercial, or of any other kind.

I believe that every law student and professional, when applying their specialization, must keep in mind the General Theory of Obligations, seeking justice and, in some cases, equity to solve the problems or situations that arise. Obligations must be related to ethical principles, in more detail: "Therefore, we affirm that civil obligations must be united with the ethical principles and values of the professional, since in practice, they often lack these principles" (Sanromán, et al., 2015:335).

It is clear that if some universities offer only one course in obligations, they should stop at some aspects of this theory in each different course, depending on their field of study, to raise awareness among students, future lawyers, in this subject, and thus have a more complete view to give an opinion or solution to situations that arise both in the classroom and in their professional practice and in the national or international sphere.

The General Theory of Obligations is an area in which there are many treatises, however, the lack of introducing and exemplifying ethical principles in it is fundamental, since many times we comply with a norm or a contract without stopping to see the benefits that it may represent in terms of what is fair and the values being applied.

This gives greater importance in its field and awareness for those who will apply and fulfill it, as well as benefiting the contracting parties or the society that may represent a better quality of life for its inhabitants. Therefore, I also believe that the authorities should create more public policies that embody this essence, since in doing so, their existence will be justified and they will better serve the community to which they owe their service.

From all of the above, we can conclude:

- Obligation is understood as the legal link between a creditor who can demand a debtor to fulfill an obligation that can consist of giving, doing, or refraining from doing something.
- This legal link is generated by obligation, which can be created by a norm or even a legal fact, to fulfill a certain obligation.
- The General Theory of Obligations is fundamental for all subjects in the field of law, as they are applied in each of them.
- Each subject in the field of law uses the General Theory of Obligations according to their specific needs in their daily work.
- Understanding the General Theory of Obligations and being aware of the rights and obligations it generates will give us greater confidence in fulfilling them and the consequences that may arise.
- I believe that in each course in the field of law, the teacher should reflect on the importance of obligations in their respective subject, both in a national and international context.
- The more just or equitable we are in applying the General Theory of Obligations, the more ethically we will fulfill our profession.
- Paying taxes to cover public expenses is an obligation that fulfills our responsibility to society, even if it does not seem to benefit everyone in that community.

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The role and current projection of "Corporate Social Responsibility" case: CSR certification in hotels in Mazatlan, Sinaloa, Mexico

El papel y la proyección actual de la "Responsabilidad Social Empresarial" caso: certificación RSE en hoteles de Mazatlán, Sinaloa, México

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Abstract

Based on the analytical concepts corporate social responsibility, stakeholders, quality of life, Shared and ethical value. The study was done solely to hotels that have the distinction Socially Responsible Company in the city of Mazatlan (Sinaloa, México). For data collection, questionnaires with semi - structured questions to a representative sample of employees were prepared.

Social responsibility, Corporate, Hotels

Resumen

Con base en los conceptos analíticos responsabilidad social empresarial, grupos de interés, calidad de vida, valor compartido y valor ético. El estudio se realizó únicamente a hoteles que cuentan con la distinción Empresa Socialmente Responsable en la ciudad de Mazatlán (Sinaloa, México). Para la recolección de datos se elaboraron cuestionarios con preguntas semi-estructuradas a una muestra representativa de empleados.

Responsabilidad social, Empresa, Hoteles

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Introduction

Throughout the history of the human being, the productive system and society have sought to strengthen their relations for the sake of a better system of coexistence where equity, solidarity is one of the pillars on which they base their responsibility.

The philanthropic work carried out by the philanthropic work of the philanthropic sector has been a key factor in the development of the world economy.

The philanthropic work carried out can be considered a utopia, given the implementation of special programmes that seek to increase the welfare of the communities where the organisation is located.

Corporate Social Responsibility (CSR) is the permanent commitment of companies to increase their competitiveness while actively contributing to the sustainable development of society through concrete and measurable actions aimed at solving the country's priority problems.

The current trend is to align and integrate social and environmental initiatives with business activity, as social responsibility drives the strengthening of the company and generates values such as consumer loyalty and recognition. The social awareness of companies and their desire to make a contribution to society has impacted the way they do business and brought about a change in the business environment over the last decade.

The topic of corporate social responsibility is an exciting one, diverse in its theoretical review. A variety of literature shows the advantages and benefits of socially responsible organisational management; however, the different definitions and approaches to corporate responsibility are also interesting.

The analysis of various authors makes it possible to clarify or differentiate between a socially responsible company or when a company is responsible only for complying with its obligations, and also to group together the criteria necessary to establish a social responsibility programme in organisations, really oriented towards complying with this commitment that companies assume voluntarily, but which in these times is becoming an obligation to the environment, and a demand from the public, who are increasingly concerned about the future.

Only 4 (four) of the 74 hotels located in this tourist destination have this distinction. In this context, the purpose of the research is to investigate whether the hotel companies that have the distinction of socially responsible companies have assumed a voluntary and sustainable commitment to meet ethical, social, quality of life and environmental expectations.

The study was carried out only in the hotel establishments that have this distinction (ESR) in the municipality of Mazatlán, Sinaloa. In order to obtain the study data, questionnaires with semi-structured questions were prepared for a representative sample of employees of the four hotels that make up the two corporations.

To begin with, the analytical concepts applied in this study are presented:

Corporate Social Responsibility, Stakeholders, Quality of Life, Shared Value and Ethics.

This is followed by a brief description of the geographical conditions of the study area, continuing with the methodology applied. It concludes with an approach centred on the actors, represented by the hotel companies that currently have this distinction in the city of Mazatlán, Sinaloa.

Conceptualisation of CSR

"Corporate social responsibility is the ethical exercise of competitiveness" (Guédez, 2006, p.83). This vision refers to an axiological vision that should prevail in the exercise of all business activities, in which commitment, duty and actions are coherently aligned.

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Some concepts on corporate social responsibility help in this endeavour, social responsibility "...is the voluntary integration, by companies, of social and environmental concerns in their business operations and their relations with their stakeholders", this concept resulting from the Brussels meeting of the European Commission (2001) is one of the most cited, but in addition the document states that "being socially responsible does not mean fully complying with legal obligations, but also going beyond compliance by investing "more" in human capital, the environment and relations with their stakeholders".

CSR arises (...) as a response of large corporations and international organisations to try to counteract the negative image of the neoliberal capitalist system, of which they are part, and to maintain themselves in the long term in the national and international market, incorporating ethical principles and a global vision, complex and flexible to change, which is occurring in the environment.

The aim is to minimise and soften the negative effects they have been generating on the environment and society. However, they continue to maintain the basic principles of the capitalist system: private enterprise - now with social responsibility; the market, competition and profit maximisation as key elements of sustainable human development, Romero (2010, p. 459).

Social responsibility must also be aligned with the company's social purpose, with a structuring of short, medium and long-term actions. This will avoid making the mistake of falling into isolated philanthropic actions. The latter are the ones that will only give the organisation an image positioning, but not necessarily a reputation. Carrying out isolated actions just because they are fashionable to mobilise employees to plant trees, or because they provide a media presence (...) will only generate a good image for the company (...) Acting responsibly is based on the heart of the company, on the substance and not on the form, in the same way that reputation is based on it. (Huitrón, 2011:171).

Within this order of ideas, Guédez (2006, p. 143), breaks down four complementary concepts for the adoption and growth of corporate social responsibility; referring to the socially willing, socially competent, socially intelligent and socially ethical company. The socially willing company is one in which managers, mainly, and workers are convinced and have the determination to do something, but above all are willing to seek guidance to channel that decision in an appropriate way, "as an ethical and sustainable exercise of competitiveness".

Now, the socially competent company implies the need to train people in social responsibility, people must know what it is about, they must develop competences to generate behaviours and activities focused on SR. "The translation of social responsibility competences is twofold: on the one hand, it generates capacities of the organisation as a whole to operationalise its social actions; on the other hand, it promotes individual capacities in workers that also have an impact on their performance as people and professionals" (Guédez, 2006, p. 144).

With the above, we arrive at the socially intelligent company, concluding that the willingness and competence to be socially responsible makes companies socially intelligent, the following supports the statement: "one can be a socially willing organisation without being socially competent or socially intelligent; one can be a socially competent company without being socially intelligent; but it is impossible to be a socially intelligent company without being socially willing and socially competent" (Guédez, 2006, p. 144). (Guédez, 2006). A socially intelligent company is capable of orchestrating all aspects of social responsibility in its structure and processes.

For Guédez (2006:148) these concepts do not stop there, but must transcend there by addressing the issue of ethics, for which he also describes a socially ethical company as one "that inspires all its performance and orients all its vocation towards the idea of good". He makes it clear in his approach that ethics is what makes it possible to build or destroy, which is why all organisational decisions must be based on ethics, seeking to do good and to do it well.

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It is worth highlighting in relation to ethics, social responsibility and the size of the company "... ethical and responsible behaviour is for small, medium, micro and large companies in any sector. Ethics has no size or area of action" (Pizzolante, 2009, p. 213).

An important aspect of social responsibility is related to its communication (Paladino and Álvarez, 2006), which should be aimed at improving the perception and reputation of companies in general.

In the case of Mexico, the Centro Mexicano para la Filantropía A.C. (CEMEFI), a private, non-profit institution, without any party or religious affiliation, founded as a civil association, operates from its headquarters in Mexico City, but its field of action covers the whole country. More than 700 members are currently affiliated to CEMEFI, including assistance and promotion institutions, governmental agencies, international institutions and individuals.

CEMEFI is also the main promoter of corporate social responsibility in Mexico, using tools such as the Distintivo ESR (socially responsible company) and the Recognition of Best CSR Practices (corporate social responsibility). To carry out this work, it promoted the creation of the Alliance for Corporate Responsibility in Mexico (UniRSE), an organisation that brings together the major Mexican business chambers and CEMEFI itself.

From then until now, more and more companies wish to fully assume their social responsibility (more honest practices, transparency in management, respect for the environment, ...) as they are more aware that in today's market economy, legitimacy in order to operate must be granted by all those agents or interest groups with which the organisation is related (stakeholders).

Some definitions also refer to the need for CSR management to be measured and measurable, i.e. to be able to monitor and control the results in order to measure its impact and identify opportunities for improvement, and focus on the demands of stakeholders, since they are the agents that have to do with and relate to the company.

According to J. M. Lozano (1999), the company's stakeholders are the groups and individuals that affect or are affected by the company; the interests, demands and expectations that are at stake in each case; and the real power that each one has in this network of relationships.

For Freeman (1984), the stakeholder management approach involves allocating organisational resources in such a way as to take into account the impact of this allocation on various groups inside and outside the organisation. Stakeholders can be classified into two groups, primary and secondary. Primary stakeholders (shareholders, lenders) are those with direct and legally established rights. Secondary stakeholders (employees, the environment...) refer to those whose rights over the company's resources are less well established in law or are based on criteria such as community loyalty or ethical obligations.

Quality of Life

Quality of life is a state of general satisfaction, which arises from realising the potentialities that the individual possesses. To have quality of life we need to feel healthy, productive, secure and able to express emotions and share our intimacy.

Main quality of life factors

- Emotional well-being.
- Material wealth and material well-being.
- Health.
- Work and other forms of productive activity.
- Family and social relationships.
- Security and safety.
- Integration with the community.

Conceptualisation

- Quality of life is a composite measure of physical, mental and social well-being, as perceived by individuals and groups, and of happiness, satisfaction and rewards (Levy and anderson, 1980, p7).

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- It is the subjective evaluation of the good or satisfactory character of life as a whole (Szalai, 1980).

- It is the patient's appreciation of his or her life and satisfaction with his or her current level of functioning compared to what he or she perceives as possible or ideal (Celia and Tulsky 1990).

Objective aspects that quality of life includes:

- Material well-being.

- Harmonious relations with the environment.

- Harmonious relations with the community.

- Objectively considered health.

Creating shared value

“Shared value can only be the result of effective collaboration between the parties".

This concept was born thanks to Michael E. Porter and Mark R. Kramer, co-founders of FSG (Social Impact Consultant), in their article "Creating Shared Value" in which they state that companies are currently being seen as the main cause of social, environmental and economic problems, which has led to an unprecedented decrease in their levels of legitimacy. This lack of trust in business has reportedly led politicians to lead a series of legislative changes that affect competitiveness and affect economic growth.

In that sense, a large part of the private sector would continue to consider value creation as a matter of little importance, focusing on maximising short-term financial performance, and ignoring the real factors that determine long-term success.

The solution would lie in the principle of shared value, which implies the creation of economic and social value in the communities where companies are embedded. Companies must reconnect business success with social progress, and thus drive an even greater transformation of traditional thinking, which would lead to a substantial increase in innovation levels and a systemic increase in productivity in the global economy.

Porter and Kramer define shared value creation as "operational policies and practices that increase a company's competitiveness while simultaneously improving the social and economic conditions of the communities in which it operates". This concept is based on the premise that a healthy society allows for the existence of successful companies.

To achieve this virtuous circle between business and society, leaders are required to develop competencies and new forms of knowledge, as well as a greater consideration of the needs and challenges of society itself, which, in my view, must be the action of managers at the level of business strategy, seeking not only that the profitability for shareholders exceeds the cost of the shares, but the creation of tangible benefits in environmental and social issues, for the benefit of future generations, thus managing to be drivers of sustainable development.

The main thrust of this theory is that it focuses on the connection between economic and social progress, and has the potential to drive a new understanding of global growth. The creation of synergies is enhanced when companies integrate social variables into their value chain and innovate at every stage of the process.

CSR action understands the creation of shared value as a way to implement a CSR strategy in any company. It is fundamental to responsible business management, as it allows initiatives to be focused in such a way as to create maximum value for the company and for society.

Definition and approach to Business Ethics

Business ethics is a branch of applied ethics. It is concerned with the study of normative issues of a moral nature that arise in the business world. Business management, the organisation of a corporation, conduct in the marketplace, business decisions, etc.

Business ethics is distinguished, on the one hand, from purely descriptive business or economic sciences (without normative pretensions) such as econometrics or economic history.

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Ferrater Mora (1988), shows the term as: "derived from the Greek term ethos which means custom, and therefore, ethics has often been defined as the doctrine of customs, especially in empiricist directions.... In the subsequent evolution of the meaning of the word, the ethical has become increasingly identified with the moral, and ethics has come to mean properly the science that deals with moral objects in all their forms, moral philosophy".

A company's ethical commitment is stated in its mission, either explicitly or implicitly. As Argandoña (1993) puts it: Managers and employees who understand that mission, share it, assume it and act accordingly, are the ones who make the company ethical, and give it its reputation.

The business mission will play the important role of being the link between the values of the staff, the values of the organisation and the business strategy.

The incorporation of ethics into the organisation will be the result of a slow and dynamic process, which is not achieved overnight. To speak of a corporate mission is to speak of the creation of a climate that facilitates the process of determining reasonable standards of moral conduct. In this sense, the Mission will be closely related to the corporate philosophy and culture, and its implementation in organisations could come hand in hand with the so-called "company project" (Boyer and Équilbey, 1986).

Many codes fail simply because they are not actively applied or enforced, following an implementation strategy in different steps, so that they translate the organisation's beliefs and values into specific patterns of ethical behaviour (Donnelly; Gibson and Ivancevich, 1992).

Geographical conditions of the study area

Within the geography of the State of Sinaloa, Mazatlan is one of the most important cities due to its population, tourism development, industry and urban infrastructure.

For a long time this site occupied the first place of urban development in the State, Mazatlan is part of the group of towns that concentrate the greatest activity in Sinaloa, but because of its warm, dry and tropical climate, its customs, its natural and touristic richness and the warmth of its people have resulted in this specific point of the country being known as the Pearl of the Pacific.

From the ancient Nahuatl language, Mazatlán comes from the word Mazatlán meaning Place of deer and deer, although history also records that from the Nahoa language Mazatlán means Place of deer.

Mazatlán is a city in the northwest of the Mexican Republic and the head of the municipality of the same name. Founded in 1531, it is located in the state of Sinaloa and is the second most important city in the state.

Nowadays, this port is one of the most important beach tourist destinations in Mexico. It is located 21 kilometres south of the Tropic of Cancer and is bordered to the north by the municipality of Concordia and to the west by the Pacific Ocean. It is also known as "The Pearl of the Pacific" because of its warm climate, the sea, its people, its natural wealth and its paradisiacal beaches.

The city has been expanding with new neighbourhoods, infrastructure, resorts and many kilometres of beach located along the 17-kilometre long coastline. Mazatlán has a population of 403,888 inhabitants (INEGI, 2012).

Tourism and fishing are Mazatlán's main industries. The city is home to the main beach resorts and has the second largest fishing fleet in Mexico. In 1864 there were three Mazatlán hotels and three restaurants, with more opening in the late 19th century.

Today, more than twenty kilometres of beaches are the main attraction, and the city has 74 hotels of all categories with a total of 9,400 hotel rooms plus restaurants, bars and shops, of which only four are CSR certified.

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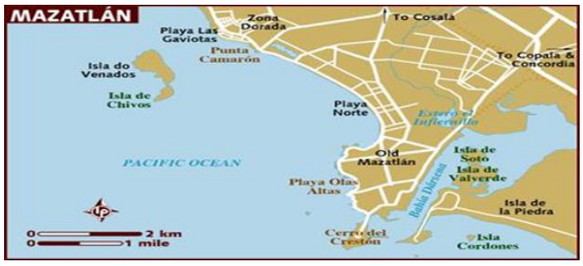

Figure 1 Mazatlán
Source: INEGI (2012)

Quantitative methodology

One of the most important and decisive steps in research is the choice of the method or path that will lead to obtaining valid results from the research that respond to the objectives initially set out. On this decision will depend the way of working, the acquisition of information, the analyses to be carried out and, consequently, the type of results to be obtained; the selection of the research process guides the entire research process and, based on it, the objective of all research is achieved.

Conducting research from a quantitative approach plays an important role, as it aims to narrow down the information, making it easier for the researcher to collect data and thus solve the problem.

The quantitative approach uses data collection to test hypotheses, based on numerical measurement and statistical analysis, to establish patterns of behaviour and test theories (Hernández, 2010).

The methodology implemented to meet the objectives of this research was as follows: to select the diagnostic instruments that best suit this research, taking into account and also considering the knowledge and experience of the researcher, for which the questionnaire was the instrument applied to employees of hotels that have the CSR label.

This is arrived at by means of the Matrix and has as its immediate antecedent the indicators that are based on the definitions of the variables. Once the instrument has been designed, it is applied.

In order to carry out this research, it was necessary to define the universe in advance and select the sample for finite populations necessary to respond to this case study:

In this research, the following hotels that have the CSR label were taken as the field of study.

Corporate	Hotel	Category	No of employees
No 1	Hotel Pueblo Bonito Mazatlán	5 stars	480
	Hotel Emerald Bay Resort & Spa	4 star	554
No 2	Hotel Royal Villas Resort	4 Star	118
	Hotel Howard Johnson	3 1/2 stars	82

Table 1 Hotels
Source: Author's elaboration (COO,2014)

In order to strengthen the research, defining the number of service providers in the hotel establishments that make up the study community, and from there a probabilistic sample is drawn by experts Source: Munich (1993):

$n=Z^2N.p.q \setminus e^2(N-1)+Z^2.p.q$

Where:

Z= Confidence level

N= Universe or population

P= Probability in favour

q= Probability against

e= Estimation error

n= Sample size

Corporate sample results No 1

Sample		
Z=	Confidence Level	95%
N=	Universe or population	1034
P=	Probability in favour	50%
q=	Probability against	50%
e=	Estimation error	5%
n=	Sample size	83

Corporate sample results No 2

Sample		
Z=	Confidence Level	95%
N=	Universe or population	200
P=	Probability in favour	50%
q=	Probability against	50%
e=	Estimation error	5%
n=	Sample size	62

Based on the analysis of the data obtained from the questionnaires (appendix), the following results are presented:

Knowledge of and compliance with the ESR label	Of the sample studied, 100% were aware of what a socially
	what a socially responsible company is and
	considers that the company in which they work complies with the requirements of the ESR.
	ESR requirements.
Work environment	In terms of the working environment, the results are different for
	different results for the different companies, while for the employees of
	employees of corporate 1, consisting of the Emerald Bay and Pueblo Bonito Mazatlan
	Emerald Bay and Pueblo Bonito Mazatlán, 84.3% think that the working environment is very good, while 84.3% think that the working environment is very good.
	that the work environment is very good, the mood of 80.6% of the employees of
	of the employees of Corporate 2, Royal Villas and Howard Johnson
	Howard Johnson, only remain in a good working environment.
	good.
Employee training.	The training for the proper use of safety, hygiene, fire prevention and fire prevention
	safety, hygiene, fire prevention and other risks is perceived by only
	risks is perceived by only 70% of the respondents.
Actions taken to care for the Environment, employee development and social environment.	Favourable 100% for both corporations.

Table 2 Results
Source: Author's elaboration (COO,2014)

With the results obtained from the questionnaires, the SWOT analysis (Strengths, Weaknesses, Opportunities and Threats) was carried out. This serves to "determine objectively in which aspects the company has an advantage over the competition and in which aspects it needs to improve in order to be competitive". The SWOT analysis consists of an evaluation of the strong and weak factors that, as a whole, diagnose the internal situation of an organisation (Thompson and Strikland, 1998).

This methodological instrument identifies viable actions through the crossing of variables, under the assumption that strategic actions must be possible and feasible to find in the reality of the system.

Strengths	Weaknesses
- Existence of a code of ethics. - Everyone is clear about the functions and responsibilities of each area or department. - Everyone knows what a socially responsible company is. - Participative management of employees. - Commitment to employees' families. - Personnel convinced of their company's ESR practices (principled involvement with stakeholders). - Work environment on a high scale (good or very good). good). - Actions undertaken in commitment to environmental care of the environment. - Actions taken in employee development. development. - Actions taken to prevent risks to employees. prevention of risks to employees. - Actions taken to benefit the social environment. environment. - Workplace support programs for vulnerable groups.	- Lack of internal training courses. - Lack of attention to training on occupational hazards. risks.
Opportunities	**Threats**
- External training courses (Sectur, Canacintra, Canaco, etc.).	- Entry of new competitors with the CSR CSR label in the sector. - Unemployment. - Lack of tourists interested in the tourist destination. destination. - Insecurity. - Change in the needs and tastes of clients. tastes. - Change in needs. - Slower market growth. - Adverse demographic changes

Table 3 SWOT analysis
Source: Author's elaboration (COO, 2014)

Conclusion

More and more companies are joining ESR practices every day, but there is still a lot of work to be done internally and externally. The ESR, more than a quality, is seen as a requirement to be fulfilled by organisations, which is usually requested by governmental bodies.

The fact that companies develop excellent social responsibility programmes does not guarantee that they are socially responsible.

As we can see in the results of this research, the hotels with the ESR label in Mazatlán, Sinaloa, have elements that accredit their position as socially responsible companies. However, there are some points in which there is a certain deficiency, such as the training of their employees, in order to direct them as tourism providers that execute and promote good practices, bringing them even closer to the holistic fulfilment of this purpose.

Considering the above with the SWOT analysis, we can conclude that in its weaknesses the lack of training can be transformed into strengths, using strategies such as training courses given by external experts (Sectur, Canacintra, Canaco, etc.).
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Social responsibility is not a fad, it is a necessity turned into a strategy that allows the development of evident competitive advantages, through action and communication, for organisational audiences, generating tangible and useful benefits for social, economic and cultural development, among others.

It is of vital importance to identify and prioritise the stakeholders so that they are taken into account, where the internal stakeholders are made up of the company's staff, trade unions, management staff and shareholders; and the external stakeholders are business organisations, citizens, suppliers, regulatory bodies, etc.

The Pueblo Bonito and Emerald Bay resort hotels promote favourable working conditions for the quality of life, human and professional development of the entire community (employees, family members, shareholders and suppliers).

It respects the ecological environment in each and every one of the operation and commercialisation processes, as well as contributing to the preservation of the environment. It identifies the social needs of the environment in which it operates, and currently collaborates in their solution. At the same time, it identifies and supports social causes as part of its business action strategy and supports education programmes.

Royal Villas Resort and Hotel Howard Johnson Resort, for their part, promote and encourage their collaborators in high impact social programmes in quality of life and business ethics, linking with the environment, supporting the community by promoting development and improving the quality of life. It promotes the efficient use of energy through its environmental programme, saving water and office material consumption. It has a code of ethics and conduct.

Achieving socially responsible resource efficiency by implementing good practices, avoiding wasteful energy use, reusing and recycling raw materials, using fair labour conditions and paying a fair price to suppliers for their products, services or raw materials are actions that lead companies to live CSR.

CSR has four approaches. The company must be profitable (fulfil its economic obligations), obey the law (fulfil its legal obligations), behave ethically (fulfil ethical obligations) and give back to society through philanthropy or social action.

CSR recommendations

Build trust and reputation to develop future collaborations in the hotel industry, economic development of the local community and improve social welfare, expose and make more accessible to employees the ethical stance of the company, through socialisation promoting desirable attitudes; with the reputation of a responsible company and at the same time share the knowledge to other hotels that to date do not have such a distinction.

Implementing a Management by Objectives (MBO) programme Robbins (2004) mentions this programme as a motivational system that consists of setting goals in a participatory way to be achieved within a certain timeframe and with feedback on progress.

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The appeal of APO lies in the formation of specific objectives for all units, hierarchical levels and employees from the overall objectives of the organisation.

Establish a Merit Recognition programme. "The fact that we are recognised for our merits and achievements motivates us to move forward. It is also a strong and efficient driver.

It is also a strong and efficient driving force that pushes the company forward, setting an example for some members of the group with outstanding performance.

Another recommendation for hotels is to create concentrates of questionnaires and disseminate the results to the staff. When providing a service to tourists, it is difficult to measure the customers' perception of how they are treated, so it is important to apply quality questionnaires to find out the customers' impression of the service, the company and the tourist destination itself.

Include ethical and CSR standards, policies and procedures in corporate databases, disseminate the company's ethical stance in the company through different tools and media, stimulate teamwork.

Companies do not act in isolation or totally dissociated from other spheres of life. The market and profits are not the only references to be taken into account. But introducing moral objectives into the corporate decision-making structure.

The CSR of companies should be seen as an investment, but neither can it be said that the company that assumes its social responsibility will be the leader of the sector, nor that companies that do not do so will be driven out of the market.

CSR is not a guarantee of business success in all cases, but it can be a way of creating value for stakeholders.

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The implementation of community justice in the province of Buenos Aires

La implementación de la justicia comunitaria en la Provincia de Buenos Aires

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Abstract

Crime rates in Buenos Aires will be analyzed, their relationship with the criminal law and with the existence of alternative justice methods. The change of the paradigm of the ideal criminal law, rises as an alternative to the increasing costs in the retributive judicial branch. The implementation of community restorative justice in Buenos Aires State presents itself as an option for the treatment of the least serious criminal acts (infractions) and a way to maximize the available resources for the investigation and punishment of the most serious crimes (felony).

Paradigm, Mediation, Infractions, Community restorative justice, Retribution.

Resumen

Se analizarán los índices de criminalidad en Buenos Aires, su relación con el derecho penal y con la existencia de métodos alternativos de justicia. El cambio de paradigma del derecho penal ideal, se plantea como una alternativa a los costos crecientes en el poder judicial retributivo. La implementación de la justicia restaurativa comunitaria en el Estado bonaerense se presenta como una opción para el tratamiento de los hechos delictivos menos graves (infracciones) y una forma de maximizar los recursos disponibles para la investigación y sanción de los delitos más graves (delitos graves).

Paradigma, Mediación, Infracciones, Justicia restaurativa comunitaria, Retribución

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Introduction

The growth of crime rates in Argentina is one of the issues of greatest concern to the civilian population. The relationship between this situation and the criminal legal system is a subject that has aroused the most diverse and opposing opinions in the academic and political spheres: from those actors who demand - in the face of criminal conduct - the imposition of stricter penalties, to those who delegitimise judicial action, to intellectuals and jurists who maintain that criminal law is the last resort and is not the appropriate mechanism for resolving the problem of crime.

Thus, in this context of violence and strong questioning of the role of criminal law, the analysis of crime statistics, as well as the study and review of the paradigms on which the current criminal justice system is based, can provide valuable contributions to understanding the spirit of the punitive norms in force. In this sense, the study of the penal system in the province of Buenos Aires - the main national region with 39% of the country's total population - will allow us to understand the worldviews that underlie the current punitive procedure, shedding light on the principles that govern it. In this way, its foundations will be questioned and alternative justice systems to the current model will be analysed.

It will analyse "community justice" or also known as restorative justice, which, guided by principles of reparation, conciliation and forgiveness, constitutes a viable alternative for the resolution of existing criminal conflicts.

In the sections below, we will describe the current state of affairs in the Province of Buenos Aires, analyse the current regulations in criminal matters, reflect on the existing paradigms of justice, and explain how, in relation to the rates of violence registered, the application of "restorative" methods would result in the humanisation of the system, in the real and effective resolution of conflicts caused by minor crimes, and in the maximisation of the resources available for the prosecution and punishment of the most serious offences (homicides, sexual abuse, drug trafficking, etc.), which are the most serious.), which are of greatest concern to civil society.

Justice in the province of Buenos Aires

The Province of Buenos Aires

The Argentine Republic adopts a federal system for its government1 that recognizes the right of the provinces to administer justice2. The State is divided into twenty-three (23) provinces - plus the Autonomous City of Buenos Aires (CABA) - of which the province of Buenos Aires has the largest population: more than 15,5000,000 inhabitants live in the territory of Buenos Aires (Dirección Provincial de Estadística, 2010, p. 16) and therefore it is home to 39% of the total population of the country3.

The province of Buenos Aires, in terms of its administration of justice, is organised into nineteen (19) Judicial Departments4 which bring together different territorial units of the province: the municipalities. In criminal matters, these administrative units of justice are circumscribed by the criminal policy implemented by the Governor's Office of the Province of Buenos Aires, which in turn depends, to a large extent, on the Presidency of the Nation.

Thus, in order to understand the state of affairs of criminal justice in the province of Buenos Aires, it is necessary to analyse not only the local situation, but also the national context.

The state of affairs in the administration of justice

One of the major concerns currently afflicting Argentinean society happens to be that of insecurity (ABC.es, 2014). The increase in rates of violence - and consequently crime - in the country's main urban centres has generated various social reactions (Ortelli, 2014). At the same time, it has placed the role of criminal law and the agencies in charge of administering justice in relation to the alarming rates of violence at the centre of political and academic debate (idem). Thus, the position of the current Justice of the Supreme Court of Justice of the Nation, Eugenio R. Zaffaroni, who considers criminal law to be a "barrier to contain punitive power", that is, a tool to guarantee the rights of citizens against the power of the state (Página 12, 2012), is criticised by other civil society actors who demand the implementation of a "hard hand", that is, the legislative sanctioning of stricter penalties (Ortelli, loc. cit.).

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The escalation of violence and the social insecurity it produces has generated different social reactions: the delegitimisation of the judiciary; the urgent demand for penal reforms; the implementation of new preventive policies; social resentment towards "the delinquent"; and the appearance of lynchings, that is, the implementation of methods of private vengeance (ABC.es, 2014; BBC, 2014; El Mundo, 2014; Infonews, 2014).

- Art. 1 National Constitution (CN): "The Argentine Nation adopts for its government the federal republican representative form, as established in this Constitution".

- Art. 5 CN: "Each province shall adopt for itself a Constitution under the republican representative system, in accordance with the principles, declarations and guarantees of the National Constitution and which ensures its administration of justice, its municipal system and primary education. Under these conditions, the Federal Government shall guarantee each province the enjoyment and exercise of its institutions".

- According to the last national census (2010) there are 40,091,359 people living in Argentina.

- For further reference see http://www.scba.gov.ar/guia/default.asp

For these reasons, and because criminal law is the special jurisdiction of the positive legal order that regulates the social conflict produced by the commission of crimes, this branch of law has been the object of study and discussion, to the extent that doctrinarians consider that its rules can solve, help to diminish or favour the breaking of the law.

Positive criminal law in the Province of Buenos Aires

The criminal legal system of the Province of Buenos Aires is, in the first place, subject to the declarations, principles and guarantees of the National Constitution (art. 5). Then, considering the legal structure designed by the Austrian jurist Hans Kelsen (Kelsen, 2009, pp. 118-120), there is the Argentine Criminal Code5 (CP), also known as substantive criminal law.

At the provincial level, the Criminal Procedure Code (CPP) - adjective criminal law - and complementary laws that have not been codified, such as the Criminal Enforcement and Mediation Law, among others, of the Province of Buenos Aires (Laws nr. 12.256 and 13.433, respectively.).

The Buenos Aires justice system in figures

The Attorney General's Office of the Province of Buenos Aires, a body that is part of the structure of the Judiciary, which is in charge of the Public Prosecutor's Office, has carried out various statistical studies during 2013 - through the Public Prosecutor's Office Computer System (SIMP) - in order to count the number of criminal proceedings initiated during 2013; the crimes that were reported in each case; and their percentage in order of the Judicial Department involved.

Thus, it was determined that during 2013, 694,246 criminal proceedings were initiated in the Province of Buenos Aires, of which only 26,599 individuals were brought to trial (i.e. formal prosecution) in accordance with art. 308 of the CPP. In the remaining investigations (IPP), the accused were either unknown perpetrators or were not being prosecuted (Procuración General, 2014b).

Likewise, with regard to the type of crime reported in each of the IPPs initiated, the results obtained were as follows: of the total number of cases processed, more than 50.05% were minor or petty crimes; that is, minor injuries (10.67%), culpable injuries (7.25%), threats (14.26%), damages (3.07%), theft (5.42%) and simple robbery (9.38%), among others (Procuración General, 2014a).

The judicial dynamics of criminal proceedings

Another important aspect to consider when analysing the role of criminal law is the relationship between the criminal laws in force (positive legislation) and the degree of criminalisation of conduct, which results in the processing of excessive criminal proceedings.

- Art. 75, inc. 12: “Son atribuciones del Congreso […] Dictar los Códigos Civil, Comercial, Penal, de Minería…”.

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The principle of legality

In this sense, the principle of legality, enshrined in articles 716 and 274 7 of the PC, is an essential provision for understanding the functions and powers of the bodies responsible for initiating criminal proceedings:

"With the exception of crimes of private action and certain conditions laid down for the so-called dependents of private instance, [public] criminal actions must be carried out, initiated, exercised and developed by the corresponding bodies (judges, prosecutors, etc., as the case may be), and their promotion cannot be avoided or stopped by any criterion of convenience or opportunity" (De Luca, 2010, p. 1).

According to the aforementioned author, the idea underlying this principle is that when a crime is committed, the competent judicial body has the obligation to prosecute, regardless of the legal right that has been affected, or the intensity or amount of the offence.

However, the principle of legality, notwithstanding the above, has an exception: the principle of opportunity. This legal institute establishes that public judicial bodies can dispense with criminal prosecution even "in the presence of news of a punishable act or even in the face of more or less complete proof of its perpetration" (Maier apaud Yon Ruesta, 1992, p. 139).

This means that through this rule the competent judicial agencies (e.g. the Public Prosecutors in the case of the province of Buenos Aires) can dispense with initiating cases - or take the decision to close them - based on criteria of opportunity. In which cases would this principle be applied? For example, when the intensity of the offence in question is minor; when the legal right involved is slightly affected; when there are other more effective alternative methods than the imposition of a criminal conviction to process the case, etc.

However, the Argentine Criminal Code does not regulate this valuable institute, which is why the competent bodies of the judiciary are obliged (art. 274 of the Criminal Code) to respect the principle of legality, and to instigate and carry out public action in cases where crimes are reported or are brought to their attention.

Therefore, the lack of regulation considerably explains the high rate of criminalisation of reported conduct, i.e. the excessive number of cases that are processed each year due to the lack of legal power of prosecutors to dispense with the investigation of certain offences.

Art. 71 del CP: “Deberán iniciarse de oficio todas las acciones penales, con excepción de las siguientes: 1º. Las que dependieren de instancia privada; 2º. Las acciones privadas.”

Art. 274 del CP: “El funcionario público que, faltando a la obligación de su cargo, dejare de promover la persecución y represión de los delincuentes, será reprimido con inhabilitación absoluta de seis meses a dos años, a menos que pruebe que su omisión provino de un inconveniente insuperable”.

Alternative methods to judicial investigation and sentencing

With regard to current penal institutes which admit alternative methods of conflict (probation - Art. 76 bis of the CP - would not fall into this category), which could be used to decongest the administration of justice, we find Provincial Law no. 13.433. The aims of this institute are set out in its Art. 2,8 and it aims to implement restorative justice. However, despite the objectives of this law, there are two contradictory aspects: firstly, the limitation that the legislator establishes in Article 6 with regard to PPIs that are not susceptible to mediation. In this sense, paragraph "c" of the aforementioned rule excludes the crime of robbery, overlooking the fact that 9.38% of the complaints made during 2013 correspond to this type of criminal offence, including completed and attempted cases. Therefore, this exclusion by the legislator limits the power of the prosecutor and the procedural victim to apply mediation when, notwithstanding the legal right affected, the circumstances and nature of the act suggest that it is appropriate to apply the aforementioned institute.

In another vein, we find that Article 8 of the Mediation Law leaves the decision to refer the case to the Office of Alternative Dispute Resolution to the discretion of the Public Prosecutor, thus limiting the will of the injured party.

Ergo, even if the defendant's defence lawyer and the victim consent to the application of this system, considering that it is a suitable way to repair the damage caused or to re-establish the broken order, the mere refusal of the prosecutor is sufficient to prevent its implementation.

Paradigms of justice

What has been analysed so far has given an account of the situation of the administration of justice in the province of Buenos Aires and the regulations in force. The increase in crime and the lack of response from judicial agencies have led to a discrediting of the bodies responsible for the administration of justice and has placed the role and functions of criminal law and its relationship with governmental criminal policy at the centre of the debate. Furthermore, statistics show that there is a high rate of criminalisation of the conduct of private individuals, and a disproportionate rate of prosecutions due to ex officio interventions and complaints lodged by the victims of crime. Therefore, if there is a considerable over-criminalisation of criminal conflicts and, despite this, crime persists and the inefficiency of the system leads to arbitrariness and the collapse of the administration of justice (De Luca, op. cit., p. 3; Yon Ruesta, op. cit., p. 139), it is worth questioning whether the paradigm of justice under which the current penal system is governed needs to be rethought.

Art. 2º Ley 13.433. "El Ministerio Público utilizará dentro de los mecanismos de resolución de conflictos, la mediación y la conciliación a los fines de pacificar el conflicto, procurar la reconciliación entre las partes, posibilitar la reparación voluntaria del daño causado, evitar la revictimización, promover la autocomposición en un marco jurisdiccional y con pleno respeto de las garantías constitucionales, neutralizando a su vez, los prejuicios derivados del proceso penal"

The current paradigm of the criminal justice system: retribution

Today, national and provincial substantive and adjective criminal law, respectively, are regulated under the paradigm of retributive justice.

This system, when a crime is committed, is based on the retribution of one evil for another evil through the imposition of a punishment: the deprivation of liberty (Cárdenas, 2007, p. 204) for the harm caused to the victim. In other words, if a criminal rule is infringed, it is then appropriate to retribute to the offender a wrong for the conduct he or she has carried out. In this kind of justice, the crime (conflict) is a problem between the state and the offender without "the victim, his family or the community being able to participate actively even though they may be interested in the search for the solution generated by the crime" (idem).

Master Zaffaroni describes in clear and concise terms the logic of the retributive model:

> "In the punitive model there are not two parties as in the reparative or restitutive model [...] because... the state... usurped or confiscated the victim's right. In the criminal process the state says that it is the injured party, and the victim, no matter how much he proves that the injury is suffered in his body, or that the robbery is suffered in his patrimony, is ignored. He is only taken into account as a datum, but not as a hierarchy of parties [...]. The rule is that his right is confiscated as an injured party, that it is completely usurped by the state, even against his express will. Therefore, the punitive model...is not a model of conflict resolution, but only of conflict suspension. It is an act of vertical state power that suspends (or suspends) the conflict [...]. The penal system...is limited to imposing a penalty...with the argument that it should re-socialise, scare those who have never [committed crimes] into not doing so, or reaffirm public confidence in the state itself, or all of these together [...]. Not only is punitive power not a model of dispute resolution (it is merely a model of vertical power), but it is also a hindrance to effective conflict resolution. The more conflicts a society subjects to punitive power, the less able it is to resolve them. Excessive punitive power is a confession of the state's inability to resolve its social conflicts" (Zaffaroni, Slokar, & Alagia, 2010, pp. 7-8).

An alternative to the paradigm of retribution: restoration

Contrary to the retributive worldview, there are other alternative means of resolving criminal conflicts. In this sense, the paradigms of "community justice" are a true example of this. Thus, different authors have dedicated their studies to indigenous judicial practices (Regalada, 2012, p. 63) and have affirmed that the resolution of social conflicts in these peoples rests on the "search for a real, effective and lasting solution, and on the reestablishment of the unity of the community, which has been broken by social conflict, based on the principle of equity and collectivity, whose basis is the indigenous worldview" (ibid, p. 63).

In this sense, the studies carried out by Josef Esterman on the worldviews of the indigenous peoples that inhabit the Andean region indicate that the philosophy of life practised by these societies is governed by principles of integrality, relationality and mutuality. In other words, by a holistic vision of life (2006, p. 236). This is how he puts it:

"The human being is before being an "I", a "we"...an integrated member of a collectivity [...]. Social and cosmic relationality is a conditio sine qua non of the physical and psychic integrity of the human being [...]. As a member of a network of relationships, the individual can never establish his own law... but has to insert himself into the great cosmic law of correspondence, complementarity and reciprocity" (ibid., p. 234).

Ergo, these worldviews tend, first and foremost, to the restoration of the balance distorted by the "condemned" or the offender of the cosmic order. In such situations, the aim of punishment turns out to be the restoration of things to their state prior to the commission of the "crime" through the reparation of the damage caused, the re-establishment of the offending individual in the community and the recovery of harmony in the community (Regalada, op. cit., p. 98). Therefore, it is stated that the spirit of punishment is oriented towards the future, to restore the deteriorated order (ibid., p. 100).

Likewise, these means of resolving social conflicts have been used by various indigenous peoples, so they are not methods specific to Andean cultures. Arturo A. Palacios states that the advocates of these methods (restorative justice) consider that their emergence is the result of the experiences of the indigenous peoples of the indigenous cultures of "the United States of America, Australia, New Zealand and...Mexico" (2012, p. 66).

Regarding the particularities of these methods, it is remarkable the effective and real participation of the members of the community, the victim and the accused in the solution of the problems; the implementation of natural means such as mediation and conciliation, considering the affectation of the harmonious relationship with nature and the transcendence of individual wills in the face of the conflict (Valiente Lopez, 2012, p. 72); the social reintegration of individuals into the community rather than their criminalisation (Fernández, 2004, p. 47); the clarification of the facts through listening, silence and confrontation and the restoration of balance (ibid., p. 207); and the search, above all aspects, for the reparation of harm through dialogue and community participation, the exploration of agreements, forgiveness, and punishment as a mechanism for the restoration of individual and social harm (Padilla Rubiano, 2012, p. 80).

Likewise, these conflict resolution systems, in addition to being applied and discussed in regions inhabited by indigenous peoples, are also studied by modern criminal law doctrine. Thus, mention can be made of the work carried out by María T. Del Val who, in relation to the subject in question, states:

"Restorative Justice constitutes a different way of dealing with the conflict, since it will deal with the victim, the offender and the community, only applying the penalty when necessary... taking into account the interests of the victims personally with respect to each one of them, also considering the communities that have been harmed, and with respect to the offender, giving him the opportunity to take responsibility for the act before the victim, repairing the damage caused, recognising his guilt, morally satisfying the victim with a request for an apology [...].

The mediation procedure in criminal matters fits legally into the concept of restorative justice, as it is an opportunity for offender and offended party to recompose their interpersonal relations, achieving social harmonisation, beyond the intervention of the justice system in appropriate cases. It is also a way of avoiding the re-victimisation of the offended parties [...]. The advantages of mediation in criminal matters - restorative justice - is that the self-composed agreement in accordance with the law, including reparation and forgiveness, gives more efficient results than the traditional punitive response which to date has only demonstrated the failure of prison institutions as a space for social rehabilitation. In short, mediation in criminal matters is a restorative justice process, which takes into account crime prevention through mediation" (Del Val, 2006).

Recognition of incompleteness

The analysed paradigms show the existence of alternatives to the indiscriminate criminalisation of behaviour that the penal system normally carries out. However, it is essential, first and foremost, to discuss the cultural incompleteness that the current state of affairs is manifesting in society (see supra 1.2 in relation to the social reactions produced by the increase in violence). In this sense, the thinking of the Portuguese sociologist De Sousa Santos (1998, p. 69) is revealing, analysing the states of dissatisfaction in societies and calling for reflection through intercultural dialogues that allow cultures to be enriched:

"Incompleteness derives from the very fact that there is a plurality of cultures. If every culture were as complete as it claims to be, there would be a single culture. The idea of completeness is at the root of an excess of meaning that seems to plague all cultures. Incompleteness, then, can best be appreciated from the outside, from the perspective of another culture. One of the most crucial tasks in the construction of a multicultural conception of human rights is to raise awareness of cultural incompleteness to its highest possible level".

In other words, the recognition of cultural incompleteness - which, according to what has been analysed so far, translates into dissatisfaction with the current state of affairs produced by the retributive paradigm - is essential in order to be able to implement new legal practices. De Sousa Santos understands that to the extent that the dissatisfaction of the culture itself is recognised (in the case of mention to resolve the social conflicts generated by the commission of crimes), conditions conducive to dialogue, reflection and cultural exchange can be created. Thus, taking into account the existence of other societies (e.g. Andean societies) which apply restorative justice systems for the resolution of their conflicts, intercultural dialogue with them and the application of their methods in the criminal procedure of the province of Buenos Aires would constitute a suitable alternative for the treatment of existing social violence.

The implementation of community justice in the Province of Buenos Aires

Benefits of implementing community justice

In view of the ideas put forward by the sociologist De Sousa Santos, and considering the characteristics of community justice, we consider that the implementation of these alternatives constitutes a suitable way to solve the problem of the over-criminalisation of conduct and the current confiscation of conflict in the judicial system of the province of Buenos Aires, which is detrimental to the real reparation and restitution of the broken harmony.

Among the most important aspects and benefits that can be obtained from such an implementation, Cárdenas highlights (op. cit., pp. 203-205) (Palacios, op. cit., p. 59).:

1) Restorative justice starts from the premise that offenders harm the community, the victim and themselves, so that conflict resolution involves more parties than retributive justice. In these terms crime is not an offence against the state, but against the victim and his or her family.

2) The success of a measure rests on the extent of the harm repaired or prevented, rather than on the penalty imposed on the offender;

3) It tends to overcome the paradigm of identifying punishment with revenge and seeks non-repetition and reparation of the harm caused. In these terms, the concept of "doing justice" rests on restoration and not on revenge;

4) The restorative justice approach is integral, in this case, to the holistic vision advocated by Andean philosophy;

5) Its application in current state penal systems results in the more efficient use of limited resources to concentrate them on the most serious crimes, helping to reduce the prison population and thus reduce the costs of prison maintenance;

6) It is more conducive to the re-socialisation of offenders as they remain with their families and continue to pursue their social and professional activities;

7) Restorative justice "humanises" the penal system.

We believe, therefore, that implementing the above principles in the Argentine legal system, and in the province of Buenos Aires, would decompress the work carried out by the judicial bodies, and would maximise the resources available for their use in the most sensitive and serious crimes that are currently registered in the aforementioned territory.

As analysed above (see 1.4), more than 50.05% of all crimes recorded in 2013 in the province of Buenos Aires were minor offences or petty crimes (minor injuries, negligent injuries, threats, damage, theft and simple robbery, among others). Without counting other legal offences that could be included in this category, such as concealment (1.3%) - crimes against public administration - and possession and carrying of firearms (0.78%) - crimes against public security -, since the State is the subject affected in the commission of such crimes, it can be stated without hesitation that more than half of the resources that the public administration allocates to judicial agencies are used for the investigation and punishment of minor offences (as can be seen from the aforementioned statistical data).

Thus, considering that the current priorities of the Argentine State and the Province of Buenos Aires are the investigation, punishment and prevention of serious crimes such as those against life (homicides), against sexual integrity, against freedom (unlawful deprivations) and those related to drug trafficking activities, among others (Clarín, 2014a, 2014b; La Nación, 2013, 2014; United Nations Development Programme, 2013, pp. 47, 49, 75), we consider that the use of greater resources to achieve such objectives (through the creation of new prosecutors' offices, courts and public defenders' offices, all with their corresponding staff and budget) can be replaced by the creation of new alternative dispute resolution offices that absorb all complaints and files initiated from minor offences. In this way, the judicial agencies, being relieved of the burden of having to process only serious cases, could use the resources they currently have available to dedicate themselves exclusively to these cases, achieving greater efficiency and speed in the investigation and resolution of these cases.

Therefore, the application of the restorative paradigm in the criminal justice system of the province of Buenos Aires, through the transfer of greater powers and methods to the Criminal Mediators, would not only allow the resolution of minor conflicts with a holistic, integral, unitary and harmonious vision, through the participation of the injured party, the accused, their respective families and the entire community; It would also create the necessary conditions so that, when serious crimes are committed, ordinary judicial agencies can achieve the clarification of the truth, the application of existing criminal rules and procedures and the recovery of their legitimacy, with greater efficiency and speed, by maximising the available resources.

Proposals for judicial reform

In consideration of what has been set out in the previous sections, we believe that the implementation of the principles analysed should be incorporated into the legal system through the regulation of the following topics:

1) Express incorporation of the principle of opportunity (either through the CP or the CPP, depending on the doctrinal position) so that the Public Prosecutor can decide when to prosecute or desist from prosecution, depending on the nature and circumstances of the case;

2) Establish prior and compulsory submission to criminal mediation for all cases in which the maximum sentence is less than three (3) years;

3) In all other cases, when the offence has a suspended sentence, i.e. a minimum of three (3) years, if there is consent between the victim and the accused, the prosecutor must refer the case to the Criminal Mediation Office without the possibility of opposition (except in cases where the victim's consent has been vitiated);

4) Amend the Criminal Mediation Law with regard to the exclusion of the criminal offence regulated in Chapter II, Title VI of the Criminal Code (robbery). In this sense, to the extent that PPIs initiated for this criminal type meet the conditions stipulated in the previous point, they should be susceptible to being referred to the Mediation Office;

5) The implementation of mediation procedures that include the participation, in addition to the victim and the accused, of the family members of both parties as well as members of the community affected by the offence committed.

Conclusion

The justice system in Buenos Aires has been delegitimised and is the object of intense criticism due to the increase in violence. Social reactions to such an event are manifested in multiple ways, either by questioning the role of the judicial bodies or through the application of private vengeance methods (lynchings). The legal system of the province of Buenos Aires, which is dependent on the national legal system, regulates judicial institutions that facilitate the over-criminalisation of conduct, the confiscation of the conflict, and the removal of the victim from the criminal process, which together lead to the collapse of the system and the inefficiency of the administration of justice.

In this order of ideas, the criminal legal system is imbued, in its different facets, with a paradigm of retributive justice in which the object of the criminal process, beyond the ascertainment of the material truth, is the application of a penalty for the purpose of inflicting a harm on the individual for having caused another harm of the same nature. This, regardless of the amount of legal property affected or the intensity of the offence committed.

However, there are other models of administration of justice that respond to other worldviews of conflict resolution, such as the restorative approach. In this sense, it has been demonstrated that several indigenous peoples (Andean, Oceanian and United States, among others) apply these mechanisms to resolve their social conflicts, obtaining good results as a result. The elements that characterise this type of justice are: reparation of the damage caused; the involvement of the community, the victim and the accused in the resolution of the conflict; the use of dialogue, mediation, conciliation and forgiveness as alternatives to punishment; and the search to re-establish the harmony that has been broken as a result of the crime.

The justice system in the province of Buenos Aires, according to statistics from the Attorney General's Office, allocates more than half of its resources to minor offences, which represent 50.05% of the total number of offences. These offences, due to the characteristics of the legal good affected, are ideal for being submitted to "community" or restorative methods of conflict resolution.

The application of these alternatives to ordinary justice in the province of Buenos Aires would result, beyond the inherent benefits of these methods (reparation, conciliation, restoration of harmony), in the real resolution of minor conflicts and the maximisation of available resources for the processing of cases of considerable seriousness and sensitivity; in the "decongestionamiento judicial"; and in the recovery of the legitimacy of the Buenos Aires judicial system.

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Without prejudice to this, for the application of these methods, it is essential to accept the idea of cultural incompleteness referred to by De Sousa Santos, and to accept the existing social non-conformity in relation to the increase in the rates of violence and its treatment under the aegis of the retributive paradigm. This recognition will then allow for openness and intercultural dialogue and the incorporation into the current legal system of new regulations in the treatment of social conflict, imbued with "communitarian" or restorative principles.

Once this stage has been overcome, and the need for reform has been accepted, the legislative introductions that will be most conducive to the implementation of community mechanisms are, principally, the regulation of the principle of opportunity in the PC, the modification of the provincial Mediation Law so that the range of criminal offences that can be mediated is increased (principally robbery), the obligatory application of the system in certain situations (petty crimes and cases of victim consent) and the incorporation of new mediation modalities that include the participation of the victim, the accused and the community.

These reforms will not only humanise the criminal justice system, achieve real conflict resolution in certain situations and allow the restoration of harmony broken by the commission of crimes, but will also create the necessary conditions so that, in situations where it is not possible to apply restorative methods (serious offences), the competent judicial bodies can maximise their resources for the investigation and punishment of such conduct.

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What is your added value with respect to other techniques?

Clearly focus each of its features

Clearly explain the problem to be solved and the central hypothesis.

Explanation of sections Article.

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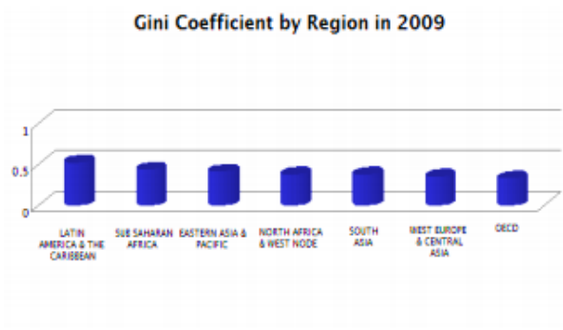

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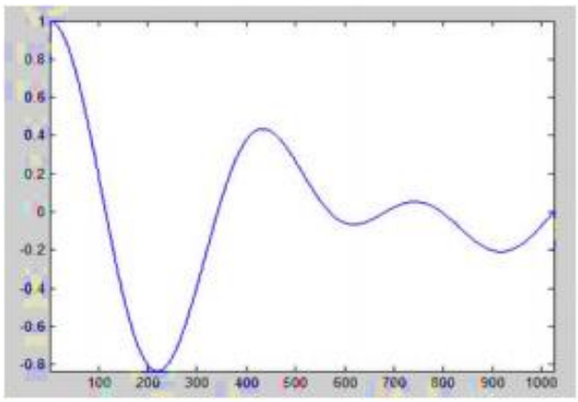

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Log (GDP)	2.137862	0.0110
Unemployment	0.652732	0.0004
R^2 0.281790		

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