

# **Punishment in Latin America**

# PERSPECTIVES ON CRIME, LAW AND JUSTICE IN THE GLOBAL SOUTH

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# **Punishment in Latin America: Explorations from the Margins**

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INVESTOR IN PEOPLE

# Contents

About the Editors	<i>ix</i>
About the Contributors	<i>xi</i>
<b>Introduction Punishment in Latin America: Explorations from the Margins</b>	
<i>Luiz Dal Santo and Máximo Sozzo</i>	<i>1</i>
<b>Section 1: Penal Trajectories</b>	
<b>Chapter 1 From <i>Senzalas</i> to Dungeons: The Constitution of the Penitentiary System in Brazil</b>	
<i>André R. Giamberardino</i>	<i>19</i>
<b>Chapter 2 Punitive Turn or Punitive Imperialism? Analyzing the Transformation in the Ecuadorian Penal Realm</b>	
<i>Martha Vargas Aguirre</i>	<i>39</i>
<b>Chapter 3 Criminal Justice Reform, Americanization, and Conviction without Trial in Argentina</b>	
<i>Máximo Sozzo</i>	<i>59</i>
<b>Section 2: Prison Order and Prison Life</b>	
<b>Chapter 4 Contemporary Prison Management in Chile: Disputes About Order</b>	
<i>Olga Espinoza M.</i>	<i>89</i>
<b>Chapter 5 In/Out: Revisiting the Relationships Between Prisons and Slums in Latin America</b>	
<i>Andrés Antillano</i>	<i>109</i>

<b>Chapter 6 The Arrival of the Risk Paradigm to Prison Management in Uruguay</b> <i>Ana Vigna and Santiago Sosa Barón</i>	131
<b>Chapter 7 The Inca's Two Bodies: The Prison Condition in Latin America</b> <i>Libardo José Ariza and Fernando León Tamayo Arboleda</i>	145
<b>Section 3: Theoretical Exchanges</b>	
<b>Chapter 8 Actuarial and Managerial Justice: Theoretical and Empirical Impacts on Latin-American Criminological Realm</b> <i>Mariano Sicardi and Claudio González Guarda</i>	163
<b>Chapter 9 Is Vigilantism an “Extralegal” Phenomenon?</b> <i>Diego Tuesta</i>	183
<b>Chapter 10 Southern Green Victimology: A Look at the Cycle of Environmental Harms, Resistance and Over-criminalisation</b> <i>Valeria Vegh Weis</i>	201
Index	219

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## Introduction

# Punishment in Latin America: Explorations from the Margins

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### Abstract

This introduction sets the scene for the book. It touches upon the recent growth of a literature on punishment in global peripheries within the wider punishment and society scholarship. It then briefly develops on two topics that constitute key elements of the whole book: knowledge production and exchange and peripheral punishment. In highlighting some common aspects, trends, and features of punishment in Latin America, it prepares the ground for the specific chapter contributions that are based on local experiences of different Latin American countries. In so doing, we also acknowledge the works of scholars who have initially advanced a movement for the understanding of punishment and the criminal question our marginalised Latin American realities.

*Keywords:* Punishment; Latin America; knowledge production; Global South; global peripheries; prison; punishment and society; marginalisation;. criminal question; criminal justice

Punishment and society scholarship have been growing and consolidating over the last few decades. This considerable growth has first and foremost been boosted by the exploration of certain English-speaking national contexts. Considering relations of inequality and power on a global scale – from the economic, political,

and cultural domains, to the production and circulation of scientific knowledge in social sciences – these contexts are usually framed as central or as ‘the core’. Among them, the United States of America and the United Kingdom are particularly privileged (Carrington et al., 2019, pp. 99–141; Faraldo-Cabana & Lamela, 2021).

Elsewhere, we have highlighted how the centrality of these contexts is reflected in the first handbook published on this field (Dal Santo & Sozzo, 2023). Published more than a decade ago, *The SAGE Handbook of Punishment and Society* (Simon & Sparks, 2013) comprises 22 chapters of which only one is written by an author who was not based at a university in an English-speaking country at that time. The author is Dario Melossi, whose chapter actually compares Europe and the United States. Only five authors were not based in the United States and the United Kingdom – two being in Australia, two in Canada and one in New Zealand. In this vein, what this Handbook presents as ‘punishment and society’ scholarship mostly corresponds to ‘punishment and society in core countries’. And why does it matter? Most of the penal processes, policies, institutions, discourses and practices analysed throughout the Handbook are unsurprisingly those that have occurred in the United Kingdom and the United States, and occasionally in other national, central settings. Similarly, the problems, concepts and arguments discussed are those emerged in those particular scenarios, although the theoretical literature from other core settings has some relevance too, as the case of France, including the classical works of Durkheim, Foucault, and Bourdieu. The presence of penalty in the global peripheries – as well as of the intellectual production on it – is rather scarce throughout the Handbook. On the one hand, this reflects the fact that the Handbook was planned for English-speaking audiences. On the other hand, this also evidences structures and relations of inequality and subordination in the production and circulation of knowledge both in criminology (Carrington et al., 2016, 2019) and the wider social sciences (Connell, 2007).

In more recent years, there has been a noticeable rise in works on penalty in peripheral contexts in English-speaking international debates, following the increasing appeals and efforts to southernise and decolonise criminology. This rise often stems from individual contributions on specific peripheral countries, usually in formats of journal articles, but also – less frequently – as monographies (in the latter case, see, e.g., Anaraki, 2020; Bracco Bruce, 2022; Bonner, 2019; Brown, 2014; Bruce-Lockhart, 2022; Darke, 2018; Konaté, 2018; Li, 2018; Super, 2013). But there are also growing contributions on wider peripheral regions, usually taking shape as collaborative work in the format of special issues in scientific journals and edited collections. In recent years, there have been several such efforts on penalty in Latin America (Bergman & Fondevilla, 2021; Darke et al., 2021; Darke & Garces, 2017; Hathazy & Müller, 2016; Sozzo, 2022), Africa (Alexander & Kynoch, 2011; Braatz et al., 2022; Morelle et al., 2021) and Asia (Ganapathy & Balachandran, 2016; Lee & Karen, 2013), as well as in global peripheries more generally (Dal Santo & Sozzo, 2023).

This edited volume *Punishment in Latin America: Explorations from the margins* contributes to the development of the punishment and society scholarship towards this wider and more collaborative direction, while being also part of

those contemporary efforts to decolonise and southernise criminology. This work is itself a product of a collective project coming out from the international conferences *Punishment in Global Peripheries*, organised by the Oxford University Centre for Criminology (United Kingdom) and the Crime & Society Program of the National University of Litoral (Argentina). We organised the first edition of this conference in 2021. Since then, we have been annually gathering together researchers interested in punishment and society studies in different contexts and regions of the world, beyond the central scenarios. These conferences have been venues for expanding the international debate, where scholars have shed light on historical and contemporary dynamics affecting historically marginalised settings. In so doing, not only have we questioned concepts and arguments that are usually taken for granted, but we have also advanced theoretical and methodological issues through innovative perspectives and approaches.

This book reflects this spirit. Its contributions shed light on the complexities of penal dynamic, institutions and practices in Latin America, describing and explaining them from different methodological and theoretical perspectives. The chapters are in-depth case studies comprising the realities of eight countries – Argentina, Brazil, Chile, Colombia, Ecuador, Peru, Uruguay and Venezuela. In addition to being analyses of penalty in Latin American countries, the chapters share a critical emphasis on the insufficiency, in some aspects and dimensions, of Northern concepts and arguments to make sense of punishment beyond core countries, despite some of those theoretical productions possessing – explicitly or implicitly – features of being universal, timeless and placeless. The authors of the different chapters engage in a critical dialogue with these Northern concepts and arguments. A dialogue that seeks to avoid subordination and dependency, considers their own contexts and problems, and develops different forms of adaptation and innovations, so to deal with their embedded and peculiar features.

This edited collection is organised in three main sections. The first section comprises chapters that engage with historical trajectories, trying to make sense of different types of penal changes. These changes have taken place in distinct moments in history, some that go back to colonial times, while others are more contemporary. Different conditions of possibility and mechanisms are identified and analysed in these chapters. The second section is made of chapters that deal more closely with prison order and prison life, identifying specific dynamics and features of this central institution of legal punishment in the region. Finally, the third section provides contributions that engage with theoretical discussions on significant topics in Latin America – from actuarial justice to vigilantism – enriching these debates from the very Latin American contexts and processes.

In addition to these three main sub-topics explored in the book, the reader will realise that there are two elements that, to some extent, are relevant in each and all chapters of this edited volume. The book is not a mere combination of random studies on punishment in Latin American countries put together, with the only common element being their geographical location. The two elements that bring all chapters together in a cohesive way are the underlying discussion on knowledge production and exchange, and the consideration of peripherality as a key point of analysis – being certain that these two elements relate to each other. On the one

hand, the authors do not simply disregard knowledge originally produced in core countries, but nor do they assume knowledge based on other social realities can be merely transported elsewhere. On the other hand, each Latin American social reality and its dynamics are analysed from their feature of being peripheral or marginal. The authors are not merely analysing punishment in a given peripheral region, but they analyse punishment in that specific peripheral region as being precisely the product of its location in the periphery. And to do so, they bring to their analytical framework historical and contemporary events, forces, powers, and relations, such as colonialism, slavery, imperialism, dependency, subalternity and so on. Considering the centrality of these two elements throughout the book, we now touch upon them in order to establish some premises before the reader explores the book.

### **Knowledge Production and Exchange**

The recent rise of southern and decolonial perspectives has been reshaping the field of criminology. Not only have these perspectives looked at different geographical realities and focussed on the interconnectedness between the centre and the peripheries to make sense of criminological issues around the world. They have also drawn attention to wider power imbalances and inequalities in the domain of knowledge production, dissemination and exchange. In fact, mirroring dynamics in other domains of social reality, there has been a more or less established flow of knowledge, theories, concepts, and arguments about crime and punishment from the core to the peripheries. But what does that mean? Does it mean that knowledge produced in the centre is better developed? Does it mean that there is no relevant production of knowledge in the peripheries? By highlighting this issue of knowledge production, dissemination, and exchange, are we implying that knowledge produced in the core should be completely and automatically disregarded if one is trying to make sense of realities in the peripheries? We have discussed these and other similar questions in more detail elsewhere (Aliverti et al., 2021, 2023; Carrington et al., 2016, 2018, 2019; Dal Santo & Sepúlveda Penna, 2024; Garcia & Sozzo, 2023; Sozzo, 2023). However, it is worthy retaking this discussion here, even if shortly.

Whereas this topic has assumed a more significant position in contemporary discussions on criminology, this is not at all a new debate. In the birth of critical visions in the criminological field in Latin America, the relations of inequality and subordination in the production and circulation of knowledge on the criminal question were a specific object of problematisation and debate (Aniyar de Castro, 1987; Del Olmo, 1975, 1981, 1987, 1990; Zaffaroni, 1984, 1988, 1989; see Alagia & Codino, 2019; Goyes & Sozzo, 2023).

On several occasions, critical authors like Raul Zaffaroni or Lola Aniyar de Castro pointed out that Northern theories were simply imported and reproduced in Latin America. This was particularly sustained in relation to the long history of positivist criminology in the region, from the 1880s until the 1960s. But around four decades ago, Del Olmo (1987, 1990; see also Sozzo, 2006) emphasised that not only mainstream criminology was reproducing 'Northern' concepts and

arguments in Latin America, but even critical criminologists were uncritically importing the critiques of their European and North American colleagues, overlooking the particularities of the criminal question in Latin America. Some traces of this dynamic could also be seen nowadays (for some examples of that, see [Dal Santo, 2020](#); [Sozzo, 2018](#)). This, however, is not a trend particularly limited to Latin America (see [Agozino, 2003, 2004](#); [Alemika, 2020](#); [Cain, 2000](#); [Igbinovia, 1989](#); [Lee & Laidler, 2013](#); [Liu et al., 2013](#)).

As a matter of fact, a number of issues have significantly favoured a more uncritical reproduction of Northern theories on the criminal question in peripheral regions – and particularly in Latin America. These issues operate in different domains, from the material to the ideological, also going through matters such as the institutionalisation of academic fields. At the ideological level, these uncritical reproductions often take place in a more nuanced, involuntary and non-malicious way. We can here relate this to the reproduction of colonial knowledge and perspectives by the colonised – or the oppressor’s ideology by oppressed people – which have been thoroughly analysed in broader terms by different authors. It is worth mentioning, among others, the internalisation of the colonial mentality and the production of colonised subjects ([Fanon, 1952/2000](#)), cultural hegemony ([Gramsci, 1977](#)), and mental colonialism ([Unger, 2018](#)), for example. In a different direction, in a more intentional way, there is also the figure of a ‘castrated master who castrates his disciples’ ([Dussel, 1977](#)). This may be the one that goes abroad, from the peripheral to central contexts, in the pursue of a badge and authority, that can only be attained, they believe, in the academic institutions of those central scenarios. These are the ones who go abroad – physically or virtually – and come back willing to show they are all up to date with the most recent developments in criminological thought, from the newest textbooks to the newest influential scholars. So they use a ‘Northern’ credential for personal purposes, and end up uncritically reproducing those Northern perspectives.

Ideological relations and processes have downplayed the development of more innovative knowledge production on the criminal question in the global peripheries, but so have the material conditions ([Carrington et al., 2019](#); [Dal Santo & Sepúlveda Penna, 2024](#); [Moosavi, 2019](#); [Sozzo, 2021](#); [Travers, 2019](#)). Profound economic inequalities across the world affect the academic fields and, in turn, the production of knowledge, which undeniably faces more limitations in contexts of scarcity of material infrastructure and funding. [Faraldo-Cabana and Lamela \(2021, p. 168\)](#) observed from UNESCO data that

the US accounts for 33% of the world’s research funding (55 countries surveyed), employs 24% of the world’s researchers in terms of fulltime equivalent (53 countries surveyed) and produces around 26% of the world’s PhDs in social sciences (48 countries surveyed) and 30–40% of all social science research articles.

World inequalities are also reflected in the investment in research and development as exposed in the latest [UNESCO \(2021\)](#) science report. Regions such as North America and European Union invest 2.73% and 2.02% as a share of their

GDP in research and development, whereas Latin America invests 0.66% – for comparison, these are the percentages in other peripheral regions: 0.09% in the Caribbean, 0.51% in Sub-Saharan Africa, 0.12% in Central Asia, and 0.60% in South Asia. If this disparity between core and periphery in relative terms is already striking, imagine how this translates in absolute numbers. Such disproportionality also reflects in the number of researchers (in full-time equivalent) per million inhabitants: this ratio is 4,432 in North America; 4,069 in the European Union; and 593 in Latin America. If ideological elements – with all its colonial facets – frame the periphery as backward and not as capable as the core, one cannot ignore the precarious material conditions in which research is conducted in the margins, which has significant implications to its volume and (lack of) possibilities.

Finally, considering criminology more specifically, there are also some significant problems with this academic field that are specific to most parts of the Global South. One of the issues [Medina \(2011\)](#) highlights, in his exploration about doing criminology in the periphery and semiperiphery, is the degree of academic institutionalisation, which in turn leads to problems such as lack of recognition and stable careers. Although massively expanding and presenting increasing levels of institutionalisation in many parts of the core countries (see [Sparks & Loader, 2011, 2012](#)) criminology has not acquired the appearance and paraphernalia of a ‘discipline’ ([Garland, 2011](#)) in the academic world of most of the peripheries.

In Latin America, criminology had an incipient institutionalisation in some countries since the last years of the 19th century, strongly associated with the academic worlds of law and medicine, in connection with the local translation of positivist vocabularies imported from European contexts, especially Italy and France ([Caimari, 2004](#); [Creazzo, 2007](#); [Del Olmo, 1981, 1992, 1999](#); [Huertas García-Alejo, 1991](#); [Marteau, 2003](#); [Salessi, 1995](#); [Salvatore, 1992, 1996, 2001](#); [Sozzo, 2006, 2011, 2015, 2017, forthcoming](#); [Salvatore & Sozzo, 2009](#)). This institutionalisation was extremely weak, as it was not articulated in the generation of faculties or departments and specific undergraduate and postgraduate degrees, but rather in the presence of professors (often part-time), courses, research projects and centres, and scientific journals, mainly based in law and medicine faculties. It is only from the 1970s that a new moment has opened up. A slow and gradual institutionalisation of a field in the academic world, defined as criminology, is taking place. This has included the creation of postgraduate degrees – specialisations and master’s, but not doctoral degree – and, to a lesser extent, even the creation of undergraduate degrees. There has also been a significant growth in degrees linked to ‘public security’ and ‘citizen security’, although predominantly related to the training of police and prison officers and not strongly connected with the international criminological debate. There has also been a slight increase in the number of specialised scientific journals, research projects and centres and full-time professors and researchers, particularly in some countries, such as Brazil and Argentina. But there are still no specific faculties or departments of Criminology ([Goyes & Sozzo, 2023](#); [Sozzo, 2020, 2021](#)). This increasing institutionalisation was initially connected to the regional dissemination of critical criminology perspectives, also linked to the translation of central theoretical

vocabularies (Alagia & Codino, 2019; Andrade, 2012; Anitua, 2005; Carvalho & Matos, 2021a, 2021b; Garcia, 2021; Garcia & Sozzo, 2023; Giamberardino, 2012; Goyes, 2019, 2023; Malaguti-Batista, 2011, 2012; Souza Cordeiro, 2020; Sozzo, 2006, 2020; Vasconcelos, 2014, 2017). In parallel, however, there is also a vast and growing intellectual production from the social sciences – especially from sociology, but also from anthropology and political science – on different aspects of the criminal question that has grown significantly in recent decades and whose protagonists do not define themselves as ‘criminologists’ (Sozzo, 2020, 2021).

In anyway, this is all to illustrate that the development of a well-elaborated and established scholarship is not only held back by ideological dynamics and relations, but also by material conditions, and particularly by the level of institutionalisation that a field of knowledge possesses in most of peripheral regions – in our concrete case, in Latin America.

Even in the peripheries, scholars have often read punishment – as a set of institutions, discourses, and practices – ‘from the centre’ (Connell, 2007, p. 44; Sozzo, 2023). The problems, concepts, and arguments generated in core contexts have been presented as universal, giving rise to broad generalisations, which in turn conceal the fact that they have themselves arisen in specific places and times, and as a product of particular dynamics, processes, and relationships (Aas, 2012; Aliverti et al., 2021, 2023; Carrington et al., 2016, Carrington et al., 2019; Lee & Laidler, 2013). But researchers in the Global South often uncritically import this knowledge and apply it to their own settings as a transferable recipe, sometimes producing empirical data, and ratifying the purported universal character of that knowledge (Aas, 2012; Aliverti et al., 2021, 2023; Carrington et al., 2019; Lee & Laidler, 2013; Moosavi, 2019).

However, as one of us has recently argued (Sozzo, 2023), the history of knowledge on punishment in the peripheries also contains episodes of resistance to this inequality, dependence, and subordination in knowledge production and circulation. These episodes articulate different degrees of innovation, which involve operations of rejection and adaptation of what is produced in the Global North, always in relation to the exploration of local dynamics and processes, giving rise to a sort of ‘metamorphosis’ of theoretical vocabularies (Sozzo, 2006). Reconstructing these different episodes is an important contribution not only to avoid falling into a kind of ‘amnesia’ (Goyes & South, 2017), but also to find in them sources of inspiration for our contemporary research work (Garcia & Sozzo, 2023).

When taking back Latin America as our case study, one can identify examples of such episodes in different times in history. This is the case, for example, of a more distant past, during the development of a positivist criminology between the 1880s and 1930s (Sozzo, 2011, 2017, forthcoming). More recently, in the framework of the birth of critical criminology since the 1970s, such episodes have become more frequent and radical (Sozzo, 2023). One illustration is the important work of Eugenio Raúl Zaffaroni (1984, 1988, 1989) and his ‘marginal criminological realism’ (Alagia & Codino, 2019; Garcia & Sozzo, 2023). For Zaffaroni, the massive violation of human rights produced by Latin American penal systems was not only quantitatively but qualitatively different from those produced in

central contexts. These differences, he claims, are also the result of the extremely high levels of marginalisation that peripheral capitalism has generated in the region. The more intense and frequent human rights violation as the main characteristic of Latin American penalty is also linked to the various forms of colonialism that have run through the history of the region. They are an undeniable phenomenon that constitutes a true ‘genocide in action’ (Zaffaroni, 1989, p. 127), which implies that ‘the colonialist and neo-colonialist genocide has not ended on our margin, our penal systems continue to carry it out’ (Zaffaroni, 1989, p. 129). In light of this extremely dramatic characteristic, Zaffaroni raises the imperative of acting publicly and politically, including as an operator of the penal system, in order to moderate the exercise of the power to punish (Sozzo, 2020). His position has been very influential in both the academic and penal fields in Latin America from that time to the present day (Alagia & Codino, 2019; Garcia & Sozzo, 2023).

More recently, other original and innovative intellectual contributions are emerging directly from Latin American realities and enriching the global criminological literature in many different topics. It is this type of work – and the critical dialogue with Northern theories, concepts and arguments – that composes this book. Throughout the chapters, the reader will notice that the authors do not a priori despise or reject knowledge originally developed in core countries, as in a nativist approach. However, nor do they uncritically reproduce Northern knowledge as if it represented the most advanced stage of knowledge valid across all times and places. The real compromise of the authors is to better understand their own realities, departing from a close encounter with them (Carrington et al., 2016, 2019; Dal Santo & Sepúlveda Penna, 2024; Sozzo, 2021, 2023). These realities are, however, also implicated in transnational relations, both from the past and in the present, which in turn may produce different outcomes locally. And, it is exactly this interconnectedness of these social realities, more precisely in the context of core and peripheries, that is, briefly explored in the section below.

## **Peripheral Punishment**

The authors of the chapters of this book analyse various aspects of punishment - defined in broad terms – in different national contexts which form part of Latin America and which can be considered peripheral or marginal in the light of relations of inequality and domination of different kinds at the global level. As anticipated, one of the distinctive features of the analyses contained in this book is to address these different aspects of punishment by making their peripheral or marginal character a specific object of interrogation and exploration. Punishment in the peripheries is to a certain extent different from punishment in the centre because it is, precisely, a peripheral punishment. And this is the case in several senses that we clarify here.

Rescuing and emphasising the reference to ‘peripheral punishment’ does not imply assuming a kind of homogeneity of these diverse contexts addressed in this book. We do acknowledge that these contexts are crossed by important economic, social, political, institutional, and cultural differences, and so these distinctions are also reflected on the penal field. There are different ways of being peripheral in