

Academic Year: (2019 / 2020)

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Department assigned to the subject: Criminal Law, Procedural Law and History Law Department

Coordinating teacher: ALVAREZ VIZCAYA, MARIA TERESA

Type: Electives ECTS Credits : 3.0

Year : Semester :

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Teoría Jurídica del Delito (Criminal Theory)

OBJECTIVES

Knowledge of the constitutional foundations on the purposes of punishment, with particular emphasis on the penitentiary phase. Specifically, deep knowledge of the so-called "antinomies of purposes of punishment": critical cases and possible alternatives (diversion measures, reparation and mediation programs, pardons, etc..).

- Knowledge and critical contrast of legality and reality prison.

a) The reality of prison: prison visits, presentations made by prison professionals, mediators, etc..

b) The legality prison: study of the main penitentiary legal institutions.

- Specialized knowledge of the penitentiary legal relation and of the basics of constitutional jurisprudence on the matter.

- Expertise in regulation and the reality of prison classification, treatment and the penitentiary discipline.

- Capacity for critical analysis of the prison criminal policy, current legislation and case law.

- Ability to interpret the prison regulations and the rules governing the execution of other measures.

DESCRIPTION OF CONTENTS: PROGRAMME**PART ONE: Introduction****Lesson 1: Content and legislation**

1. Content of Penitentiary Law and Execution of Penalties and Measures. 2. Penitentiary legislation: a) Constitution; B) Penal Code; C) Penitentiary law and regulations; D) Legislation procedural. 3. Legislation on execution of custodial sentences other than prison. 4. Legislation on the execution of non-custodial sentences. 5. Legislation on the execution of security measures. 6. Specific legislation on minors and youth.

Lesson 2: The purpose of the execution of sentences

1. The so-called antinomy of the ends of penalties. 2. Re-socialization and its limits: crime from the sociological and economic point of view. Special reference to theories of social control. 3. Prison and re-socialization: a) The criminal age and the internment of minors; B) The maximum limit of duration of the prison sentence and its compliance; C) Recidivism and habituality; D) The permanent prison reviewable; and). The purpose of serving the sentence of imprisonment in constitutional jurisprudence.

Lesson 3: Special prevention and short-term prison sentences

1. The purpose of sentences and the enforcement of short-term prison sentences. 2. Legal regime of the substitution of the prison sentence for foreigners. 3. Legal regime for the suspension of the execution of the sentence of imprisonment: a) Competent body and procedural moment; (B) Requirements and conditions; C) Assumptions, requirements and conditions of the exceptional suspension. Special consideration of the exceptional suspension in cases of drug addiction; D) Effects of non-compliance. 4. Suspension and criminal penalties.

Lesson 4: Forgiveness and reparation in criminal law

1. The pardon of the offended. 2. Reparation of the victim: a) Reparation and civil liability; B) Criminal effects; C) The future of the idea of ¿¿reparation in criminal law. 3. The right of grace: amnesty and pardon. 4. The pardon: a) Fundamental principles and legal requirements; B) Procedural rules on concession and execution.

SECOND PART: The fulfillment of the custodial sentences

Lesson 5: The legal-penitentiary relationship

1. The subjects of the juridical-penitentiary relationship: a) The Penitentiary Administration. Structure. Essential content of their functions: penitentiary system, penitentiary classification and treatment; B) The intern. Statistical data; Fundamental rights and penitentiary rights; Penitentiary duties 2. The special relation of special subjection of the inmates with the Penitentiary Administration in the matter of disciplinary sanctions: a) the violation of the principle of reservation of law; B) bis in idem. 3. The position of guarantor of the Penitentiary Administration: a) Content and effects of the guarantor position; B) Forced feeding of internees on hunger strike; C) Protection of privacy; D) Data protection; D) The IFIs; E) The patrimonial and civil responsibility subsidiary of the Penitentiary Administration.

Lesson 6: Penitentiary establishments

1. Public and private establishments. Private penitentiary models: (a) United States and England; B) The French model; C) Private participation in the Spanish penitentiary system. 2. Classes of penitentiary establishments in Spain: of preventive, compliance and special.

Lesson 7: The Penitentiary Classification

1. Concept of penitentiary classification. 2. Penitentiary degrees and their relation to the prison regime, establishment and treatment. 3. The initial classification: competence, procedure, objective and consequences. 4. Progression and regression of degree: legal requirements, competence and procedure for the revision of the classification. 5. Special situations: a) Preventive; B) Very serious and incurable patients. 6. Statistical data on penitentiary classification.

Lesson 8: Penitentiary regimes (I): Concept, ordinary regime and closed regime

1. Concept of penitentiary regime and classes. 2. The ordinary regime. 3. The closed scheme: (a) Statistical data; B) Legal assumptions; C) Closed regime and sanction of isolation; D) Modalities of life regime; (E) Specific regime issues: searches, counts and transfers; F) The closed regime in special departments: assumptions and life regime modality; G) The so-called F.I.E.S. H) Limit of duration and revision of the closed regime; I) Competence and procedure.

Lesson 9: Penitentiary regimes (II): The open regime

1. Statistical data. 2. Legal conditions and common rules of compliance with the open regime. 2. The way of life and its follow-up. 3. The restricted open regime. 4. The regime opened in the Foreign Dependent Units. 5. The regime opened in the Extra-penitentiary Units.

Lesson 10: Penitentiary regimes (III): The so-called "fourth Degree "or parole

1. Concept and purpose 2. Competence and procedure. 3. Legal requirements. The computation of the legal term: a) Accumulation and consolidation of sentences; B) Penitentiary benefits. 4. Compliance regime. 5. Revocation. 6. Special regime for foreigners.

Lesson 11: Penitentiary treatment (I): concept and basic content

1. Concept and principles of penitentiary treatment. 2. Penitentiary treatment and special prevention. 3. Treatment and classification. 4. Prison treatment programs: a) Scheduled departures; B) Therapeutic communities; C) Specialized action for drug addicts. 5. Training activities. Special consideration of basic compulsory education and training activities in the Mothers' Units.

Lesson 12: Penitentiary treatment (II): Penitentiary work

1. Productive work in prisons. Statistical data and endowment. 2. The duty to work and the legal nature of the right to penitentiary work. 3. The special prison labor relationship: a) Subjects. The legal position of the penitentiary administration and the contractor. Specific and common principles with the Workers' Statute. Labor rights and Social Security. 4. Legal regime of prison labor abroad. 5. Specific regime of occupational work: incentives, rewards and penitentiary benefits. 6. Post-prison labor assistance.

Lesson 13: Penitentiary treatment (III): Leave leave

1. The relationship between penitentiary treatment and exit permits. 2. Ordinary permits. Content and requirements 3. Special permits. Content and requirements. 4. Competence and procedure. 5. Suspension and revocation of permits.

Lesson 14: Communications and Visits

1. General principles of oral and written penitentiary communications. 2. Intervention and suspension of oral and written communications: a) Assumptions; B) Competence and procedure; C) Motivation and communication of the resolution and control of legality. 3. Family communications, intimate and coexistence. 4. Specific regime of communications with the lawyer. Intervention and suspension of communications with the lawyer. Unique legal regime in cases of terrorism.

Lesson 15: Penitentiary Benefits

1. Concept and classes. 2. Early parole. 3. Penitentiary rewards. 4. The transitory validity of redemption of penalties for work.

Lesson 16: Disciplinary regime

1. Principles of the disciplinary regime. 2. Disciplinary offenses: a) Classes; B) Interests protected and principle of legality. 3. Sanctions: a) Classes; B) Rules of application; C) Compliance. 4. Sanctioning procedure and resource regime.

Lesson 17: The Judge of Penitentiary Surveillance

1. The Penitentiary Surveillance Judge and the Penitentiary Administration. 2. Specific powers and functions: (a) Probation; B) Penitentiary benefits; C) Sanctions; D) Departure permits; D) Closed regime; E) Penitentiary regime and treatment, in general; F) Resources; G) Security measures; H) Material accumulation of feathers. 3. Appeals against the decisions of the Prison Surveillance Judges.

THIRD PARTY: The execution of non-custodial sentences and security measures

Lesson 18th: Execution of fine, community work, permanent location and prohibition of approaching the victim

1. Execution of the fine. 2. Execution of the penalty of work for the benefit of the community. 3. The execution of the penalty of permanent location. 4. Execution of the penalty of prohibition of approaching the victim.

Lesson 19: Execution of security measures

1. Types of measures. 2. Application of internment measures: a) Common principles; (B) In cases of conviction of a custodial sentence; C) In psychiatric center; D) In the center of deshabitación; E) In special educational center. 3. Application of non-custodial measures.

PART FOUR: Implementation of Measures on Minors

Lesson 20: General Provisions and Rules for Execution

1. General provisions: a) principle of legality; B) The process of minors; C) administrative powers. 2. Rules for implementation: (a) Classes and duration of measures; B) Competitions; (C) Implementation of various measures; D) Modification and replacement of measures; (E) Compliance with measures.

LEARNING ACTIVITIES AND METHODOLOGY

The contents are organized through seminars (analysis of the contents based on case cases and supplementary materials), tutorials, presentations professional prison system, prison visits, viewing audiovisual teaching materials. Attendance at classes, tutoring and activities requires having read and studied the relevant material.

ASSESSMENT SYSTEM

% end-of-term-examination/test:	60
% of continuous assessment (assignments, laboratory, practicals...):	40

40%: Educational activities (visits to prison, seminars, class presentations, etc..).

60%: Final Exam (theoretical and practical).

The extraordinary examination (June) shall consist in a theoretical examination.

BASIC BIBLIOGRAPHY

- Cervelló Donderis, Vicenta Derecho penitenciario, 3ª ed., Tirant lo blanch, 2012
- Juanatey Dorado, Carmen Manual de derecho penitenciario, 3ª Ed., lustel, 2017
- Mir Puig, Carlos Derecho penitenciario: el cumplimiento de la pena privativa de libertad, Atelier, 2011
- RÍOS MARTÍN, Julian Carlos; et al. Manual de Ejecución Penitenciaria: defenderse de la cárcel, 6ª ed., COLEX, 2011

ADDITIONAL BIBLIOGRAPHY

- AAVV Manual practico de derecho penitenciario, La Ley, 2009
- Berdugo Gómez de la Torre / Zúliga Rodríguez (coordinadores). Manual de Derecho Penitenciario, Colex, 2002
- Castro Antonio, José Luis Ley general penitenciaria : comentarios, jurisprudencia, concordancias, doctrina , 2010, Colex
- Dopico Gómez-Aller, Jacobo Prisiones de empresa, reformatorios privados. Dos estudios de política penitenciaria., Tirant lo blanch, 2011
- Feijoo, Bernardo La legitimidad de la pena estatal , lustel, 2014
- Otero González, Pilar Control telemático de penados, Tirant lo blanch, 2008
- Reviriego Picón, Fernando Los derechos de los reclusos en la jurisprudencia constitucional , Universitas, 2008
- Ríos Martín, J.C., et al. La mediación penitenciaria : reducir violencias en el sistema carcelario, Colex, 2005
- Van Zyl Smit, Dirk Principles of european prison law and policy : penology and human rights , Oxford University Press, 2009