CRIMINAL PROCEDURAL REFORM AND THE MINISTERIO PUBLICO: TOWARD THE CONSTRUCTION OF A NEW CRIMINAL JUSTICE SYSTEM IN LATIN AMERICA

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ABSTRACT

Since the mid eighties extensive efforts have been made in Latin American countries to reform their administration of justice. The principal focus of this process has been towards a radical transformation away from a highly authoritarian inquisitorial model of criminal procedure adopted by most Latin American countries in the nineteenth century. An important component of these reforms is the creation of the *Ministerio Publico* (Public Prosecutor´s Office) or, for those countries that already have this institution, its reformation according to the functions required by the new model of criminal procedure. This thesis analyzes the reform of the criminal justice system in Latin America, and in particular, the reform of the *Ministerio Publico*, and the Chilean proposal to create this institution. In the first part, I explain the historical setting of criminal procedure in Latin America and discuss current efforts to transform it. I emphasize that the criminal procedure model that Latin American countries are reforming is an orthodox version of inquisitorial procedure, and different from the model adopted by European countries since the nineteenth century. I also describe the characteristics of and the main forces behind the reform movement underway for the transformation of the criminal justice system in Latin America. In part two, I analyze the state of the reform process with regard to the *Ministerio Publico* in Latin America, challenging conventional academic debate arising from this event. I propose a new debate focused on the problems that the institution is facing in the region to replace the theoretical discussion of legal models. The new debate should focus on the implementation of the *Ministerio Publico*, its independence and coordination with other agencies and the exercise of its discretionary powers. I also analyze the Chilean proposal to create the *Ministerio Publico*. Finally, I propose future courses of action for the *Ministerio Publico* in Chile in its role as an actor in the new criminal justice system and as an institutional answer for some social problems beyond the criminal justice system such as public safety and corruption.

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