



Direito Penal de Emergência (Portuguese Edition)

Ricardo Augusto de Araújo Teixeira

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Os trabalhos que a academia apresenta em geral nada mais são do que uma análise pontual de algum instituto do direito sob a ótica de uma das teorias que dominam o universo penalista no Brasil: o Finalismo e o Funcionalismo Teleológico!

Justamente nesse aspecto o presente trabalho se torna uma lufada de vento, uma brisa de inovação na mesmice acadêmica. O ponto escolhido por Ricardo Augusto de Araújo Teixeira é o questionamento do próprio conceito de Direito Penal a partir do problema surgido com o crescimento de práticas terroristas nos últimos dez anos, em especial após o “11 de setembro”. Os dogmas da legalidade e da tipicidade cerrada e as garantias da presunção de inocência do réu e da anterioridade penal tem se mostrado insuficientes para enfrentar um tipo de criminalidade excepcional e diferente daquilo que se entendia por criminalidade no século XIX.

A solução estaria na reafirmação desse direito de fundo liberal, neokantista e ainda positivista? Precisamos mais do mesmo? Repetir a repetição dos Manuais e reafirmar a autonomia do direito penal, fechando os olhos para os ganhos da Psicologia, da Antropologia, da Economia e da Filosofia tem sido a cantilena de muitos de nossos penalistas. Outros, como Ricardo Teixeira, inconformados com o paradoxo de perceber a ineficiência de um direito penal, incapaz de punir, incapaz de educar, incapaz de reeducar, incapaz de prevenir a criminalidade, exigem de nós uma reflexão sobre a relação entre prática e teoria.

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