

## **SOME OPEN ISSUES CONCERNING THE RESOCIALIZATION OF THE CONVICTED PEOPLE**

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### **Abstract**

*Today, it is rightly considered that issues related to the selection and use of tools and methods with which the resocialization (treatment) is realized, has increasingly become the main issue of penology. The issues that occur as most actual and typical will be examined here in short lines. Usually, when it comes to general principles the notion treatment, deals with all criminal sanctions, but it requires the application of tools and methods specific to every sanction separately, depending on its specific nature. Given the more frequent application of imprisonment, as the most used measure to fight criminality, today, without reason, the utmost attention is fixed on the treatment applied during the conduction of this sentence. Therefore, not coincidentally also this term (treatment) is exactly identified with this sentence. Regarding this definition the need for clear subject - substantial definition of the notion treatment in general and its elaboration and processing related with specific way of implementation and execution of certain penal sanctions is also emphasized. In this regard, fully entitled are those authors who claim that the treatment for the sentences of institutional character and those of non-institutional character can not (and should not) be the same. Here it comes to qualitative substantial differences that require the application of clear means and methods, defined and differentiated in the realization of resocialization.*

**Key words:** *resocialization, prison, serving the sentence, delinquent, convict*

### **The modern penological thinking**

Currently face the issue of different attitudes about the nature of the treatment and consequently of the resocialization. More concretely, the problem is expressed through the dilemma - if resocialization is in a positive correlation report

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with the repression or the (the repression) precludes the realization of the process of resocialization. More specifically - are the elements of repression implied with the resocialization? That by its essence is included in the sentence itself. With other words, here the issue is the way of the "**reconciliation**" of two fundamentally different values - of the resocialization and repression which by the nature of things are incompatible and contradictory. Some authors are deeply convinced that this components exclude each other, thus each attempt to find ways of their "coexistence" would lead to improvisation and not in finding the answer to the aforementioned question.

In their essence, in the current level of social development, the penalties are means of repressive response to incriminating behaviour. Indeed, even the penitentiary institutions, by their constitution and their nature are typical repressive institutions, which are completely understandable, because, taken as a whole, the preventive meaning and force of penal sanctions is based on elements of intimidation incorporated in them. For this reason, all those thoughts that lead to the conclusion that the resocialization that is implemented through various methods of treatment and that aims to reduce repression as much as possible will not correspond with the reality. However, the fact that the socialization in all penal sanctions actually contains repression, should be emphasized, but not only that this is not in the forefront, but it also differs in terms of content and is displaced to second segment, in that portion in which it should create temperance of the prisoner, self-discipline, discipline in the aspect to be fit and to accept even the treatment that is not welcomed by him. With other words, reeducation can not be based on repression in its classical elementary meaning. For this reason, the contemporary penological thinking that bases the application of penal sanctions, especially the sentencing, on humanity, on the respect for human the dignity of the person and in elevation of the personal responsibility of the convicted, aims to eliminate, to limit and to reduce the repression as much as possible during the above mentioned implementation (Tkacevski, 1971), in order to create real premises for resolving contradictions between the impact of repression in resocialization and realization of there-education process.

**Resocialization** - can be realized only if the convict takes part or cooperates in this direction. But this is the area where the problem occurs. With other words how to exercise influence on the individual to cooperate when he experiences the sentence as something unpleasant, as a burden and often as injustice. In such a situation it is really difficult to activate the internal mechanisms that will affect the personal commitment during the process of resocialization. A lot of effort, a high degree of professionalism, great genuity and tact is required to

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determinewhichtreatment methodswith its contentandmanner of implementationwillmotivateandencouragethe inmate to becomecommittedanddisciplined. These procedures that will affect the participation of the inmate for his resocialization, will be a of great assistance in overcoming the objections that occur between socialization and repression, in the efforts for the convict to become an active factor of the reeducation process rather than its object, in which case he will not experience these actions as a liability but as a personal engagement and self-awareness inefforts tottransform in life.

**Study ofthe offender's personality** -is an essentialpremisetoachieve the objectives of. Thisisalreadyanindisputablefactinpenologyaswell as the contentrespectivelythe register ofmeasures, of actions and activities, through which the personality of the delinquent should be analyzed, are uncontested. However, whenit comes toissuesrelatedtosuch adepth ofthe analysis, withitsphasesandglobalsubjects that must be performed, many dilemmas arise. With other words, when it comes to the principle of personality analysis, usuallyone thinksof the activitiesundertaken by the competentteamofthe penitentiaryforthis purpose, in order to define theactions that needtocreatethe contentof the treatmentin the penitentiary institution. But, the personality analysis implies more viewpoints, some phases and the participation of many other subjects, alongside thoseof thegroup of the professionalsector for prison admission. Thus, the initial activities that should be undertaken are related tothe creator-deedrelation. Criminaloffenseclarifies a lot of important elementsrelatedto thedelinquent'spersonality: motives, severityofthe conflictandthe emotional stateat the time ofthe offense, socialconditionsthat havedetermined the incriminatingact. With other words, the personality analysis also includes the prosecution bodies precisely taking me as uresthatare important notonlyto proveguilt, to concludethe responsibilityand to sentence, but also because they are in direct function of the resocialization, that is very essentialfrom the viewpoint of the issuethatiselaborated. Forthese reasons, during theproceedingsofthe so-calledclassicalmeasuresrelatedto the discovery andexaminationofthe act, the body of attendancehas to accessandrevealthe reasons that causedthe perpetrator to do that exact offense in that exact manner, from another viewpoint.

In other words, respect not only for the penal - juridical aspects but also the criminological - legal aspects of the act and of its perpetrator. For these reasons, the personality analysis of the delinquent begins much earlier. Thus, the penal proceeding whose final purpose is the implementation of the penal sanction and prevention of the delinquent forcommitting offensesinthe futuregets another function, emphasizing the necessity for the process ofresocialization to begin much earlier, respectivelyever since thefirst processor measuresagainst the

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delinquentare taken. Otherwise, all these proceedings will be in the function of the requests oriented towards the change of the character of repression or relief of it - approach that will directly contribute for the successful and comprehensive realization of the purposes of penalty and resocialization.

Setting socialization as a fundamental purpose of the enforcement of penal sanctions simultaneously stresses the need for the existence of such a developed and rich penal sanctions system that would be consistent with the needs for specific treatment of different convicted persons, according to their criminological characteristics, and their needs. In this case, there is no claim for some system of criminal sanction that would respond to each person, because this is neither possible nor necessary. However, within the defined and scientifically verified typologies of delinquents, it is well known that there must be a developed system of penal sanction that will meet the needs for treatment and rehabilitation of that type and category of delinquents. From this perspective, the system of penal sanctions should be rich regarding the sanctions and the possibility that any sanction during implementation should ensure modifications in terms of duration, conditions of realization, treatment methods and procedures, etc. With other words, a developed system of penal sanctions should be characterized with the possibility for mutual combination of sanctions and for their completion or interconnection during various stages of the resocialization process (Arnaudovski, 1988; Lazareviq, 1970).

**Legislative organization associated with the system of sanctions-** With other words, according to the opinion of many authors, one can conclude that even though it is basically organized in a broad manner, with an extremely wide scale (from milder forms of warning to more severe imprisonment sentences) and that it is characterized by diversity, adaptability and accordance (despite the fact that its legislative width impoverishes in the practical realization) however such "high assessments" of our system of sanctions, when it comes to certain specific categories of delinquents (delinquency by negligence, delinquency in road traffic, massive criminality, organized crime, etc) should be taken with caution because it does not sufficiently respect the specific sides of particular types of crime (Kralev, 1997; Arnaudovski, 1984).

Penology, dealing with the issue of individualism of the sentence in its enforcement can not stop to treatment of these issues in legal-penal sciences where the division is still made into: **legal individualism**, **judiciary individualism** and **penitentiary individualism**. The point here is not to highlight certain specific types of individualism, but their improper harmonization and their orientation towards the fundamental goal. With other words, the meaning of any individualism of the penal sanction is the

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achievement of its goal of implementing, and as it is known, all this is done in the phase of sanction implementation. If this is so, in that case preliminary stages of individualism should consider the meaning of the penitentiary individualism which basically means providing different treatment and approach in the implementation of various types of penal sanctions. The basis on which individualism is placed is different, dependant on the type of penal sanction: institutional or non-institutional.

One of the fundamental issues of realization of the definition for resocialization is the existing conditions and premises for its realization in practice as a complete concept. With other words, an illogical condition is present that it is a new concept in implementation of penal sanctions that is realized in relatively unchanged conditions and relations in the old penitentiary institutions built upon the idea of repression and retribution, with a relatively same professional and other staff that finds very hard to change their attitude towards sentence and work style.

Issues do not stand only in penitentiary institutions but also in the entire system of determination and production of guilt as well as in the sentence that as it is known are based on the weight of the offense. Such experience rightly imposes the view that socialization can not be realized if all the organs in penal proceedings do not operate as a unique mechanism, guided by the fundamental objective in the implementation and execution of the sentence. In favour of this "goes" the practice of the courts where yet verdicts and other court acts and documents "is being talked" about revenges, remorse, deterrence by punishment etc (Bauer, 1957). Also, it can be said that today there are no authors who do not accept the concept and definition of resocialization, but even these remain in the position that its realization is not possible if (besides gentle and humane) the rehabilitation content is deprived of retributive and repressive elements, and as they say, not depending on the need but as an integral part of treatment. Indeed, these elements are encountered in our legislature too. The existing Law on sanctioning uses the term "**serving the sentence**". Whilst it is about an unpleasant suffering, something that is experienced, about something that is felt like an evil that must be overcome. This doesn't mean that the sentence should not be considered as an affliction, but in the penological sense, but because of the resocialization it should have another meaning (Peters).

In all this bundle of unresolved issues related to rehabilitation, despite this the penitentiary institutions, namely their systemic organizational structure and the ability to implement the sentence through resocialization of convicted persons, appear as the central problem of modern scientific penological thinking. Previously it was said that the concept of resocialization is compromised with the insistence that

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it should be realized through the penitentiary system which is basically built on old concepts and anachronistic attitudes. Having this position, Penology objectively came in a position to study and analyze those conditions and factors of the penitentiary institutions that generate negative impact, that prevent or obstruct the resocialization. In this case, based on new scientific knowledge its basic tendency is to avoid the prisons of the classical type that mainly are based on frightening, segregation and in expulsion of the prisoner from the society.

Elaboration of these general positions for the penitentiary institutions revealed two other issues closely related to the penitentiary practice:

a. normalization of living conditions of the convicts in the penitentiary-correctional institutions, and

b. construction of a developed system of specialized penitentiary institutions, in which the most important position will be held by those of the open and semi-open type as well as institutions for special categories of the convicts.

a. Given the indisputable thesis that the best penitentiary system is the one who is closer to the living conditions in freedom (Cornil, 1995), The Penology science and the penitentiary practice faced the issue-how to ensure the resocialization of convicts during the execution of the sentence in an artificially created environment that is isolated from the life in freedom and how can the inmate be prepared for life in freedom in such conditions (in terms of lack of freedom)?. This dilemma was in essence the basis of the idea for the normalization of the living conditions of the inmates. This idea involves two basic components.

- The first component has to do with the respect for the personality and dignity of the convicted person and his treatment as a subject. With other words, the fact that a person that doesn't respect himself and who is not respected by others, cannot be built with the system of values and norms of behaviour that would be consistent with the rules that in social point of view are verified by the prevailing system in society.

- The other component has to do with the conditions of the penitentiary system in which the process of resocialization of the convicted person is being implemented. This, as noted above, is an unnatural environment characterized by isolation, strict regime and specific relations. In this environment the convict is simply forced to become a good person. In this prison environment it is not very hard to maintain the order and discipline, to indoctrinate the convicted person; simply he is forced to become a good person. However, the purpose of execution of sentence lies not in the fact that the convict to be obedient, good and disciplined while he is imprisoned, but to be prepared for life in freedom, to behave in accordance with the rules set by organized society. And in environments

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where there is no permanent control present as there was in the prison environment. Herein emerges the issue regarding the normalization of living conditions in the penitentiary – correctional institutions, such as: firstly, the living conditions, work, treatment, etc. of the convict should not differ (essentially) from the conditions of those in freedom and secondly, the prison should not present an island, on the contrary conditions for normal communication of the convict with the outside world, that will give him knowledge about the life in freedom, will give him information about what is happening outside the prison walls should be created, so that he can live with the problems and joys of the outside world, simply he should be present in the life that is flowing outside the punitive - correctional institutions.

Normalization of the living conditions in the prison means fulfilling the professional, cultural, educational, sport and physical needs of the convicted person, development of the understanding of initiative and activity fostering, with other words creation of all the premises that will affect the convict to conceive himself as a person. In these frames communications with "outside world" are of a particular importance, especially the communication with the family and working colleagues; than reaching information about the events "outside" through the means of public information. In addition, normalization of conditions in the penitentiary - correctional institutions implies the common life of convicts. With other words, man is a social being who lives in groups, in communities, and it is more than normal, it has to do with life in prison. For this reason, authors of penology and criminology are unique when it comes to the concept that of all the existing penitentiary systems, common suffering sentence brings the convicts closer to life in freedom.

**b.** On the issue of specializing the penitentiary – correctional institutions, respectively their categorization and typology according the needs for normalization of living conditions in them, special attention was given to the open and semi-open types of institution, because, as practice shows closed-type penitentiary institutions, with all its features and harsh regime, isolation, limited communication, etc, appear as a serious obstacle for the realization of the resocialization of convicted persons. Semi-open institutions function with minimal means for securing the convicts from escape and reduced means of repression and pressure on them. In these types of institutions, the convicts are involved in the process of work outside the punitive – correctional institution without greater surveillance and life is organized with minimal control, whereby especially self-initiative and self-discipline of the convicted persons comes to expression.

### **Resume**

Today, the modern penology shows increased interest for open type institutions because they are closer to conditions of life in freedom. But, certain

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dilemmas are present also. The first issue has to do with their organizational structure: should they function as sectors within the existing penal and correctional institutions of the closed type or of the general type, or as separate penal and correctional institutions. Regarding this dilemma, some authors rightly consider that the closed type institutions situated within the houses of general character have advantage because in this manner (with specialized staff) continuity of treatment or as some say, "this form of organization presents pedagogical closed field" is ensured (Lamers, 1961).

The other dilemma has to do with issues regarding instructing the sentenced persons in the institutions of open type, specifically whether they be instructed in those institutions directly or after serving a part of the sentence in the closed type institution. Today, more and more often the opinion that this should depend on the characteristics of delinquent's personality with all his complexities studied and analyzed in the sectors of admission or observation centres, prevails. In this regard, delinquents who meet certain criteria, respectively those who received socio - criminological positive amnesia, will be instructed directly to the open institutions, whilst others that are concluded for a certain verification of the re-education process set, should be subject to a certain degree of resocialization in the institution of other type. Their direction to open institutions will take place according to the principle of progress (Srzentiq, 1975).

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