

Pedagogy and the Application of Alternative Sanctions in Open Facilities

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Abstract: By presenting the work of the pedagogical sector of the Penitentiary Patronage of Londrina, Parana, the text start a discussion about the importance of Pedagogy in the prison system. The Penitentiary Patronage of Londrina is an open facility responsible for the egresses from the criminal system entitled of penalties restricting rights, commonly called alternative sanctions and measures. The Patronage main role is to provide conditions for a harmonic social integration of the convict.

Keywords: pedagogy, penitentiary patronage, alternative measures

1. Introduction

Criminal enforcement or criminal treatment are the legal proceedings undertaken to implement the provisions of a criminal court sentence or decision to provide conditions for a harmonic social integration of the convict, by the reliance on the entire social network's cooperation.

The Patronato (Patronage) is a criminal enforcement unit in an open facility restriction for the supervision of the former inmate, in order to move them towards impositions of penalties restricting rights, also known as alternative sanctions or measures.

The role of Pedagogy in the prison system has gained prominence and notoriety with the implementation of covenant policies between the State Department of Education of Parana — SEED and the Secretary of State, Justice, Citizenship and Human Rights — SEJU.

The teacher is part of a multidisciplinary team, called technicians by the Penitentiary Statutes of the State of Parana, with specific responsibilities to assist the former inmate in different aspects of the criminal enforcement proceedings in an open facility system.

According to the Plano Diretor do Sistema Penal (Criminal System Master Plan) of the State of Parana, Education has a highlighted role with its goal in developing initiatives which aim at transforming prisons into schools. "The criminal enforcement presupposes a behavior change course of action which takes place throughout the learning process, hence the importance of prioritizing the programs of formal and informal education, as much as vocational training programs" (Parana SEJU, 2011, p. 36).

Given that education is a fundamental right, the Federal Constitution of the Republic of Brazil, in its article n. 208, I, establishes as a duty of the State to guarantee free and compulsory primary education, ensuring the boundless offer to all whose do not have access on proper age. Still on this matter, there is the endorsement by the Criminal Enforcement Law (Law n. 7210/1984), about the free educational assistance to the convict, interned and

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former inmate, consisting in schooling and vocational training.

In line with the rationale that education signify an emancipatory and democratizing process with eagerness for the necessary knowledge to a proper reintegration into society, the education process should be able to help the former inmates to develop their skills and capabilities to be better able to compete for the opportunities socially created. “Learning in prison through educational programs is generally considered an instrument of change, and its value is evaluated through the lights of its impact on recidivism, reintegration and — more specifically — in employment opportunities fulfilled upon release” (MUNOZ, 2011, p. 58).

In the close facilities, i.e., to the inmates deprived of their freedom, schooling is done in form of a partnership between SEJU and SEED, under the Resolução Conjunta (Joint Resolution) N. 03/2011-SEED/SEJU. The offer of educational programs is conducted by the CEEBJA — Centros Estaduais de Educação Básica para Jovens e Adultos (State Centers for Basic Education for Youth and Adults) that manage the entire process from registration to certification. The educational program employed in penal units is identical to the state program, which allows continuity whenever the inmate leaves the penal system. Also, the didactic materials provided for the students inside the criminal units are the same materials used by students of EJA — Educação de Jovens e Adultos (Youth and Adults Education) in the establishments of the state system of education. There is a body of faculty and support professionals from SEED who works in the School Program (Parana SEJU, 2011, p. 40).

Despite the efforts, the relation between the number of inmates and the vacancies in classrooms is unbefitting, taking into consideration that “... the offer of education for the prison’s general population — young people with low education and poor vocational qualification — cannot be restricted to simple schooling but must be coordinated with other training and assistance actions” (Ireland, 2011, p. 12).

The alternative sanctions and measures are different from simple imprisonment, seeing that its characteristic is the humanization of treatment yet preventing impunity.

Due to the complexity of the subject, the present work is set to consider the work of Pedagogy with the specific data of Educational Measures, a condition imposed on former prisoners with restrictive sanction of rights, i.e., an alternative measure in an open facility.

2. Penitentiary Patronage: Initial Considerations

The prisons of the state of Parana are ranked according to their regime: closed facilities (prisons, penitentiaries), semi-open facilities (agricultural, industrial or mixed establishments) and open facilities (halfway houses, parole, criminal egress, etc).

The prison system in the State of Parana is coordinated by the Penitentiary Department of the State of Parana — DEPEN and, in accordance with the Penitentiary Statutes of the State of Parana, clause n. 9, “The Patronage (Patronato) and the Criminal Egress Program seek the assistance to those who serve their sentence in an open facility, the parolee, the egress and their family members”.

According to the clausen, 78 of the Criminal Enforcement Law (Law n. 7210/84), the Patronato — public or private — is one of the agencies of the criminal enforcement, designed to providing assistance to the parolees and former inmates.

One of the roles of the Patronato and the Egress Program is to promote assistance to the convict towards the social rehabilitation and community reintegration through vocational training, job placement, housing, transportation, health, education and legal, psychological, material and religious assistance.

Currently, there are two patronatos in the state of Parana, in the cities of Curitiba and Londrina, and there are also twenty egress programs and/or alternative sanctions programs in partnership with state institutions of higher education, local governments and community councils, as extension projects for assistance to graduates and persons subject to penalties and alternative measures.

The Patronato Penitenciario de Londrina Dr. Heber Soares Vargas (Penitentiary Patronage of Londrina Dr Heber Soares Vargas) is an agency of the Secretary of State for Justice, Citizenship and Human Rights and it is subordinated to the Penitentiary Department of Parana, designed to penal enforcement in open facilities. The Patronato has an organizational structure for the assistance to the egress and beneficiaries inasmuch as legal, pedagogical, psychological, social assistance and documentation and information.

In 1976, the Secretary of State for Justice has signed an agreement with the State University of Londrina formalizing the “Halfway House Project” and providing it with financial resources. The following year, the project was renamed to “Themis Program”, being instituted at the state level.

With the creation of the Criminal Enforcement Law of 1984 that determines the assistance for egresses and inmates of penal institutions, the Secretary of State for Justice replaced the Themis Program for the State Program of Assistance for Inmates and Egress — “Pro-Egress Program”, attending, along with the inmates, also the egresses of the state penal units (GONZAGA, RAMOS, BACARIN, 2002).

In 1991, the governor Roberto Requiao created the State Penitentiary Patronage, based in Curitiba, for overseeing egress programs from all over the state of Parana.

Ten years later, in 2001, was created the Penitentiary Patronage of Londrina, continuing the work undertaken by the Pro-Egress Program. In 2006, the Patronage of Londrina receives its own headquarter to serve the growing number of beneficiaries and egresses.

The flow of attendances maintain an average of approximately 200 (two hundred) people per week, with the Patronato of Londrina providing legal, social, psychological and educational assistance for egresses and beneficiaries.

3. Penalties Restricting Rights — Alternative Penalties and Measures

Penalties restricting rights are known as alternatives penalties and measures, related to crimes with penalties of short duration (0–4 years of conviction) for those crimes committed without violence or serious threat, such as car accidents, domestic violence, abuse of authority, disrespect to authority, slight bodily injury, larceny, threat, injury, libel, slander, among others provided by law.

Alternatives measures for prison were adopted in the Brazilian criminal law with caution due to the difficulty of the Judiciary and the State Public Prosecutor to oversee compliance.

The Law n. 9099/95 has made significant contributions to the improvement of the current system establishing the Special Criminal Courts, being the jurisdiction for criminal offenses of lower offensive potential. The Law n. 9714/88 reshaped the Criminal Codex regarding the penalties restricting rights and currently have a total of ten alternative penalties, as follow:

- Pecuniary allowance;
- Loss of goods and values;
- Community services;
- Prohibition of professional practices;

- Suspension of driving license;
- Prohibition from attending certain places;
- Limitation of weekends;
- Fines;
- Innominate provisions.

It is necessary that the condemned holds personal conditions that indicates the convenience of replacing the sentence, i.e., with no criminal records, demonstrating compatibility with the social reintegration, steady employment and known residence, among other conditions. The alternative sanctions have a social nature of great value for the purposes of rehabilitation.

According to Soares Junior (2013), The Tokyo Rules were initiated by the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, in 1986, officially called United Nations Standard Minimum Rules for Non-custodial Measures, with the goal of encouraging the adoption, by the UN members, of more effective means than the regular prison system to prevent crimes and improve the treatment of prisoners.

Jesus (1999) presents the concept of alternative measures and sanctions in accordance with the text of the Rules of Tokyo,

Non-custodial measure refers to any measure given by decision rendered by a competent authority at any stage of the administration of criminal justice, in which a suspect or person accused of an offense or convicted of a crime undergoes to certain obligations which do not include the prison. The expression makes special reference to sanctions imposed for an offense by virtue of which the offender must remain in the community and satisfy certain conditions (Jesus, 1999, p. 28).

The same author presents the advantages and disadvantages of alternative sanctions: (1) Decrease the cost of the repressive system; (2) Allow the judge to suit the criminal reprimand to the objective gravity of the fact and the individual circumstances of the convicted; (3) Prevent the incarceration of a convicted in offenses of lower offensive potential; (4) Keep the offender away from socializing with other offenders; (5) Reduce recidivism; (6) The convict doesn't need to leave his/her family or community, nor abandon their responsibilities nor lose their job. The disadvantages can be summarized in three aspects: (1) Do not reduce the number of incarcerated; (2) Do not represent an intimidating content, since it is more like means of personal control or disciplinary measures; (3) In view of the increasing role of alternative penalties by Criminal Codes the legislature is induced to create incriminating standards, increasing the number of people under criminal control and expanding the punitive network (Jesus, 1999, pp. 30–31).

There are no simplistic consensus in this complex and polemical field, however, two conditions are unquestionable, i.e., the belief in the power of education to change a life perspective and the right to education for all, understood as a lifelong increasingly learning.

4. Pedagogy and Educational Measures

The pedagogical sector attends the initial interviews, i.e., the introduction of each egress in the patronage aiming to know the level of education of all beneficiaries served by the unit. The main goal is guidance, monitoring, professional training placement, and — especially — provide education for the beneficiaries that has the Educational Measures as a condition of the sentence to serve.

Simultaneously, establishes partnerships with establishments that offer formal and vocational training for

those beneficiaries with the opportunity to serve his sentence or measure through educational development process. The program offers support for institutions and beneficiaries to enter and remain in the public policies of education and work.

The pedagogy expert is responsible for the sector, with the support of two interns from a pedagogy course. Their role is to seek inclusion in public education policies and existing work in the community for all beneficiaries served by the unit, especially those that have the participation in courses as conditionality of sentence.

According to the “DEPEN Notebooks” (2011), the pedagogy expert is an organizer and facilitator in the process of schooling, vocational training and employability, besides: (1) organize the annual planning activities of the pedagogy sector, with defined and possible to be evaluated goals; (2) conduct a screening interview of graduates to employers when they arrive, feeding the information and including missing data; (3) register educational and vocational training data of the inmate, related to their learning development in all activities proposed by the agency, as an activity of exclusive competence of the pedagogy expert, according to the legislation; (4) seek school and professional training documentation with the competent agencies; (5) provide enrolment in schools close to where the egress will live to continue their studies; (6) articulate with non-governmental and governmental organizations and institutions, such as universities, community councils, parishes, churches, etc., for the implementation of pedagogical and cultural actions in which the former inmate can be inserted; (7) create space for a library inside the facility and propose criteria for access to all inmate and staff; (8) inform about educational activities and support all egress who wish to participate; (9) monitor the academic performance of the egresses, consulting with the CEEBJA coordinator whenever the expected results are not matched; (10) inform the egress about placement exams as well as other existing federal programs that meet their needs; (11) follow up with the beneficiaries about their education and vocational training; (12) prepare reports to the corresponding criminal court upon request on the fulfillment of obligations related to education and vocational training; (13) establish partnerships and track job placement programs through SINE (National Employment Placement Service), unions and city hall; (14) record the sessions and accompaniments in the database (Penitentiary Department of Parana Notebooks, 2011, pp. 91–92).

Based on the listed activities, the daily work predicts the care of initial interviews, guidance for compliance of the Educational Measures, seeking to follow the process from enrollment, attendance and completion of the courses and subsequently informing the competent organs.

The Educational Measure indicates the need for continuing studies until finishing the basic levels or even the enrolment on the first level for those who have never attended school-illiterate or functionally illiterate. This is defined by the request from the judge of the Criminal Enforcement Court, which defines the criminal treatment for former inmates, parolee and beneficiaries, indicating continuing studies as a condition of their sentence in an open facility.

Nevertheless, in several cases the judge prescribes alternative community service, whenever there is the impossibility of meeting the educational measure.

The biggest challenge is the permanency until the inmate finishes his/her education, not only for the beneficiaries who are in the condition of educational measure, as well as the other inmates, representing a total of nearly eighty percent with incomplete primary education.

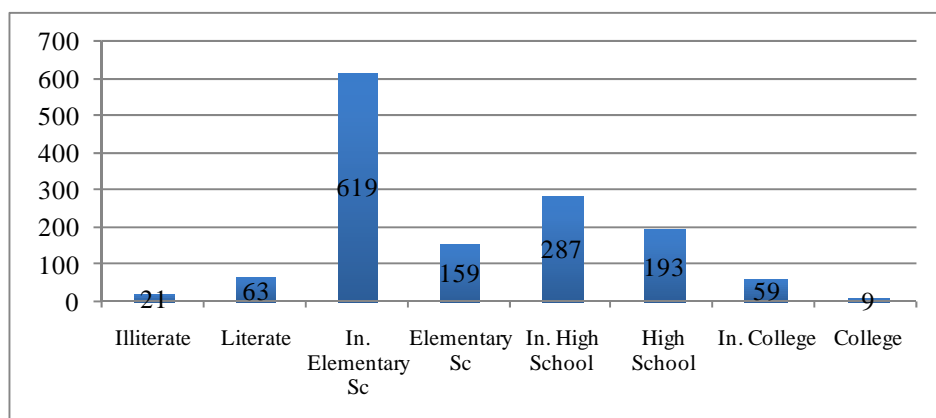


Figure 1 Egresses' Level of Education — July 2012

Source: Penitentiary Patronato of Londrina — July/2012

With the month of July as reference, there are a total of two hundred and four beneficiaries that has the Educational Measures sentence to serve. Most of those are awaiting vacancy in schools and/or courses that meet their schedule needs, residence proximity, available documentation, among other issues that hinder the immediate registration.

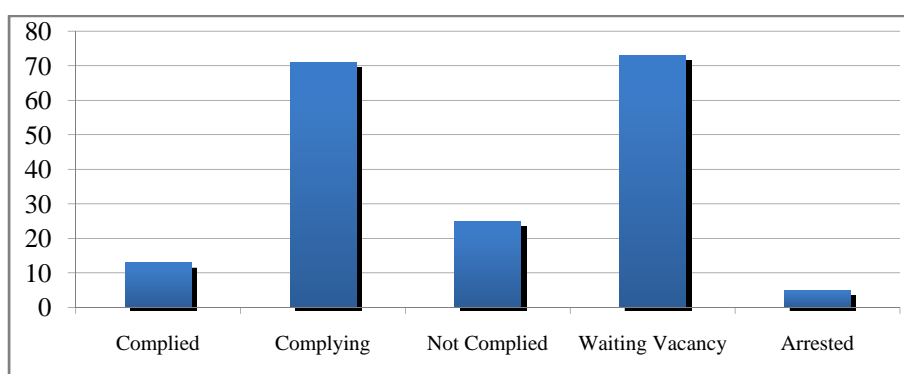


Figure 2 Educational Measure

Source: Penitentiary Patronato of Londrina — July/2012

The pedagogy expert, during the initial interview, analyses the inmate educational level and search proper formal education enrolment. That is the fundamental role of the pedagogy expert, in order to clarify any doubts in regards to the egress schooling, the operation of the Youth and Adults Education, besides proposing conditions to support registration.

Several egresses from closed facilities were already studying at EJA mode (Youth and Adults Education) at different levels, as well as vocational courses.

One of the difficulties for the registration is that the egress also seeks for job placement and believe that going back to school should be something of a lower priority, since they want to recover the time they stayed away from the job market.

On that basis, it is responsibility of the pedagogy expert to encourage the egress towards continuing his/her studies, working in collaboration with the Regional Education Center — NRE by requesting information already processed through the disciplines in order to present alternatives for future enrollment.

In the same sense, the Pedagogy sector has the nominal list of all the institutions of state and municipal education that offer the EJA mode, its location, etc., to give the egress possibilities and nearby school locations. There are also suggestions towards regular education registration, in addition to training courses and professional.

Thus, the role of the pedagogy expert is to guide and track enrolled egresses who are entitled of Educational Measure. Ideally, this work was to be extended to all egress and beneficiaries of the penal system. However, there are several implications which does not constitute the subject for this work, but it is noteworthy as a reminder that there are a clear need to improvement of the Patronato system in order to be able to attend all egresses.

The education for youth and adult — egress from the penal system or not — is not a mere benefit, but a subjective human right provided by both international and Brazilian laws and it is part of public policies of criminal enforcement, with the goal of providing social rehabilitation of convicts and — especially — ensure full citizenship.

5. Final Consideration

Given the previously mentioned data, it is manifest the complexity and relevance of the approach to the subject. By sketching those ideas, the objective was mainly to present the importance of pedagogy and its need in the criminal enforcement in the open facility.

The information presented does not pretend to exhaust the analysis of this experiment, given the short character of the work, understanding the need to supplement with other data not yet available. However, it is already possible to highlight some initiatives that were part of this program as important contributions to the support of former inmates, one being the percentage of enrollees in the first semester of 2012.

References

- Brazil Law n. 7.210, of July 11th 1984, *Institutes the Criminal Enforcement Law*, Official Gazette of the Union, Brasília, 13 julho de 1984, available online at: http://www.planalto.gov.br/ccivil_03/leis/L7210.htm.
- Ferreira M. R. N. P. and Virmond S. M. (2011). “Penal treatment practices in criminal units of Parana”, Newsletter of DEPEN, Curitiba, PR: State Secretariat of Justice and Citizenship.
- Gonzaga M. T. C., Santos H. M. R. and Bacarin J. N. B. (2002). *Citizenship Hang by A Thread: The Fight for Social Inclusion*, Maringá: Dental Press.
- Ireland T. D. (2011). “Education in prisons of Brazil: Rights, contradictions and challenges”, Open Case, Brasília: National Institute for Studies and Educational Researches Anísio Teixeira, Vol. 24, No. 86.
- Jesus D. E. (1999). *Alternative Measures: Notes to the Law n.9714*, São Paulo: Saraiva Press.
- Martins J. H. S. (1999). *Alternative Measures*, Curitiba: Juruá Press.
- Munoz V. (2011). “The convict right to education: Open case”, National Institute for Studies and Educational Researches, *Anísio Teixeira*, Brasília, Vol. 24, No. 86.
- Paraná (2011). “Resolution n. 94, of 03 of June of 2011: Extend the offer of schooling program”, Curitiba: Official Gazette of the State.
- Paraná (2011). “Joint Resolution at 03 SEED/SEJU, of 05 of September of 2011: Ensure basic schooling at primary and high levels for people in prison settings”, Curitiba: Official Gazette of the State.
- Paraná (2011). “Penal system master plan of Paraná”, State Secretariat of Justice, Citizenship and Humans Rights, 2011, available online at: <http://www.depen.pr.gov.br/arquivos/File/PlanoDiretorSistemaPenal.pdf>.
- Paraná (2013). “Penitentiary statute of the state of Paraná”, available online at: http://www2.mp.pr.gov.br/cpdignid/dwnld/cep_b19_estatuto_penitenciario.pdf.
- Soares Jr A. C. (2013). “The Tokyo rules and suspensory measures in Brazil and Italy: Brief considerations”, Jus Navigandi, Teresina, available online at: <http://jus.com.br/revista/texto/24351>.
- UNESCO (2013). “Educating for freedom: Trajectories, debates and propositions of an educational project for the Brazilian prisons”, Brasília: Ministry of Education, Ministry of Justice.