

DETAINEES' EMPLOYMENT – INDICATOR OF SOCIAL REINTEGRATION

*Cristina DUMITRAN**

Abstract

This article shall provide an analysis of the detainees' employment, as an indicator of their ability to reintegrate into society after release. One of the most acute problems of society is the recidivism, its control and solutions to reduce the crime rate. Over time, work has been considered one of the most concrete methods of re-education, both in prison and after release. In today's society, work is recognized as human, social, psychological and economic value, being established as a human right along with other fundamental rights. Thus, the purpose of execution of sentences with deprivation of liberty is to prevent the commission of new crimes and forming a correct attitude towards the rule of law, towards the rules of social coexistence and towards work, in order to reintegrate detainees into society.

Social policies, programs and projects have been developed in this area, but not being integrated, their effects were not visible or quantified. To this situation is added the pandemic caused by SARS-CoV-2 virus, which places in the background the concern for the category of detainees who have been released and the risk of recidivism that it presents. In this context, against the background of lack of training and qualification, increasing poverty, decreasing the supply of jobs, limiting movement and labor migration in developed areas, an increase in crime and recidivism in the coming years is expected. At present, the educational and therapeutic programs carried out in penitentiaries is no longer in line with social reality, so that criminal strategies and legislation need to be redesigned and viable solutions found for social reintegration of detainees and for preventing the risk of recidivism.

Key Words: *purpose of enforcement of custodial sentence, social reintegration, detainees' employment, recidivism.*

JEL Classification: [K14, K42]

1. Theoretical considerations on crime

High crime and its economic and social costs are one of the most acute problems of society. The crime rate in a society is assimilated by citizens with the failure of the justice system.

At global level, research has been initiated through which different paradigms and explanatory theories on delinquency and recidivism have been constructed, and the effect is assessed to change if the case is intervened. (Țica, 2016) The most commonly used theoretical models are:

* PhD student, Romanian Academy, Quality of Life Research Institute, Bucharest, Romania.

The Theory of Social Anomie (Merton, 1938) postulates that both conformity and nonconformity are responses of the individual to a certain type of social structure that offers identical ideals to its members, but provides them with different means to achieve them.

Behaviorist Theory (elaborated by Goodwin) stipulates that the causes of antisocial acts are due to society, the environment being the main element that contributes to the formation and development of criminal behavior.

The Theory of Social Control explains criminal behavior as the result of lack of internal control of the individual or in the absence of articulated mechanisms and effective external social control.

The Theory of Subculture shows that alongside the dominant culture of a society, there are also certain crime-related subcultures that have emerged as a form of protest against the norms and values of the dominant group.

The Theory of Differentiated Associations (developed by Edwin Shutrland) claims that crime is explained by the communication process that takes place within social groups, where each interprets social and legal norms.

The Structuralism Theory was illustrated by Foucault in 2005 states that "the conditions waiting for released prisoners to exit prison, fatally condemn them to repeat".

The Theory of Social Labeling examines stigmatization as the cause of repetition of offenses.

The Theory of Rational Choice explains the crime and the relapse by stating the fact that the commission of criminal offense is the result of the option to commit that deed.

In The Theory of Withdrawal, two groups are identified: those who persist in criminal behavior because of unfavorable external factors and those who give up this behavior because of their moral character.

The Ecological-Systemic Theory highlights the role that environmental factors have in human development.

Life Course Theory – explains the persistence or giving up delinquency.

Other theories emphasize the easy adaptation of detainees to the prison environment, the environment of origin belonging to different criminal groups.

Psychology and Psychiatric approaches show that recidivist detainees no longer face the problem of adaptation, because in prison detainees form their new family, in exchange for the natural one, from freedom (Jurcău, 2002).

Recently, in studies on crime, the approach to Geographical Demarcation (region) has been introduced as a novelty, in order to put the crime phenomenon in a concrete national context.

Thus, from the statistical situations it was possible to establish the causal relationship between quality of life (poverty, lack of education, social exclusion, risk of victimization) in a region, economic development and crime rates, but also the typology of crime. The lower the employment rate in a community

(unemployment and social assisted people) – being associated with “*poverty bags*”, the higher the risk of crime.

In this context, it was initiated a specific analyze within the Project co-funded from Human capital Operational Program 2014-2020, POCU/380/6/13/125031- “Support for doctoral candidates and post-doctoral researchers: *DECIDE-Development through entrepreneurial education and innovative doctoral and post-doctoral research*”.

Although such studies are in their infancy, the map of the dominance of criminal acts according to the level of economic development of the area is already outlined. Economic, property or personal crimes are committed throughout the country, but there are areas where the share of some is higher than other is (as an example, the crime of “*white collar workers*” is concentrated in large cities, while acts of violence or sexuality, predominate in some regions, different in rural areas from in urban areas).

The approach of regional delimitation has the role of contributing to the adoption of effective measures to control crime in urban and regional sustainable development policies. This theory is starting from the premise that crime results from the interaction of motivation and situation, and preventive factors can be amplified by improving the quality of life. In this context, the “*situational prevention through regional planning*” model can be promoted, which focused on reducing the opportunities to commit crimes in disadvantaged areas.

2. Economic and social benchmarks in estimating crime costs

So far, the social and economic costs of crime cannot be estimated, but only intuited. Once a criminal offence has been reported, the costs of investigating the facts, of identifying the perpetrators and of bringing them to court and, in the case of a conviction, of maintaining the conviction during the period of execution of the sentence shall start.

According to media sources¹, in 2019 the state spent 5180 lei per month for the maintenance of inmates. The unseen costs during the execution of the sentence, in addition to those intended to ensure the rights (food, medical assistance, correspondence, legal and diplomatic assistance, information, transport to courts throughout the country or to various institutions, decent accommodation conditions – space, heat, water, personal hygiene, etc.) are also those related to the educational component – schooling, qualification, therapeutic interventions.

To these are added the social and/or psychological costs of the victim – her protection, specialized assistance to reduce trauma and the family of offender and the implications of social stigmatization on them, especially for minors.

The causal link between crime and the level of economic development has also been determined by applying the causation test for the Granger time series on

¹ http://stiri.tvr.ro/statul-cheltuie-te-5-200-de-lei-pe-luna-pentru-un-de-inut-i-doar-3500-de-lei-pentru-un-copil-din-centrele-de-plasament_842850.html accessed March 2021.

crime variables, the Gini index for income distribution in a population (social inequality) and the total number of criminal cases.

The purpose of this ethological analysis was to check whether the results obtained in same international research were also enforceable against Romania, but also to develop a practical model for analyzing the impact of crime on economic inequality at national level and for estimating the cost unit per crime. The conclusions highlight a single and two-way causal relationship between social inequality, crime and the corruption index.

According to the statistical data provided by the database of the National Administration of Penitentiaries, the structure of detainees by to the criminal category, is as follows: of the 22,010 detainees (increasing by 6,06% compared to 2019):

- 37,75% are recidivists (slightly lower by 1,2% compared to 2019) and
- 27,05% non-recidivists with a criminal record (increasing by 2,2% compared to 2019).

It is no yet possible to make any substantiated explanation on this data, given that 2020 was an atypical year in the context of the pandemic. The decline in recidivism could not be explained by the fact that measures to prevent other crimes have been effective, but by the fact that the presence of national security structures in public places to prevent the spread of the pandemic has prevented/delayed crime.

However, only 35,2% of current prisoners are on trial for their first sentence, with 64,8% spent previously including social reintegration also entering post-detention.

If we take into account the factors that generate crime:

- poverty,
- low level of education,
- lack of a qualification and a job,
- lack of shelter,
- the entourage,
- genetic factors (Dâmboeanu, 2011),

the social reintegration of the detainee in the pre-detention environmental condition is not exactly optimal but will be used by virtue of generalizing its meaning and assimilating it with the process of social inclusion. So, process of social inclusion “represents the set of multidimensional measures and actions in the fields of social protection, employment, housing, education, health, information-communication, mobility, security, justice and culture, aimed at combating social exclusion and ensuring the active participation of people in all economic aspects, social, cultural and political aspects of society”².

An analysis of the educational level of inmates revealed serious problems³:

- 3,49% have completed higher education studies;
- 0,64% have post high-school;

² According to DEX (Romanian Explanatory Dictionary).

³ The Romanian Prison Service Report at 01.03.2021, total detainees in prison: 22.010.

- 8,62% have attended high-school (9-12 school years);
- 10,44% have a qualification in a profession (92,1% of them being in the age group 30-60 years, so that only 7,9% of detainees under 30 have a qualification);
- 62,66% of them did not have a job upon arrest, while only 22% were involved in different domains of activity.
- 59,68% did not complete the gymnasium cycle, being in the I-VIII classes segment (out of the 13.151 detainees in this situation, 4323 are under 30 years old, representing 72,57% of the young detainees);
- 6,74% have illiterate.

This is where the vicious circle begins: without completed studies and without qualifications, the people concerned cannot access a job other than a poorly paid job or “*undeclared work*”. Without sufficient income, they cannot provide for their basic needs: housing, food, heat, health services, etc. When they have families and children, the needs increase without being able to be covered. Against a background of poor quality of life, violence and crime are increasing, as the only option to increase income without prolonged effort.

In the paper “*The impact of crime on regional economic and social development in Romania*”, it is presented that the national economic impact of crime in Romania for the period 1990-2013, is between 1,38% and 3,38% of GDP per year. As a unit of appreciation of economic significance, the author shows that in the same period, public spending on education was on average 3,75% of the GDP per year.

The estimated costs for the Bucharest-Ilfov Development Region between 2003 and 2015 were USD 1,65 billion, between 7,42% and 17,13% of those estimated at national level, with increased impact in the national Economic Development Plan and the concentration of costs in a region (Petre, 2018). If we consider that cost estimates were made only for offenses of theft, murder, robbery, without taking into account the costs of economic crime, cyber crime, corruption, environment, the real impact is much greater.

In the light of the above conclusions, it is assumed that expenditure efficiency should be reflected in a decrease in the rate of recidivism at national level, which is not confirmed by statistical data.

3. The labour of detainees in prison

One of solutions to prevent recidivism and promoted by criminal policies in this area is to increase employment. This means training in jobs required on the labor market and creating new jobs.

According with Law no. 254/2013, the need for a fair attitude toward work is emphasized from the outset⁴. In other words, the role of detention is to prevent new

⁴ Law no. 254/2013, at art. 3 provides that: (1) *The purpose of the execution of sentences and educational measures constraining liberty is to prevent the appearance of new crimes.* (2) *The execution of sentences and educational measures depriving of liberty is aimed at forming a*

crimes from being committed also through the training/qualifying detainees, the acquiring skills and competencies necessary in accessing a job, forming a discipline of work and ensuring increased opportunities for reintegration into society, thus mitigating the causes of crime.

According to the survey, the National Employment Agency annual plans show that yearly budget is allocated for the qualification of an average of 500 detainees. The balance sheet analysis shows that this indicator is reached in proportion of 50%. In conjunction with prison statistics, an average of about 2,94% of non-qualified inmates received professional qualifications.

The bottom line is that although a budget is allocated for the qualification of detainees, this is not a fully exploited opportunity.

The causes identified are multiple: disinterest of the prisoners and a standstill attitude toward work (often considered humiliating to work); failure to meet the conditions for entering courses (one of the requirements being to have at least 8 classes graduated); the lack of lecturers or their willingness to conduct courses with detainees; lack of adequate spaces or necessary materials. Moreover, some of detainees said that *"they did not do so much imprisonment to dig"* – a statement that reinforces the fact that in the prison hierarchy, work is equivalent to losing prestige and the position gained among other detainees (Dobrică, 2010).

A research conducted by Quality of Life Research Institute (Ilie, Rotariu, Tomescu, 2019) in several prisons, highlighted some aspects related to work in detention:

- until the amendment of the law on the execution of sentences in 2013, work in the prison was considered the main form of rehabilitation, in addition, ensuring detainees a qualification;
- the beneficial impact of work on detainees is obvious, with a visible difference between those who work and those who do not work.

As a result of the reform of the justice system, work during the execution of the sentence is no longer mandatory, but is a right, from which the prisoner may or may not benefit.

The modularity of enforcement regimes and the gradual transition from a restrictive regime to one that has greater freedom of movement is conditioned, inter alia, by a good behavior in the work performed and willingness to work.

The part of the sentence that is considered to be executed based on the work performed or of schooling and vocational training is well regulated. In this way, work becomes an attractive opportunity for recovery for the prisoner, who *"starts on a route that prepares him for his or her successive reintegration into the free world"*. Thus, the legislation assigns work a reward function (Regionale di Ricerca della Lombardia, 2010).

According to the enforcement law⁵, detainees *can* work during detention. The benefits of working in the prison are many⁶:

- depending on the nature of the work, they earn up to 7 days for a month worked, which is deducted from the sentence, the period of work performed during detention, accordingly decreases the duration of the sentence;
- a work and leisure program similar to that of freedom;
- passing detention time faster and more constructively;
- the formation of some skills that could help them after their release;
- the working prisoner has the possibility of concluding an insurance contract with regard to the contribution to the state social security budget, prison work can thus be considered as "seniority" necessary for the retirement time;
- qualification in the workplace and issue of certificate to attest the skills acquired;
- depending on the nature of the work provided, the prisoner can obtain financial income from which he is entitled to spend 90% on personal needs (including to support his family), with the remaining 10% being deposited with the State Treasury and being sent to him at the time of his release (to help him in the immediate period of release);
- the individualization of the enforcement regime is to be taken into account *willingness* to work;
- reward the inmate for the quality of the work performed;
- the favorable prediction about the chances of social reintegration after the release and reducing the risk of recidivism;
- negotiated income which "may not be less than the minimum gross basic salary per country guaranteed in payment, in relation to the working hours";
- the diplomas, certificates or any other documents attesting to professional qualifications, professional qualifications or retraining in the course of the execution of the custodial sentence shall be recognized, in accordance with the provision of the law;
- if the prisoner has been obligated to pay civil damages, and he not paid until the date of receipt in prison, a 50% share of the due allowance shall be used to make good the damage caused to the civil part, this is a condition for the analysis for conditional release.

⁵ Law no. 254/19.07.2013 on the execution of penalties and the custodial measures ordered by judicial bodies during the criminal trial, Official Gazette of Romania no. 514/14.08.2013, art. 83-87, Cap. VI.

⁶ GO no. 157/2016 on the approval of the Regulation on implementing the provisions of the Law no. 254/2013 on enforcement of penalties and of measures ordered by the judicial bodies during the criminal proceedings; art. 171, 173, 184.

In other European countries (Italy, Germany), the objective of social reintegration is pursued by the mandatory nature work (and re-education activities) because the prisoner, like the free citizen, is considered to have the right and obligation to work to participate in the material and spiritual progress of society. Moreover, the obligation to work is also justified as a need to pay the state the costs of maintaining the prison sentence.

The Romanian legislation shows that work is considered not an obligation, but a faculty, its exercise bringing to the detainee an obvious advantage.

Of the revenues obtained from work, the prison receives 60%. These amounts constitute own revenues, supplementing the amounts from the state budget allocated to prison. These are mainly used to improve detention conditions, to make routine repairs and to purchase inventory goods necessary to ensure the observance of the rights of detainees (e.g. means of transport, TV sets, refrigerators, furniture required in rooms of ownership or for the smooth operation of social reintegration activities, the equipment of sports hall, etc).

Table 1. Degree of employment insurance for inmates during 2010-2020

Year	Total inmates	Able to work	Index able to work inmates %	Inmates used for labour	Degree of used at labour of the total %	Used at paid work	Used for paid work from the total used for labour %	Used at labour in the interests of the place of detention	Used at labour in the interests of the place of detention of the total %	Income from inmates work excluding VAT - RON -
1	2	3	4	5	6	7	8	9	10	11
2010	27.525	22.258	81	6.458	23	2.062	32	4.364	16	20.089.484
2011	29.263	24.031	82	7.318	25	2.612	36	4.584	16	25.809.350
2012	31.502	26.166	83	8.054	26	2.990	37	4.991	16	29.650.721
2013	32.765	27.297	83	7.848	24	2.923	37	4.860	15	30.858.027
2014	31.847	26.654	84	8.532	27	3.390	40	5.084	16	40.180.725
2015	29.059	24.014	83	8.462	29	3.255	38	5.207	18	43.308.327
2016	27.873	23.025	83	7.897	28	2.769	35	5.128	18	42.301.510
2017	26.218	21.615	82	7.710	29	2.658	34	4.986	19	48.053.184
2018	22.104	18.121	82	7054	32	2573	36	4456	20	58.829.922
2019	20.437	16.590	81	6523	32	2288	35	4235	21	61.016.740
2020	20.743	17.407	-	4664	23	696	27	-	-	19.519.863

The analysis of the involvement in labour and the incomes obtained by the prison system between 2010 and 2020 showed the following:

- the lowest use of inmates in the labour market was between 2010 and 2013, the period associated with the economic crisis Romania experienced: between 29% and 31% of the able to work inmates worked;

- in the period 2010-2013 there was an increase in crime, with number of prisoners rising from 27.525 to 32.765;
- the index of able-bodied inmates in the 10 years has remained relatively constant: between 81% and 83-84% (for the years 2013-2014, when the consequences of the economic crisis were felt acutely);
- the employment rate of detainees in all prisoners has gradually increased every year, from 23% in 2010 to 32% in 2019, although their numbers are relatively constant;
- the percentage of inmates involved in paid work out of the total number of those selected for work is also increasing: from 32% in 2010 to 35% in 2019;
- the percentage of inmates involved in domestic activities ownership has been growing, from 16% in 2010, to 21% in 2019;
- in the last 10 years, 2/3 of the inmates neither has not worked, with the highest percentage being recorded in 2018-2019: 32% of detainees. In contrast to the period 2000-2009, when at least 50% of the detainees were working (the period when the law and attitude toward work was the other), it can be estimated that the proportion of the detainees involved in the work is extremely low;
- it has also been found that the prisons located in the area of Transylvania have the highest number of prisoners involved in work and the highest income, unlike the region of Moldavia and Dobrogea, which is in opposite pole. In this way it is in line with the model of regional development and criminal typologies proposed by Radu Petre;
- in 2020 there was a 22,48% fall in the number of detainees involved in work and a budget deficit of 42,8% of planned revenue, as a result of the safety measures needed to prevent the spread of the pandemic.

From the analyzed decade, it appears that the number of prisoners who have shown interest in working is relatively constant, regardless of how large the carceral population was.

- mainly those who have expressed an interest in working, regardless of the type of work, are those at the first conviction. Their desire to return home and make time pass faster were motivating factors;
- for those with relapse, the work is not attractive. They are adapted to prison environment, they know the written and unwritten rules and the limit to which they cannot be punished, for some the prison is "home";
- those who did not work in freedom and do not have the discipline of work, are not interested in doing it in the prison either, appreciating that "the state is indebted to them to maintain them";
- the lack of qualifications of detainees, leads to employment contracts in field unattractive to free citizens: sanitation, waste sorting, unskilled work in construction, rendering, etc., areas considered "under their dignity" by detainees;

- those with families or who have had a decent social status in freedom are more motivated to work and return to their background than those who have had nothing to lose by imprisonment;
- the lack of punitive measures (punishments) for those who refuse to work or take courses skill, strengthens the mentality "*that can be done so*";
- another factor leading to refusal to work is lack of discipline in work, in the sense that most are not used to waking up in the morning and following a formal 8-hour/day program "*habit being second nature*";
- limitation of jobs (distribution of meals, medical office, etc.) that can bring secondary benefits such as contact with detainees from another categories, the possibility of practicing "traffic" of rare or prohibited goods/objects, access to resources, traffic of influence;
- convincing detainees that the state must pay the price of their freedom and exploit the resources from the budget, without assuming responsibility for breaking the law;
- "*specialization/improvement*" in the mode of operation in committing new crimes is more attractive than work, because it hopes for quick and easy gains after release, so they will not have to work "*in nothing*" for a high standard of living.

These are only some of the considerations regarding prison labor as a factor of change and social reintegration after their release.

In this context, several legislative amendments have been proposed and are being debated:

- "prisoners have *right and obligation* to work in relation to the type of enforcement regime" compared to the current form: "prisoners *may be required* to work";
- "prisoners have *right and obligation* to attend general compulsory education courses" compared to the current form "prisoners *may* attend, depending on the possibilities of the prison, school courses";
- "those who want to benefit from early release *must* work", compared to the current form in which prisoners can be released if they have served 2/3 of their punishment and have had good behavior.

Conclusions

Against the background of the pandemic and its effects on the labor market and standards of living, an increase in crime is expected and with considerable economic impact, especially on taxpayers.

In these circumstances, the change of the detainees' attitude towards work, their qualifications and their involvement in the work are desideratum that lead to the achievement of the purpose of the execution of the punishment: preventing new crimes and creating a fair attitude toward the rule of law and work, as well as human and social value.

In a research report carried out in the UK, Woolf promoted the model of “*Community prison*”. It refers to prison in the context of the community in which it is located. The relationship between prison and community must not be in one sense, that is, not only the prisoner must be the recipient of aid. The prison should get involved in the community, providing help where it can.

Although the Romanian legislation provides for prison labor of detainees calamities or voluntary work, these situations are not exploited. There are very rare activities of detainees who voluntarily get involved in setting up a park or cleaning a nursing home.

For example, in 2019, an average of five volunteer detainees per month was registered (representing 0,024% of the total detainees) and in 2020, a single detainee was registered who volunteered. For calamity situations there have not been records in the last 10 years (although there were communities that were victims of its floods landslides in close proximity to prisons). About this finding, it is difficult to assess whether the decisions belonged exclusively to the prison administrations or was also an act of lack of will on the part of the detainees. For example, in 2016, following the floods, several communities in Moldova were affected; adults and children lost their homes and even their lives. Prisoners, in solidarity with the more disadvantaged groups than they are, asked prison administrations to donate their food ration (mainly bread) to the victims of calamities. This enthusiasm to do good things like the citizens of freedom, the possibility of giving up something for benefit of unknown people, highlights a potential for change that is worth exploiting.

Researchers in the field show the importance of inmates practicing “*altruism*” as a constructive factor in the concept of prison work. In this way, it would increase the sensitivity of prisoners to those more disadvantaged groups than they are (children with problems, elders, etc.). In addition, it would contribute to the increase of self-esteem and to the feeling that they can become voluntarily involved in the life and well-being of the community and would change the image of the community toward detainees and the danger they pose.

This approach to work and the involvement of detainees in the life of society could be a prerequisite for reintegration into society and education for work as a factor of individual and social value.

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