

# Prisons and education, a necessary contradiction

## *Cárceles y educación, una contradicción necesaria*

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### The duality of the penal and penitentiary system

Discussing prisons should involve speaking about educational environments, education, and accompaniment. However, when we speak about prisons, we usually think of impassable walls, isolation, and punishment. This is because prisons and penalty enforcement systems have been, and still are, under a constant duality: from punishment to a second chance, from the need to isolate someone who has committed a crime, jeopardizing the stability of the social order, and the need to provide the community with guarantees and security, to the legal imperative of re-education and reinsertion into society. Many models have been proposed in the history of penal enforcement.

Prisons have been, and still are, the institutions most commonly used to enforce compliance with penalties. 76% of inmates in Spain have been sentenced to deprivation of their freedom, and only 16% serve their sentence outside prisons (Cid *et al.*, 2020; SGIP, 2024). However, there is evidence contrasted by the scientific literature that the flexibilization and application of community service sentences (Giménez-Salinas *et al.*, 2023), as well as restorative justice interventions (Navarro, 2023) have a more efficient impact on social reinsertion processes.

Throughout its history, the penitentiary system has had different ways to enforce punishment, from purely retributive models, through clinically modeled approaches to social-pedagogical models that not only humanize the enforcement of penalties but also have more efficient repercussions on a shorter social reinsertion and view the community as a necessary part of its intervention strategy (Enjuanes, Morata, 2019).

No less important is the fact that the arrival of illustrated ideas brought with it a humanization of punishment, seeking to improve the conditions of life that fostered leaving behind a life of crime. It is evident, however, that later penitentiary policies have marked, modified, and redirected the work and the future of penitentiary institutions, leading the system to a crossroads: on the one hand, favoring more retributive and excluding models, and on the other fomenting

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more educational or inclusive models (Diez, 2011). The continuous increase of sentences (Diez, 2012), and by extension the consolidation of the institution as an excluding and frightening space that favors the determent of crime, have gone hand in hand with the extension and normalization of penitentiary facilities that, under the name of educational penitentiary models, favor humanization and the process of transition to freedom.

In the twenty-first century we still have this duality regarding penal enforcement, especially when compared to the penitentiary policies of other countries, from the Anglo-Saxon models that have opted for more excluding models, with proposals centered around dissuasion such as the *three strikes*, *boot camps* or maximum security prisons, whose results in regard to crime determent have been less than encouraging (Chen, 2008), to European models that favor punishments which underscore change and a return to the community with guarantees, fostering compliance with the penalty within the community, with remarkable results regarding the reduction of recidivism (Lappi-Seppala, 2022).

Thus, Spain maintains a duality in social and penitentiary policies that immerses us one way or the other in a way to understand the penitentiary environment, offering a construction of models that differ greatly and that has led legislators to sometimes go from one extreme to the other in recent years. Policies closer to the penal rights of the enemy, especially in matters of terrorism (González, 2021), or the very application of prison subject to permanent review, have reinforced this idea of *acting out* or the utilitarian theories that seek to deter crime through fear and terror to the punishment consequences (Garland, 2001).

Nevertheless, the legislative system itself looks to the more transformative side, to social inclusion processes, and both the European and the Spanish policies favor penitentiary models based on the limitation of prison as the last *ratio*, the normalization of life in prison, encouraging at the same time models of greater autonomy for inmates, as especially favoring social reinsertion as the main goal. (Cid *et al.*, 2020). along with the dissuasive action of criminal and penal policies, the penitentiary policy increasingly favors models that encourage, improve, and facilitate the transition to freedom, at the same time having an impact on the necessary conditions that foster respect of the law, of themselves, and of the community. Re-education and social reinsertion are being consolidated as necessary aims towards which the penitentiary administration must orientate its action (Delgado, 2004), since not only do they offer positive results (Enjuanes, Morata, 2018), but have a greater impact on the quality of life of citizens who are deprived of their freedom.

### **Educational action as a process of transformation**

It has been established that, as the primary aim of the penalty, although the higher court admits the existence of other aims (Delgado, 2004), the penitentiary administration must orientate its action mostly to the reeducation and social reinsertion processes. By reeducation we unders-

tand the actions that must allow a person to acquire the competencies and skills to be able to live in a community, respecting the current norms and the people of the community. All these actions are carried out with the inmate's agreement and after a personalized diagnostic. By social reinsertion we understand the process of returning to living in a community with guarantees to maintain a lifestyle according to its norms. Although this is a concept accepted by the community, it is considerably more complex to define since there are currently no measurements that allow us to identify an efficient degree of reinsertion. It remains, however, a goal to be attained. Thus, even though the idea of the absence of criminal reiteration (recidivism) has been associated to reinsertion, the latter entails more conditions to be fully achieved.

Nevertheless, we will understand that the social reinsertion process, which does not end with the end of the sentence, should respond to the needs that make the transition from social exclusion processes possible (Castel, 1995; Subirats, 2005). The accompaniment received during the enforcement of the penalty empowers and provides tools to continue the social inclusion processes (Burgos, Amaro, Añaños, 2023). We will understand that a person is excluded (Pastor, 2013), and therefore the goal of reinsertion has not been achieved, when he or she is not able to exercise his or her social rights, when there is a clear devaluation of the person and his or her own capacities to cope with the situation, when he or she is unable to meet his or her social obligations and runs the risk of being socially stigmatized due to his or her situation. Although preventing recidivism *per se* is not the aim of the punishment, it has become established as the standard that allows us to assess the health of our institutions and the achievement of the constitutional aims. However, a model clearly centered on reinsertion processes must have a visible impact on the improvement of competencies that facilitate giving up crime, while favoring the critical factors of inclusion (Subirats, 2005) that allow for a guaranteed return to the community.

Both the reeducation process, centered on training for skills and competencies, and the reinsertion process, centered on accompaniment and transition to zones of no social vulnerability, require educational action that allows the inmate – not without effort, willingness, and time – to achieve such goals. That is, without education, without the pedagogical action required, the penitentiary system cannot provide an affirmative response to its constitutional mandate. Therefore, we may say that penitentiary institutions, although also responding to other aims, are clearly educational institutions (Morata, Enjuanes, 2018). But not all prisons have, just because they are penitentiary institutions, this pedagogical value. In order for a penitentiary institution to be an educational one it must meet three key conditions:

- Adaptation of the penitentiary space to pedagogical action, allowing for the entry of the community (Morata, 2018).
- Change in the profile of the educational attention, valuing the leadership of social-pedagogical professions that allow overcoming older retributive and clinical models.

- And, especially, educational intentionality. Understanding the whole penitentiary space as a space for socialization and sociabilization (Crespo, 2019) that places a value on citizenship construction processes.

Thus, a penitentiary model that is identified with re-educational and reinsertion aims must be developed with specific criteria that allow us to understand that its work, beyond safeguard and control, is one of transformation through pedagogy. We have mentioned that models based on affliction, fear, and punishment, have a negative impact on crime control. Alternatively, social-pedagogical community models have a greater impact on no reiteration of crime (Enjuanes, Morata, 2018), besides making pedagogical action visible and intentional (Morata, 2014).

The criteria required to consider a penitentiary model as an educational one are (Armengol, 2012), first, through a global intervention to arrive to specialized work. It must offer a global educational attention that leads to an impact on the specific needs or traumas of each case. Secondly, it must have a clear educational intention that allows for spaces for the planning and evaluation of the pedagogical actions conducted. All the proposals developed within the penitentiary center must seek to improve autonomy and facilitate life in freedom, ensuring processes of education in active, committed citizenship. Thirdly, the model proposed must prioritize the relationship between peers and the community, favoring not only the entry of the community into the institution, but also making it possible for the inmate to go out of the institution and be in contact with the community outside the penitentiary center. Spaces for discussion, participation, and co-responsibility are necessary as part of the educational process. Finally, the learner, the persona who is the receiver of the educational action, must have a key role in the process. The process of giving up crime goes through a clear willingness to change, required to start building new social identities (Dufour, Chouinard, Lussier, 2023), and this willingness is materialized in the involvement and participation in his or her process of change, a task that must be shared and in co-responsibility with the community itself, an indispensable agent in the process of transition to freedom (Añaños, 2022; Morata, Enjuanes, 2018).

### **Educational penitentiary models, a necessary alternative**

Spain has understood the need to implement a change in its penitentiary model in recent decades, allowing for the consideration of educational penitentiary models. The Therapeutical and Educational Unit (Unidad Terapéutica y Educativa) was created in the Villabona Penitentiary Center in 1992, and the Modules for Respect (Módulos de Respeto) in the Mansilla de las Mulas Penitentiary Center in 2001. In Catalunya, all the Catalanian prisons consolidated in 2008 the Model of Participation and Coexistence (Modelo de Participación y Convivencia). These three proposals opened the way for an action of great pedagogical impact in Spanish prisons in which, centered on working with inmates, efforts have been helped by the community, spaces

for participation and democratic construction have been fostered, and the role of surveillance professionals has become that of an educational actor of great importance (Enjuanes, García, Longoria, 2014), while encouraging leaving behind older lifestyles through experiential inmate training processes (Galán, Gil, 2018).

Educational penitentiary models have now extended to a large part of Spanish prisons, although it is still a pending issue in Latin America where, although they were regarded at the time as an alternative to current imprisonment, satisfactory data both in quality of life (Larrauri, Rovira, Sales, 2017) and in reduction of recidivism (Enjuanes, Morata, 2018) identify them as a necessary reality in penal enforcement. In turn, educational penitentiary models stand out in not only reducing the risk of recidivism, but also, following their constitutional mandate, improving inclusion criteria, strengthening the social support network, and facilitating inmates' returning to the community in better conditions.

### **Some aspects to be improved in the implementation of the model**

As it has been argued in this paper, pedagogical action is necessary for the transformation and later social reinsertion of people deprived of their freedom, although this model still has some aspects to be improved in order to consolidate its implementation in Spain's penitentiary system. First, it must be mentioned that there are no studies conducted from a gender perspective that identify educational strategies that may have a greater impact on female inmates. Some studies show the need to update penitentiary action from a gender perspective (Antony, 2007; Moles, Burgos, Añaños, 2023), an inequality that is present in every country but has a particularly negative impact in Latin American prisons (Antony, 2007), a reality that affects noticeably women inmates and exposes a penitentiary system which is deficient in its deterrence function, especially for its female population (Añaños, Jiménez, 2016). A lack of specific policies centered on particular collectives that demand greater attention is evident, and more intervention in these collectives is required (Añaños, 2013).

A necessary change in the figure of surveillance professionals also stands out. Surveillance professionals, until now trained for functions of surveillance and internal control, must receive training in pedagogical practices that favor combined functions of control and promotion of education for citizenship. These professionals play a fundamental role in this process of accompaniment in deterrence (Güerri, 2019), but in order to do this administrations must support a new professional model, a combined model of social professionals with the basic technical knowledge to perform efficiently the educational work they have been tasked with (De la Cruz, Pérez, Fernández, 2023) and surveillance professionals who are required to have a change in their competencies. Intensive, direct, and continued contact of surveillance officials with more work in the accompaniment processes (Güerri, 2019) must be reoriented, giving them a more significant role in the educational accompaniment processes of inmates, as well as getting them

more involved in spaces of participation and construction of citizenship. Hence, the training of these public officials is a key element between traditional prisons and educational penitentiary models.

### By way of conclusion

The implementation of educational penitentiary models must be understood not just as necessary, but it must in itself be the very definition of the penitentiary system. Prisons must be educational spaces where social and community education, centered on improving personal and social competencies, goes hand in hand with a global intervention plan that prevents social exclusion processes. The impulse of formal education for people to improve their education, have access to a normalized labor market, or the contact with the community that favors the construction of social links are key elements in the reinsertion process that the penitentiary system must incorporate in their daily work.

The penalty enforcement system must rebel against itself and reclaim more educational intervention, taking on the aims of the penalty and understanding that only through can committed citizenship be constructed (Novella *et al.*, 2014). Education has always rowed against the current, and as an alternative to punishment (Rangel, 2013), especially in Latin America, where the influence of Anglo-Saxon models has great impact, but the fact is that education shapes the very *raison d'être* of prisons, their meaning and their orientation, and it is through it that its objectives can be achieved.

We understand that the generalization of educational penitentiary models must strengthen a greater impact on people's transformation process, favor their social inclusion, and reduce recidivism. Such a model does not originate in any particular country but responds to penitentiary intentions and policies that must be driven not only by the academia but also, and especially, by the community and the administrations themselves. This article aims to define the bases of this model which, the specificities of each territory, must be the foundations of what we understand by a prison, a space centered on and oriented towards reeducation and reinsertion, two aims common to and present in Latin American and Spanish legislations.

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