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PREVENTION OF RECIDIVISM - THEORETICAL REFERENCES

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Abstract

Regardless of the model, forms and/or strategies of crime prevention, we believe that a component related to the prevention of recidivism should not be missing. Through this article, we aim to highlight some theoretical aspects that could be taken into account in the foundation of some public/penal policies in our country, starting with conceptual clarifications, pointing out prevention models and representative theories and ending with some conclusions.

Key words: *recidivisme prevention, prevention models, primary prevention, secondary prevention, tertiary prevention, criminological theories.*

INTRODUCTION

In order to perceive public safety and experience feelings of security and tranquility in public space, and not only, it is necessary to identify and promote the concerns of specialists from several fields. Asigurarea unei percepții clare și corecte este determinată de mai mulți factori: de natură economică, socială, educațională și, nu în ultimul rând, cei de sorginte legislativă pentru a cunoaște valorile ocrotite de legiuitor.

Beyond these premises, public safety can also be directly correlated with the level of quality of life, so indirectly also the prevention of recidivism can influence this level.

1. QUANTITATIVE AND QUALITATIVE PREMISES

Chronologically, we should specify that studies carried out as far back as 1993 (*Yvan Bordeleau, 1993, p.1*) show that a significant proportion of crimes (more than 50%) are committed by a subgroup of recidivists representing at most

PREVENTION OF RECIDIVISM - THEORETICAL REFERENCES

10% of all criminals. (*Yvan Bordeleau, 1993, p.90*) According to other authors, recidivists commit 70% of the total number of crimes.

Also, recent data shows recidivism in numbers for our country. So, the recidivism rate is 36% here, compared to the European average of 47%. In Romania, 43 euros are spent every day for a prisoner (of which 80% are staff salaries) while the European average is 64 euros, according to the Council of Europe, Annual Report 2021 on the conditions in the penitentiaries of European states¹.

These quantitative aspects must be supplemented with other elements related to the cost of crime. A few pointers are also needed here, also from Canada (*Yvan Bordeleau, 1993, p.58*):

- \$431 million in unrecovered property and money, unclaimed damages, medical costs, lost wages and insurance payouts;
- almost a billion and a half in police services and another billion in private security; 28 de milioane de dolari cheltuiți pentru urmărirea penală în instanțele penale;
- almost 600 million dollars dedicated to the custody of defendants/convicts, minors/adults;
- \$28 million to help victims;

A total of three billion dollars, which represents only a fraction of the real costs, because social costs are added to them, which are more difficult to quantify. In short, crime is extremely expensive from a financial point of view.

The same conclusions were also evident in a study in which I participated, research carried out within the Institute of Legal Research (Romanian Academy), in the years 2006-2008 (*R.M. Stănoiu, A. Preda, Costul crimei, 2008, p. 51-61*): huge sums from the state budget during the course of a criminal trial (from the investigation to the release from detention of the convicted person), although the team of researchers was unable, for various reasons, to obtain all the figures that could complete the final table of expenses.

We add the fact that there is no national crime prevention strategy in the country, the only one identified being the National Strategy against Organized Crime 2021-2024² (*as an annex to a decision from 2021*).

Last but not least, we must mention the attempt by the Ministry of Justice, as the contracting authority, to sign up a service contract for the development of a study (with three components): the causes of recidivism in Romania, a public

¹ <https://www.dw.com/ro/%C3%AEnchisorile-din-rom%C3%A2nia-g%C3%A2ndaci-plo%C8%99ni%C8%9Be-%C8%99i-tentative-de-suicid/a-62336208>

² <https://lege5.ro/Gratuit/ha4dijnrg4yq/hotararea-nr-930-2021-privind-aprobarea-strategiei-nationale-impotriva-criminalitatii-organizate-2021-2024?pid=412696357#p-412696357>, accessed on 9th November 2022

policy document and an action plan for the prevention of recidivism in Romania, the estimated total value, without WAT, reaches at 397,815.29 lei, which had 24.10.2022 as the deadline for submitting offers in SEAP. Probably the reported figures regarding recidivism in our country also justified this scientific approach. We note that field/empirical research looks at interdisciplinary aspects involving jurists (specialized in criminal law and criminal procedure, and another in criminology), sociologists and psychologist.³

Our approach will be supplemented with practical aspects pointed out by a probation counselor with more than 15 years of experience in the Bucharest Probation Service, namely Dr. Andreea Faur.

2. CONCEPTUAL DELIMITATIONS

One of the elements of the study object of Criminology is the social reaction to crime, criminal, criminality which can take many forms. The forms of social reaction can be: official/unofficial, repressive/preventive, etc.

Among these classic classifications, the second one is relevant for the stated theme, as it also refers to social control (replacing the outdated term "combat" and prevention. If we refer to the first, then we have to consider the following levels: the establishment and application of sanctions, methods based on intimidation and coercion, etc. If we refer to prevention, then we have in mind: resocialization/ attempts at reintegration, alternatives to imprisonment, etc. We also specify that prevention takes place on several levels: at the level of society, at the level of the community, at the level of the family, at the individual level.

As Andre Lemaitre rightly points out, "whether it is an academic or a professional concern, no observer can escape the fact that in recent years we have witnessed a great resurgence of interest in crime prevention" (A. Lemaitre, 2014, p. 9).

The problem of prevention began to take a much more important place, now being known even with the status of a sub-branch of Criminology (D. Szabo, 1983, p. 9).

But how is prevention defined? As Prof. Gassin (R. Gassin, 2011, p.852-858) also remarks, following types of definitions over time, prevention is an imprecise notion that has multiple definitions that involve criticism (something that is so obvious that it does not need to be defined until the opposite of repression) and benefits.

Consequently, we underline to a definition of a renowned Canadian professor who claims that crime prevention includes non-coercive actions on the causes of crime with the specific aim of reducing their probability and severity. (M. Cusson, 2002, p.9).

³ <https://www.juridice.ro/802757/ministerul-justitiei-organizeaza-licitatie-pentru-elaborarea-unui-studiu-a-cauzelor-recidivei-a-unui-document-de-politici-publice-si-a-unui-plan-de-actiune-pentru-prevenirea-recidivei.html>, accessed on 10 November 2022

PREVENTION OF RECIDIVISM - THEORETICAL REFERENCES

Romanian authors (*Gh. Nistoreanu, C. Păun, 1996, p.207*) manage a broader definition. They designate crime prevention as a permanent social process that involves the application of a set of social, cultural, economic, political, administrative and legal measures intended to prevent the commission of antisocial acts by identifying, neutralizing and removing the causes of the criminal phenomenon.

3. PREVENTION MODELS

While many agree that prevention is a must, each society has embraced the security model that best responds to the current political trend and conveyed values. By focusing on one aspect of prevention rather than another, it tends to influence the crime rate in the sense of reducing it by identifying criminogenic risks and acting on criminogenic factors. A historical overview seems necessary to highlight elements of continuity and discontinuity in the construction of types of models or returns to the diversity of existing models and presents the different forms that delinquency prevention can take (*A. Lemaître, 2015, p.3*)⁴.

3.1. Classical model

It has two important sides: general prevention and special prevention. The general prevention is ensured by the intimidating effect of the punishment, by the force of the example generated by two premises:

- the more severe is the punishment provided by law, the more others will refrain from committing the criminal act; - the more certain and faster the application of the law, the more obvious the preventive effect will be (*A. Lemaître, 2014, p.209-210*).

3.2. Social model

It appears as a reaction to the limits of the previous model and is also generated by the increase in crime worldwide, implicitly in recidivism (*A. Lemaître, 2014, p.211*). In essence, it is about educational actions to stop the evolution of the individual towards maladjustment and antisocial, calling on institutions and specialists. (*Gh. Florian, 2005, p.18 și p. 20-26*).

It proposes three levels of achievement and involvement in prevention activities, such as:

► *Primary prevention* - at a general level - specific measures in the social, economic, cultural, educational fields to annihilate criminogenic situations and that predominate the involvement of the community, even some welfare of society (*Gh. Florian, 2005, p.19 și p. 27-30*).

► *Secondary prevention* – at the level of criminogenic risk groups (early identification), but also of criminogenic areas

⁴ http://www.reflexions.uliege.be/cms/c_406085/en/la-prevention-criminelle-miroir-de-notre-societe?part=3

► *Tertiary prevention* – activities designed to avoid the risk of recidivism (A. Lemaître, 2014, p.214). Actions are taken for the treatment, re-education, re-socialization and social reinsertion of ex-inmates.

Analyzing the present model, we notice that the third level concerns the very subject of the present debate, but we cannot fail to mention that it cannot be applied to any societies because it implies a certain level of social cohesion, a cultural integration of all ethnicities and minorities, as well as a pronounced civic spirit of such a nature as to ensure community awareness. Also, if we carefully observe the first two types of prevention, we notice that they are primarily aimed at *preventing victimization*, regardless of whether it refers to society as a whole or to groups with potential victimization. In this context, we also mention the efforts of a small group (9 founding members: lawyers, psychologists, medical staff, teaching staff, etc.) that wants to contribute to the efforts of specialized public authorities and to that of some NGOs, also specialized, to identify the black figure of victimization, participate in victimization prevention campaigns, conduct studies and contribute to the adaptation of legislation according to the results of the last one. (<https://victimologie.ro/>, <https://www.facebook.com/profile.php?id=100086504680117>)

3.3. The situational model (preventive techno)

In summary, it aims to reduce the opportunities to commit antisocial acts, through simple, realistic, low-cost measures. (A. Lemaître, 2014, p.214). As such, it is focused on protecting people and property using police officers and other experts in the field. (Gh. Florian, 2005, p. 31).

The model specifically targets potential victims, prompting them to take precautionary measures that are mainly two categories:

A. *Security measures* that make it difficult to commit crimes (making targets more difficult).

B. Measures influencing the *risks and benefits* of criminals (marking of property, technical surveillance, ensuring zonal surveillance).

4. CRIMINOLOGICAL THEORIES

Among the criminological theories of sociological origin, I selected from the consensual model, the theories of social control, appreciating that the theories from the conflict model are not relevant in relation to the proposed theme.

4.1. The theory of Walter Reckless

The premise from which the author starts is: *Why in the same circumstances, some people commit crimes and others do not?*

The containment theory, promoted by Reckless in the first half of the 20th century, believes that crime can be prevented or restrained at two essential processes: one located at the level of social organization, the other at the individual level. (R.M. Stănoiu, 2006, p. 214).

PREVENTION OF RECIDIVISM - THEORETICAL REFERENCES

Here are some of the conclusions he reaches that are relevant to the topic under study. His theory is based on a hierarchical construction, in relation to the individual's ability to curb the social and psychological conflicts he faces. Internal and external factors occupy a position between the pressures and attractions (pulls) of the social environment and the impulses (pushes) of the individual personality. At the top of the hierarchy are the social pressures that press upon the individual. These social pressures are: poverty, unemployment, economic insecurity, family conflicts, minority group status, lack of opportunities, social inequalities, therefore socio-economic and family. At the same level are the social attractions that pull the individual outside the accepted models of life. Such

At the top of the hierarchy are the social pressures that press upon the individual. These social pressures are: poverty, unemployment, economic insecurity, family conflicts, minority group status, lack of opportunities, social inequalities, therefore of a socio-economic and family order. At the same level are the social attractions that pull the individual out of accepted models of life. Such attractions include deviant influences, harmful companies, delinquent subcultures, a certain media coverage of crime.

According to Reckless (*R.M. Stănoiu, 2006, p. 215*), the individual's immediate (immediate) environment represents a first external brake (e.g. family/friends and includes factors such as morality, supervision, discipline and reasonable standards of expectation. If these barriers are weak, the individual is vulnerable to social pressures and attractions.

Inside the individual there are internal brakes, such as a high tolerance for frustration, a sense of responsibility, an adequate goal orientation.

Internal brakes are the last line of defense against internal and external pressures and attractions. Finally, the bottom end of the hierarchy consists of psychological impulses. These include varying degrees of hostility, aggressiveness, suggestibility, revolt, rebellion, need for gratification,⁵ reactions of guilt, feelings of inferiority and other organic deficiencies such as brain damage or epilepsy.

According to Reckless, some of these psychological impulses are usually too strong in relation to internal and external brakes.

This theory posits that the social control⁶ - that constrains the tendencies to deviance, delinquency, and crime—included the "inner" (i.e, strong conscience or "good self-concept") and "outer" forces of isolation (i.e, parental supervision and discipline) and school, strong group cohesion). The author thinks that both

⁵<https://www.google.com/search?q=containment+theory+criminology+definition&oq=containment+theory+&aqs=chrome.9.69i57j0i19i512l9.10294j1j7&sourceid=chrome&ie=UTF-8>, accessed on 11 November 2022

⁶https://en.wikipedia.org/wiki/Walter_Reckless, accessed on 12 November 2022

internal and external limitation are essential between the pressures and pulls of the external environment and the impulses and forces from inside.⁷

4.2. Theory of Travis Hirschi

It is called the bonding theory, it is also part of the of social control theories (the consensual model) and, although it dates from the 70s of the last century, its theory still arouses interest for theorists and practioners from XXI century (*Travis Hirschi, 1969, p.55 apud https://in.sagepub.com/sites/default/files/upm-binaries/36812_5.pdf*)

According to Hirschi (1969), virtually all criminological theories existing up to that time began with a fundamentally flawed premise: criminal behavior requires, in some form, the existence of criminal motivation. A follower of the schools of thought promoted by Hobbes and Freud, Hirschi, on the other hand, began with the opposite premise to another criminologists: that we, from birth, possess the hedonistic impulse to act in selfish and aggressive ways that lead to criminal behavior. Consequently, Hirschi believes that most people have antisocial tendencies, and these tendencies are actualized only when social control weakens. Therefore, it is more concerned with identifying and ranking the causes of conformity. In his studies, he tries to show what are the elements that keep the individual away from committing crimes. He found the answer in the bonds people form toward prosocial values, prosocial people, and prosocial institutions. These connections, Hirschi argued, come to control our behavior when people are tempted to engage in criminal or deviant acts.

As such, he concludes, the probability of the individual becoming deviant or conformist depends on:

1) *attachment* (defined as a psychological affection towards certain persons or institutions), such as towards parents, school, group of friends - in general, towards positive models; (*T. Hirschi, 1969, p.58*)

2) *engaging* in a conventional line of conduct (the importance of social relationships that people value and would not want to risk/endanger by committing crimes or deviant acts. In essence, Hirschi noted that people are less likely to misbehave when they know they have something to lose. They need a relatively stable climate around them and an established schedule, especially during the week);

3) *involvement in conventional activities* (school, cultural, sports, etc.); refers to the opportunity costs associated with how people spend their time. Specifically, Hirschi appealed to the old philosophy that "*the hands are the devil's workshop*" (*T. Hirshi, 1969, p.59*) meaning that if people spend their time engaged in some form of prosocial activity, then they are not tempted to waste their time in antisocial activities. For example, youth who are heavily involved in legitimate school-related activities—whether academically, socially, or athletically—will not

⁷ idem

PREVENTION OF RECIDIVISM - THEORETICAL REFERENCES

spend the same amount of time doing bad things, such as destroying property, stealing things that don't belong to them, shooting, using or stealing heroin and so on. But, this doesn't mean, of course, that such young people cannot engage in those behaviors before or after their legitimate mentioned activities. However, Hirschi argued that, at least during that period of vocational activities, such young people will not commit any crime.

4) *the belief in conventional values* (respect for elders, teachers, etc.) (R.M. Stănoiu, 2006, p.216). The final type of social bond identified by Hirschi is belief, which refers to the degree to which one adheres to values associated with law-conforming behaviors; the assumption is that the more important such values are to a person, the less likely he is to engage in criminal behavior. For example, young people who don't appreciate that it's a bad idea to skip school and instead value spending money every day playing the latest version of Guitar Hero (music video game) and smoking marijuana are more likely to become criminals. Although this relationship is quite simple, the basic concept that Hirschi was exploiting was that there is an important link between attitudes and behavior.

Perhaps the most significant element of Hirschi's theory is that these prosocial connections bring us together and they remain in our lives to keep our behavior in check. So, prosocial bonds bind us, and can control our behavior even when that persons are no longer there.

CONCLUSIONS

Some conclusions are necessary and, in our opinion, they could be the following aspects:

- *the need for pilot studies with recidivist subjects, which correlate the etiology with the forms of social reaction in specialized institutions, with qualified personnel (interdisciplinary teams, such as the National Institute of Criminology)*
- *empirical research of the type of experiment before/after, based on questionnaires, interviews, psychological tests applied to recidivists*
- *types of interventions at microgroup and individual level through post-penal assistance (economic, educational, cultural, health measures/transition houses)*
- *the essential role of municipalities in finding solutions for the reintegration of recidivists*
- *encouraging commercial companies/public institutions that hire recidivists*
- *Psychotherapy Centers for recidivists, (each of them presents a certain personality profile, structured differently as a result of various experiences lived and/or filtered with a certain intensity)*
- *transitional houses for recidivists, recommended for those who do not have a family to return to, do not have a secure job, and have lost or not had the skills to be responsible, etc.) In such homes they can learn and/or relearn how to*

household, how to manage their financial resources, how to spend their free time as they are monitored by teams of specialists who have certain schedule hours when they provide counseling to recidivists assigned to such homes. After a certain period of time, in which they prove to the specialists that they can manage on their own, they become independent and socially reintegrated, professionally they can leave these homes, with the consent of all the specialists who supervised them for a certain period of time (Quebec model).

- *involvement in projects regarding the prevention of victimization* (Decision no. 592 of May 27, 2021 regarding the approval of the National Strategy for the prevention and combating of sexual violence "SINERGIE" 2021-2030 and the Action Plan for the implementation of the National Strategy for the prevention and combating of sexual violence "SINERGIE" 2021 -2030 and in victims` studies (Romanian Society of Victimology).⁸

BIBLIOGRAPHY

Articles

Yvan Bordeleau, "Pour un Québec plus sécuritaire : partenaires en prévention ", Québec, 1993;

Maurice Cusson, *Prevenir la delinquance*, PUF, Paris, 2002;

Gh. Florian, *Prevenirea criminalității. Teorie și practică*, Ed. Oscar Print, București, 2005;

Travis Hirschi, 1969, Key idea: Hirschi's social bond/social control theory, Causes of delinquency. Berkeley: University of California Press;

Gheorghe Nistoreanu, Costică Păun, *Criminologie*, Ed. Europa Nova, București, 1996;

Rodica Mihaela Stănoiu, *Criminologie*, Ed. Oscar Print, București, 2006;

Rodica Mihaela Stănoiu, Aura Preda, *Costul crimei*, Revista de Drept penal, nr. 4/2008, R.A. "Monitorul Oficial", București;

D. Szabo, *Discours inaugural*, le IXeme Congres International de Criminologie, in *Annales Internnationales de Criminologie*, Viena, 1983.

Internet Sources

https://www.securitepublique.gouv.qc.ca/fileadmin/Documents/police/publication_s/table_ronde/rapport_table_ronde-prevention_criminalite.pdf;

<https://www.dw.com/ro/%C3%AEnchisorile-din-rom%C3%A2nia-g%C3%A2ndaci-plo%C8%99ni%C8%9Be-%C8%99i-tentative-de-suicid/a-62336208>)

https://en.wikipedia.org/wiki/Walter_Reckless;

https://in.sagepub.com/sites/default/files/upm-binaries/36812_5.pdf.

⁸ <https://victimologie.ro/>