Rehabilitation in the justice system

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Within the new paradigm of integral protection, which is characterized precisely by the integrality of rights and policies that build citizenship, criminal policy must meet the criteria of the last ratio . The criminal justice model within this paradigm corresponds to a criminal responsibility model with guarantees clearly demarcated in international human rights law ( ).

Restorative justice is not explicitly established either in the Convention on the Rights of the Child ( cdn ) or in the different soft law instruments on juvenile justice, but the possibilities for it to occur within juvenile justice systems ( sjj ) are derived from the various human rights instruments in the field of criminal justice that have been developed for every person, from those specific to children, as well as from doctrinal and jurisprudential developments on the subject. This is because both restorative and juvenile criminal justice start from the same premise, the minimum criminal intervention to reduce the negative consequences of punitive power over adolescents.

While it has been pointed out that restorative juvenile justice ( jjr ) is a central feature of criminal justice models in line with the cdn and other instruments, both at the local and regional level the definition and implementation of these systems have described trends that should be studied to determine whether or not they are consistent with a truly guarantee criminal responsibility model (Cole, Smith & DeJong, 2018).

While the new procedures are defined as participatory, characteristic of the criminal processes of the new democratic orders, a central theme of the different reforms was that of the victims. The victim is a participant in the process that must be taken into account for any action that affects their interests. The search for the guarantee of your rights is an objective in most of the new procedures.

In order to specify this participatory characteristic of criminal proceedings, restorative mechanisms such as conciliation and mediation have also been established next to the inclusion of victims in the process, which although they occur for minor offenses, have achieved an important role in the New procedure. These mechanisms are proposed as complementary to the criminal justice system through incidental hearings, as a condition to start or continue the proceedings, or as a consequence of the conviction. (Batastini, Hill, Repke, Gulledge & Livengood,2018).

Within this framework of change in the judicial systems in Latin America begins to give , from the last decade of the twentieth century, a process of adaptation of domestic legislation as a result of the obligations undertaken by countries to the ratification of the CRC, process that occurs in different regions of the world simultaneously. In the region this process is developed in the same period of democratization, so that the eagerness to recover the rule of law could be a factor that contributed to the introduction of the new model in different countries. Within this framework, the introduction of restorative juvenile justice is possible in the region. The legislative definition and subsequent implementation of juvenile justice systems has not been uniform; however, the restorative approach has been incorporated in most countries, with particular characteristics in each of them.

Within this justice model, the principle of exceptionality, both in judicial proceedings and in deprivation of liberty, provides the basis for alternative proposals from which restorative proposals can be built. The forms of alternative are given through the judicialization and deinstitutionalization of sanctions, and they must respect the legal guarantees and human rights of the adolescent and the victim.

The Risk-Need-Responsivity model

The RNR is a model that characterizes persons deprived of liberty according to the risk or likelihood of recidivism of the crime (Campbell, Miller, Papp, Barnes, Onifade & Anderson, 2019) with recidivism being understood as the repetition of criminal conduct. Correctional development work is understood as a system of medical, pedagogical, psychological measures (influences) that contribute to the full development of children, overcoming deviations in their development and serving the goals of habilitation and rehabilitation of children with disabilities or any children experiencing learning difficulties and social adaptation . Correctional and developmental work is an additional activity to the main educational process, which contributes to a more effective development of the child, the disclosure and realization of his abilities.

The general goal of correctional and developmental work is to promote the individual, create conditions for the realization of his internal potential, help to overcome and compensate for deviations that impede his development. The name of the model stems from the three basic principles that are taken into account for the process of structuring and organizing the intervention of persons deprived of liberty: Risk, Necessity and Responsibility. (Batastini, Hill, Repke, Gulledge & Livengood,2018).

This model seeks to predict criminal behavior, study it and generate the relevant treatment. To do this, it takes into account eight predictors of criminal potential and classifies them into primary and secondary factors (Batastini, Hill, Repke, Gulledge & Livengood,2018). Rehabilitation work with a child with ASD in the conditions of an educational organization will be effective if it is carried out comprehensively by a group of specialists in four main areas: correctional work with a child, developmental work with peers, educational work with teachers and support for parents of such a child. The model of rehabilitation approved the Risk-Needs-Responsivity (RNR) model.

During the scientific-practical conference on reforming the penal system, which was held on September 10, 2009 in Moscow, the tasks for reforming the penal system were identified. The solution to these problems is aimed, on the one hand, to further humanize the system of the execution of sentences, and on the other, to increase its ability to achieve the goals of correcting convicts and preventing them from committing new crimes. A set of measures to solve these problems was reflected in the draft Concept for the development of the penal system for the period until 2020. (Campbell, Miller, Papp, Barnes, Onifade & Anderson, 2019)

According to the draft Concept, juveniles sentenced to deprivation of liberty will serve their sentences in correctional facilities of a new type - educational centers with regular and intensive supervision(Campbell, Miller, Papp, Barnes, Onifade & Anderson, 2019). The main principle of the formation of a system of educational centers for juvenile convicts will be to ensure their separate content, depending on the public danger of the crimes committed and the level of criminal infection of the individual. It is also planned to change approaches to the implementation of social, psychological and educational work with juvenile prisoners in educational centers based on the use of individual forms of influence, wider interaction with the public.

Obviously, working with this category of people requires appropriate social and rehabilitation support, which allows them to be effectively re-socialized to the living conditions in modern society. Undoubtedly, the main task facing the modern penitentiary institution for minors is the organization of psychological, pedagogical and rehabilitation activities, which should be carried out taking into account not only the age, but also the individual (psychological, physiological, criminal law) characteristics of the convicts. (Viglione, 2019).

All this predetermines the objective need to consider the establishment of a new type of correctional facility for juvenile convicts, taking into account European standards of prison activity, as well as accumulated domestic and foreign experience. The main objective of this institution should be to organize a comprehensive, complete system of the execution of imprisonment for persons who have committed a crime in their minor age, aimed at socializing the person. Rehabilitation services decided to develop a new type of correctional facility for juvenile prisoners.

The model includes a description of the goals and objectives of the educational center, its functional and organizational structure, the conditions for serving the sentence and detention. The model also presents the characteristics of the educational center management system, offers are made to organize certain areas of its activity, an approximate calculation of the staffing level is developed. Suggestions on the material base of the educational center are given, issues of training personnel for working with juvenile convicts are considered. (Viglione, 2019).

The model was prepared taking into account the provisions of the draft Concept of the development of the penal system, based on an analysis of international standards of penitentiary activity, domestic and foreign experience. Statistical and other data on the execution of the sentence of deprivation of liberty for juvenile convicts, census materials of minors serving their sentences, the results of a survey of employees of educational colonies, expert assessments and photographs of working hours of staff of educational colonies were used. The conceptual model contains the following main provisions that predetermine the novelty of the educational center and its differences from the educational colony (Cole, Smith & DeJong, 2018).

The structure of the educational center makes it possible to ensure continuity and continuity of work with minors from the moment they are detained until their release , to protect minors from influence from adult criminals, and to prevent the spread of criminal subculture. This, in particular, is achieved through the inclusion in the structure of the educational center of the premises functioning in the pre-trial detention center (Dyck, Campbell & Wershler,2018) a section for the maintenance of juvenile convicts, an isolated section of the penal colony (prison) of general regime , and a social rehabilitation center .

Due to the creation of educational centers of two types (with regular and intensified supervision), separate detention of juvenile convicts with the highest degree of criminal infection and the rest of the inmates is ensured. The educational center with ordinary supervision is designed to serve sentences by minors first sentenced to imprisonment. The educational center with enhanced supervision is designed to serve the sentence of juvenile convicts who had previously served a sentence of imprisonment, as well as minors convicted of especially serious crimes. Such a division will help prevent the spread of criminal subculture among convicts, as well as increase the effectiveness of educational work with people (Campbell, Papp, Barnes, Onifade & Anderson, 2018). . The difference in the organization and content of the activities of an educational center with enhanced supervision from an educational center with routine observation will mainly consist in a higher density of supervision of convicts and an increased degree of protection of the institution, as well as in the features of social, psychological and educational work with convicts taking into account the greater degree of their criminal infection (increased intensity of socio-pedagogical and psychological support, the use of various medical and psychological techniques).

The organization of corrective action in the educational center has cardinal differences, since it involves the rejection of the detachment system and the transition to individual and group forms of work. It provides for the optimization of the number of juvenile convicts in collectives based on a multidisciplinary approach. This innovation will ensure the individualization of the process of corrective action, the priority in the work of psychological, pedagogical and social methods and forms of influence on convicts. Social work is positioned as a coordinating principle for the application of remedies and re-socialization of prisoners. The conceptual model provides for the transition from a squad form of work with convicts to work with a multidisciplinary group of minors. Several approaches (criteria) to the formation of multidisciplinary groups (sections) of convicts are proposed:

1. depending on the social neglect and criminal infection of the convict, his susceptibility to social and pedagogical impact;
2. depending on the criminal law and criminological characteristics of the convicted (violent crimes, mercenary crimes, mercenary-violent crimes, etc.);
3. based on the principles of coeducation, training, work (class, study group, team).
4. In addition, it is necessary to take into account criteria such as psychological compatibility of convicts, age, the presence of various kinds of chronic infectious and other diseases (HIV infection, etc.), etc.

At the same time, for the implementation of psych correctional and other rehabilitation measures, it is proposed to form cross-cutting multidisciplinary groups according to additional criteria (drug addicts prone to aggression, etc.). Events with such groups are carried out according to separate programs in special rooms at the allotted time for this (work of a psychologist, psychiatrist, social worker, social teacher, teacher, master, etc.).

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