

# Italian Penitentiary University Centers: Promoting The Inclusion Of Prisoners Through University Education.

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## **1. INTRODUCTION**

Entering a prison might change your destiny for the worse because the bars dehumanize and make you lose your freedom and the dignity of the human being (FOUCAULT, 1976; MELOSSI, PAVARINI, 2018). Hence the need for penitentiary facilities to become not only places of custody but also of recovery of the man who committed crimes to transform him into a better person. This change could be promoted through a path of reintegration based on work, affectivity, and education to legality. In Italy, the educational task has been extended to all levels of education, recently completing higher education through the establishment of the PUP (University Prison Pole). The result has been achieved thanks to Memoranda of Understanding between Italian universities, the Department of Prison Administration (DAP), and the Regional Prison Administration Agencies (PRAP) which have allowed prisoners to follow university courses in prison. The establishment of Italian PUPs is an excellent educational experiment, unique on the international scene. The first University Prison Pole (PUP) was founded in 1998, in Turin and from that date until today, 92 Prison Institutes have been set up, involving 30 Universities, 177 Departments and 269 Degree Courses for a total of 926 (897 men, 29 women) students enrolled in the academic year 2019/20. The percentage of prison university students enrolled in prisons, out of the total prison population, is about 1%. Among them, there are prisoners in external criminal execution who have undertaken their studies in prison and who continue them when they obtain benefits, but also prisoners who are serving their sentences under special, more restrictive regimes, such as high security and 41-bis. This model of education is in line with the philosophy of the Council of Europe which is expressed through the European Prison Rules, including Rule 28.1 concerning free access to all prisoners in education programs, while Rule 28.7 refers to the possibility for prisoners to continue their journey after their release. The commitment of Italian universities within prison institutions is also in line with supranational standards such as the *Nelson Mandela Rules* and the standards of the *Cpt* (Committee against Torture), which dialogue in parallel with national standards and lay the foundations for the humanization of the penalty.

Initially, education in prison was imposed during the Fascist period as religion and work. Education was considered one of the three medicines useful to make prisoners socialize with the dominant ideological orientations on social order (CESARO, 2019). They were considered educational and, at the same time, also afflictive (RUOTOLO, 2014). This philosophy of indoctrination changed following the 1975 reform of the prison system, which affirmed

prisoners' rights. This is confirmed by the fact that education at the European level comes very close to what is required by Article 19 of the Italian prison system. Although it should be noted that, while the Council of Europe aims at the personal growth and training of the individual, before the prisoner, it does not claim a fully enforceable right but a concession to study in prison.

### **The right to university studies in the penitentiary sector**

This right to university studies will be put into practice thanks to the availability of the directorates of the individual institutes and PRAP managers and the sensitivity of individual teachers or groups of teachers and the interests expressed by the prisoners. The fragility and weakness of the social right to education and "justifiability" are seen in the difficulties some Regions and many penitentiary institutions have to offer this right (PRINA, 2016). Although there were no more precise rules of positive law, which were subsequently approved, the Prison Administration was organized through circulars and opinions. The opportunity presented during the States-General on Enforcement organization in 2015, in which it was possible to state definitively that *education and professional training are to be considered permanent or inalienable rights of the person, also escaped*. It was not possible to draw up useful rules that would make studying in prison a substantive right and facilitate the conditions for making it effective. The Legislative Decree of October 2, 2018, no. 123 and 124 (Official Gazette of October 26, 2018), implementing the law delegating reform of the penitentiary system, no. 103 of 2017, are, for example, lacking the practical application of the right to study, so that each penitentiary institution, in the absence of a homogeneous discipline at the national level, could implement the law with its own regulations. In real life, the rights of prisoners - which could be summarized in the right to formal equality, personal freedom, health, religious freedom, family, correspondence, housing, freedom of conscience, personal identity and privacy - compared to the enjoyment by free persons, have a different expansive capacity that depends significantly on the state of detention. Prisons, in fact, for reasons of control and security, can compress these rights, even if there must always remain an inalienable residue of freedom, which is all the more valuable because it is the last area in which the individual's personality can expand (Court of Justice ruling No 349 of 1993). The right to education within the prison, which has come to be affirmed as a social right, must also be guaranteed with full respect for prisoners' freedom of self-determination (PENNISI, 2002; DOLCINI, 1981; NUVOLONE, 1963). Schools, as well as universities, have therefore become indispensable elements of re-educational treatment within prisons, to be offered as an opportunity to the individual temporarily detained, with a view to his or her reintegration into society, through positive actions that help him or her to redefine his or her life project and to take responsibility towards himself or herself and society (Circular of the Ministry of Education no. 253 of 1993). If the right to treatment finds its full basis in Article 27 of the Constitution, which establishes the principle according to which *the penalty must aim at the re-education of the convicted person*, it is necessary to start from the assumption that the re-education must be accepted voluntarily by the prisoner inside the penitentiary. Analyzing education as the main point of treatment, we would note that Article 34 of the Constitution recognizes the right of everyone to attend *school* and the most capable and deserving, even if without means, *the right to reach the highest grades of studies* (ATRIPALDI, 1974). From this, we can easily understand that the study must be open to everyone regardless of any indication regarding the personal condition of the aspiring student. The right to education within the prison requires concrete actions for its guarantee (provision of ad hoc classrooms, computers, and books to be made available, etc.)

which are a benefit to some prisoners, which must be subordinate to the needs of security and treatment which do not always make it easy to implement (SBRACCIA & VIANELLO, 2018). The University Prison Poles projects show that it is possible to create a space concretely for the protection of the prisoner's rights as a student, maintaining a high level of security.

### **Prison education and the experience of PUPs (University Penitentiary Poles)**

The university is not only involved in teaching and research but is also an essential instrument of social inclusion and promotion, which, in the case of prisons, is immediately apparent. The universities' commitment must be, even before their third mission (as a form of public engagement), that of recognizing the right to study for all, even for those who live a particular regime of deprivation of personal freedom. This process of exchange with the outside world makes it possible to promote a different prison image that is not too stereotypical. In the framework of removing obstacles to education, the university must recognize the specific needs of education, taking into account age, previous employment experience, socio-cultural background, and the extent of the sentence to be served, organizing itself in structured Policies. For this to be possible, it is essential (PALMA, 2019): 1) Continuity: a transfer policy that respects the right to study is needed; 2) Equivalence of one's educational task to dissimilar subjects; 3) Removal of fears linked to the technologies applied to prison institutions.

Support for the study of students enrolled in the University Penitentiary Pole would affect the Foucault (FOUCAULT, 1976) and Goffman (GOFFMAN, 2001) conceptual model of prison, as a direct place of an ever-present constraint (BUFFA, 2014). Besides, students would have the opportunity to experiment with different teaching methods, ranging from face-to-face to e-learning and controlled Skype, which inevitably are in contrast with the traditional vision of prison as a place where security must always prioritize.

The university study can stimulate the self-education of all the learners. In the case of prisoners, the responsibility and autonomy of the convicted person are promoted by eliminating the most evident critical issues such as the mobility of prisoners, which is the leading cause of school/university dropout. The needs linked to prison displacement have justified, in the past, the sudden and massive transfers of prisoners to places often far from their home territory. This high turn-over of prisoners, in fact, which occurs mainly in the District Homes, not only makes it impossible to complete school and university cycles structured in a traditional way, but even the validation of the paths already taken.

The decrees of October 2, 2018, n. 123 and 124 reiterate in various provisions the principle of the proximity of the prisoner to the place of residence, both during the institution's assignment and with possible transfers (Article 14 Op. and Article 42 Op.), to avoid the breaking of family and social ties. Finally, the courses must be structured in hours compatible with the work activity, and in some cases, the university student himself may request an exemption from any type of work assignment. In essence, the legislative decrees have changed little or nothing compared to Law 354/75, reiterating the need for memoranda of understanding and conventions with university institutions to facilitate study in prison. The article must be interpreted broadly in favor of the study of prisoners who enjoy alternative measures to detention, such as semi-freedom, providing additional economic benefits that guarantee a valid right to study for those in difficult economic circumstances and encourage prisoners to participate in university courses (DELLA CASA & GIOSTRA 2019). If anything, the problem could exist in case of an application by the supervising judge of house arrest because the alternative measure usually provides for the total inhibition of internet, telephone, and other means of distance communication, which could preclude the right to education. The judge

could perhaps decide differently on the corollary measures to house arrest, perhaps admitting social networks only for cognitive and non-communicative purposes, or even in favor of a different measure such as semi-freedom, which would better guarantee the possibility to attend university courses by semi-freedom students.

### **Critical aspects**

Education within prison systems becomes a drive for change that not only conditions prisoners but also educates the community to a new culture of punishment. To this end, it is essential: to overcome problems related to educational materials such as books, handouts, and computers, which can take months to reach their destination due to the slowed down rights of prison administrations, to new educational tools of a technological nature, such as the extensive use of the internet in the off-line mode for educational purposes only to monitor exams, dates, upload video lectures, talk with tutors and teachers, but also to take exams.

In light of the recent health crisis that has inevitably involved the prison system, remote teaching is now more than ever an essential method. Moreover, Pups must become, as the acronym suggests, poles that bring together, in few central prisons, prisoners from other neighboring prisons who wish to study at the university level, to provide them with suitable environments and equipment and more appropriate technology. However, this possibility of enjoying the "status" of Pup student is not granted to all prisoners since internal regulations of prisons vary and may place restrictions on transfers for "academic" reasons.

The problem of mobility also affects the preservation of the "status" of detained students. Leaving the original prison of the Pup, to another prison or placed under house arrest, can lead to the phenomenon of abandonment of studies (BASEVI, 2018). On the other hand, the problem cannot be solved by compartmentalizing prisons-universities, because it would entail too high a cost.

Finally, in the light of the 2019 funding, we note that the funds allocated to education, recreation, and kindergartens for the children of inmates were only 2.2% of the Department of Prison Administration's budget. If we consider, moreover, the very high costs of setting up an Internet connection, which involves, among other things, security constraints, it is essential to concentrate university students in a few Poles in order to contain the costs linked to technology, the university library or exceptional organization of university courses (BASEVI, 2018).

Then the best solution is to concentrate the Pups in a few prisons larger and closer to distinguished universities for size and resources, which through agreements with other prisons adjacent to them, would solve the problem of tax relief and lead to substantial savings. In order to obtain tangible results, it is advisable to identify best practices that are homogeneous throughout the national territory, rather than favouring a differentiated governance that facilitates the different background and historical path of the universities participating in the Pups' project. Recently in Italy, the imitation effect and the importance that universities, like companies, give to lance sheets (i.e., to those activities beyond the first mission), have favored, instead of the proliferation of small Pups.

At the moment, each Pole is autonomously living this experience based on the meeting between the interests of the inmates, the individual teachers and the availability offered by each Directorate and by the heads of the Regional Prison Administration Department (PRAP) to facilitate the meeting between supply and demand of the studies carried out by the inmates concerned. In order to facilitate coordination between universities that are involved in prisons, the National Conference of Rectors' Delegates for Prison Universities (CNUPP) was established by the CRUI and associated universities in 2018. The CNUPP must represent in a

unified way the requests arising from the university system and the centralized and local prison administration. Since there are still many universities that have not committed themselves to offering opportunities to students in prison, the objective is to establish at least one PUP for each Region. Secondly, it would be appropriate to establish a university network to coordinate access to the regional PUP offering.

Finally, it is crucial that homogenous forms of agreements between UEPE (External Enforcement Office), PRAP, prisons and universities are ensured (for example, in the event of relocation, or on the occasion of release from prison).

A further step towards the inclusion of prisoners in society was taken by the Protocol of September 11, 2019. It identifies the guidelines for common and shared poles: free students can enter prisons, and joint research and in-depth study activities can be carried out in prisons. A framework of minimum conditions guaranteed by all the Rectors will soon be put in place: a package of shared rules on the same mandatory regime, distance learning, recognition of the teaching commitment, and the administrative structure of joint teachers' tutors and dedicated staff.

In conclusion, the university's presence within the prison structures would act as a flywheel for the respect of rights that differ from education thanks to its ability to make visible to society what happens within the prison walls. Universities should set themselves the primary objective of creating a network between the prison and the territory, in a path of rapprochement that leads to the recognition of a person with their own dignity, helping them reintegrate into the social context. To do this, the most significant challenge that the poles will have to face will be that of bringing the excluded closer to the university world by allowing them to resume interrupted studies or to start them from scratch to prepare them for their return to society or simply to allow them to spend their prison time differently. The choice of studying in prison is a choice of civilization that will bring a new cultural climate into the secret prison rooms that will radiate new light not only on the students in prison but on the entire prison population, especially in the face of the risks in Italy of radicalization we see today that could bring the prison system back to the Middle Ages.

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