

OCCUPATIONAL THERAPY - POSSIBLE SOLUTION FOR PREVENTING THE BREACH OF CRIMINAL LAW AND SOCIALLY REINTEGRATING OFFENDERS

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Abstract

This paper aims at giving a brief overview on occupational therapy, a less known branch belonging to health science, which focuses on improving the cognitive, physical and motor skills within the individual. For its obvious benefits, one would like to propose to apply this treatment to criminally convicted individuals in order to better achieve their social reintegration. In this regard, occupational therapy can increase the offender's self esteem, so that, finally, his social reintegration could become successful. Therefore, current trends in occupational therapy are outlined and a short historical evolution of this branch of health science is also provided.

Keywords: *occupational therapy; therapy through work; reintegration of offenders; preventing criminal behaviour; overpopulated prisons*

1. Introduction. Outlining the Concept

The interest in the topic of occupational therapy in the field of criminal sciences lies in the very notion of the term 'criminal science'. As defined in the legal dictionary, 'the criminal law science is a branch of legal-criminal science which represents a system of knowledge expressed in concepts, theories, ideas intended to explain the need, purpose and tasks of criminal law, to establish the methods of investigation for legal and criminal phenomena, to develop legal means to prevent and combat crime by means of the criminal law¹.'

What is meant by occupational therapy derives from the words that compose it. Having an occupation means being involved, committed and really participating in a motivated manner. Therapy means being treated for an illness, disability, or handicap.

Occupational therapy is the art and science directing the patient into participating in certain activities to rebuild, strengthen or improve one's performance, to facilitate the acquisition of those skills and functions that are required for adaptation and productivity, as well as for the reduction or correction of the pathology, so as to maintain one's health status. The fundamental concern of occupational therapy is to maintain and develop a person's capacity to satisfactorily perform various activities for

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¹legeaz.net/dictionar-juridic/stiinta-dreptului-penal-si-procesual-penal. See, as well, M. A. Hotca, *Manual de drept penal. Partea generală* - Criminal Law Textbook. The General Part, Universul Juridic Publishing House, Bucharest, 2017, p. 22-25.

oneself and others and to learn to control both oneself and the environment².

Occupational therapy or any other type of lucrative activity represents a means of expression, allowing the suffering person to transform into reality what one has seen, lived or imagined³.

Occupational therapy activities involve thinking, planning, making assumptions and choices, so that, at the end of the activity, the disabled person would be proud to have created a useful object. This gives an empowering feeling, as well as a sense of achievement and self-confidence, helping to structure both the status and role of the person, who becomes socially acknowledged⁴.

Occupational theory belongs to non-pharmacological treatment methods, applicable from pediatrics to geriatrics. Health, designed as a dynamic state, represents the expression of the real internal relations of the body with the environment, in order to achieve an active balance or, expressed otherwise, is the ability to respond to the changes that take place in the environment through appropriate adjustment.⁵

2. Occupational Theory: Brief Diachronic Evolution

One could trace the usage of therapy through activities and movement a long time ago, when the primitive human civilizations appeared. The Greeks believed that inactivity causes incapacity, whereas the Egyptians treated melancholy through

music, games and recreational activities. One owes to Hippocrates the school of European medicine, named in Greek 'Asklepiades'. The Greeks built sanatoriums in selected areas near hot water springs that healed the sick; massages, exercises were born here, and, on mentally ill persons, the Greeks practised 'catharsis' in order to release them from the tension that affected their mental health. The Greeks found out that a particular type of climate and water may be effective in healing people. These findings are considered the starting point for the development of the occupational method as a type of therapy.

After the fall of the Roman Empire, in the 5th century AD, barbarian invasions dominated Europe. Therefore, medical science, arts and culture experienced stagnation up to the Renaissance (1200-1500), when they were again brought to light. During the Enlightenment (1700-1830), the question of having an occupation started being studied as possible therapy. During the 18th and 19th centuries, psychology, anatomy and physiology rapidly evolved, more specialized and nuanced treatments being provided. During the Second World War occupational therapy was widely acknowledged, although this method is credited to Brawn, a Scottish, who initiated this treatment (of having an occupation) at the end of 1830. At the end of the 19th century, occupational therapy became a known treatment.

² *Terapia ocupațională în psihologia clinică* – Occupational therapy in clinical psychology (www.fundatiagrigoire.org).

³ Șerban Dragoș, *Recuperarea cu ajutorul terapiei ocupaționale* – Recovering by means of occupational therapy (www.recuperaremedicala.com)

⁴ Claudia Matei, *Ce este terapia ocupațională?* – What is occupational therapy? (<http://www.helpautism.ro/terapie/ce-este-terapia-ocupationala>).

⁵ Raluca Hudorca, *Terapia ocupationala si ergoterapia* – Occupational therapy (<http://biblioteca.regielive.ro>).

3. Occupational Therapy as Medical Science

In the United States, the first physician to use the concept of moral and occupational therapy was Benjamin Rush, who was recommending exercise, work and music as part of the treatment for mental illnesses. Having an occupation became an occupational therapy in the early twentieth century.

In Adolf Meyer's opinion, mental imbalances were the result of dysfunctional habits. Consequently, treatments were structured as a symbiosis between fun activities and treatments through work which included productive activity, personal contact with an instructor (therapist), which was very important as, for the patient, it meant accumulation of experience.

In 1905, Susan E. Tracy discovered the benefits of having an occupation in reducing nervous tension and wrote the first treatise on occupational therapy, in which she described the activities chosen for each patient. She considered that the interpersonal relationship between the instructor and the patient represented an important element for the success of the treatment through occupational therapy.

In Herbert J. Hall's opinion, activities involving hands and mind represent an influential factor in maintaining the physical, mental and moral health of the individual in a community. Hall's studies are deemed to provide the first systematization on the importance of having an occupation as part of one's mental health.

Eleanor Clarke Slagle was a social worker who exhibited interest in the negative effects of inactivity characterizing mental patients in hospitals. In 1915, she organized the first professional school for occupational therapists in Chicago. The interdependence between physical and

mental components accounted for identifying the essential elements necessary for achieving successful therapy, grading activities from simple to complex, focusing attention on a goal and accomplishing the goal. Among the methods used in the program, the following could be mentioned: manual activities, vocational and pre-industrial work, playing games, dancing and gymnastics.

William Rush Dunton, Jr. is considered the father of the profession involving occupational therapy. As a psychiatrist, he started using occupational therapy in 1895, as a treatment for the mentally ill patients.

According to George Edward Barton, occupational therapy is 'the science which trains and stimulates patients into developing activities so as to use their energy to achieve a beneficial therapeutic effect.'⁶

In the UK, occupational therapy was introduced in a psychiatric hospital in 1919, to provide care for the soldiers wounded in the First World War. In 1925, the first occupational therapist, named Margot Fulton, began her work in the field. In 1930, the first occupational therapy school was founded at the initiative of Dr. Casson, and, six years later, an occupational therapy department, as well as a training centre were founded.

In Spain, although occupational therapy is not defined as a profession, as a matter of fact, this therapy has been used in the form of recreational and occupational activities, in psychiatric hospitals. Starting with the 15th century, this method has been used in Valencia and Zaragoza. The moral treatment recommended by Pinel consisted of healing procedures such as offering words of advice for the soul and using gentle forms of address, complying with the internal

⁶ <http://html.rincondelvago.com/Teoría y Técnicas de la Terapia Ocupacional>

regulations of the establishment, as well as using occupational therapy in the moral treatment. As for the hospital professional hierarchy, the occupational therapist was part of rehabilitation services. Therapists were also used in other domains, for example to deal with drug addicts and convicts in locked-up rooms.

In 1962, in Spain, the first course on occupational therapy was completed in the hospital unit which today is called 'Hospital de la Princesa', course which represented the basis for the future occupational therapy school. The goals of occupational therapy school are: to train specialized personnel who would meet specific requirements in order to obtain the title of occupational therapist; to organize postgraduate training courses in order to specialize and further train the already qualified personnel. As a result of the University Reform Act, occupational therapy was included in the field of health sciences⁷.

4. Occupational Therapy and Criminal Sciences

In our opinion, the link between occupational therapy and the legal means to combat crime and to prevent this phenomenon is especially important, because offenders have a certain type of deviant personality, whose features could, at some point, signal and thus anticipate the possibility of them breaking the law.

According to criminal law regulations, the state is responsible for both preventing and combating crime, and the criminal sanction is applied after the criminal act is committed. Therefore, occupational theory, by means of any type of work, not only manual labour, could be more appropriate for the persons who have suffered criminal

conviction, or who are prone to committing crimes.

Occupational therapy is closely linked to psychology because it is not possible for work therapy to produce positive effects beyond some coordinates describing personality traits of the person prone to committing criminal acts.

For this method to become effective in the field of criminal sciences, we consider that the state should focus more on the human personality, using psychological programs for testing students' behavior and personality, in order to prevent crime. In other words, it is necessary to assess any individual's behavior since childhood, as deviant elements can be found ever since this age. Later any deviant behavior turns into disharmonic personality, which, in case some normality limits are exceeded, may lead individuals to commit crimes.

In the past, in the period prior to the fall of the communist regime, such programs were used in Romania to test the future high school students' professional orientation, as well as their skills.

In our opinion, this kind of testing could shed some light on any individual's future development, because by establishing his professional skills and temperamental traits by specialized personnel, the adolescent / the young man is thus encouraged to pursue a profession for which he has inclinations and, at the same time, he would start thinking that both his family and acquaintances positively appreciate his choice, eventually gaining psychological comfort.

If we survey the reasons given by people who have committed crimes or who have broken the law in various forms, we would discover that these subjects always find some kind of justification that originate in their personality traits. Thus, the analysis

⁷ Ibidem

of the reasons will undoubtedly lead us to highlight some disharmonious personality traits that originate in their behavior ever since childhood.

The role of psychologists in preventing or, subsequently, socially reintegrating convicted persons is important, because they can provide beneficial solutions regarding the social adaptation of the subjects who suffer from behavioral deficit.

By means of tests, specialists in psychology can predict the development of the individual considering his temperament, as well as the limits of his weaknesses and strengths. Thus, tenacity in achieving a goal, in case the upper limit is evinced, can turn into a weakness, as it delineates a purpose inconsistent with normality, i.e. tenacity can generate commission of offenses in order to achieve his goal.

If we analyzed violent offenders, we would easily see that before these people get to break the criminal law there are a series of signals that anticipate their deed. For example, those convicted of robbery would motivate the commission of the offence by the lack of appropriate living conditions: the lack of a job, the desire to earn money easily, the gang they belong to. Committing an offense or participating in committing it as part of a criminal group occurs after a thinking process, which ends up with taking a decision by means of which the criminal law is broken. We consider that this decision-making process really involves the individual personality traits: convenience, the desire to easily acquire financial means, lack of professional ambition, lack of self-esteem, contempt for social and moral rules. One could easily identify the characteristics of the antisocial personality disorder in many offenders; this type of antisocial behavior started in adolescence and, unfortunately, neither family nor school examined it thoroughly.

In our opinion, one type of personality disorder that could generate violent criminal offenses is dependent personality disorder. Individuals with these disharmonic traits develop addiction to some people, circumscribing their vital universe to the respective relationships. In practice there have been cases when persons, most often partners in a sentimental relationship, committed violent crimes in the event that his/her partner wanted to break up, because they could not cope with a changing situation. Most often, in their past, these individuals exhibited elements that could result in disharmonic personality: dependence on a teacher or a parent, fear of change.

The question that can be addressed refers to the policy the state could address in order to prevent the perpetration of crimes or to facilitate work reintegration of the offenders after the execution of sentences.

Definitely, a perfect solution does not exist, but the state can address certain policies to reduce crime rate, by reconsidering some existing projects.

Thus, we believe it would be useful to reintroduce student personality tests, as this would indicate the professional areas that adolescents could pursue in order to subsequently obtain satisfaction in their professional life.

Therefore, we consider that an effective method of preventing the commission of offenses is directing the individual, depending on his/ her personality, to an end that could give him/her dignity and satisfaction, to place the individual on a scale of values that he/she would appreciate. Also, programs by means of which these individuals could become aware of the importance of their position in society might prove useful as far as the common interests of their social group are concerned, depending on age. In this respect, the young generation should be determined,

by psychological techniques, to realize that the taking up an activity that matches personal skills will not only lead to group appreciation, but also to the formation of family life in the future, with partners who have both the same interests and the same standards.

We also believe that the education system is very important, in the sense that teachers should give special attention to students' behavioral changes. Admonishing students who do not comply with school discipline does not seem to be an effective method, because it turned out that the reaction of teenagers or young people is manifested by dislike of the teacher in question, or fear of repercussions, which can lead to truancy.

An older method, which may prove effective in this case, would be talking to a friend of the student in question, who would be directed and asked to identify the cause of behavior change. Once the cause has been identified, the teacher would contact parents of the student in question, requesting them to talk to their son/daughter and adopt a proper attitude attuned to their child's personality. Simultaneously, the teacher would entrust the student in question with organizational responsibilities, which would give him/her weight in his/her school group. The method of allocating responsibilities is also useful for adolescents or young people who develop an inferiority complex.

Another extremely important aspect is the one regarding prison conditions and the programs available in prisons, as imprisonment amplifies personality deviations; thus many cases which involve repeated offences could be explained. In the prison system, there are ongoing collective schemes in which offenders enroll not only because they need activities to spend their time on so as to correct certain disharmonic traits of their personality, but mainly because they are eager to reduce the length

of their prison sentence. Therefore, in our opinion, individualized programs are more effective than collective ones, as, following discussions with the offender, psychologists could assess his/her skills and recommend integration in the group which shares the same interests.

As many other countries, Romania has initiated programs to prevent the incidence of criminal behavior, programs which could rehabilitate and socially reintegrate offenders. Thus, from 9 to 10 June 2017, Bacău Penitentiary and Secondary School no. 22 Bacău organized the third edition of the International Symposium on the topic 'Education - the main means of preserving the freedom of the soul in prison', in partnership with 'Vasile Alecsandri' University of Bacău, School Inspectorate Bacău, Bacău City Hall, TART Association, together with the National School for Penitentiary Officer Training Tg. Ocna and other institutions, but also with international partners: University of Chişinău - Faculty of Psychology and Pedagogy, Asociacion Cultural Euroaccion, Murcia, Spain, Istituto Istruzione Secondaria Superiore 'Paolo Frisia', Milan, Italy, Associazione Lotta alla Marginalita, Salerno, Italy, Vilnius Youth.

During this symposium, proposals focused on exchanging experience and best practices to improve the psycho-pedagogical approach in educational institutions, prisons and other educational centers, both in order to increase opportunities for rehabilitation and social reintegration of detainees and to reduce aggressiveness and aggressive behavior in the educational environment. Its specific objectives are: exchanging experience on the implementation of innovative educational, psychological and managerial approaches, identifiable in partner countries; exchanging best practices on improving educational approaches employed in prisons, in order to improve the self-image of the inmates who undergo

training so as to rehabilitate and reintegrate them into society; promoting cooperation between educational institutions and strengthening the European dimension in education⁸.

5. Penitentiaries in Europe

According to the Council of Europe, Spain's network of prisons is considered among the most civilized in the world. Spanish prisons do not only represent the place where offenders are confined, but also the place where they could be reformed and later successfully reintegrated. Prisoners may benefit from professional training in specialized areas covered by agreements with industrial companies. Moreover, those who are incarcerated can attend university courses due to agreements concluded with higher education institutions. In prisons, inmates have access to individual bedrooms, infirmary, education, sports, courtyards, barber's, library, dining hall; the food is distributed according to special diets: a general diet, a diet for patients (low-salt, for individuals who should not eat salt; diet recommended for diabetics; diet for those suffering from allergies) a vegetarian diet, and another for Muslims⁹.

As far as Romania is concerned, the European Court of Human Rights (ECHR) ruled in numerous cases concerning prison conditions in our country. A noteworthy aspect was that relating to prison overcrowding.

To some extent, one possible solution to prison overcrowding is cooperation among states. Thus, competent authorities may identify a state where crime rate is low

and penitentiaries are not fully occupied. If such situation existed, the Romanian state could send offenders to prisons in other countries to execute their sentence against paying an amount which would represent the sum allocated for a convict in Romania. Hypothetically, a state holding unoccupied prison beds might be interested in getting some money from the Romanian state, as they could use it for the maintenance of that space.

A system similar to the one described above was adopted by Norway and Sweden, by agreement between the two countries. In Sweden, the authorities were forced to close four prisons and a center for detention, because the prison population was steadily declining. 'Norway understood that punishing a person by imprisonment and treating him as a waste of the society, by offering him the worst possible things generally results in embittering that person. So, this Scandinavian country began not only to invest in new modern detention facilities, but also to change the treatment of detainees. Inmates, regardless of the offence they committed, are treated with respect and, most importantly, are helped to reintegrate in society. Both Norway and the countries in Northern Europe have changed their approach. And the effects are seen, because firstly number of offenders dropped and secondly recidivism rate is below 40%, in some cases even below 20%, while the recidivism rate in the rest of Europe and in Romania exceeds 65 - 70%.¹⁰

In Halden, as in any other prison in Norway, prisoners cannot just stay on their own in their room watching TV – although they have everything they could possibly need in the 12 square meter-cells they

⁸ Press briefing, *Education - the main means of preserving the freedom of the soul in prison* - international symposium, www.comunicate.ro.

⁹ Carlos Salas, according to www.idealista.com

¹⁰ Nicoleta Andreescu, executive manager of APADOR – CH (The Association for the Defence of Human Rights in Romania – the Helsinki Committee), according to www.mediafax.ro

occupy individually – they are forced to choose between work and education. Thus, they can enroll in various courses such as chemistry, physics or philosophy, they may choose to specialize in one of the seven occupations for which the penitentiary offers diplomas (e.g. carpenter, mechanic, metal worker etc.), or they may even learn to play a musical instrument in one of three recording studios. ‘Halden Prison is the place where luxury and harmony are at home’¹¹.

As far as the insertion into society of the offenders who executed their punishments is concerned, we consider that their professional future should be sketched while they are still serving time in prison. Thus, special emphasis should be placed on the aspect of obtaining a job in order to be able to sustain oneself. As the Romanian society is governed by the laws of the free market, and therefore, when it comes to jobs’ supply and demand, the state should implement measures to encourage entrepreneurs who hire offenders who have executed their sentence, taking into account the company’s profile as well as the skills of the person in question. This is how recidivism rate for criminal offences might be reduced: if there was less reluctance towards the persons with a criminal record, ex convicts could find a job and earn an honest living after leaving prison and they would not be tempted to break the law again. ‘The punishment is that he is here. Some people must be imprisoned, but the main purpose of a prison should be to integrate them into society and bring them in a much better shape than they were when they came here,’ said Nils Öberg, general manager of Swedish penitentiaries, in an interview with The Guardian.

In one of his research papers, Doran Larson, professor of English and creative

writing at Hamilton College in New York, explains how Scandinavian prisons rehabilitate incarcerated people and manage thereby to turn the offender into a citizen well adapted to living in the community. Larson says that executing sentences in these ‘human’ prisons may be more effective than those served in conventional prisons, because they distract prisoner’s attention from the bad deeds he has committed and which have brought him there. ‘Imagine that you live knowing every minute of every day that this place is not your home, these people are not your family, your friends, your children, but, nevertheless, they help, support you and do not regard you as a criminal, but as a man who has made a mistake and can mend his ways. Nothing here feels unfair or unreasonable. It makes you realize that you committed a crime serious enough to be locked in here, and that now you are making some effort to turn over a new leaf’ adds the American professor.

6. Conclusions

Occupational Therapy helps improve the performance of the human being, who thus becomes independent again, from an occupational perspective. This therapy can be applied in hospitals, specialized centres, mental health institutions, but also in or outside prisons and within probation services. Thus, applying occupational therapy on an offender (regardless of the nature of the deprivation or restriction of freedom provided by the sentence being served) can determine, firstly, an increase in self-esteem, confidence in one’s own strength. The offender’s achievements by performing various activities can improve the way in which he perceives himself. Self-esteem, optimism regarding one’s own possibilities of expression may have the

¹¹ Gabriel Mihai, November 8, 2016, according to www.evs.ro

potential to facilitate the reintegration of an offender into the society that he harmed by committing the offense.

The example of the Scandinavian penitentiary system is enlightening and it should be implemented in the prison administration in Romania. To this end, the necessary legal framework should be

created, and, more importantly, the appropriate solutions for the implementation of occupational therapy should be identified. In the absence of effective procedures by which the offender could be helped to return to society, law, no matter how good it were, it might lack content and purpose.

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