

FUNDAMENTS IN THE PARADIGM OF DESISTANCE

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Abstract: The recent decades have been marked by the emergence of the *paradigm of desistance in relation with the people in conflict with the penal law*. Unlike the traditional criminological approach which aims to study the causes of the offending behaviour, the paradigm of desistance focuses on the factors which lead to quitting the infracting behaviour. In this paper we will systematize the main research conducted in the field of desistance, which captured the importance of a multitude of factors involved in this process. We will also try to show how much the institutions from the correctional sphere (probation, penitentiaries) may get involved in the initiation and support of the desistance process.

Keywords: *desistance, rehabilitation of the offenders, infracting behaviour*

1. Introduction

Traditionally, starting with the 19th century, the concern of the criminologists was to provide and answer to the causes making some people to commit infractions.

All these concerns have been subsumed to the *etiological criminology*, the research showing, in time, the existence of a multitude of factors involved in the assumption of an infracting behaviour. Thus, it was considered that the underlying cause for infractions consists of a multitude of physiological, genetic and social factors, whose knowledge and identification form the premises for a successful progress of the process of rehabilitation/social integration of the offenders.

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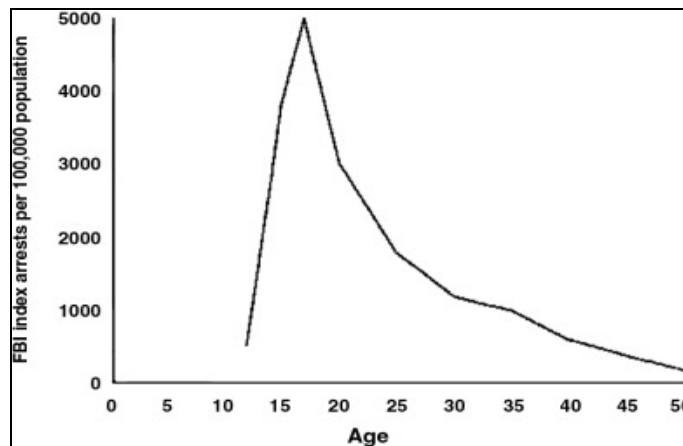
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Starting with the second half of the 20th century, criminology researches which no longer focus on the causes of the infracting phenomenon, rather on the identification of those factors which may induce the people to abandon this behaviour.

These concerns rely on research and observations on the offending career of people, research which captured the fact that as the people get older, the intensity of the offending preoccupations reduces consistently. On the other side, the transformations within the systems of penal law regarding the efficiency of the community sanctions were directed towards several aspects such as the adequacy of these sanctions or the identification of the particular way of sanctioning which ensure both the requirement of public protection and of the social reintegration of the people in conflict with the penal law (Nicolăescu V., Sandu O., 2009)

The figure below relies on several researches conducted in the United States of America (Blumstein, 1988) and it is exemplificative for the correlation existing between the age of the infractors and the *intensity* of their involvement in infracting activities.

One can notice an intense involvement in infracting activities particularly of the minor and young offenders, with a peak of the infracting career around the age of 20, only to decrease obviously as the people get older.



Within this context, the paradigm of desistance appeared in the research of the infracting phenomenon, desistance being defined as the process by which the infractors abandon the infracting behaviour, with or without the intervention of the institutions from the system penal justice (Weaver, 2007).

It is important to highlight that when we are speaking of the process of desistance, we take refer exclusively to the category of the infractors who persist in their infracting behaviour, those who develop true infracting careers.

In Romania, there have been no consistent actions towards the process of abandoning the infracting career, the concept of *desistance* being rather new.

Under these conditions, we consider that the review of the main theoretical aspects characterising the paradigm of desistance will be useful for the future studies of this phenomenon.

2. Theoretical foundations of the paradigm of desistance

The underlying theories formulated during the recent decades, which explain the process of desistance, have been assigned to three categories: individual, structural and interactional theories (Weaver, 2007).

The *individual theories* have been formulated at the beginnings of the study of desistance, phenomenon understood as a consequence of the inherent process of maturation. The criminologist David Matza introduces in his book *Delinquency and Drift*, the idea of restructuring the deviant behaviour (*maturational reform*), towards its abandonment, when the juvenile delinquents get matured (Matza and University of California Berkeley. Center for the Study of Law and Society, 1964).

Later on, the abandonment of the offending career as the delinquents mature, was explained by their *ageing*, associated to their incapacity to get involved in delinquent activities (Gottfredson, 1990).

These two individual theories have in common the fact that they set a connection between the phenomena of maturation/ageing and the accompanying physical, mental and biological changes, the abandonment of the delinquent behaviour appearing as a normal fact, which occurs irrespective of the social, temporal or economic context (Weaver, 2007).

Under these circumstances, the phenomenon of desistance is seen rather as an automatic, spontaneous act, which will occur anyhow, with no real possibility to control or influence it.

Unlike the individual theories, the *structural theories* enrich the explanation of the process of desistance by the fact that they associate it to several circumstances which are external to the person, circumstance that may inhibit the delinquent behaviour.

Several researches, that we will refer to in this paper, revealed the importance of some factors such as the existence of a stable relation, of a job, or of community integration, in taking and maintaining the decision to abandon the offending career.

Regarding the importance of the family for the process of desistance, the studies (Farrington, 1990) showed that the single people have higher rates of delinquency than the married people. Subsequent research on the mechanisms by which marriage contributes to ending the offending career, subsequent research (Sampson R. J., Laub J. H., Wimer C., 2006) detailed the factors which promote desistance among the married people: change of habits, change of the groups they attend, new routines of the everyday life; surveillance and monitoring (at least indirect) by the family members, etc.

Some of the mechanisms noticed within the family and which support the mechanism of desistance have impact (Sampson R. J., Laub J. H., 2003) on the existence of a job. Thus, the necessity of organising the time so as to preserve the job, contributes to the change of the quotidian habits, the consequence being the abandonment of the delinquent career.

Another factor with impact on the process of desistance consists of the *peer associations*. The impact of the peer associations on the start of the infracting career was studied in the 1960s by the criminologist Travis Hirschi (Hirschi & Selvin, 1967).

The process of maturation determines the appearance of substantial changes in the relation of the individual with the group of friends from the period of teenage. Several changes which occur, such as finding a job or establishing a family, lead to fewer contacts with the group members, implicitly, fewer opportunities to commit delinquencies.

Thus, the existence of a family limits drastically the time spent with the group of friends (Warr, 1998). Moreover, the family members also act as a factor of control/surveillance of the former delinquent.

Another factor contributing to the reduction of contacts with the group of friends and, implicitly, eases desistance, is the work. Besides the reorganisation of time, which we mentioned earlier, the constant involvement in a working activity contributes to the abandonment of the former group of friends, and spending the time with the work fellows, which can be examples for pro-social life (Wadsworth, 2006; Wright, 2004).

However, some research (Graham, 1995), revealed that the factors which we mentioned previously, do not contribute necessarily to the desistance of the delinquents. Thus, the existence of a family or of a job *per se* does not provide factors inhibiting the offending career. Most important is *that they are perceived* by the delinquents as being important, and therefore, invested with a specific value, the involvement in a subsequent offending career bringing important losses when related to these factors (possible separation from the partner, loss of the job, disappointment of the friends etc.)

Furthermore, we must not fall into the trap of formulating simplistic explanations regarding the emergence of desistance into the life of the people with a history of delinquency. For instance, even if the perpetrator starts a family, which offers a supportive environment and which exercise control over him/her, explaining the abandonment if the infracting behaviour exclusively from this perspective may lead to neglecting other factors of similar importance for this process.

Thus, it is as well possible that the decision to start a family is based on pre-existing changes in the life style of the perpetrator, a reconfiguration of his/her system of values and beliefs, an analysis of the losses suffered due to a life based on law infringement, all of them contributing to the substantial transformations occurring in the life of the former culprit. Under these circumstances, as expression of his/her will to change, he/she may get involved in working activities, may start a family of may review his/her attitude in relation with the group of friends frequented previously.

Practically, as highlighted (Krohn, Lizotte, & Hall, 2009), the relation between the external factors involved in the process of desistance is somehow similar with the question: what was first, the egg or the hen? Transposing this question within the framework of the preoccupations in the field of aetiology of desistance, the studies should capture the preeminence of either of the two categories of factors mentioned previously during the process of abandoning the infracting activities.

This difficulty led to the emergence of the *interactionist theories*, which provide a much deeper explanation to the underlying mechanisms of desistance.

Thus, the *interactionist theories* combine elements from the two theories mentioned earlier. The studies subsumed to these theories focus on the statements of the offenders regarding the changes which occurred during the process of desistance, underlying the subjective changes which intervened at the level of the personal identity, changes reflected in the change of motivation, in the existence of a higher concern for the others and in a better attention paid to the future (DeLisi & Beaver, 2011; Laws & Ward, 2011).

What characterises the interactionist theories, is that the personality of the offender is brought to the forefront, highlighting his/her inner experiences throughout the process of abandoning the history of delinquency, the way in which he/she uses a set of external circumstances that can be of help in his/her endeavour to change. Under these circumstances, the importance of the external factors is acknowledged, factors which may influence the process of change, but at the same time they bring in front elements pertaining to the personality of the culprit (beliefs, inner dialogue, perception about self etc.).

Thus, the studies associated to the interactionist theories (Giordano P. C., 2002) show that the cognitive changes are those establishing the process of desistance.

Under these conditions, the reorganisation which the person makes at the level of cognition is likely to determine several changes regarding his/her emotions and actions. The relation existing between thinking, feelings and action underlies the cognitive-behavioural theories from psychology, developed during the second half of the 20th century.

These theories highlighted the fact that the cognitive processes of the individual influence his/her feelings/sentiments which, in turn, determine several actions of the individual. For instance, in the specific case of the people in conflict with the penal law, an inner dialogue of them focusing on the history of his/her failures (*if I have a criminal record nobody will hire me*) is not likely to strengthen his/her dysfunctional convictions which, in turn, determine the onset of a feeling of impotence to make significant changes in his/her life (*and in these conditions, there is no point in seeking a job*), with the immediate consequence of going on with the criminal activities (*I can only go on doing infractions*).

The model of the interactionist theories contributes to a much more coherent explanation of the mechanisms subsequent to the process of desistance. Desistance is no longer the result of a process of maturation or of development of new attachments of the former culprit; rather, it is the result of much deeper and consistent processes, related to the reorganisation of the cognitive system of the person, and implicitly, of his/her system of values. In turn, they determine changes in all compartments of the life of the individual (family, group of friends, involvement in working activities, etc.).

Returning to the previous question, to the identification of the factors (internal or external) which prevail within the process of desistance, the interactionist theories provide a much clearer answer highlighting primarily the importance of the internal factors involved in the process of change.

This approach is also important in terms of practice because, as we will show, actions can be taken within the correctional services which to support the abandonment of the infracting activities. Desistance is no longer a nebulous process pertaining to the maturation of the individual or to the establishment of a family, aspects which obviously, cannot be influenced by institutional actions; desistance is a process relying on internal actions on whom one can intervene by specialised programs of work with the perpetrators.

From this perspective, of the interactionist theories, the study of Shaad Maruna, *Liverpool Desistance Study* (LDS), (Maruna S., 2001), is relevant.

This study was the result of the desire of a researcher to know details of the process of rehabilitation of the offenders and who acted as observer in Liverpool. Throughout the study, Shaad Maruna, located initially a number of primary offenders which he

asked to participate, rather formally, in a study of the process of desistance, group formed with the “snowball” sampling method. The sampling method was simple: the more former delinquents he met, the bigger was the snowball, because they put him in contact with other delinquents. Thus, in 1997, after two years of work, the project team transformed the small-scale explorative research into a project with a well defined pattern of hypotheses that can be verified (Maruna S., Porter, L., Carvalho, I, 2004).

The idea of the Liverpool research relied on the identification of two groups: one of former convicted people who continued their perpetrating activities after the probation release, and another groups of desisted delinquents.

The interest was to capture the common characteristics of the way of thinking, and to determine whether these patterns of the infractors who gave up delinquency, differed from those of the people who remained active in their criminal activities.

On the other hand, the common characteristics of the two surveyed groups of culprits were represented by their age (around 30) and history of delinquency (at least three years in prison). Most of them dropped out of school at the age of 16 and had no professional training in any skill; their first conflict with the penal law was at the age of 15, and the first arrest at the age of about 20.

What Maruna was to notice was that the statements of the people who persisted in their criminal behaviour were marked by a *scenario of dooming*, making reference to the fact that they have nothing to lose by getting involved in criminal activities, just to gain and to satisfy their pleasures. These people considered themselves, in a way, predestined to a criminal career, their real possibilities to make a change in their life being limited by several factors which were out of their possibilities of control/intervention. In other words, *they don't want to commit crimes, but they have no other option, cannot give up the offending career*. Under these circumstances, it is more than obvious that the actual possibility of the people to change their infracting behaviour is much more than limited.

By contrast, the declarations of the people who abandoned their history of delinquency might be subsumed to a *scenario of redemption*; they make a clear distinction between their previous behaviour and their contemporary behaviour, they see themselves as good people, identify several positive attributes in themselves and consider that their pro-social life style is their basic characteristic. Moreover, Maruna even distinguished the existence of *Rituals of Redemption*, which document the importance of the social and interactional activities underlying the process of desistance.

By abandoning their criminal career, the former culprits make reference to people from the community (people from the system of penal justice, family members or

other relevant persons), who can confirm their good intentions and the changes in their behaviour. These persons, to whom the former delinquents referred, are important not just for the certification of the changes which occurred in the life of the former perpetrators, but they also highlight the importance of the support group, of relations with people who have positive influence on the former infractor.

It was also Shadd Maruna who provided a more comprehensive contemplative pattern on the phenomenon of desistance starting from the studies on the causes of the deviant behaviour, studies conducted by Edwin Lemert (Lemert, 1967).

He considers that two processes are the roots of this behaviour: the primary deviance and the secondary deviance. The primary deviance is associated to the early infractions committed by the individual, which don't involve changes in the structure of his/her personality, which is why he/she doesn't perceives self as being an infractor. Unlike the primary deviance, the secondary deviance presumes the internalization of the identity of infractor.

Starting from this distinction, Maruna introduced the terms of *primary desistance* and *secondary desistance*. The primary desistance presumes just giving up to commit crimes, while the secondary desistance is associated to the restructuration of the infractor's personality, who appears as a changed person (Maruna, Porter, & Carvalho, 2004).

In other words, the primary desistance simply means that the person refrains from getting involved in criminal activities, while the secondary desistance involves much deeper changes into the personality of the infractor who no longer perceives self as being an infractor, and also is no longer perceived by the other people as being an infractor. This last form of desistance is the ideal to be sought by the services of probation within the process of rehabilitation of the infractors.

3. Institutional actions in support of the process of desistance

Under the conditions in which the fundaments of desistance consist of factors identified in time, several studies focused on the way in which this process may be supported in the practice of the correctional services or of other institutions.

Desistance must be a process to be promoted and integrated in the practice of these services. In this direction, the interventions must be directed towards supporting the process of desistance, must observe and facilitate self-reflexiveness on the side of the infractors and must rely on legitimate and respectful relations.

It must also focus on the social capital of the individual (networks and opportunities), as well as on the human capital (motivations and capacities) of the people; it needs

to explore the strengths of the individual and to take into consideration his/her needs and risks (Dumescu, 2009; Wadsworth, 2006).

Thus, a study conducted in 1999 (Rex, 1999), focused on the process of assisted desistance, on a number of 60 offenders on probation, showed that the infractors who identified a change of behaviour during probation, justified this change by the personal and professional involvement of the probation officer, materialised in an attitude characterised by correctness and encouragement in relation with the sentenced person, attitude which seems to have contributed to the emergence of a feeling of loyalty and trust. Moreover, the offenders interpreted the advices of the probation officer as a proof of his/her concern for a good evolution in the future, thus increasing their motivation.

Beyond the role of the probation officer, the type of sanction applied to the culprit may also have a determining role in the process of desistance. As it has been shown (Farrall, 2002), the enforcement of a sanction which doesn't presume the privation of liberty may also have an indirect impact by the fact that it allows making natural changes in terms of the group of friends, dwelling or job, thus supporting the process of desistance. Unlike the liberty-depriving sanctions, probation has the major merit of leaving the door open for the expected behavioural changes.

As we were showing in this paper, the interactionist theories, by the fact that they bring the changes occurring within the cognitive processes to the forefront of the process of desistance, create the possibility of starting actions to reorganise the cognitive processes within the infractors.

Before explaining the concrete ways of intervention at the cognitive level in the practice of the probation services or of the penitentiaries, we will have to make some preliminary clarifications.

After a recoil of the ideal of rehabilitation, in the 1970s, following some studies on the efficiency of the delinquent rehabilitation programs (Martinson, 1974), subsequent investigations (Ross & Gendreau, 1980) proved that under specific conditions, culprit rehabilitation is not a mere ideal, identifying several new working methods that can reduce the risk of recidivation in the people in conflict with the penal law.

The *what works* current emerged thus in the sphere of criminology, which highlights the importance of including the behavioural approaches developed during the last decades of the 20th century into the practice of the correctional institutions. It also shows the importance of interventions in agreement with the criminogenic needs of the individual, with his/her risk and responsiveness (the RNR model), as well as the importance of including the offender in integrated interventions which include relevant institutions from the community (Andrews & Bonta, 2010; Bonta, Andrews, & Canada Public Safety Canada., 2007).

Under these conditions, several programs were developed, whose purpose was to improve the social and cognitive abilities of the people in conflict with the penal law. These programs aim to make the perpetrators aware of the cognitive mechanisms that may ease their involvement in criminal activities.

Furthermore, these programs aim to contribute to the improvement of the resolutionary abilities of the delinquents and to support them to identify the alternative solutions to the problems confronting them. Since these structured programs are implemented in the practice of most probation services and penitentiaries from the western countries, we may say that this new way of intervention is a standard in the process of rehabilitation of the people in conflict with the penal law.

Given the fact that the interactionist theories have proven the importance of the cognitive factors within the process of desistance, it is obvious that the inclusion of the offenders with a history of delinquency in these programs may ease the process of desistance for them, by making them aware of the processes underlying the infractions.

Last, but not least, we must take into consideration that the process of desistance doesn't target just the infractor. As we mentioned earlier in this paper, this is a process which involves relevant people from the proximity of the delinquent and even the whole community to which he/she belongs.

Under these circumstances, the endeavour of the infractor to change must be supported by the community to which he/she belongs by the establishment of services addressing his/her social and criminogenic needs, services which must take into consideration the individual particularities of the person, thus allowing the personalized administration of the services.

Maybe the most important thing is that at the community level there must be receptiveness, openness and trust in relation with the effort for change of the former offender. Any change depends on the way in which the individual perceives the nature of the events confronting him/her and it is influenced by internal decisional factors, the external institutions being just the pillars supporting the subsequent changes.

4. Conclusions

The paradigm of desistance opens new opportunities to understand the mechanisms underlying the abandonment of the criminal career. This abstention of the delinquents to get involved further in criminal activities doesn't rely on a feeling of fear for the possible penal sanctions (the deterring effect of the punishment), but on a range of complex mechanisms. These mechanisms include mainly cognitive

transformations which support the emergence of important changes that reshape the personality of the ex-convict and that help him/her avoid recidivation in the future.

The consequence of such approach is that desistance is no longer a product of the hazard; rather, there are institutional interventions (specialised cognitive-behavioural programs) helping the delinquent during the process of desistance. Within this context, it is important that the correctional services (probation, penitentiaries) integrate the paradigm of desistance within their practice and that they consider the broad use of the structured working programs with the offenders, paying attention particularly to the programs aiming to develop the individual resolving abilities or the problem-solving capacities.

The community institutions play an important role in support of offender desistance. They must establish specialised support services, personalized according to the social and criminogenic needs of the delinquent. These services must rely on a set of practices established on the observance of human rights and of human dignity and, maybe most important of all, on the observance of the principle of non-discrimination.

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