

EDUCATION IN PRISON AND DISTANCE LEARNING IN TIMES OF HEALTH EMERGENCY

L'ISTRUZIONE IN CARCERE E LA DIDATTICA A DISTANZA IN TEMPI DI EMERGENZA SANITARIA

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Abstract

The objective of this contribution is to analyze the positive educational value of re-educational treatment in prisons, even in times of health emergencies.

Law 354/1974 on the penitentiary system includes education among the main elements of the treatment (Article 15), together with work, religious, cultural, recreational and sports activities, and the links with the outside world and family members.

Education has taken on particular value in the implementation of a re-education program aimed at promoting the harmonious and comprehensive development of the prisoner's personality.

Cultural and vocational training in penitentiary institutions is implemented through compulsory schooling and vocational training courses, second-level schools are included on an optional basis. University studies are also facilitated, either by correspondence or by radio and television. Education plays a very important role in the prisoner's re-education process, and is a tool geared not only to a deepening of school and vocational training, but also to the promotion of new interests and stimuli for an inclusive development of the individual's knowledge and personality

Lo scopo del presente contributo è quello di analizzare la valenza positiva dell'istruzione nel trattamento rieducativo in carcere anche in tempi di emergenza sanitaria.

L'istruzione è inserita dalla legge 354/1974 sull'ordinamento penitenziario tra i principali elementi del trattamento (art.15) assieme al lavoro, religione, attività culturali, ricreative e sportive e ai contatti con il mondo esterno e con i familiari.

L'istruzione ha assunto un particolare valore nell'attuazione di un programma rieducativo che ha lo scopo di promuovere lo sviluppo armonico e globale della personalità del detenuto.

La formazione culturale e professionale negli istituti penitenziari è attuata attraverso l'organizzazione di corsi della scuola d'obbligo e corsi di addestramento professionale, l'istituzione di scuole di secondo grado è inclusa in modo facoltativo. Sono inoltre agevolati gli studi universitari, per corrispondenza o tramite radio e televisione. L'istruzione ha un ruolo molto importante nel percorso di rieducazione del detenuto, e rappresenta uno strumento orientato, oltre che ad un approfondimento della formazione scolastica e professionale, alla promozione di nuovi interessi e stimoli per uno sviluppo globale delle conoscenze e della personalità dell'individuo.

Keywords

Education, Right to study, Distance learning, Prison, Health emergency
Istruzione, Diritto allo studio, Didattica a distanza, Carcere, Emergenza sanitaria

Introduction

On January 31, 2020, the Italian Council of Ministers decreed a state of emergency for a period of six months “as a result of the health risk associated with the onset of pathologies deriving from transmissible viral agents”. The Prime Ministerial Decree of March 4, 2020, suspended the educational activities in schools of all levels, as well as the attendance of school activities and higher

education, including universities and institutions of higher artistic musical and choreographic training, professional courses, including regional, master’s degree, universities for the elderly people; in any case, the possibility of carrying out distance learning activities was not suspended. School managers, in accordance with the provisions of the Prime Ministerial Decree of March 8, 2020, and for the whole duration of the suspension of didactic activities in schools, allowed to implement distance didactics methodologies.

In this period of health emergency, therefore, distance learning has spread rapidly in training, but has faced significant obstacles within prisons.

1. Provisions and distance learning

The Prime Ministerial Decree of March 4 and subsequent provisions, containing urgent measures on the containment and management of the epidemiological emergency from COVID-19, suspended the educational activities in schools of all levels, as well as the attendance of school activities and higher education, including universities and institutions of higher artistic musical and choreographic training, professional courses, including regional, master’s degree, universities for the elderly people.

The Prime Ministerial Decree of March 8 decreed that school managers should implement distance learning (DL) measures. Subsequently, on March 17, the government released the well-known note entitled *Health Emergency caused by new Coronavirus. First operational indications for distance learning activities*. This note explains the double meaning of distance learning. *On the one hand, it urges the entire educational community, as part of its professional and ethical responsibilities, to keep pursuing the social and educational task of “teaching” but “not at school”, and thus to create a “community”. [...] On the other hand, it is essential not to stop the learning process.*

The note continues by explaining what is meant by distance learning: *Distance learning activities, like any didactic activity, in order to be such, involve the reasoned and guided construction of knowledge through the interaction between teachers and students. Whatever the medium through which didactics is practiced, its purpose and principles do not change. In the awareness that nothing can fully replace what happens in face-to-face lessons, it is still a matter of giving life to a “learning environment” - however unusual in common perception and experience - to be created, nourished, inhabited, and reshaped from time to time.*

In the same note, reference is made to students who are in prisons. *Regarding the specificity of the educational institutions within prison sections, the school manager will have to deal with the Director of the prison and the figure in charge of the didactic coordination, in order to identify the way to continue the didactic activity that represents, even more in these situations, an institutional duty for the Italian Republic.*

Another reference to restricted students is the one contained in Decree Law no. 11 of March 8, 2020, and particularly in its Article 2, paragraph 8: *In penitentiary institutions and penal institutions for juveniles, starting from March 9, 2020 until March 22, 2020, interviews with relatives or other people to whom condemned, interned and accused people are entitled pursuant to Articles 18 of Law No. 354 of 26 July 1975, 37 of Decree of the President of the Republic No. 230 of 30 June 2000 and 19 of Legislative Decree No. 121 of 2 October 2018, shall be carried out remotely, and where possible by means of equipment and connections available to*

the prison and juvenile administration or by means of telephone correspondence, which may be authorized beyond the limits referred to in Article 39, paragraph 2 of the aforementioned Decree of the President of the Republic No. 230 of 2000 and Article 19, paragraph 1 of Legislative Decree No. 121 of 2018.

All these measures, applied through distance learning, aim to safeguard one or more moments of relationship between teacher and learners, through which the teacher can convey to the students the sense of what they have done independently. This is useful to ascertain, in a process of constant verification and improvement, the effectiveness of the tools adopted, also in comparison with the students' ways of using the digital (and therefore learning) tools and contents, having already offered them solutions, help, and materials in recent weeks. Distance learning in Italy has been carried out under unfavorable circumstances; before this period, it was given little consideration because of its methodological characteristics. Distance learning has been adopted for the need of a pedagogical awareness, induced by the health emergency.

Criminal institutions have been closed to deal with the coronavirus epidemic, and little has been done to activate distance education for "restricted" students, i.e. students attending school in prison.

Education can contribute implement the constitutional principle of the rehabilitative purpose of the prison sentence, and can support the reintegration of students into social and working life. It therefore happens that schools not included in prison contexts continue to provide training, and students in prison are denied this right.

2. The centrality of the person in prison educational paths

The centrality of the person, with his or her fundamental rights, is placed as a boundary to the execution of the sentence and as a prerequisite for its legitimacy. Affirming that each individual enjoys a primary nucleus of rights, without any discrimination, certainly implies extending these rights to subjects deprived of personal freedom.

The person and his or her uniqueness is the core of the actions to be planned and carried out in prison educational paths. It is essential to pay attention to the person, to his or her history, values and attitudes, and this requires that all those involved share principles, values, strategies, models and resources, so that there can be a process of social reintegration.

Such a sharing is indispensable at all the different levels of intervention, in order to favor effective responses to training needs, especially for those people who, having experienced difficult and unsuccessful educational paths, need new motivations to believe again in a different personal life-work project.

In a context such as a prison institution the role played by teachers is fundamental for a training process can offer significant opportunities to train the person, also through the acquisition of skills tailored to the individual's specific needs, talents and expectations.

Personalized education and training interventions in prison and the active involvement of prisoners represent the path to be taken to try to achieve full social and working inclusion, and the realization of a society for each and every one.

3. The right to study

Article 34, paragraph 1, of the Italian Constitution states that: "*Education is open to everyone*", affirming that the right to education belongs to everyone.

In the 1975 Penitentiary Act education was not only a right, but a fundamental part of treatment. In its Article 15 we can read that "*Treatment is carried out by mainly availing of education, work, religion, cultural, recreational and sports activities and encouraging appropriate contacts with the outside world and the relationship with the family*".

Its Article 19 states that “*Penal institutions shall provide for cultural and vocational training by organizing obligatory schooling and vocational training courses, in accordance with the guidelines in force and with the assistance of adequate methods to the personal situation of the subjects. Special attention shall be paid to the cultural and vocational training of prisoners under 25 years of age.*”

Senior secondary schools courses may be started in penal institutions in accordance with the procedures provided for by school regulations.

The completion of university education or a course of studies of the same level shall be facilitated and support given to the attendance of school courses through correspondence, radio and television.

Access to the publications held in the library will be given, with the right to freely choose the reading material”.

Vocational training and cultural education in penitentiary institutions is provided for through the organization of scholastic and vocational training courses, senior secondary schools are included on an optional basis. University studies are also encouraged, either by correspondence or by radio and television. Education plays a very important role in the prisoner’s re-education process, representing a tool aimed not only at deepening scholastic and vocational training, but also at promoting new interests and stimuli for an overall development of the individual’s knowledge and personality.

Currently, in order to allow prisoners to complete their university studies, there are agreements between penitentiary institutions and university academies provided for and approved by art. 44 of the Penitentiary Act n.230/2000.¹

Its Article 44 (University studies) states that “*Prisoners and detainees who are university students or who meet the requirements for being enrolled in university courses are encouraged to complete their studies. To this end, appropriate arrangements shall be made with the academic authorities to enable students to benefit from all possible assistance and to take examinations. Those enrolled in university courses may be exempted from work, on request, in view of the commitment and profit shown. Prisoners and detainees who are university students are assigned, wherever possible, to sections and rooms suitable for study, and appropriate communal areas are made available. Students may be authorized to keep books, publications and other learning aids required for their studies in their own rooms and other study areas”.*

School courses in prison must be carried out in accordance with the educational programs offered outside the prison, in order to allow prisoners to continue their studies without any obstacles once released.

Education is not compulsory, it is up to the prisoner to choose whether or not to start the course, but the prison administration has the obligation to ensure that prisoners have the opportunity to be educated with appropriate tools.

Education is an indispensable tool to support the functions of the sentence in the best possible way. However, it cannot be the only tool to be applied in the prisoner’s rehabilitation process, since it must be supported by the different ones provided by the regulation.

3. The penitentiary regulation applying to education

In the 1975 Penitentiary Act, education is mentioned in Article 15: “*The treatment of convicted persons and internees shall be carried out mainly by means of education, work, religion, cultural, recreational and sporting activities and by facilitating proper contact with the outside world and family links”.*

¹ Presidential Decree of June 30, 2000, no. 230 - Regulations - Containing provisions on the Penitentiary Act and on measures entailing restrictions on, and deprivation of, personal liberty

This article links education to the means to be used in the treatment of the prisoners. Education is a primary means of ensuring and carrying out the functions of the sentence in the best possible way, but it should not be considered exclusive in the prisoner's rehabilitation process.

Education is optional and, together with the prisoner's freedom of choice, there is an obligation for the prison administration to ensure that they have the opportunity to be educated, setting up suitable systems.

Education is a tool that enables the individual's educational and professional training and personal growth, also in terms of self-determination.

Article 19 of the Penitentiary Act is dedicated to education. The first paragraph, concerning compulsory education, affirms that: "*Penal institutions shall provide for cultural and vocational training by organizing obligatory schooling and vocational training courses, in accordance with the guidelines in force and with the assistance of adequate methods to the personal situation of the subjects*".

This article expresses the State's obligation to guarantee and protect inviolable human rights, including the one we are examining. Prisoners must also be guaranteed an education program corresponding to the one intended for students in the national school system, in order to ensure that, once released, they can continue the educational process started in prison.

The second paragraph of Article 19 is intended for prisoners aged between 18 and 25 years. In this evolutionary phase, education plays a particularly important role, as young adults express a greater need to be provided with a school service which also promotes growth in terms of cultural and professional learning. When planning didactic activities, the prisoner's school experiences should be taken into account, since they are often perceived and experienced in an unfavorable way.

The third paragraph of Article 19 establishes that: "*Senior secondary schools courses may be started in penal institutions in accordance with the procedures provided for by school regulations*". This provision emphasizes that primary education is guaranteed in prisons, but higher education is not.

The Presidential Decree no. 230 of June 30, 2000, entitled *Regulations containing provisions on the Penitentiary Act and on measures entailing restrictions on, and deprivation of personal liberty*, in its Article 43, paragraph 1, states that "*Courses of secondary high school education, including compulsory education provided by current regulations, shall be organized, on demand of the Penitentiary Administration, by the Ministry of Education through the creation of branches of schools of the said level in some penal institutions*".

The fourth paragraph of Article 19 of the 1975 Penitentiary Act states that "*The completion of university education or a course of studies of the same level shall be facilitated and support given to the attendance of school courses through correspondence, radio and television*". This refers to the possibility for prisoners to achieve the highest levels of education. The realization of these paths is characterized by organizational difficulties.

The means by which prisoners have access to university studies is the system of agreements between prisons and universities governed by Article 44 of the Penitentiary Act, which, in its second paragraph, states that "*To such end, special agreements shall be made with university authorities to ensure students any available support and to enable them to take exams*".

The last paragraph of Article 19 of the 1975 Penitentiary Act states that "*Access to the publications held in the library will be given, with the right to freely choose the reading material*".

4. School education in re-educational treatment

In the Italian penitentiary act, there are two articles which identify the value of education in prison, and regulate how it should be carried out. The management of the institutions must inform detainees and prisoners about the implementation of school and vocational courses, including obligatory schooling and vocational training courses, by encouraging their participation in them.

There are different ways of organizing study courses. Compulsory education falls under the responsibility of the Italian local Public Education offices, on the basis of agreements between the Ministry of Education and the Ministry of Justice. For secondary education, on the other hand, there are plans to create real branches of high schools within the institutions. For the best students living in poor economic condition there is a refund of taxes, school fees and textbooks or, regardless of their possibilities, a performance bonus.

If we examine the analytical picture of the educational qualifications of prisoners, both in Italy and abroad, it follows that within Italian prisons there is a very high percentage of prisoners who have not completed compulsory education, and could then be 'education-oriented' and start an educational path.

The centrality of the prisoner's well-being places the emphasis on the socio-pedagogical and educational dimension, which is achieved by developing school and vocational education first, and cultural, recreational, and sports activities then too. For this reason, it is necessary to create a model of pedagogical rehabilitation useful to support and encourage the process of prisoners' social reintegration, in order to offer them moments of cultural and personal growth.

In a period of absence of treatment activities, the right to study is not protected and guaranteed; a right that, at times of emergency, can become an opportunity to redesign one's own life. These activities must represent an opportunity for change, enhancement and re-elaboration of prisoners' experiences, and should motivate subjects to improve their living conditions. It is possible that these activities encourage the individuals to reflect on and become more aware of their personal experiences and possible paths of change.

Re-education, including school as one of its pillars, aims to promote empowerment, change, opportunities, learning, orientation, problem solving, sharing, participation, dialogue, exchange, comparison, self-discovery and a life project, and all this takes on greater significance in this time of health emergency making the future of each person uncertain.

Conclusions

This health emergency has been causing widespread concern, fear and stress, all natural and normal reactions to the changing and uncertain situation in which we all find ourselves. Prisoners are likely to be more vulnerable to COVID-19 infection, and are also vulnerable to human rights violations. A situation of restriction of freedom, in a context of health emergency, requires preserving social relationships even more; the interactions between teachers and students can be a communication bridge with the outside world, at the basis of which there is a willingness to deal constructively with an unforeseen situation. Distance learning held within the prison institution, encouraged by the health emergency, can be an opportunity to experiment with a different way of developing the teaching-learning process. To this end, cooperation between prison and educational institutions is essential for the re-educational function of the sentence.

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