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## **Educating the imprisoned in selected countries of the world. A legal-comparative study**

The aim of the following study was to compare the right to education of persons serving imprisonment in selected countries of all continents of the world. Due to the fact that all the discussed countries are different from each other, the way of regulating one of the fundamental human rights seems to be an interesting research problem. The article collected data on the right to education of inmates in Poland, Norway, the USA, Brazil, Australia, Japan and Nigeria. A short history of prison education on all continents was also presented. In the remaining part of the study, conclusions were presented in which the best, according to the author, solutions were indicated.

**Key words:** education, inmates, penitentiary law, human rights.

### **Introduction**

Following the legal regulations applicable in Poland, education, as well as self-education, constitute the right of every imprisoned. Education, alongside employment, is a primary tool implemented to influence inmates. Teaching is a fundamental task of the Prison Service. An appropriate education, especially for young people, is essential for proper adaptation to society. The purpose of providing education to inmates in Poland is to give them the opportunity to: enrich their experience, acquire new qualifications, increase their chances of successful social readaptation, yet develop appropriate social attitudes, reinforce their self-respect, or continue their education after release from prison<sup>1</sup>.

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<sup>1</sup> S. Lelental, *Kodeks karny wykonawczy. Komentarz*, Wydawnictwo C.H.Beck, Warsaw 2014, pp. 419-420.

This study aims to compare prison education in Poland with other countries. An analysis of the solutions adopted on each continent has been made in accordance with the example of the following countries: Europe (Poland, Norway – Poland is selected due to clear reasons, while Norway, on the other hand, since the correctional system is assessed as one of the leading in Europe<sup>2</sup>); North America (the USA – as it is the largest as well as the most significant country within the continent); South America (Brazil – considering it to be a much larger country than the remaining countries on the continent where modern legislation applies<sup>3</sup>); Australia and Oceania (Australia – since it is the most representative country on the continent, furthermore, its history seems to make legislation an interesting research problem); Asia (Japan – since the country has one of the lower recidivism rates in the world, regulated right to education, therefore, seems an interesting research problem<sup>4</sup>); as well as Africa (Nigeria – as it is one of the very few countries providing imprisoned with the access to higher education<sup>5</sup>). Such a comparison is intended to provide an overall picture (hence, the analysis of the countries in each continent) of access to education for inmates. Furthermore, it is also necessary to answer the question to what extent applicable regulations in these countries vary. Since under the basic principles of the treatment of prisoners contained in the 1990 United Nations General Assembly Resolution, all prisoners shall preserve human rights, including the right to participate in educational activities<sup>6</sup>. The following laws and documents were examined:

- the Constitution, including the right to education;
- other sources of law regulating the education of imprisoned, including the Executive Penal Code (Poland), the Education Act (Norway), the Violence Control and Law Enforcement Act (USA), the Prison Reform Act (Brazil), etc.
- in case of the absence of regulation under the Act, state guidelines setting out the results and objectives expected by the state, rather than absolute legal standards to be enforced, such as the Standard Guidelines for Corrective Action in Australia, were examined.

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<sup>2</sup> See <https://www.forbes.pl/life/travel/10-najbardziej-komfortowych-wiezien-swiata/r67p7f8> (date of access: 04.04.2019).

<sup>3</sup> F. de Sa e Silva, *Education For All And The Dream Of An Alternative Prison Policy In Brazil*, “Convergence” 2009, Volume 42, Numbers 2-4, p. 191.

<sup>4</sup> See <http://www.prisonstudies.org/country/japan> (date of access: 04.04.2019).

<sup>5</sup> See W. Sawahel, *University in prisons – The ‘best rehabilitation tool’*. The article available online: <https://www.universityworldnews.com/post.php?story=20170927104116664> (date of access: 04.12.2019).

<sup>6</sup> Nordic Council of Ministers, *Nordic Prison Education: A Lifelong Learning Perspective*, Business & Economic, Copenhagen 2005, pp. 97-98.

The study was prepared in the following order: the discussion concerning the problem of education of inmates located on particular continents indicated the evolution of solutions of the discussed region of the world, with subsequent presentation of the regulations applied in selected countries.

Given the extensive use of mainly English language sources, the terms penitentiary and prison will be used alternatively and equivalently, since the introduction of the terminology of each discussed country and their translation into Polish would create unnecessary confusion. The terms prisoner, inmate, imprisoned and convict will also be used alternatively and equivalently, as it is impossible to indicate the same terminology for the selected countries. Additionally, the term “prisoner” tends not to be used in Polish scientific literature (conversely, the term *prisoner* frequently appears in English literature).

## I. Education of imprisoned in Europe

Sweden was the first country in Europe implementing prison education. In 1842, a compulsory education programme was ordered, while by 1874, the employment of a carpenter to teach a profession in the wood industry enabled inmates to receive professional education<sup>7</sup>. In Denmark, in 1930, educational programmes for juvenile offenders became compulsory, whereas, in 1952, such an obligation applied to all prisoners under the age of 30<sup>8</sup>. Norway established its first prison in 1851 (although it should be noted certain forms of prison existed nearly always). Here, education was the basic form of rehabilitation<sup>9</sup>. Until 1875, all prisons (8) in the country provided education for convicted<sup>10</sup>, while by the end of the nineteenth century, certain regulations ensuring that every prisoner who had not completed primary and secondary school should be able to receive it in prison<sup>11</sup>.

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<sup>7</sup> Nordic Council of Ministers, *Nordic Prison Education: A Lifelong Learning Perspective*, Business & Economic, Copenhagen 2005, pp. 97-98.

<sup>8</sup> *Ibidem*, pp. 25-27.

<sup>9</sup> *Ibidem*, p. 67.

<sup>10</sup> P. S. Smith, T. Ugelvik, *Scandinavian Penal History, Culture and Prison Practice: Embraced By the Welfare State?*, Springer Publishing, New York 2017, p. 226.

<sup>11</sup> Nordic Council of Ministers, *op. cit.*, p. 67.

In England, in 1823, the Gaol Act was introduced, requiring all prisons to teach reading and writing<sup>12</sup>. However, a different form of higher education could not be provided in the same way as the teaching of reading and writing, as it was considered not to improve the moral development of inmates<sup>13</sup>. In 1928, only basic educational courses continued to be offered in the UK<sup>14</sup>. 30 years later, despite an increase in the number of educational personnel in prisons, no significant progress was recorded in prison education, nor did educational programmes improve until 1992. The decision to employ companies outside the prison on competitive terms was then taken. 150 organizations participated in tenders, including 45 educational service providers offering various forms of education (including secondary and higher education) in 125 prisons by 1994<sup>15</sup>.

In 1918 Soviet Russia recommended teaching imprisoned children<sup>16</sup> along with punishment. Merely a few educational programmes have been implemented due to competing programmes in various jurisdictions<sup>17</sup>. In the 1920s, attempts to eliminate illiteracy were undertaken, and almost all camps conducted classes in “political education”. Certain camps, also offered classes in natural sciences, cultural history, or foreign languages<sup>18</sup>, which seems modern and unique solutions at the time.

In the subsequent part of the article, solutions applied in Poland and Norway will be presented. The study is written in Poland and Polish (with English translation), therefore the choice of the native country is clear. Also, since Norway as a country has one of the well-established penitentiary systems in Europe and the world<sup>19</sup>, the presentation of Norwegian solutions seems to be scientifically valuable.

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<sup>12</sup> W. Forster, B. Forster, *England and Wales: the state of prison education*. “Journal of Correctional Education” 1996, no. 47 (2), pp. 101-105.

<sup>13</sup> S. McConville, *A History of English Prison Administration*, Routledge, Abingdon 2015, pp. 409, 410.

<sup>14</sup> M. Norval, *The Oxford History of the Prison: The Practice of Punishment in Western Society*. Oxford University Press, Oxford 1998, p. 164.

<sup>15</sup> W. Forster, B. Forster, op. cit., p. 105.

<sup>16</sup> See more about “bezprizorni (беспризóрный)”, i.e. A. Zaprutko-Janicka, Miliony zdziçalychdzieni. Przemilczany problem Związku Radzieckiego. The article available online: <https://ciekawostkihistoryczne.pl/2014/01/19/miliony-zdziçalych-dzieci-przemilczany-problem-zwiazku-radzieckiego/#3> (date of access: 08.05.2019).

<sup>17</sup> M. Norval, op. cit., p. 192.

<sup>18</sup> M. Jakobson, *Origins Of The Gulag: The Soviet Prison Camp System, 1917-1934*. University Press of Kentucky, Kentucky 2015, p. 63.

<sup>19</sup> See <https://www.forbes.pl/life/travel/10-najbardziej-komfortowych-wiezien-swiata/r67p7f8> (date of access: 04.04.2019).

## 1. Poland

The right to education of inmates in Poland is regulated by the Constitution of the Republic of Poland, the Executive Penal Code<sup>20</sup> (hereinafter referred to as the Code of Criminal Procedure) together with the Ordinance of the Minister of Justice on detailed rules and procedures concerning education in prisons. According to Article 70 of the Constitution of the Republic of Poland: „1. Everyone shall have the right to education. Education to 18 years of age shall be compulsory (...). 4. Public authorities shall ensure universal and equal access to education for citizens<sup>21</sup>.” The guarantee of the right to education is also maintained by § 12 of the abovementioned ordinance: “Education is eligible for (1) prisoners under 18 years obliged to complete their compulsory education and study according to the Act on the Education System; (2) upon the request of the penitentiary department of a prison – inmates assigned to an individual impact assessment programme; (3) inmates who requested undertaking or continuing education in a particular type of school<sup>22</sup>”.

The provisions of Articles 130-134 of the Code of Criminal Procedure regulate the education of convicts. The abovementioned regulations state a compulsory education in the scope of primary school, as well as the opportunity for offering secondary education and professional courses. Penitentiary institutions are obliged to provide education following the abilities and skills of juvenile offenders. Also, priority in obtaining the possibility to be taught at secondary school and professional courses shall be given to convicts who do not have a profession or, after serving their sentence, will not be able to perform it, as well as those under 21 years of age. Additionally, necessary textbooks and study aids shall be available free of charge to convicted who do not have sufficient financial resources (Article 130 § 1-4). According to Articles 130 and 131 of the Code of Criminal Procedure, the education of prisoners shall be conducted both in schools, or permanent education centres, located within prisons, as well as in schools outside the penitentiary. To be allowed to participate in education outside the prison, it is only possible for prisoners serving

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<sup>20</sup> Executive Penal Code (Journal of Laws of 1997 No. 90, item 557 with amendments).

<sup>21</sup> Constitution of the Republic of Poland (Journal of Laws of 1997 No. 78, item 483 with amendments).

<sup>22</sup> Ordinance of the Minister of Justice on the detailed rules and procedures concerning education in prisons (Journal of Laws of 2013, item 1601).

a sentence in a semi – open and open prison. Whereas, prisoners in a closed prison are only allowed to receive education within the prison<sup>23</sup>.

The interpretation adopted in Poland suggests imposing a charge on the convicted person for professional course training occurs only if the convicted person has a profession, or does not require professional retraining. As a general rule, education in prison centres remains free of charge, while the costs of education in schools outside the prison are borne by the convict. It is also possible to get financial support for inmate students<sup>24</sup>.

Table 1. Education of convicts in Poland

Categories	School year		
	1998/1999	2006/2007	2016/2017
number of schools in prisons	74	60	25
number of school departments	219	175	183
convicts involved in education (all convicts)	5005 (42 130)	3919 (87 776)	4330 (73 807)
participation of convicts in education	12 %	4,5%	5,8%

Source: Own elaboration based on: S. Lelental, *Kodeks karny wykonawczy. Komentarz*, Wydawnictwo C.H.Beck, Warsaw 2014, p. 419. Annual statistical information for 2017, Ministry of Justice, Central Board of the Prison Service. Warsaw 2018, pp. 4, 24.

Based on the data presented in Table 1, the number of schools in penitentiary institutions decreased from 74 (in the school year 1998/1999) to 60 (2006/2007) as well as to 25 (2016/2017). The number of school departments amounted to 219, 175 and 183. Correspondingly, the number of imprisoned receiving education evolved from 5005 through 3919 to 4330. According to the data provided, the number of convicts receiving education varied: in 1999 – 12% of prisoners, in 2007 – 4.5%, and 2017 – 5.8%. Following the intention of the legislator, education should be one of the fundamental tools to influence prisoners. According to the data contained in Table 1, penitentiary practice does not confirm such a teaching function. S. Lelental indicates permanent overcrowding

<sup>23</sup> S. Lelental, op. cit., pp. 420, 423.

<sup>24</sup> Ibidem, pp. 421, 424.

in prisons as the reason for such a situation (for the years 1999 and 2007)<sup>25</sup>. It is supported by data from 2017 since with a reduced number of convicts, the proportion of convicted prisoners involved in education is higher. Although the number of prison schools is reduced. Perhaps the reason lies in the fact that an increasingly small number of prisoners have to complete their primary education, or the school departments are, for various reasons, superior to schools. Moreover, professional courses are worth mentioning, due to their popularity among inmates.

Table 2. Courses

Categories	2006	2017
number of courses	472	1162
number of convicts involved in the course education	5950	13304
number of course graduates	5798	12897

Source: Own elaboration based on: S. Leleńtal, *Kodeks karny wykonawczy. Komentarz*, Wydawnictwo C.H.Beck, Warsaw 2014, p. 419. Annual statistical information for 2017, Ministry of Justice, Central Board of the Prison Service, Warsaw 2018, p. 24.

It is evident from the data presented in Table 2 that in 2006, 472 professional courses organised in penitentiary units included 5950 convicts. The course was completed by 5798 persons, which constituted 97.4%. In 2017, 1162 courses were organised with 13 304 participants, 96.9%, i.e. 12 897 persons completed the course. Following the research of P. Szczepaniak, the primary motivation for taking the course consists in getting a better perspective on life in freedom<sup>26</sup>.

According to S. Leleńtal, education does not function in penitentiary practice as a primary means of influencing the convicts. However, the author does not indicate the fact that such a state arises from legal regulations, and the cause lies in an overcrowded penitentiary. Thus, it can be assumed that the applicable regulations in Poland constitute a sufficient basis for the effective functioning of education in prisons. At the same time, the author indicates an inconsistency of regulations, repetition of the provisions of the authorising act in the ordinance, as well as double

<sup>25</sup> Ibidem, p. 419.

<sup>26</sup> P. Szczepaniak, *Kara pozbawienia wolności a wychowanie*, Kaliskie Towarzystwo Przyjaciół Nauk, Kalisz 2003, p. 294.

regulation of the same issues. S. Leental also pertains to the criticism of the Criminal Law Codification Commission<sup>27</sup>.

## 2. Norway

The principle of Norwegian prison and probation service guarantees inmates access to the same services as for other citizens (according to Article 109 of the Norwegian Constitution all individuals have the right to education<sup>28</sup>), primarily provided by authorities other than prison services. The aim is to achieve standardisation to the greatest possible extent and openness in a closed system. The principle also guarantees the responsibility of other state bodies for the reintegration of prisoners into society<sup>29</sup>. Prison education, according to the Ministry of Justice, shall be implemented under the guidelines for the education system of the society (according to the general principles of education, prisons are not an exception)<sup>30</sup>. Under Article 2 of the 2002 Law on the Enforcement of Sentences, inmates are entitled to the equal rights to services and activities with the same obligations as the whole population (including the right to education). Furthermore, Article 3 of the Act states that all inmates must be involved in social reintegration activities while serving the sentence. It may include work, community service, education, or other programmes. The prison services have to provide a range of activities for prisoners throughout the day<sup>31</sup>. The Education Act 1998 introduced the right and obligation to complete a lower secondary school (equivalent to a primary school in Poland) for each citizen. Any person completing compulsory education shall have the right to complete a 3-year secondary school, including vocational school. Adults born before 1 January 1978 are entitled to statutory education at secondary school level (including vocational school). The majority of Norwegian prisoners may be aged between 21 and 40 years old. The percentage of convicts who have not completed primary education is much higher than in the entire population. The law provides more people with the opportunity to complete education. Also, due to the legislation, several prison workshops have

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<sup>27</sup> See S. Leental, *op. cit.*, pp. 419, 421, 422.

<sup>28</sup> The Constitution of the Kingdom of Norway (LOV-1814-05-17).

<sup>29</sup> Nordic Council of Ministers, *op. cit.*, p. 72.

<sup>30</sup> *Ibidem*, p. 73.

<sup>31</sup> *Ibidem*, pp. 73-74.



acquired the status of “educational workplaces”, implying the possibility for inmates to benefit from professional education. In the case of successful cooperation between the prison school and the prison workshop, inmates shall receive theoretical knowledge within the classroom and practical skills within the workshop. It enables prisons to access more education options. Prisoners who wish to receive higher education are required to study either alone or with the prison services<sup>32</sup>. A research study of the Norwegian prison population revealed that 46% of prisoners participate in prison education<sup>33</sup>.

It appears that prison education in Norway is one of the leading systems in the world. Many prisoners benefit from such education, additionally the country is known for its effective reintegration system. It is important to note that Norwegian prisons offer education at all levels, from primary to higher.

## II. Education of imprisoned in North America

The United States provides education to prisoners with the help of chaplains, while secular prison education programmes are designed specifically to help them read the Bible and other religious texts<sup>34</sup>. The literature indicates William Rogers as the first “prison teacher”, a priest who taught in Pennsylvania since 1787<sup>35</sup>. However, a pioneering educational programme aimed at the reintegration of convicts began in 1876<sup>36</sup>. Zebulon Brockway<sup>37</sup>, supervisor of the reform at the Elmira prison in New York<sup>38</sup>, is considered to be the first to implement such a programme. In his view, prison education disciplines the mind and adapts it to the

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<sup>32</sup> Ibidem, pp. 77-78.

<sup>33</sup> L. Jonesa, T. Mangerb, O. Eikeland, A. Asbjørnsen, *Participation in Prison Education: Is it a Question of Reading and Writing Self-Efficacy Rather than Actual Skills?* “Journal of Correctional Education” 2013, no. 64(2), p. 44.

<sup>34</sup> R. Linden, L. Perry, *The effectiveness of prison education programs*. “Journal of Offender Counseling Services Rehabilitation” 1983, no. 6 (4), p. 43.

<sup>35</sup> C. Zoukis, *A Brief History of Prisons and Prison Education*. The article available online: <https://prisoneducation.com/prison-education-news/a-brief-history-of-prisons-and-prison-education.html/> (date of access: 21.02.19).

<sup>36</sup> R. Linden, L. Perry, op. cit., p. 43.

<sup>37</sup> Zebulon Reed Brockway (1827-1920), penologist called the “father of prison reform.”

<sup>38</sup> See Z. R. Brockway, *Fifty Years of Prison Service: An Autobiography*, NY: Charities Publication Committee, New York 1912.

thoughts and principles by which people become good citizens<sup>39</sup>. By 1900, the states of Massachusetts, Ohio, Pennsylvania, Indiana, Illinois, and Minnesota had adopted the “Elmira School System”<sup>40</sup>, and by the 1930s, educational programmes could be found in the majority of prisons.

The development of prison education in Canada resembled that in the USA. The Royal Commissions in 1914 and 1936 recommended replacing the work programmes, at least to a certain degree, along with rehabilitation programmes, including those concerning education. However, the curriculum was not universal until mid-1940<sup>41</sup>.

The education of the convicts in Cuba seems interesting. Although, for those from the outside, access to information on prison conditions after the 1950 revolution is restricted. The Cuban government has allowed some journalists limited access to certain prisons in 2013, however, it is unclear if these facilities may represent the country. Private interviews have not been allowed, yet the prison services focused on the work system, social rehabilitation programmes, including carpentry training<sup>42</sup>. According to a report by the Institute of Political Science, inmates received education up to grade 9, technical skills training was additionally provided, and 85% of inmates worked. It was also highlighted that political re-education had a significant role in Cuban penology<sup>43</sup>.

This part of the article discusses the right to education of convicts in the USA, as an example of solutions applied in North America and as the most representative country of the continent. The American Constitution does not provide a provision on the right to education, but the federal and state governments established many rules and regulations promoting training and education programmes. Therefore, access to education, both primary and higher, remains a privilege. For such reasons, the number of educational programmes is often insufficient, and the decision on educational opportunities depends on the prison administration. According to a statement released by the Texas District Court in 1970, the restriction of educational privileges by the

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<sup>39</sup> R. Linden, L. Perry, op. cit., p. 44.

<sup>40</sup> International Prison Commission, *Reformatory System in U.S.*, U.S. Government Printing Office, Washington 1900, p. 28.

<sup>41</sup> R. Linden, L. Perry, op. cit., p. 73.

<sup>42</sup> *World Report 2017*, Human Rights Watch, pp. 215-220, see S. Rainsford, *A glimpse inside Cuba's prisons*, BBC News, Havana 2013. The article available online: <https://www.bbc.com/news/world-latin-america-22365244> (date of access: 21.02.19).

<sup>43</sup> Institute for Policy Studies, *Cuban Prisons: A Preliminary Report*. “Social Justice” 1988, no. 2 (32), pp. 55-62.

prison administration does not constitute a violation of federal law<sup>44</sup>. Between 1972 and 1995, inmates in the U.S. were able to apply for funding from the U.S. government for university education, known as the *Pell Grant*<sup>45</sup>. However, after Congress adopted the *Violent Crime Control and Law Enforcement Act* in 1994, it became impossible for a prisoner to obtain Pell Grant<sup>46</sup>. As a result, by 2005 only a few prisons offered a post-secondary education (at the beginning of the 1990s it was 350)<sup>47</sup>. In 2015, President Barack Obama developed a pilot programme allowing a limited number of prisoners to receive the *Pell Grant*. Over 200 universities in 47 states indicated an interest in running educational programmes for prisoners<sup>48</sup>. Donald Trump's administration considers the pilot programme to be effective and shows its support for Congress in lifting the ban on inmates applying for the *Pell Grant*<sup>49</sup>. The White House policy supports the process of drafting legislation to improve general vocational education and training in prisons as part of wider reforms of the criminal justice system<sup>50</sup>. Undoubtedly inmates in the U.S. do not benefit from the same rights and freedoms as free citizens, what is consistently confirmed by the U.S. courts. According to the judgments of the courts, if prison rules strike at the constitutional rights of the convicted, these rules are still valid if penal interests are justified. Although US law does not protect the freedom of inmates concerning recreation, education or vocational training, state law remains free to adapt measures to the benefit of inmates<sup>51</sup>.

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<sup>44</sup> J. Kemp, M. Johnson, *The effect of educating prisoners*, „Journal of Law and Social Change” 2003, no. 7, pp. 17-18.

<sup>45</sup> D. Skorton, G. Altschuler, *College Behind Bars: How Educating Prisoners Pays Off*. Forbes 2013. The article available online: <https://www.forbes.com/sites/collegeprose/2013/03/25/college-behind-bars-how-educating-prisoners-pays-off/#d8e8bc027077> (date of access: 21.02.19).

<sup>46</sup> SpearIt, *Keeping it REAL: Why Congress Must Act to Restore Pell Grant Funding For Prisoners*, University of Massachusetts Law Review 2016, Vol. 11, Issue 1, Article 3, p. 28.

<sup>47</sup> D. Skorton, G. Altschuler, op. cit.

<sup>48</sup> The Editorial Board, *A College Education for Prisoners*. “The New York Times” 2016, no. 16.02.2016, p. A18.

<sup>49</sup> A. Kreighbaum, *The Trump administration's renewed interest in prison education*, “Inside Higher Ed” 2018. The article available online: <https://www.insidehighered.com/news/2018/08/29/trump-administrations-renewed-interest-prison-education> (date of access: 21.02.19).

<sup>50</sup> J. Phelps, *Inside Jared Kushner's personal crusade to reform America's prisons*, “ABC News” 2018. The article available online: <https://abcnews.go.com/Politics/inside-jared-kushners-personal-crusade-reform-americas-prisons/story?id=53901143> (date of access: 21.02.19).

<sup>51</sup> J. Kemp, M. Johnson, op. cit., p. 22.

### III. Education of imprisoned in South America

It is estimated the educational opportunities in South America prisons are lower than in the “Western world”<sup>52</sup>. Educational resources are considered to be insufficient across the continent, due to the increasing number of prisoners and overcrowding, which is considered to be a side effect of the fight against drugs<sup>53</sup>. South American educational programmes for convicts first appeared in Argentina in the 1950s. The detailed description of the programmes and their effectiveness is limited, and no available data is attributed to corruption in the prison system, poor living conditions, and high violence levels<sup>54</sup>. The right to education was established in 1996, in the Act on the execution of sentences of detention (Act No. 24.660 of 1996), allowing all inmates not completing grade 9 education to participate in educational programmes. Due to administrative constraints, in 2010 about 25% of eligible inmates participated in the educational process<sup>55</sup>.

In 2003 the Dominican Republic implemented a reform whereby learning to read and write became compulsory in almost half of its national prisons, namely in 35 prisons. In case of refusal to participate in the compulsory education process, prisoners are denied privileges such as, for instance, the right to make marital phone calls or visitations. In 2012, 36 out of 268 prisoners in the women’s prison in Najayo received higher education in law and psychology<sup>56</sup>.

To illustrate the solutions in South America, Brazilian regulations will be discussed, as in 2009, it was considered to be one of the most progressive countries in Latin America in terms of prison education<sup>57</sup>. Besides, the Constitution of the Federative Republic of Brazil defines the educational rights of Brazilian citizens in Title VIII, Chapter III, Section 1<sup>58</sup>. In

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<sup>52</sup> *A journey into hell*. “The Economist” 2012. The article available online: <https://www.economist.com/the-americas/2012/09/22/a-journey-into-hell> (date of access: 22.02.19).

<sup>53</sup> G. Zinny, D. Gorgal, *Innovative Education Can Help Fight Crime in Latin America*. “Brookings Institution” 2014, no. of 19.12.14. The article available online: <https://www.brookings.edu/blog/education-plus-development/2014/12/19/innovative-education-can-help-fight-crime-in-latin-america/> (date of access: 22.02.19).

<sup>54</sup> M.L. Alzúa, C. Rodríguez, E. Villa, *The Quality of Life in Prisons: Do Educational Programs Reduce In-Prison Conflicts*, [in:] R. Di Tella, S. Edwards, E. Schargrodsy, *The Economics of Crime: Lessons For and From Latin America*. University of Chicago Press. Chicago 2012, p. 241.

<sup>55</sup> *Ibidem*, pp. 242, 250-251.

<sup>56</sup> *A journey into hell*. “The Economist” 2012. The article available online: <https://www.economist.com/the-americas/2012/09/22/a-journey-into-hell> (date of access: 22.02.19).

<sup>57</sup> F. de Sa e Silva, *op. cit.*, p. 191.

<sup>58</sup> The Federal Constitution of Brazil, Title VIII, Chapter III, Section 1.

1984, the Brazilian National Congress passed the Law of Penal Execution, recognizing the right of prisoners to education and other “services”. However, the law has not been effectively implemented<sup>59</sup>. According to the law, every prison should include a Technical Classificatory Board (CTC) to collect information concerning prisoners and their history. Due to the acquired information, CTC should develop an individualized rehabilitation programme. The prison personnel responsible for implementing the programmes should be thoroughly selected and trained. Furthermore, Community Councils and State Prison Councils should control prison conditions for the administration and Patronage Centres to support prisoners after release from prison. Also, such law explicitly acknowledges the right of prisoners to material support, health care, education, social assistance, work, and income. The Brazilian legislation reflects all international guidelines on human rights-based prison management<sup>60</sup>. In practice, however, since 1998, some prisons have not provided any education, while others have had only a “fraction” of inmates benefiting from education programmes. In the São Paulo State Penitentiary Institution, 23% of prisoners received any form of education<sup>61</sup>. A 2002 report by the Federal Court of Auditors estimated more than 90% of the federal penitentiary budget was spent on the construction of new prisons, whereas the funding of programmes involving education did not involve a common, consistent policy, instead, the scattered initiatives proposed by individual states<sup>62</sup>. It is estimated that in 2004 less than 20% of the 400,000 prisoners in Brazil had access to education<sup>63</sup>. Additionally, educational programmes, including e.g. literacy, are run by other convicts, since a shortage of teaching staff still occurs.<sup>64</sup>

#### IV. Education of imprisoned in Australia and Oceania

The first formal education programme in Oceania was implemented in Darlinghurst Gaol, New South Wales, Australia, in 1862, when a teacher was employed to provide elementary and moral education to any

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<sup>59</sup> F. de Sa e Silva, *op. cit.*, p. 190.

<sup>60</sup> *Ibidem*, pp. 190-191.

<sup>61</sup> J. Mariner, M. Cavallaro, *Behind Bars in Brazil*, Human Rights Watch, New York 1998, pp. 123-125.

<sup>62</sup> F. de Sa e Silva, *op. cit.*, p. 193.

<sup>63</sup> *Ibidem*, p. 190.

<sup>64</sup> J. Mariner, M. Cavallaro, *op. cit.*, p. 125.

willing inmate. Initially, one of the inmates gave lessons to the rest of the prisoners<sup>65</sup>. In the early years of the 20th century, primary literacy programmes were common in Australian prisons<sup>66</sup>, and by the 1950s all major prisons in the country provided certain forms of education and training programmes, although only 15-20% of inmates could benefit therefrom<sup>67</sup>. The Senate Employment, Education and Training References Committee developed the Senate Report of the Inquiry into Education and Training in Correctional Facilities in 1996<sup>68</sup>. The Senate Report states that the history of prison education in Australia may be described as a disgrace, with non-existent or poor facilities containing inadequate and outdated programmes<sup>69</sup>.

According to the New Zealand Education Review, the accessibility and quality of prison education in the country in larvae 1959-2005 has significantly decreased. Government policy evolved from being a rehabilitation-focused prison to a punishment-focused prison. The 2005 Ombudsman Report identified low levels of reintegration or productive time spent by inmates in New Zealand<sup>70</sup>.

Examples of the education of the prisoners in Australia and Oceania include the solutions adopted in Australia. In 2001, the National Strategy for Vocational Education and Training for Adult Prisoners and Offenders in Australia was introduced, and by 2006 all Australian states and territories provided various forms of education<sup>71</sup>. Significantly, Australia does not have a unified federal system (or constitutional right to education), hence all states and territories retain control over their prisons and educational systems<sup>72</sup>. The regulations, therefore, vary between the states, e.g. since 2006 inmates from the Australian Capital Territory are entitled to have laptops for educational purposes, yet since 2017 inmates serving a sentence in New South Wales do not have such a privilege, and therefore certain educational programmes (requiring a computer)

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<sup>65</sup> J. Ramsland, *With Just But Relentless Discipline: A Social History of Corrective Services in New South Wales*. Kangaroo Press, Kenthurst 1996, p. 32.

<sup>66</sup> J. Graffam, A.J. Shinkfield, B. Lavelle, *Corrections education and employment assistance 'Down Under': Current and emerging practices and paradigms*. "London Review of Education" 2014, no. 12 (2), p. 221.

<sup>67</sup> J. Ramsland, *op. cit.*, p. 309.

<sup>68</sup> J. Graffam, A.J. Shinkfield, B. Lavelle, *op. cit.*, p. 222.

<sup>69</sup> J. Tierney, *Report of the inquiry into education and training in correctional facilities*. Australian Capital Territory: The Committee, Canberra 1996, p. 1.

<sup>70</sup> N. Devine, *Prison Education in Aotearoa New Zealand: From Justice to Corrections*, "New Zealand Review of Education" 2007, no. 16, p. 56.

<sup>71</sup> J. Graffam, A.J. Shinkfield, B. Lavelle, *op. cit.*, p. 223.

<sup>72</sup> *Ibidem*, p. 222.

cannot be offered therein<sup>73</sup>. In 2012, the Australian Department of Justice published the Standard Guidelines for Corrections in Australia, representing results and objectives to be achieved by the correction services, instead of a set of absolute standards or rights to be enforced. The guidelines constitute a statement of federal intentions within each jurisdiction to further develop its range of legal and policy standards, as well as enforcement standards to be amended and adapted to the guidelines<sup>74</sup>. According to the document, access to programmes and services, including professional education and training, must be provided to inmates. Particular priority should be given to reading, writing and numeracy lessons. Convicted prisoners should be encouraged, yet not forced, to participate in programmes<sup>75</sup>.

## V. Education of imprisoned in Asia

Prison education in Japan began in 1871 when practical lectures on ethics were introduced in Tokyo penitentiary<sup>76</sup>. In 1881, reading and writing began to be taught on a larger scale in prisons. At the end of the 1880s, it was believed the most important form of education for prisoners was ethics. It began to be noticed that education was one of the most important problems of the prison system. To discuss ways of improving education, two scientific conferences were organized, both in 1889 and 1892. Due to the disagreement regarding the most appropriate way to implement moral education for prisoners, various institutions began to implement their respective programmes<sup>77</sup>.

After the establishment of the Republic of China in the 1920s, the prison system was modified. As a result of criticism of the poor education of prisoners, both religious and moral education were transformed into intellectual education and hard labour, considered as fundamental methods of rehabilitation<sup>78</sup>. The authorities endeavoured to develop an

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<sup>73</sup> Information posted on the Parliament of New South Wales website: <https://www.parliament.nsw.gov.au/la/papers/Pages/qanda-tracking-details.aspx?pk=237749> (date of access: 22.02.19).

<sup>74</sup> Corrective Services Ministers' Conference, Standard Guidelines for Corrections in Australia, State of Victoria, 2012, p. 3.

<sup>75</sup> *Ibidem*, p. 30.

<sup>76</sup> W. Röhl, *History Of Law In Japan Since 1868*. Brill Publishers, Leiden 2005, p. 759.

<sup>77</sup> H. Hardacre, A.L. Kern, *New Directions in the Study of Meiji Japan*. Brill Publishers, Leiden 1997, p. 754.

<sup>78</sup> K. Mühlhahn, *Criminal Justice in China: A History*. Harvard University Press, Cambridge 2009, pp. 79-80.

effective and diversified educational programme. Alongside literacy and arithmetic, classes included music and composition, ethics, Confucianism as well as patriotism and political doctrine. In the 1930s the education of party doctrine increased significantly<sup>79</sup>. In 1981, the People's Republic of China introduced prison education into its national educational programme, which significantly increased access to education for inmates<sup>80</sup>.

Japan was selected as an example of an Asian country in the discussion of the prison education system since it is a modern country with a low recidivism rate<sup>81</sup>. Prison law in Japan applies guidelines for the education of prisoners since 2005, also since 1946 a constitutional right to education applies (Article 26. All people shall have the right to receive an equal education correspondent to their ability, as provided by law.)<sup>82</sup>. Following Article 104 of the Act on Penal Detention Facilities and Treatment of Inmates and Detainees (Act No. 50 of 2005), the director of a penitentiary institution should provide access to primary and middle school education courses<sup>83</sup> for those who encounter problems with behaviour change, participation in rehabilitation programmes or the possibility of social readaptation after serving their sentence due to a lack of basic education. Besides, point 2 of the discussed article states that access to education should be provided to prisoners for whom a course of training may help improve social readaptation<sup>84</sup>. In Japanese prisons, secondary education courses including professional courses (for those who are willing) are also available. The Matsumoto Juvenile Prison (Matsumoto City, Nagano Prefecture) has established a branch of the municipal gymnasium, which accepts eligible candidates from all prisons in Japan. Once an inmate completes the course, the local middle school issues a graduation diploma. Also, certain juvenile penitentiaries provide correspondence courses at the secondary school level organised by nearby local educational institutions<sup>85</sup>.

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<sup>79</sup> Ibidem, pp. 96-100.

<sup>80</sup> R.J. Simon, *A Comparative Perspective on Major Social Problems*. Lexington Books, Lanham 2001, p. 66.

<sup>81</sup> See <http://www.prisonstudies.org/country/japan> (date of access: 04.04.2019).

<sup>82</sup> Constitution of Japan of 1946.

<sup>83</sup> Correction Bureau, *Penal Institutions in Japan*, Ministry of Justice, Tokyo 2018, p. 16.

<sup>84</sup> Act on Penal Detention Facilities and Treatment of Inmates and Detainees (Act No. 50 of 2005).

<sup>85</sup> Correction Bureau, op. cit., p. 16.



## VI. Education of imprisoned in Africa

Prison education in Africa is considered as not well established as in the Western world<sup>86</sup>. In 1961, during apartheid, South Africa began to detain criminal and political prisoners in Robben Island prison. Along with the opening of the prison, educational programmes to ensure literacy were implemented to encourage prisoners attending courses. However, education could only be provided for those whose families were able to pay tuition fees for access to education. As prison policy evolved, also access to education tended to evolve, and once it improved, yet it deteriorated. At the end of the 1960s, educational programmes were reduced as the morale of the convicts improved excessively. Historians also speculate here the prison administration was concerned with the fact inmates becoming better educated than the guards<sup>87</sup>. Those serving prison sentences were able to take correspondence courses under the international programmes of the University of London. This was the way Nelson Mandela received the Bachelor of Laws<sup>88</sup>. The efforts of the prisoners in self-development were greatly constrained by prison policy, prohibiting access to newspapers, radio, or television. The restrictions were abolished in the late 1970s, followed by a programme of political education in prisons in the 1980s<sup>89</sup>. According to a 1993 Human Rights Watch report, education was a privilege, not a right of prisoners. Primary courses in reading and writing conducted by paid inmates were offered. Classes with qualified teachers were not intended. A higher level of education than offered was available to inmates having the opportunity to afford paid correspondence courses<sup>90</sup>.

Due to financial assistance from the United Nations Development Programme in Ghana, a literacy programme was initiated in 2003. In 2008, all prisons provided basic education, however, the effectiveness of the programme is severely endangered due to insufficient resources<sup>91</sup>.

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<sup>86</sup> S.A. Indabawa, A. Oduaran, T. Afrik, S. Walters, *The State of Adult and Continuing Education in Africa*. University of Namibia, Windhoek 2000, p. 37.

<sup>87</sup> F.L. Buntman, *Robben Island and Prisoner Resistance to Apartheid*. Cambridge University Press, Cambridge 2003, pp. 62-64.

<sup>88</sup> A. Sampson, *Mandela: The Authorized Biography*. HarperCollins, Sydney 2011, pp. 242-43.

<sup>89</sup> F.L. Buntman, op. cit., pp. 93-99.

<sup>90</sup> J. Weschler, *Prison Conditions in South Africa*. Human Rights Watch, New York 1994, pp. 69-70.

<sup>91</sup> I. Biao, *Strategic Learning Ideologies in Prison Education Programs*. IGI Global, Hershey 2017, p. 188.

The only education available for many years in Moroccan prisons consisted of learning agricultural skills in rural prisons. Nevertheless, educational opportunities are expanding with an increasing number of educational courses being offered<sup>92</sup>.

The Nigerian regulations were cited as an example of solutions applied in Africa. The choice of the abovementioned country was based on the fact that the convicted are also provided with higher education, reflecting a modern approach to the problem. *Education* in Nigeria is a (*{right for all}*)<sup>93</sup>, at least according to the article. The Nigerian Constitution does not include provisions guaranteeing the right to education. The law introducing comprehensive legislation on prison management in Nigeria and other related matters<sup>94</sup> also does not regulate prison education (although some provision concerning Hard Labour is included), although specific forms of education exist in Nigerian penitentiary facilities. The first Nigerian penitentiary was established in 1872, yet until 2010 the Nigerian government did not introduce any formal education programme<sup>95</sup>. In 1986, one prison launched organised educational programmes, carried out and financed by inmates<sup>96</sup>. After the death of President Sani Abach in 1998, many political prisoners who drew the media's attention to the poor conditions under which they lived in prison were released. Nigeria's penitentiaries were seen as purely repressive, with little funding for infrastructure and rehabilitation programmes such as education. Educational programmes vary depending on the prison, but mostly informal apprenticeships were offered for prison maintenance work<sup>97</sup>. Prisons provide professional training, primary and secondary education as well as higher education from 2016. The National Open University of Nigeria has established training centres in six Nigerian prisons and

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<sup>92</sup> M. Belghazi, *The experience of DVV International in the education system in the prisons of Morocco*, [in:] T. Czerwinski, E. König, T. Zaichenko (Eds.), *Youth and Adult Education in Prisons Experiences from Central Asia, South America, North Africa and Europe*, DVV International, Bonn 2014, pp. 84-85.

<sup>93</sup> K. Aliyu, J. Bin Mustaffa, N. Nasir, *An Evaluation of Prison Educational Programmes in Kwara State Nigeria* [in:] *Materiały konferencyjne*. Conference: 2nd International Social Development, At Langkawi Island Malaysia, p. 3. The article available online: [https://www.researchgate.net/publication/321170665\\_AN\\_EVALUATION\\_OF\\_PRISON\\_EDUCATIONAL\\_PROGRAMMES\\_IN\\_KWARA\\_STATE\\_NIGERIA](https://www.researchgate.net/publication/321170665_AN_EVALUATION_OF_PRISON_EDUCATIONAL_PROGRAMMES_IN_KWARA_STATE_NIGERIA) (date of access: 26.02.19).

<sup>94</sup> An Act to make comprehensive provisions for the administration of prisons in Nigeria and other matters ancillary thereto. (10th April, 1972).

<sup>95</sup> E.M. Chukwuemeka, *Institutional reforms and the development of Nigeria Prisons Service, 1999-2007*. "Journal of African Studies and Development" 2010, no. 2 (5), pp. 119-120.

<sup>96</sup> U. Ewawoma-Enuku, A Novel Idea in Prison Education in Nigeria. "Convergence" 1987, no. 20 (2), p. 80.

<sup>97</sup> E.M. Chukwuemeka, op. cit., pp. 116-118.

offers prisoners a 50% discount on all tuition fees<sup>98</sup>. However, prisons are still underfunded with a shortage of qualified personnel to communicate knowledge to inmates. Merely professional courses are offered free of charge<sup>99</sup>. Consequently, the situation creates a “vicious circle” since there is a shortage of qualified personnel who could work in the prisons, thereby reducing the capacity to generate income for the government<sup>100</sup>.

## Conclusions

It would be impossible to evaluate individual educational systems. Considering the recidivism rate, which seems to be the most applicable, it could not be categorically stated which solution is the most effective. One should remember that the penitentiary system and the process of rehabilitation depend on many factors, e.g. access to work, possibilities of readaptation in the society (including education enabling good employment), as well as conditions in a given country, its culture and criminal law provisions. Furthermore, it should be emphasised that access to education is generally evolving, for instance, in Poland or Norway, there is no need to teach inmates reading or writing. The requirement for prison education at the basic level will also decrease. The situation differs completely from that in the countries of South America or Africa, where education frequently requires reading and writing education. The example of Brazil illustrates the fact that a good, modern law is still not enough to educate prisoners effectively. Effective enforcement of legal standards is also essential. One should also not forget to mention that in most of these countries many foreigners are imprisoned, influencing the way legal regulations and education are respected.

According to the author, Norway (a large percentage of prisoners benefit from education), as well as Poland (the possibility of taking professional courses, completed by 90% of the participants), seems to be the most effective prison education system among the countries concerned. Since Polish legal regulations are assessed by specialists as imperfect (the

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<sup>98</sup> W. Sawahel, *University in prisons – The ‘best rehabilitation tool’*. University World News 2017. The article available online: <https://www.universityworldnews.com/post.php?story=20170927104116664> (date of access: 26.02.19).

<sup>99</sup> *Ibidem*.

<sup>100</sup> K. Aliyu, J. Bin Mustaffa, N. Nasir, *op. cit.*, p. 6.

previously cited scientific evaluation of S. Lelental<sup>101</sup>), it may be worth considering the implications of solutions in Brazil. The solutions of the USA, Brazil, and Nigeria seem to be the least efficient (some prisons do not offer any education). Each legal system, in each country in the world, should offer prison education (preferably free) at the required level. There is a reason why access to education is, according to the UN, one of the fundamental human rights.

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<sup>101</sup> See S. Lelental, *op. cit.*, pp. 419, 421, 422

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