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TEPSIS PAPERS September 2016

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REENTRY SUPPORT IN COMMUNITY LEGAL ACCESS POINTS: A LAWYER'S PERSPECTIVE

Imprisonment cuts off inmates from society. The lack of social, family, or professional bonds leaves inmates feeling empty, forgotten and left out.

Time behind bars, regardless of its duration, causes disruption. Not only do inmates have their rights temporarily suspended, but they also experience their accelerated loss – in terms of housing, employment, family, or residence on French territory, etc. Life in prison has an inherent “unsocializing” effect on inmates in that it structures their lives for them and robs them of a large part of their daily responsibilities. However, sentences are finite, and men and women behind bars eventually return to the community... They must literally re-learn to live and function in society.

Recently, a man released after serving a ten-year sentence remained prostrate in front of the office door after an interview with SPIP (1) officers in Paris, waiting for the authorization to open the door. He was no longer used to doing things himself.

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In addition to impacting an individual's ability to do things and make decisions, the return to freedom and the community constitutes a real shock and an additional challenge. For if time stops within prison walls, it goes on in the free world outside. Returning prisoners do not recognize the places and people they knew before incarceration.

WORK IN COMMUNITY LEGAL ACCESS POINTS

Droits d'Urgence runs legal access points at the Fresnes penitentiary and in the community in Paris that provide legal advice to inmates, returning prisoners and people with commuted sentences. Callers are employed or not, are consumers, have children, etc. Our task is to receive people with a social situation aggravated by affective, moral and economic distress in the privacy of an office, inform them on their basic rights and help them perform administrative tasks. The problems related to social exclusion that we handle daily at Droits d'Urgence have been exacerbated by criminal conviction.

Community legal access points are available to reentering prisoners and former inmates on probation or with commuted sentences. They provide them with information on their rights and obligations. They also help them continue dealing with the administrative tasks they undertook while still behind bars. Long-term support and follow-up of procedures engaged during detention are key in ensuring effective access to law. The higher the difficulties and vulnerabilities (isolation, illiteracy, language or psychological problems), the more urgent the need to help these men and women. The task is easier in the community because former inmates with commuted sentences can communicate and move freely to perform administrative tasks.

At the community legal access point of La Santé prison in Paris, access to law is a major issue for foreign nationals. Most of them encounter difficulties related to their administrative status, such as stalled procedures and denial of rights, which jeopardize the commutation of their sentences and, in the long run, their family or professional lives. The volunteers' active part in informing and assisting them in gaining recognition of their rights, which are often ignored or trampled on, favors the restoration of their dignity and of their standing as subjects of law. It helps provide answers to reentering prisoners and inmates in need, and plays a role in their reintegration.

(1) Service pénitentiaire d'insertion et de probation – Prisoner Integration and Probation Service.

A PAST THAT WILL NOT PASS: A DOUBLE PENALTY

The criminal and prison records of foreign nationals constitute a genuine obstacle to their regularization even if they are entitled to residence permits corresponding to their personal situation.

For example, the number of years spent in France that is taken into account for the delivery of residence permits is impacted by a stay behind bars: if detention lasts more than a year, préfecture services only count the years starting from the release date even though the person has been in France for much longer. They also systematically put forward the threat to public order to hinder applications for residence or residence renewal.

A 21-year-old man was denied renewal of his “Private and Family Life” permit despite the fact that he had been living in France with his family since the age of five. The commission in charge of residence permits gave an unfavorable recommendation, and the préfecture complied. In support of this denial, it was stated that the person posed a threat to public order (he had been given a two-month suspended prison sentence for violence during a fight). Préfecture services suggested that he find professional training in order to reapply for residency a year later. The question arises, however, as to how an illegal immigrant can find professional training. How can this young man be reintegrated? An appeal was filed against this decision on the grounds that it was a flagrant misjudgment and that it violated his right to respect for his private and family life, as set forth in Article 8 of the European Convention on Human Rights.

Permanent or temporary banishment from French territory imposed as an additional sentence to “protected” persons, i.e., persons protected against this very type of measure, is also regularly exposed by the lawyers volunteering at legal access points for prisoners and former prisoners. It constitutes a genuine “double penalty” leading to pauperization and restricting the possibility of their sentences being commuted. It also jeopardizes their integration into French society even when they cannot return to their countries of origin, where they face the risk of inhuman and degrading treatment (persecutions, deteriorating health for lack of medical treatment, etc.). Obtaining redress is a daily challenge. One such challenge is disputing orders of the prefect requiring immediate removal from the territory – that is, without waiting for the expiration of the 30 day period of voluntary departure. Appeals must be filed with territorially competent administrative courts within 48 hours following notification – which means that, in record time, the person concerned must understand the nature of the measure, find writing assistance, find arguments, gather documents and be able to send their file to the court... when they do not necessarily have access to a fax 24 hours a day!

These persons' actual experience with legal access reflects the mindset of society. It shows the place that we are willing, or not willing, to give them, and our respect, or lack thereof, for their dignity. Successful reintegration requires that everything be done so that they find their rightful place. For this, they must receive strong and regular legal support. This will help them become aware of their rights and duties, restore their self-confidence, and engage for recognition of their fundamental and inalienable rights. All association volunteers and institutional actors must be involved in this process.