REPORT ON EDUCATION IN DETENTION:
UN Rapporteur Report and Carrying it into Effect

Justice Action
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>INTRODUCTION</td>
<td>3</td>
</tr>
<tr>
<td>JUSTICE ACTION SUBMISSION</td>
<td>3</td>
</tr>
<tr>
<td>SUMMARY OF UNITED NATIONS REPORT</td>
<td>3</td>
</tr>
<tr>
<td>OBSTACLES TOWARDS EDUCATIONAL FACILITIES</td>
<td>5</td>
</tr>
<tr>
<td>BENEFITS OF EDUCATIONAL FACILITIES</td>
<td>6</td>
</tr>
<tr>
<td>RESEARCH FINDINGS BY THE SPECIAL RAPPORTEUR</td>
<td>7</td>
</tr>
<tr>
<td>WHAT DID THE UN ADOPTED FROM THE SUBMISSION</td>
<td>9</td>
</tr>
<tr>
<td>RECOMMENDATIONS BY THE UNITED NATIONS</td>
<td>8</td>
</tr>
<tr>
<td>MENTAL HEALTH ACCESS AND RIGHTS TO EDUCATION</td>
<td>10</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>12</td>
</tr>
<tr>
<td>JUSTICE ACTION SUBMISSION</td>
<td>13</td>
</tr>
</tbody>
</table>
INTRODUCTION

The United Nations Special Rapporteur produced a report on the right of education for those who are in detentions. The Report was released 2 April, 2009. Justice Action put forward a submission to the Human Rights Council of the United Nations that assisted with the collaboration of the UN Rapporteur Report.

Attached to this Report is the Submission put forward by Justice Action.

The United Nations Rapporteur Report was made for information purposes particularly with the intention of informing the Government and to assist other parties with their goals in providing prisoners with education. The report was submitted under the Human Rights Council 8/4 of Guatemala and Education for Children.

Some ideas about education are widely adopted, education is a necessity, it is not a privilege but a right to all humans. Education is the answer to social change and is essential to overall well being of people. Unfortunately this right is taken away from marginalized groups such as prisoners, mental health patients and those in Juvenile Justice. Little to no attention is put on the right of education for these marginalized and disadvantaged groups.

JUSTICE ACTION SUBMISSION

The submission put forward by Justice Action is a document with the collaboration of prison-related research data particularly based on the right of education to prisoners. Justice Action undertook qualitative research which was based on the experiences of the prisoner and prison staff members.

From the research data, Justice Action found that the access to education for prisoners is heavily influenced by lack of funds and the overall attitudes of individual prison administrators who view education as a privilege rather than a right. There are electronic resources (such as photocopying, computers, printers CDs and DVD disks) but the access that prisoners have to these resources is highly restrictive.
The data obtained showed that when education was provided to prisoners it reduced recidivism. Lack of equipment to prisoners proved to be an obstacle when it came to learning about the law and therefore not preparing themselves for defence. Studies showed that inmates often pulled out of their studies because of the lack of equipment.

The submission posits education as “an important initiative for successful rehabilitation and reduction of reoffending” (Justice Action, 2009, 4-5).

Education is defined by Social Scientists as “an aspect of socialization that involves acquisition of knowledge and learning skills with the intention of shaping one’s beliefs, values and identity” (Justice Action, 2009, 5). It was found Programs are often not attuned to the educational level of the individual prisoner.

**SUMMARY OF SPECIAL RAPPORTEUR UNITED NATIONS REPORT**

The Special Rapporteur focused on finding and exposing the obstacles pertaining to the prevention of the right to education for marginalized groups, particularly those in prisons and other places of detainment.

In his report he posits three specific barriers to education in detention, they are referred to as “dispositional” “institutional” and “situational”.

The “dispositional barrier” being the experiences of the learner both prior to incarceration and during incarceration. This fact is often ignored and underestimated within prisons;

“Dispositional barriers, internal to the learner are closely linked to experiences prior to and during incarceration. These include the effects of a disadvantaged childhood, previous educational failure and low self-esteem, of drug and alcohol abuse, and communication, learning and mental health disabilities” (Munoz, 2009, 11).
The “Institutional and Situational barriers” being the external factors relating to the learner. Many prisoners and other persons in places of detainment all around the world have voiced their barriers to educational facilities. One of the barriers being ‘Institutional’ involved within the system, prison administrators asserting their power over prisoners and controlling the level of access prisoners have to the facilities which are essential to completing their studies. This issue has proved to be universal. The statement below taken from the United Nations Report emphasizes this;

“Their list is long, globally relevant and includes troubling examples of education interrupted or terminated on the personal whims of prison administrators and officers and by frequent lockdowns and abrupt transfers between institutions; the absence of libraries; the absence and confiscation of written and educational material generally; waiting lists of up to three years for courses; limited, and often complete absence of, access to and training in Information Technology related skills necessary in today’s computer driven community” (Munoz, 2009, 11).

OBSTACLES TOWARDS EDUCATIONAL FACILITIES

The fact that prison administrators are in control of the educational facilities, determine the prisoners access to those facilities on personal whims only demonstrates that they are inadequate in providing human rights to the prisoner.

Public opinion is commonly viewed as influential on penal policy but The Special Rapporteur does not rate public opinion as overly important.

“Public opinion, often indifferent to and ignorant of detention, can sometimes be perceived as the main barrier in fulfilling the potential of education in detention, although the main responsibility rests on the State through its public policies of education. These attitudes are fuelled by an often equally ill informed and ill advised media which, when reporting on cases of criminal justice focus almost exclusively on unrepresentative individual violent events” (Munoz, 2009, 11).
Staff shortages is another barrier in the prevention of education it meaning that prisoners are unable to sit exams due to lack of supervision. Which also leads to the poor quality and inconsistencies in tuition.

The Special Rapporteur addresses the issue of education for children in detention. Arguing that they should be cared rather than detained for because they are generally from disadvantaged backgrounds, children’s need for education is crucial.

The Special Rapporteur looks at children living in prisons with their mothers and the lack of supervision, together with women in prisons and mentions the issue of women in places of detainment being generally less educated than men.

One major concern is the lack of educational facilities in prisons;

“Frequently, inadequate attention and resources, both human and financial, dedicated to adequate education, combined with the damaging impact of detention exacerbate often low levels of self esteem and motivation of learners” (Munoz, 2009, 5).

**BENEFITS OF EDUCATION IN PRISON – EDUCATION AS A HUMAN RIGHT**

The Special Rapporteur strongly affirms that education has an impact on recidivism and is a tool for social change, providing the prisoner with employment outcomes upon release. (Munoz, 2). Providing these marginalised groups with the correct educational facilities will not just benefit the individual but society and communities as a whole;

“Learning in prison through educational programmes is generally considered a tool of change, its value judged by its impact on recidivism, reintegration, and more specifically, employment outcomes upon release” (Munoz, 2009, 4).
HUMAN RIGHTS

The Special Rapporteur stresses that “Profound global, social, political and economic changes have had an impact on all penal systems” (Munoz, 2009, 4). He strongly affirms that “human rights are not relinquished on imprisonment” especially the right to education (Munoz, 2009, 5).

The Special Rapporteur insists, “Detention institutions should maintain well-funded and accessible libraries, stocked with an adequate and appropriate range of resources and technology available for all categories of detainees” (Munoz, 2009, 25).

The Special Rapporteur reinforces the role of education within places of detainment;

“Education is not a panacea for the social, psychological and physical damage caused by detention. It has the potential, however, to offer previously unmet realistic opportunities and assistance, which contribute to meeting the rights and needs of the incarcerated and those of our entire community” (Munoz, 2009, 8).

RESEARCH FINDINGS BY THE SPECIAL RAPPORTEUR

The Special Rapporteur underwent research into the standard of education in places of detainment, conducting a questionnaire which went to several parties including;

“Member States and a number of intergovernmental and non governmental organizations working on issues related to the right to education and education in the context of detention. The questionnaire sought information in seven areas: policy and legislative frameworks; allocation of resources; curriculum of education programmes; statistics and monitoring; participation of different actors; non-nationals; and children in detention” (Munoz, 2009, 18).

The Special Rapporteur received responses from several countries. The findings from this questionnaire are as follows, although there is a general acknowledgement to the right of education for all persons in detention;
“The right to education enshrined in the Constitution or national legislation applies equally to persons in detention, not all states, however, explicitly guarantee such a provision in legislation” (Munoz, 2009, 19).

Security and limited access to the internet in certain states is an issue raised even though some states provide computers, they do not always allow internet access (Munoz, 2009, 19).

It was also found that there were inconsistencies within different countries with the cost of education. It was found that primary and secondary are generally free however higher education is usually charged with the exception of Germany, Hungary and Ireland. There are also available grant schemes in a limited number of countries (Munoz, 2009, 19).

The Questionnaire was also distributed to a number of potentially interested parties such as United Nations educational, Scientific and Cultural Organization (Ecuador and Swaziland), United Nations Children’s Fund (UNICEF) Malaysia, the Office of the United Nations High Commissioner for Refugees, Defence for Children International, Human Rights Watch, Bureau international catholique de l’enfance, the Quaker United Nations Office, World Vision International, Justice Action, Dignity and Schools (and partners), the NSW Teachers Federation, the Intellectual Disability Rights Service, the Centre for Study of Violence and Reconciliation, Advoc Aid, Addameer Prisoner Support and Human Rights Organization, the Centre pur la promotion de la photographie, Fundacion Somos Familia, World Vision International (and partners), Sisters Inside Inc. and the African Prisons Project (Munoz, 2009, 21).

Final note being that “it is clear that a number of States are at the early stage of developing a coherent policy for education in detention, others are midway through, and others yet are building on past efforts. All such efforts however, should be underpinned by rigorous research and sharing of best practises” (Munoz, 2009, 21).
RECOMMENDATIONS BY THE UNITED NATIONS

Following is the recommendations put forward by the Special Rapporteur, which are self explanatory;

90
(a) “Education for people in detention should be guaranteed and entrenched in Constitutional
and/or other legislative instruments” (Munoz, 2009, 24)

(b) “The provision of education for persons in detention should be adequately resourced
from public funds” (Munoz, 2009, 25)

(c) “Compliance with the standards set forth in international law and guidance pertaining to
education in detention should be ensured” (Munoz, 2009, 25)

91
(a) The Special Rapporteur recommends that authorities in charge of public education:
make available to all detainees, whether sentenced or in remand, education programmes
that would cover at least the curriculum of compulsory education at the primary and, if
possible at the secondary level also;

(b) Together with the institutions of detention, arrange comprehensive education
programmes aimed at the development of the full potential of each detainee. These
should aim also to minimize the negative impact of incarceration, improve prospects of
reintegration, rehabilitation, self esteem and morale (Munoz, 2009, 25).

92. Systematic and appropriate screening of all prisoners upon entry to places of detention
becomes the norm. Individual education plans with full participation of the detainee
should result from this screening, and be monitored, evaluated and updated from entry to
release (Munoz, 2009, 25).
93. States should identify the dispositional barriers to education and subsequently ensure adequate assistance and resources to meet their challenge (Munoz, 2009, 25).

94. Education programmes should be integrated with the public system so as to allow for continuation of education upon release (Munoz, 2009, 25).

95. Detention institutions should maintain well funded and accessible libraries, stocked with an adequate and appropriate range of resources and technology available for all categories of detainees (Munoz, 2009, 25).

96. Teachers in places of detention should be offered approved training and ongoing professional development, a safe working environment and appropriate recognition in terms of working conditions and remuneration (Munoz, 2009, 25).

97. Evaluation and monitoring of all education programmes in detention should become the norm and a responsibility of the ministry of education. The Special Rapporteur encourages States to investigate which practices pervade their prison estates, recognize them and take prompt steps to address them (Munoz, 2009, 25).

98. Education programmes in detention should be based on current, multidisciplinary and detailed research. To this end, the international community should establish cooperation and exchange mechanisms between states to facilitate the sharing of such research and examples of best practice and their implementation (Munoz, 2009, 25).

WHAT DID THE UNITED NATIONS ADOPTED FROM THE SUBMISSION?

The submission put forward by Justice Action emphasized the lack of educational facilities particularly electronic equipment (CD Roms, computers, DVDS etc) which was taken onboard by the United Nations Report;
“Detention institutions should maintain well-funded and accessible libraries, stocked with an adequate and appropriate range of resources and technology available for all categories of detainees” (Munoz, 2009, 25).

The submission also emphasized education for prisoners as a way of reducing chances of recidivism and preparing prisoners for the outside world, this was outlined by the United Nations;

“Learning in prison through educational programmes is generally considered a tool of change, its value judged by its impact on recidivism, reintegration and, more specifically, employment outcomes upon release” (Munoz, 2009, 4).

UNITED NATIONS MENTAL HEALTH ACCESS AND RIGHTS TO EDUCATION

The United Nations report includes mental health patients;

“Attention should be given to persons from traditionally marginalized groups including women, minority indigenous groups, those of foreign origin and persons with physical, learning and psychosocial disabilities. Education programmes for such groups should pay close attention to accessibility and relevance to individual needs; the barriers to continued education upon release should also be addressed and taken care of properly” (Munoz, 2009, 26).

The need for educational support aimed towards people with mental health illnesses is stressed:

“Consistent educational support for groups with particular needs was also lacking, such as for indigenous persons and women, those from cultural and linguistically diverse backgrounds and those with mental health issues who comprise a large percentage of the prison population.” (United Nations, 2009, 24).
Bibliography


URL: http://www2.ohchr.org/english/issues/education/rapporteur/issues.htm

Justice Action, 2009, “Prisoners’ Right to Education”, Sydney, Breakout Design Print
PRISONERS’ RIGHT TO EDUCATION

JUSTICE ACTION SUBMISSION: SPECIAL RAPPORTEUR TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL - 2009

Abstract

This study explores prisoners’ rights to education, makes findings and asks for improvements in legal and educational accessibility. There is a growing concern amongst social justice and human rights NGOs in Australia that prison education is not being adequately provided with services and resources that will prepare inmates to successfully reintegrate into society. To ensure that there is policy change in prison education, Justice Action is campaigning around the issue of the introduction of legal education and compulsory computer access for prisoners. Justice Action is opposing of current government policies that see prisoners being treated as ‘unpeople’ in their places of detention. An approach suggested here sees learners and teachers as being central to issues relating to penal reform, restorative justice and enhancing the right of prisoners in conjunction with the field of correctional education. This is done to ensure that education to prisoners will encourage for rehabilitation.
Introduction

Prisoners should be directed in education and training to help them decrease their chances of re-offending upon release\(^1\). Education and training benefits the offenders, by giving them similar opportunities that exist in the real-world, but more importantly, it can help the entire community by seeing that imprisoned citizens find the right pathways to responsible and productive participation in the life of the community.

If prison education is treated as a privilege, but not a right, then restrictions enacted upon prisoners has the effect of dehumanising our fellow citizens who have similar gifts and goals as those in the outside world.

To show that correctional education in Australia is full of imperfections, Justice Action, an independent community-organisation, has been collating prison related materials for some time. This was done to ensure that valid information is collected for the preparation of the UN Special Rapporteur’s report.

The Special Rapporteur is interested in: clarifying the content of the right to education in places of detention; identifying those with the principle responsibilities for its implementation; understanding challenges faced during a prisoners involvement in their studies; assessing innovative approaches used to date and lessons learnt from putting together such approaches; and offering recommendations on how to implement prisoners’ rights to education in order to improve the situations of the people in detention.

Justice Action has been investigating how the right to education for prisoners is being implemented in prison education. This has been investigated from the perspectives of the prisoners' learning experiences in various prisons. Teachers, learners, and prison staffs were specifically asked to present their views on the availability, accessibility,

acceptability, and adaptability of legal education and materials required for effective teaching and learning in the prisons.

The research questions used to guide the research have been: What is education? What is the right to education from the perspectives of learners, teachers, and philosophers? What is training? What is the right to education according to the UN? What are prisoners’ experiences of education in Australia? Why do we need prisoners to learn in the prison? These questions were raised to address the UN Special Rapporteur’s research intention. The Special Rapporteur pays particular attention to the principle of equality and monitoring the role of the government in ensuring the availability, accessibility, and acceptability, and adaptability of prisoners’ right to education.

In summary, the Justice Action research has found that the main areas of concerns are:

- Access to education is either denied or severely limited by the attitude of prison administrators and funding shortfalls;
- Access to education is seen by prison administrators as a privilege rather than a right;
- Restricted access to basic office equipment like photocopying, computers and printers hampers students participating in distance education;
- Restricted access to electronic resources like educational materials on CD and DVD disks effectively deny participation in education;
- Access to educational and computer supports to properly respond to the criminal justice processes do not exist so as to allow prisoners to:
  - access and deal with evidentiary material provided by the police in electronic format;
  - learn about the law and its processes; and
  - prepare documents giving instructions to lawyers.

The data collected from the prisoners’ learning experiences and teaching staff lead us to the conclusion that education with computer access in the prison had the beneficial
effect of reducing recidivism whereas the refusal of computer access had substantially increased recidivism as many inmates pulled out of their studies\(^2\). Therefore, refusal by prison and State authorities to properly resource prison education may be a contributing factor towards recidivism in some cases and work against the protection of the community from offending. Being able to actively participate in the community sends the message that a prisoner is part of the community that they have offended against. And in this way the reciprocal interplay of obligations between an individual and the community are reinforced in a pro-social way.

As a result of the conclusions that we have reached Justice Action is campaigning for the implementation of legal access to educational resources such as unlimited computer access in order for prisoners to progress with their studies. The aim of this access is to ensure that the use of computers in prison will have a positive impact on inmates. This may help inmates to build personal capital, providing hope for successful re-integration when released. Legal education can also open up opportunities for achieving qualifications, which can provide prisoners with jobs once released. Finally, remanded prisoners can properly participate in their defence of their legal cases if they have access to evidentiary material provided in electronic format CD-ROM facilities before trial. Sentenced prisoners also have appeal and rights to come to terms with their legal matters after the process is over.

Generally, the provision of legal and educational and computer access to the people in custody is more likely to open up inmates’ opportunities for rehabilitation and a way of becoming better citizens when released\(^3\).

Education Contexts

What is Education?

---


Providing prisoners with education is considered in a developed countries as an important initiative for successful rehabilitation and reduction of re-offending. Despite so many governmental and non-governmental agencies being involved in the education system\textsuperscript{4}, little is known about how to ensure penal reform, restorative justice, and rehabilitation in the prison through education.

The word education has contested meanings. According to social scientists, education can be broadly defined as an aspect of socialization that involves acquisition of knowledge and learning of skills with intention of shaping one’s beliefs, values and identity\textsuperscript{5}.

By contrast, better education, according to learners’ experiences should be concerned with what is effective for them rather than enforcing subject matters and ways of teaching/learning that the teachers and learners do not value as important. Education for the common good should involve the true nature of the content and context; the social activities where questions of meaning and value should be highly considered and also the interpretation and judgement\textsuperscript{6}.

**Arguments between educators and policy makers**

Educators and policy makers alike impart intentional knowledge to the students in order to achieve a certain set goal. It can be contested that teachers who have a more broader understanding of learner combined with societal expectations provide a valuable learning experience. But policy makers expect learners to conform to education policies rather than education policies reflecting and serving the needs of the learners.

Policy makers restrict knowledge into what certain interests’ value rather than what could make a difference in peoples’ lives. Teachers sometimes complain about how


their expertise is being ignored when they have experience and immediate feedback from learners.

For Freire (2000), education is only relevant to educators if it addresses issues of the current technologically advanced society, which to the educators’ detriment acts to program the individual, especially the disadvantaged, to a rigid conformity. A new understanding of education maintains that it is everyone’s responsibility to react thoughtfully and positively to the situation (p. 9).

Learners’ perception on education

Like teachers, learners also perceive education as a practice of imparting and acquiring knowledge through teaching, and learning. This knowledge can be acquired either formally or informally.

Learners, however, reveal a slight difference in that their understanding of education involves the reflection of such things as self-development, personal discretion, and self-determination. These perceptions are hardly achieved through the current education system. This is why most of the disadvantaged learners whose education experience at home is different from education experiences at their places of learning are more likely to drop their studies.

Perceptions on Training

Training is perceived as an introduction to knowledge through instruction in a particular discipline. For example, vocational trainings such as carpentry or being trained to become a psychologist impart the learner knowledge in a specific discipline. This means that people may require training to respect legal rights and other issues that need attention rather than being hidden in an esoteric knowledge system controlled by an
elite, and used to intimidate people who have less knowledge on how to avoid breaking those written intentions.

The Importance of Education

Education is a pathway to responsible self-empowerment through developing an individual’s inherent abilities. It is important because it creates chances for individual’s to participate equally in society by improving abilities for employment, attaining qualifications, helping family, gaining recognition through innovations and through serving as a role model for others.

Current education in prison, however, places the politicians and prison policy makers always before the educators’ professions. This appears to be undermining to the future of the profession. As Caldwell said, the importance of education to a knowledge economy should make sense if we could look at pedagogy and to look at teacher preparation, from the perspective of the needs of learners and the needs of society in the 21st century instead of making the profession a stalking horse for politicians. This is exactly what is happening in the modern world especially in the prison system where the recipient of education is such a socially marginalised class of person. Teachers have become policy implementers rather than developers. This is because the new classical society has shifted educational power to politicians even if they have less information about the constitution of education.

What education is supposed to mean in the contemporary world

Education may comprise of acquisition of information about the past and present such as the traditional disciplines, for example, literature, history, science, mathematics; formation of healthy social or formal relationships among and between students, teachers and others. It may involve capacity building to evaluate information and to predict future outcomes; and also the ability to solve problems.

7 Caldwell, and Holden, (2005) A little perspective, Professional Educator; vol.4. no. 4, pp. 40-4
8 Krause, Bochner and Duchesne (2003) educational Psychology for learning and teaching, pp.137
The following skills and abilities are developed through education:

- development of mental and physical skills: motor, thinking, communication, social, aesthetic;
- knowledge of moral practices and ethical standards acceptable by society;
- ability to recognize and evaluate different points of view;
- giving and receiving recognition as human beings;
- indoctrination into the culture;
- capacity to live a fulfilling life;
- ability to earn a living;
- career education;
- sense of well being;
- mental and physical health;
- capacity to be a good citizen;
- ability to think creatively;
- cultural appreciation: art, music, and humanities;
- understanding of human relations and motivations;
- acquisition of values related to the physical environment;
- clarification of personal values;
- self-reflection: awareness of one's abilities and goals; and
- self-esteem.

If one was to compile a list of the general attributes of most people in custody, all of the above points would appear on the negative side of the scale. In short, what education has to offer is a panacea for the social and personal ills of crime and justice.

**The UN Approaches to Education Rights**

The Right and the benefit to humankind of education were recognized internationally under the Universal Declaration of Human Rights in 1948 Article 26. It states:
1. Everyone has the right to education…and that all kind of education shall be equally made available, accessible, acceptable and adaptable to all members of the human race regardless of their social, economic, cultural, religious, political, sexual and other backgrounds.

2. Article 26.2 of the Universal Declaration of Human Right decree maintains that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups.

The UNESCO, adopted a declaration on the right to learn for all, including reading and writing, asking and analysing, imagining and creating, reading one’s own world and inventing one’s own history, accessing educational resources, developing individual and collective skills. This means that education can be reflected in peoples’ desires and needs, as people have different backgrounds and levels of education.

The UN Right to Education for people in Detention

The UN documents on the right to education that establishes educational standards which declare, particularly, in the Standard Minimum Rules for the Treatment of Prisoners (1955), that “provision shall be made for the reasonable education of all prisoners capable of profiting from it”, and that penal education should be integrated “so far as practicable” with each country’s educational system. This means the nation has a role in employing education policies that could meet the needs of the people who are in detention, in order to make an equal, fair and just society.

Furthermore, under the UN Standard Minimum Rules for the Administration of Juvenile Justice, it establishes the standard on the rights of juvenile offenders. In rule 26 a juvenile penal education system should help people in institutions “to assume socially constructive and productive roles in society”. This statement is helpful in reforming penal education particularly in places where such rights are not being implemented. For

---

example, many countries including Australia have made a commitment, to address education about human rights by ratifying these documents. However, it was realized at the World Conference on Human Rights in Vienna in 1993 that during fifty years since the Universal Declaration of Human Rights was instituted, very little has been achieved in promoting human rights education\(^\text{10}\).

In 1990, new UN resolutions on prison education were adopted. This resolution recommended that “all prisoners have access to education, including literacy programmes, basic education, vocational training, creative, religious and cultural activities, physical education and sports, social education, higher education and library facilities”. This was adopted in order to meet diverse needs of peoples in detention, including people with disabilities and those without, people from different races, religions, cultures and sexual orientation, people in various institutions, people from both formal and informal educations, and those who are currently studying both at low or high levels of education.

This resolution guarantees that all the UN members must ensure that education in prisons should be available, accessible, acceptable and adaptable. It is the role of the government concerned to direct this to meet its peoples’ needs.

In 1997, UNESCO also adopted the Hamburg Declaration on Adult Learning which recognizes the right for all inmates to learn by: providing prison inmates with information on and access to different levels of education and training; developing and implementing comprehensive education programmes in prisons with the participation of inmates to meet their needs and learning aspirations; making it easier for non-governmental organizations, teachers and other service providers of the educational activities to work in prisons, thereby providing prisoners with access to educational institutions and encouraging initiatives that link courses carried out inside and outside prisons. That means education in the prison should not have any difference with education in the outside world for the common good of humanity.

\(^{10}\) Newell & Offord (2008) ibid
Current Education Practice in NSW Prisons-Australia

In Australia, Justice Action has identified the issues of access to education for people in custody as being of significant importance to the well-being of the whole community. Justice Action has qualitatively examined prisons’ services through the bottom-up investigative approach. From the investigation made to date there is a growing concern that access to education for people in custody is grossly inadequate hence, requires immediate intervention.

In Australia, Justice Action has identified that issue of access to education for people in custody as being of a significant important to the well-being of the whole of the community.

The perspectives of the prison learners and teachers are considered central to penal reform, restorative justice and human rights in this study. If their concerns and aspirations are not being included in the process of prison education policy making, this may result in high recidivism rates and the corresponding creation of move victims of crime and social injustice. The government designed policies may not suit their needs and the needs of the entire community.

In practice, the 2005 policy changes in NSW, although there have been learning inconsistencies existing before this period, had a significant negative impact on the prisoners’ hope of achieving their education goals. The policy stated that “educational staff must supervise prisoners at all times when they are using the computers in the educational classrooms”. This policy has hindered the prisoners’ efforts to achieve rehabilitation through legal education through computer access.

This policy saw a number of prisoners pulling out of studies which has disempowered their abilities to achieve their educational progress. That meant they end up relapsing back to drug use as a result re-entering a cycle of crime. For example, Albert Hughes, in Goulburn gaol has been studying a computer science degree in the prison since 1993. In that period, his studies were smooth as computers for studies were available and accessible. It was when two people were found having access to unauthorised
information, the whole system was shut down and this was followed with an introduction of the new policy which we read as a form of collective punishment which is disallowed by the standard Minimum Rules. This decision saw people like Albert Hughes lacking access to their education facilities and as a result, dropped their studies including a TAFE course which he thought would give him a job once he is released.

Current studies suggested that specialized services are needed for the successful community reintegration of inmates. In particular, the use of computers in any education programs has become a new way of developing personal capital\(^\text{11}\). It is also useful as a communication link where the thoughts of prisoners could be shared to provide a great potential that could improve them and empower them so that they would be perceived positively by the community\(^\text{12}\). Moreover, access to such technologies as the internet enables prisoners to obtain information from around the world.

Contemporary correctional policies taking place in Australia such as the denial of computer access to the prisoners are considered to be backward, inappropriate and oppressing human abilities indirectly because they often limit inmates’ educational opportunities. The examination of the possible negative consequences of such actions seems important as the lengthy wait for reform from the government may result in a mental health crisis which will cost more than what it would have cost on the education investment.

**Literature**

The criminal justice system serves two purposes. Firstly, the state responds to crime to secure benefits to the wider society through crime prevention and crime reduction. Secondly, the state must look after imbalances caused by those people who take illegal advantage of another or diminish their human dignity\(^\text{13}\). The aim is to prevent future


\(^{12}\) Marks, Claude; McBride, Rob (2003) *Recovering, Amplifying, and Networking the Voices of the Disappeared; Political Prisoners on Internet Media Social Justice*, vol. 30, no. 2, pp. 135-142

crime by reforming offenders and thus, protecting the community as a sentencing principle,

‘The protection of the community is also contributed to by the successful rehabilitation of offenders. This aspect of sentencing should never be lost sight of… if a sentence has the effect of turning an offender towards a criminal way of life, the protection of the community is to that extent impaired. If the sentence induces or assists an offender to avoid offending in future, the protection of the community is to that extent enhanced’ (Yardley v Betts 1979, pp. 333).

To justify rehabilitation and reformation of offenders is an important goal, there are four major theories associated with crime prevention. These include; first, individual deterrence; that is to deter an offender from committing crime in the future, second, general deterrence; to dissuade or deter members of the broader community from committing a crime in the future, incapacitation; to protect community members from certain offenders who may pose a threat to their welfare and safety\(^{14}\) and rehabilitation; to change the attitudes or behaviour of offenders so they do not commit crime in the future, and fourth,

Linking these sentencing principles to the contemporary justice system, there is a growing concern that social justice has not received the attention it deserves and this means that there is enduring presence of harm, suffering and injustice in contemporary society. In particular, there are growing social justice discourses reinforced and perpetuated by organizational and institutional policies and practices\(^{15}\). For example, prisons today are full with people who are afflicted with physical and mental health issues, extensive criminal histories, and deficits in education and employment skills. Evidence of the revolving-door cycle suggests that prisoners are not adequately prepared to face life outside the gates upon release\(^{16}\). And such an unpreparedness is

\(^{14}\) Goldsmith, Andrew., Israel, Mark., and Daly, Kathleen (2006) ibid pp. 277
\(^{15}\) Williams 2008
\(^{16}\) Kelly ibid
hardly surprising when prisoners are held for years at a time in a technological and educational vacuum.

Previous knowledge on how to control and manage prisoners so they could make sense of their place and become productive citizens upon released did not provide an appropriate approach to handling inmates. This is because it failed to include the contemporary prisoners’ right to education that assess various perspectives of prison experience, and outcomes that measure level of reintegration in addition to addressing the self-perpetuation problem of recidivism\(^{17}\).

Current literature, by contrast, maintains that responsible correctional systems should ensure security, control and justice as the priority in the reformation process. Important among these is ‘Justice’ the obligation of the prison service to treat prisoners humanely and fairly and to prepare them for their return to the community in a way, which makes it less likely that they will re-offend.

In the research Justice Action has done for this submission, the investigation analysis has been employed to predict whether the denial of prisoners’ access to computers and legal education has a negative impact on the prisoners once released or not. This was investigated from the perspective of prisoners in the New South Wales Prisons to find out: firstly, the effect of supervision of the inmates to the use of computers. Secondly, the impact of the denial of inmates to computer access generally in the prison educational system, and finally, the consequences of prisoners being denied access to computers to access their legal materials which are being supplied by police on CD-ROM.

From the study of both primary and secondary data obtained by Justice Action from the New South Wales prisons’ inmates and teachers, there is an indication that the New South Wales' corrections educational system focuses only on security and control but

\(^{17}\) ibid
does not largely support Justice, thus, this will not only break social ties but also is likely to fail\textsuperscript{18} and further endanger the community through an increase of reoffending.

**Methodology**

This work focuses on findings of the research that was generated by the researchers through the investigation of the prisoners’ right to education. This was made possible through the support and coordination of Justice Action for three months in 2008. The bottom-up investigative approach aimed at introducing innovative approaches to education rights to prisoners was applied to explore the learners’ experience of education in detention. This approach gathers prisoners’ thoughts, feelings, experiences and plans, to find out educational situations faced by prisoners in their places of detention.

In practice, given current the UNHRC’s focus on the importance of prisoners’ right to education, the government needs to be to encouraged consideration of the prisoners’ right to education from the perspectives of the prisoners’ learning experiences. This may lead to proper implementation of education for rehabilitation purposes of our fellow citizens who could in turn help society flourish.

The research was designed to ensure that there is progressive legal learning in the prison, a learning that ensures the respect for human dignity and that provide services that would encourage offenders not to re-offend when released.

The specific research methodology used has been a qualitative study. It was used to examine the thoughts, feelings, experiences, and plans of prisoner students in the New South Wales State in Australia. Telephone calls, letters of enquiries and ex-inmates’ experiences on face-to-face interviews were used to investigate the prisoners education experiences. Also a study of government documents and responses on the enquiries on how they approach certain jurisdictions in a correctional system was consulted to evaluate the outcomes of their policies. As a result, a number of findings are made.

\textsuperscript{18} \textit{The Magic Bullet} 2002 ibid
Findings

There is a growing concern that prisoners should have access to quality education just like other people who are pursuing their studies outside the prison. A number of complaints have been projected by the prisoners themselves that the system of education provided to them is completely unsuitable for them to achieve quality education that may rehabilitate and/or create a better future that is welcoming and acceptable within the wider society. Many issues have been identified; from 2005 onwards we have witnessed further restrictions that have been emplaced on prisoners ability to access computers and because of this it has incurred an array of problems:

- The restrictions of the inmates to their computer access has created a big reduction in access to computers and distorted educational progress. Here, legal education has become inoperable.
- The policy has seen a lot of people withdraw from their courses due to insufficient access to their educational facilities and computers. In this finding, the inmates saw that education has become a privilege instead of their right to learn and that has been taken away.
- Remand prisoners experience trouble of accessing legal material supplied by police on CD-ROM. This saw many prisoners disadvantaged in being able to properly put a defence.

According to prisoners, these restrictions is said to be dehumanizing as efforts towards rehabilitation and being able to adequately defend themselves in court have disadvantaged prisoners because of information that is denied to them electronically (i.e. CD-ROM). For example, Christopher Astles, an inmate at Goulburn education services in the high security centre was refused education services that he wants and is just another form of punishment.

Discussion and Analysis
Restrictions that have been enforced in prisoners has brought about a large reduction in access to computers and thus education and the ability to participate in the criminal justice process with equity. For example, some inmates who were doing their degrees online dropped studies as a result of being denied access to computers.

In the literature, there are reports from Victoria that advocates the importance of participatory approaches to students' learning in relation to the contemporary world. The approach in Victoria supposes that the importance of education for a "more peaceful, just, democratic and ecologically sustainable world which provide learners with knowledge and skills that build students' understanding and application of concepts of civics and citizenship, and an appreciation of their rights and responsibilities as active citizens in a democratic society must be ensured". What is happening in Victoria clearly endorses approaches in line with the principles of learning and teaching about 'deep levels of thinking and application' and 'practice beyond the classroom', and which involve taking pro-social action and reflecting on learning\(^{19}\). This approach, if applied in the prison learning perspective, would mean all inmates would be better off by equipping themselves with real world apparatuses that would help them face the challenges of the contemporary world.

By putting security and control first, Justice Action considered this policy, as an injustice, thus, disempowering the prisoners. As a result there is a need for international intervention if the government cannot promote prisoners’ right to education at national level.

These three emergent themes have indicated that there is a need to further make a research study on the prisoners' right to education from the intimates’ perspectives. Some of the themes that require further attention include, first, the learners need to have legal education; second, the learners need to have legalized access to computers and third, the remand prisoners need to have access to computers and printers as soon

---

as the evidence and the materials in the case against them has been delivered by the police. This access needs to continue through the preliminary hearings, the trial and the appeal stages of the criminal justice processes.

**Why does Justice Action advocate for the implementation of computer access and provision of legal education in Australia?**

- **Legal education and Computer Access**

  Prisoners do not have access to the law, but they are judged by a system, that consist of principles and rules are in effect hidden from them. Section 120 of the Commonwealth Constitution makes prisoners wholly a matter of the States and the Federal Government has no jurisdiction at all: Minogue v Human Rights and Equal Opportunity Commission (1998) Vol. 54 Administrative Law Decision, p. 389, and Minogue v Human Rights and Equal opportunity Commission (1998) Vol. 166 Australian Law Reports, p.29; and Minogue v William (2002) vol. 60 Administrative Law Decisions, p.366. Prisoners need a system that is universal, balance and unbiased because inequality is the root cause of social disintegration. For example, if prisoners in New South Wales are treated differently from the prisoners from Western Australia, this indicates an inequality in relation to human right abuses. If the government is concerned and society is committed to seeing their imprisoned citizens released and re-integrate successfully, the federal government needs to legislate the prisoners’ meaningful right to legal education. And one way for this to happen is for a strong statement from the UN which addresses the issue raised in this submissions

- **Accessible education legal materials**

  The right to education is a vitally important aspect of pro-social change in a person’s life. Education, and therefore pro-social change and personal development, cannot be achieved without appropriate facilities such as a computers. To ensure that a prisoners’ right to education is effective and efficient, the right to education should be promoted by governing bodies. This can protect the provision of education services from those who take advantage of abusing the prisoners. Also computer use will assist the remand
prisoners to have access to the evidentiary and other materials relied upon by the police in court cases without difficulties. This would assist the prisoners to defend themselves before the court.

Implementing greater access for computers and education for inmates will have the following benefits: firstly, to ensure that inmates have proper access to educational resources for building personal capital that can be used for the benefit of the community as a whole. Secondly, to allow prisoners to have access to legal facilities, this can assist them in defending their cases. Finally, to ensure that prisoners participate in the criminal justice processes with equity.

Conclusion

This study has explored the prisoners' right to education from different perspectives. The term 'education' has been defined largely as an aspect of socialization. The learners' perception on education is considered central in this study as it may build their interest to have affinity for studies which could eventually lead to a successful re-integration and positive participation in the life of the community.

To implement prisoners’ right to education, the study has shown that prison education needs improvement through the adoption of the United Nations resolution on the right to education for people in detention.

From the Australian perspective, the findings made from the investigation of prisoners’ experiences of education involve: the refusal to allow inmates computer access. These restrictions has firstly, created a big reduction in access to computers and distorted educational progress; secondly, the policy has seen a lot of people withdraw from their studies due to insufficient access to their educational facilities and computers; and
thirdly, remand prisoners experience trouble of accessing legal material supplied by police on CD-ROM before appearing in court.

These findings challenge the need for, or the appropriateness of, the current restrictions on education, information about the law and computer access. Justice Action, instead, supports the pro-social idea that prisons should be provided with services that will prepare inmates to successfully reintegrate into society. This objective can be achieved through the provision of legal education and vocational training, and more importantly, the legal provision of computer access.

It is a well known fact in criminology, penal and justice studies that the more education a person receives, the less likely are their chances of re-offending. With less offending, there are less victims and more likely social justice for the whole of the community. Education is a panacea for the social and personal ills of crimes and injustice, or as Craig Minogue said in his submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs 2002 ‘Inquiry into Crime in the community: Victims, offenders and fear of crime’, that education is the magic bullet and the answer to crime in Australia.

As a society we should be increasing our justice’s capital, not reducing it.

A resolution from the UN which addresses the very real issues highlighted in the submission will support the work of NGO’s in Australia, like Justice Action, and their work towards a more just and equitable society for all.

Bibliographies


Affairs-'Inquiry into Crime in the Community: Victims, offenders and fear of crime’  
Canberra, July 2002
