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From authoritarianism to emancipation. About the dangerous areas of relationship between the probation officer and the ward

[…] *to achieve greatness, one must create, not recreate.*
Saint-Exupéry 2012, p. 108–109

Abstract: In the article I discuss the problem of the specificity of the relationship between the probation officer and the ward. I analyze different pedagogical approaches and discuss their positive and negative aspects. I put forward a thesis that the most developmental relationships are those based on a critical and emancipatory approach. They are demanding for both parties to interaction and force them to engage. The main danger of relationships based on this approach is the risk of falling into the so-called equality traps due to the existence of a situation of equality between entities whose legally defined relationship is hierarchical.
Keywords: Probation officer-ward relationship, dangerous areas of relations, responsibility, emancipation.

Introduction

The specificity of the work of probation officers is expressed in their complex relations with the wards, who for various reasons found themselves in a situation requiring the intervention of the court. A probation officer, on the one hand, is

a government officer and their task is to control the level of implementation by the defendant of the obligations set by the court. Therefore, they are a kind of a tool that verifies the execution of court orders. On the other hand, however, the probation officer is also an educator, a social rehabilitation pedagogue, who should take care of the development and return to proper social functioning of the people they supervise as well as their immediate environment. In this aspect, they are a kind of creator of change, not only personal, but often also environmental, since they usually work in the place where the ward lives.

In the text of the probation officer's oath we find a passage stating that the probation officer swears to perform their duties "having regard to the good of the Republic of Poland and the good of the persons under [...] (their – note by A. B.-W.] supervision" (Probation Officer Act, Art. 6). As Jedynak (2018, p. 32) emphasizes, the probation officer is a kind of bridge between the society and the person entrusted to them. Therefore, their impact should not only be directed at the individual welfare of the ward, but also at the welfare of the state and society, which also involves attempts to restore the individual to proper social functioning. To this end, the probation officer undertakes social rehabilitation activities, such as: social rehabilitation procedures, shaping in terms of social rehabilitation, destigmatization process (Konopczyński 2014, p. 116–117, 134–137) as well as therapeutic activities. They are individualized and should be aimed towards empowering the ward, as defined by Henry A. Giroux (2010). However, the process of education, social rehabilitation, depends on the pedagogical concept adopted by the probation officer, more or less consciously, based on a specific human model. In this aspect there are dangers that are the subject of considerations under this article.

The issue of the danger of the probation officer-ward relationship direction is important for the understanding of this impermanent relationship, which exists over the course of several months, sometimes years, imposed by a court ruling. The basis of this relationship is extortion/coercion, which is the result of the improper, sometimes antisocial, functioning of the person under the custody of the probation officer. This relationship therefore does not arise in the course of natural human interaction. It is both a formal and personal relationship, as the individuals involved in it often interact in the privacy of the ward's home, and it focuses on the private, often intimate, matters of the person under the custody of the probation officer. It is, by definition, asymmetrical, because it is the probation officer who is seen as the one who sets the tone and direction. They are officials who the wards would rather not have to deal with, even though they usually see them as nice and helpful (Cywiński 2018; Chmielewska 2014).

One of the basic tasks of the probation officer is to restore the ward's humanity in the individual and social dimension. This is requested by Zoll (2006), Konopczyński (2014, 2016), Bałandynowicz (2018), Jedynak (2018), Wirkus (2016). It is a matter of respecting the dignity of the ward, which often

involves many moral and ethical dilemmas that the probation officer faces in the performance of their daily duties, because a human being is their subject. However, this human being is in a very specific situation, because they are lost, unable to find themselves in the surrounding reality, are the perpetrators and/or victims of violence, bear the stigma (Goffman 2007) of an alcoholic, violent person, hoodlum, etc. When taking action, the probation officer must often make difficult choices between the welfare of society and the welfare of the individual. The power over the other person, which in a way is given to the probation officer with the decision of the court, can be used to create optimal conditions for the individual's development and self-fulfillment in accordance with the accepted norms and principles of social coexistence, or can be used to subjugate the individual, to make them dependent on the probation officer or other institutional entities. In the latter situation one cannot talk about the process of empowering the ward, but rather about the process of deepening their stigmatization.

Ethics in relations between the probation officer and the defendant

The profession of a probation officer requires a high degree of moral sensitivity, which should form the basis for building proper relations with the ward. As Jedynak emphasizes (2018, p. 26), the probation officer as „[...] a person-subject of an action experiences an absolute duty (not) to perform an act affirming (denying) the dignity of the human person (including their own dignity)". When working with a criminal, a person on the wrong track, victim of violence, sexual abuse, alcoholic, the probation officer must act in such a way as not to violate the inalienable dignity of the ward and not to create a situation in which the ward themselves, through their wicked behavior, would harm their own dignity. This is a difficult task, since the society perceives a criminal, deviant, person on the wrong track as the one who does not deserve to be treated on an equal footing with other people, because they are often perpetrators of incredible harm and trauma. However, according to the interpretation of the idea of human rights (Osiatyński 2011), dignity is an inalienable value that belongs to everyone due to simply being a human being. Also in social rehabilitation work it is a superior value, since the respect for it allows for the process of destigmatization of the ward and regaining self-confidence as well as changing the image of themselves, and thus returning to proper social functioning.

The specifics of the probation officer's work with the ward are very delicate and involve the risk of doing harm through intentional or unintentional action. „Like the medical or teaching profession, the probation officer profession has a clear and indelible ethical dimension" (Jedynak 2018, p. 30). For this reason, the Code of Ethics for the Probation Officer was adopted in 2004. Its preamble

contains the values guiding the work of the probation officer. Thus, „the Code is based on a foundation of recognition of the values, dignity and uniqueness of the human person, their rights and obligations. It expresses respect for justice, solidarity, equality and freedom. Its aim is to foster these values, help with social readaptation and achievement of life stability for those under the care of the probation officer" (Code of Ethics for the Probation Officer). Since the ethics of probation officer work is not the subject of detailed analysis in this study, I will only look at the content of articles 6 to 9, which refer to the relationship between the probation officer and the ward.

Article 6 indicates the most important aspects of the work of the probation officer with the defendant. They should constitute the basis for building a proper relationship between these entities. It is mainly a matter of respect for the ward, which should result from the fact that they are human beings and therefore have dignity. Another important element is keeping the right distance. As Jedynak (2018) indicates, this distance must be neither too large nor too small. In determining its scope, prudence is to be helpful, which is also an important aspect of the relationship in question. The probation officer cannot become friends with their ward, but they cannot treat them with contempt either. Their individual attitude must not interfere with undertaking professional activities directed at the ward. An important element of this relationship is also to make correct requirements for the person under the care of a professional and to apply an appropriate gradation of the tasks that they should perform. This requirement is connected with the ethical directive contained in Art. 7 of the Code, which emphasizes the fact that all actions of the probation officer should be aimed at the welfare of the ward and the development of their proper social functioning, which entails fulfilling roles in socially approved areas.

Article 8, on the other hand, contains an anti-corruption clause, which states that the probation officer should not use their relations with the wards to pursue their own particular interests. This is an important directive because any improper activities of the probation officer in this respect create a negative image of the entire probation service (Jedynak 2018). They also reduce the public confidence in the profession of a probation officer, which influences their relationship with their wards.

The last provision concerning the relationship between the probation officer and the ward refers to the issue of professional secrecy (Art. 9). The probation officer must not disclose or disseminate information about their ward and the persons associated with them. Making such information available is permitted for official purposes only. This provision is also significant for the analyzed relations, as it allows to build, for example, a framework of trust of the defendant to the probation officer.

The ethical dimension should be reflected in the probation officer's relationship with the ward, regardless of which model of relationship the probation officer will

adopt. In the literature we can find a division, among others, into two models of work: the educational model as well as the control and repressive model. They are exemplifications of the double role of the probation officer, who is a tool of judicial control on the one hand and an educator on the other. The model, based mainly on the educational, (re)socialization dimension, takes the form of friendly, non-formalized relations, in which the formal role of the probation officer becomes less important (Kępka 2007; Chmielewska 2014). They become an assistant, mentor, organizer of life and activities undertaken by the ward. In the second model, the probation officer is seen as an official who verifies, monitors, is suspicious and distrustful. They are representatives of the criminal justice, associated with power and strength (Kępka 2007; Chmielewska 2014), through which they force their wards to perform the duties imposed on them. It is worth emphasizing that both the process of education and control are complementary, not contradictory, elements in the analyzed relation. The professionalism of the probation officer, on the other hand, boils down to the proper management of these processes, so that through them the ward becomes a person responsible for themselves and their relations with the surrounding reality. This will be possible if the defendant is provided with the conditions to experience self-efficacy, which involves the ability to control their actions and to anticipate their consequences (Jonas 1996, p. 167). As Folkierska (2001) emphasizes, responsibility can only be learned by the individual as a result of a properly conducted process of education. Therefore, this aspect of the probation officer's work, which is not sufficiently described in the literature on legal supervision, is more important for the (re) adaptation of the individual to society and their individual development.

Probation officer as a craftsman and organizer

The specificity of the probation officer's role in relations with the ward boils down to the fact that they are the initiator of this relation. To a large extent, they are also its creator. Therefore their approach to the ward and to the concept of education is important for the nature and results of these contacts. Generally speaking, the probation officer may assume that a person is inherently self-centered and in order to be able to function in a society needs external coercion, supervision (Hobbes 2009), someone or something (institution) to force them to function properly. A different vision, such as Rousseau's pedagogy, is based on the idea of man as an individual that is good by nature, who is depraved by social relations leading to their moral degradation. Each of these assumptions will determine the nature of the activities undertaken by the probation officer and determine the direction of relations with the ward.

In pedagogical thought there are many cognitive trends and directions that perceive the importance of an educator, a student and the relationship between

them in different ways. In general, we can distinguish five main pedagogical discourses, within which we can find trends referring to them. This group includes: the functional-behavioral, humanist-adaptive, constructivist-developmental, constructivist-social and critical-emancipatory approaches (Dudzikowa 2010). Due to the volume of the article and my objective, which is the desire to sketch significantly different approaches to the relationship between the probation officer and the ward, I will focus on the analysis of three pedagogical discourses: functional-structural, constructivist-developmental and critical-emancipatory.

The functional-structural approach assumes that education and instruction boils down to providing guidance to a person that is not yet (fully) shaped. They are seen as an empty vessel to be filled with the knowledge, skills and competences necessary for proper functioning in a society and development. The actions taken are of an implementation-correction-intervention nature (Dudzikowa 2010, p. 212). The educator (probation officer) is therefore a craftsman who, on the basis of their knowledge and experience, can effectively guide the wards to achieve their aims, i.e. to become a socialized individual. Such an approach is typical of the classic social rehabilitation thought, which focused on corrective and adjusting actions. „The classical social rehabilitation pedagogy sought to help socially maladjusted people, first and foremost, in a corrective modified change of their specific negative attitudes, faulty personal features and deviant forms and ways of social behavior" (Konopczyński 2014, p. 62).

The problem that emerges from this approach is the issue of asymmetric relations between the probation officer and the ward. The probation officer is in this case a privileged craftsman from whom the ward should learn and who the ward, the student, should follow. The ward is treated here as an underperforming product of socialization, which for various reasons was not carried out successfully. Thus, man is not treated here as an individual with their own biography and experience, but as a material that can be appropriately shaped by means of appropriate corrective and/or adjusting activities.

A probation officer practicing such an approach does not delve into the situation of the ward beyond the limits set by the court decision. They treat them as another client to whom they apply a „tested" set of interactions aimed at repairing or eliminating problem areas. In this case, the role of the probation officer boils down to supervising the execution of the court's decisions. They base their actions on the authority of power and strength as features attributed to this profession.

The constructivist-developmental discourse also favors the position of the probation officer, making them the organizer of relations with the ward. The latter is treated as a „scientist" who studies and learns about the world, but does so within the framework of possible experiences created for them by the probation officer. The ward has a lot of freedom to explore different ways of adapting to the proper social life, while the probation officer gives them considerable autonomy. However, it is the probation officer in this relationship that is responsible for the

person in their custody. This situation can lead to a dependency of the ward on the probation officer who is associated with a sense of security. It can also lead to the development of claims, inactivity and the shifting of responsibility for decisions to others, including the probation officer.

This approach reveals the paternalistic character of the relationship between the probation officer and the ward (Czapów, Jedlewski 1971). It is a one-way relationship, based on the educational, social rehabilitation work on a person and not with a person. This is an important remark, as it indicates the lack of possibility to develop a feeling of self-efficacy in the ward. The lack of awareness of having a real influence on one's own life and making decisions on one's own prevents the development of a responsible entity that will initiate actions and be responsible for them. "For a person to act responsibly and take responsibility, he/she must be built in a certain way." (Jedynak 2018, p. 40). Achieving or striving for this state is one of the basic tasks in the probation officer's educational and social-rehabilitation work, because it leads to the empowerment of the individual who is under their care.

Towards empowerment of the defendant

The emancipatory-critical trend assumes a different, from the approaches discussed above, relationship between the probation officer and the ward. The educator (probation officer) is seen here as a moderator, a revolutionist, who enables the defendant to fight for themselves. They create opportunities for the empowerment and emancipation of the person entrusted to their care. The student (the ward) is a fighter, actively working to change their lifestyle and expand their own fields of freedom.

The moderator-probation officer assumes that their ward is a unique human being with human rights. The ward therefore has the right to make their own decisions and be responsible for them. The educational activities are aimed at the student's perception of the mechanisms that tame them and that caused their uncomfortable situation. The process of destigmatization is also crucial here, enabling the ward to face the situation they find themselves in and to outline the ways to change it. It is therefore important to feel cognitive discomfort and disagreement to remain in a problematic position. The emancipation of the subject, which is the main goal of the social rehabilitation activity, „is a process of conscious rejection of stereotypes and myths, overcoming obstacles caused by human activity and natural forces" (Czerepaniak-Walczak 2006, p. 33). This is a process of desocialization, which in the case of the specifics of the defendant's situation is „re-desocialization" because it is a repeated process of questioning the previous order and introducing a new one (Czerepaniak-Walczak 2010, p. 100–101). As a result of the first desocialization process, the ward rejected the established axionormative order (in whole or in part) and accepted the patterns and norms

that caused their exclusion. In the analyzed context, there is a repeated process of desocialization from the previous abnormal desocialization, which I refer to as re-desocialization.

In a climate of respect for human dignity and rights, and based on the situation of dialog and perfect communication, referred to by Habermas, it is possible to start the process of transformation of the subject. The ward should be able to expand their fields of freedom, not so much by freeing themselves from social labels, roles and norms, but by being guided by positive freedom. It is freedom to do something, freedom that requires commitment and responsibility for one's own decisions. Such freedom is based on courage and often entails sacrifices. However, it gives the subject a feeling of self-effectiveness and empowerment.

The pedagogical approach analyzed is a difficult relationship for both sides. The probation officer does not establish themselves as an entity embodying power and control. They put themselves on an equal footing with the ward, who is treated as an equal partner in dialog-based interaction. The ward is not a passive performer of orders, but an active subject, involved in changing their own situation.

The probation officer therefore deprives themselves of their privileged position to enable the person in their custody to emancipate themselves. However, this process is not unilateral. In the relationship with the ward, the probation officer can also emancipate themselves. Actions aimed at emancipation of individuals are based on the strength of the authority of the person and not on the authority of the force. The willingness and commitment of both parties is important because pedagogical activities cannot be based on coercion. The ward together with the probation officer establish the conditions for cooperation and implementation of the set goals, which are to enable the defendant to function properly in society, develop their potential and create an opportunity to create an individual and social identity different from the existing one (Ambrozik 2009, p. 118).

Conclusions

The types of relations between the probation officer and their ward, discussed in the article, bring not only positive consequences but also many risks. In authoritarian relations, in which the probation officer is the dominant subject of educational and social-rehabilitation interaction, the greatest danger is to arouse or consolidate in the wards the lack of self-efficacy and independence in making decisions about their lives. This is the most acute threat, as it deprives the ward of the opportunity to experience responsible living. „Existence in responsibility" in turn, as indicated by Jedynak (2018, p. 40), is the essence of humanity. An important threat to relations with the ward based on authoritarianism is the creation and multiplication of the appearance of educational influences aimed at independence and return to proper social functioning of people who are lost. In

this case, there is a real danger that when the formal relationship between the probation officer and the ward ceases, the latter will cease to behave properly because they will no longer be under the control and supervision of the court representative. Thus, the cessation of one-directional interactions connected with the work on the ward (Cywiński 2018, p. 59) may result in the lack of their further independent work on themselves, as they will not perceive themselves as the co-creator of these changes.

Also the relationship based on the egalitarianism of the entities involved carries many dangers. One of the greatest threats is the emergence of the so-called equality traps[1] (Czerepaniak-Walczak 2006, p. 211–217), which may become apparent in the situation of an individual's relish for the rights and freedoms that have been given to them by the probation officer. These traps can take the form of Icarus Syndrome, when the ward will use their rights thoughtlessly and enforce their respect by the probation officer without understanding their ideas and responsibilities they entail. Another example of such a trap is Elpenor's syndrome, expressed in aggression towards the probation officer, who creates the conditions for the liberation of the ward. A common danger that arises as a result of respecting the rights of the ward and treating them as an equal partner is an increase of demands. There may also occur a specific confidence in the probation officer, which will move towards a thoughtless submission to the will of the guardian. I mean here an uncritical trust. The trap that the ward may fall into is also the avoidance of the exercise of the rights received, which usually results from a lack of understanding of the essence of this right.

The presented examples of the dangers that may arise in relationships based on authoritarian or emancipatory educational concepts are elements that are inscribed in them. Their occurrence depends on many situational and personal factors, however the probation officer should be aware of them when choosing the concept of educational measures. They should be guided by the words of Saint-Exupéry (2012, p. 65): „it is eternally necessary to awaken the great in a man and convert them to their own greatness."

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