



Modern Problems In Practice Of Improving Prevention Of Crimes Committed By Convicts In Penitentiary Institutions

Tadjibaeva Dildora Abdurahimovna

PhD Doctoral Student Of Faculty Of Postgraduate Education, Academy Of The MIA, Tashkent, Uzbekistan

Journal Website:
<http://usajournalshub.com/index.php/tajpslc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

ABSTRACT

The article discusses some of the problems that arise in penal practice in the process of improving the prevention mechanism of crimes committed by convicts in the penitentiary institutions. In essence, resocialization is the restoration or assimilation of socially useful qualities and practical skills lost for survival in a community of people. In this case, we came to the conclusion that the “goal of resocialization” should also be included in the goals of punishment, as the basis for the prevention of crime in place of execution of punishments.

KEYWORDS

The penal system, penitentiary institutions, the prevention of crimes committed by convicts and its mechanism, penitentiary mediation, penitentiary radicalization of convicts.

INTRODUCTION

Crime prevention in prisons is an urgent problem of the state’s penitentiary system. The preventive function, being organically associated with specific contradictions and socio-psychological phenomena and processes in the execution of criminal

punishment, has a rather complex nature. At the same time, it is obvious that specific criminal manifestations often not only harm individual victims and disrupt the work of prisons, but also affect the interests and security of most prisoners, creating an

atmosphere of cruelty and violence in the places of detention.

Yu.S. Pulatov and G.U. Akhmedova, note that in order to develop a scientific crime prevention system in places of execution of the punishment, it is necessary: to study the indicators and patterns of penitentiary crime; conduct a criminological analysis of the subjective and objective causes and conditions of penal criminal behavior; to study the existing practice of crime prevention in places of execution of the punishment; develop recommendations for the prevention of crime in places of detention [1.5].

After analyzing the indicators, dynamics, characteristics, and trends of crime in penitentiary institutions in Uzbekistan over the past twenty years, we found that in the first place there are crimes related to disobeying the lawful requirements of the administration of the places of execution of the punishment, in second place - escape from custody or from protection, in third place - crimes related to actions, disorganizing the work of the institution for the execution of sentences. The following places were occupied by crimes related to the theft of another's property, causing bodily harm, murder, drug trafficking, etc.

Based on expert studies of the opinions of scientists, penitentiary institutions staff, various categories of convicts and on the analysis of specialized literature in this area, problems associated with legal regulation and the practical mechanism of crime prevention in places of execution of the punishment were identified. These include: gaps and conflicts in penal legislation and the imperfection of the mechanism for the practical implementation of the preventive activities of the penal enforcement authority [2.123]. Legal problems

include the inconsistency of the criminal executive standards with the preventive concept of the current penal legislation, the significant differences between the goals and objectives of the penitentiary system and the scientific content of the theory of penal law in crime prevention in places of execution of the punishment. In addition, there are technical, linguistic inaccuracies and ambiguities in the terminology of penal standards, not unification of terms, ambiguities in interpretation, as well as gaps in the legislation in the field of applying disciplinary measures to convicts who violate the established procedure for serving sentences and penal collisions between criminal and criminal procedural, penal legislation.

The analysis of socio-political, economic and other processes that affect the penal prevention, allows to identify the main problems of the functioning of the penitentiary system at this stage, without the solutions of which it is impossible to move on to the next stage of the ongoing reforms in the country. We agree with the opinion of scientists who consider it important to establish a penal crime prevention policy [3]. The analysis of the system of penal crime prevention in places of punishment execution allows us to conclude that the mechanism of legal regulation and practical implementation in the prevention area under consideration is still insufficiently developed. In our opinion, the decisions made and the concept regarding the penitentiary system [4] leave room for disputes and discussions, legal mechanisms for their implementation have not been developed, and in particular, in the prevention of crimes in prisons.

RESULTS AND ITS DISCUSSION

The problem is the lack of scientific justification and a conceptual approach to optimize crime prevention in the penitentiary system. Unfortunately, practitioners of the system of execution of sentences do not have a real opportunity to conduct scientific research, and among the scientists who deal with this issue, there are few who have practical experience in this field. In this regard, we agree with the opinion of N.K. Pototsky, who believes that "... scientific research is usually carried out according to the results of decisions taken, enshrined in law and organization. As a result, scientists only state the inefficiency of the measures taken"[5].

We believe that N.P. Barabanov and S.N. Klenov correctly points out that practical reform of the penal system is impossible without the development of theoretical provisions that determine the transition to the concept of reform, which allows predicting the progress of reforms and the appearance in the foreseeable future of a new penal system corresponding to the new society [6.204] and agree on the need for criminological assessments of draft regulatory legal acts, with the aim of introducing a system of preliminary scientific assessment of the state of the reforming object and the development of scientific recommendations.

According to the majority of specialists in the penitentiary sphere, the reforms of the penal legislation and the penal system are aimed at humanizing and democratizing the place of the execution of criminal sentences [7.12]. The amendments and additions to the Penal Code of the Republic of Uzbekistan brought national legislation closer to international standards for the execution and serving of

sentences. However, in our opinion, serious shortcomings in the functioning of the current penitentiary system are due to the presence of a huge gap between the scientific content of the theory of penal law in relation to the goals and objectives formed for the penal system.

In part 2 of article 42 of the Penal Code of the Republic of Uzbekistan, it is stated that «... the punishment is applied in order to correct, prevent the continuation of criminal activity, as well as prevent the commission of new crimes by both convicted and other persons». According to the content of this article, the purpose of punishment is to correct and what is not unimportant is the prevention of crimes through their prevention, which implies its re-socialization.

Many scholars, speaking about the goals of correction of a convicted person, imply «re-socialization of the convicted person» in the sense that the criminal must change and become a law-abiding person who realizes all the harm of the crime committed by him, adapts to life in freedom, participating in socially useful activities and restoring broken social useful connections with society [8.53]. Often these two concepts, although the difference between them is great, seem to merge. From birth to death, the individual is included in the processes of socialization. Resocialization of convicts is a complex system of rehabilitation measures to restore lost or weakened as a result of serving a criminal sentence social functions and personality status.

According to V.A. Zaborovsky, the prevention of penal crimes should be based on a scientific analysis of the operational situation in the penitentiary institution, which is expressed in the creation of effective and specific

preventive measures that provide a comprehensive procedure [9.166]. The professional institution of a penitentiary employee in carrying out preventive activities plays an important role in analytical work, but the hypotheses and assumptions made on its basis must be carefully studied and tested. The success of the work is determined by specially trained personnel who perform operational information and analytical work.

As an analytical work, the role of statistics of indicators of preventive measures is invaluable, but we cannot say that in the penitentiary system it is set to a high level. Solving the tasks of monitoring and planning prevention in the penitentiary system is inconceivable without penitentiary statistics and other information, which is an important means of social regulation in this area. Prison statistics, on the one hand, is the actual base, and on the other, one of the main methods of social cognition. It is difficult to achieve high results in crime prevention in place of execution of punishments without the development of technology for prison statistics.

The organizational basis for the prevention of crimes committed by convicts is characterized by the absence of a training system for work in information and analytical units in the field of crime prevention and prediction of convicts, the lack of technical equipment, and the lack of qualified specialists in this field. Although the situation seems abnormal, this can be explained by the difficulties of the formation and development of the penitentiary system in the new legal environment [10.379]. From now on, conditions should be created for the full formation of a system for the prevention and prediction of crime, including monitoring.

One of the complex problems that arise in the preventive activities of practitioners of

penitentiary institutions in the execution of sentences of imprisonment is the problem of carrying out preventive activities among those convicted of the idea of religious extremism, which, in turn, leads to the spread of radical ideologies. In this regard, one cannot but agree with A.N. Antipov, who believes that this is a “case”, “does not allow” the administration of institutions and the leadership of the territorial bodies of the penitentiary system to pay due attention, strengthen the preventive effect and operational resistance to these groups in order to prevent possible illegal manifestations on their part [11.255].

It is necessary to pay attention to the progression and continuity of the work. Thus, persons involved in clarification and education (employees of institutions and territorial bodies, clergy, etc.) have only a discrete effect on convicts. While those who consider themselves leaders of religious groups, as well as recruiters, other members of these groups, held in the same institution, have the opportunity and have such an impact constantly [12].

There is another side to the problem; place of execution of punishments’ staff do not have sufficient knowledge and information in this area. This situation is confirmed by the results of a survey conducted among practitioners of the penitentiary system, which confirmed the research conducted by Russian scientist A.A. Shikov, according to which, 95% of the employees of the units of the penitentiary system were unable to formulate the concepts of “salafia” and “wahhabism”, to reveal obvious similarities and differences between them [13].

Another problem for the prevention of crimes of convicts in penitentiary institutions is that

the criminal legislation of Uzbekistan provides for life imprisonment for aggravated murders and terrorism, and conditional release cannot be applied to these persons upon serving their sentence in accordance with paragraph 4 of Article 73 of the Penal Code of the Republic of Uzbekistan. Like any person, a person sentenced to life imprisonment should see a prospect, but they don't have it, so these people are locked in their own shell, destroyed mentally, torn off from society, are subject to degradation and anger.

The cruelty of this type of punishment lies in the fact that, in essence, it does not provide for the correction of the convicted person or the intention to return him to society. Parole is the only legal instrument that can significantly change the legal status of a person sentenced to life imprisonment, which is the only incentive for the correction and resocialization of a convicted person, and therefore a means of preventing crimes among this category of convicted persons.

Another problem that needs to be solved in this area is that conflicts in the penitentiary system can arise not only between convicts, but also in the form of conflicts between the convict and the administration of the institution or the place of execution of punishments' staff, which is another obstacle facing the prevention of penal crime. Legislation, although the concept of penitentiary mediation has not been legally defined and the restoration of justice has not yet been developed in this area, we believe that our state and society have all the conditions for the emergence of such a «movement».

According to the opinions of scientists V.G. Gromova and N.I. Minkina «the procedure of penitentiary mediation is a way to resolve

conflicts between convicts in correctional institutions with the assistance of a mediator on the basis of the voluntary consent of the parties in order to achieve a mutually acceptable solution»[14.94].

Penitentiary mediation is capable of performing the functions of a special social tool and a legal mechanism for the prevention of crimes, the impact on contradictions and disagreements arising among convicted persons. Its implementation will provide invaluable assistance to the staff of correctional institutions in the field of correction of these persons, crime prevention and ensuring the necessary level of security in institutions.

Drawing on the experience of leading foreign countries and international standards for the prevention of crimes in places of punishment, the police are currently creating special rooms equipped with innovative information and communication technologies, including a transcript for interrogation, video surveillance, and audio and video recordings of investigative actions. Now it is allowed to use audiovisual, electronic and other technical means of control and supervision in order to ensure effective control over the fulfillment of restrictions and obligations by convicts.

The signs of electronic monitoring include [15.8]: continuous systematic monitoring of the object; monitoring for immediate response and prevention of negative consequences; monitoring tools are various electronic devices that allow you to constantly monitor the object, control the change in its physical parameters (for example, movement), immediately respond to negative changes and accumulate the information received for subsequent analysis.

An analysis of existing practice shows that there are legal, organizational and technical problems with the use of electronic monitoring in prisons. The implementation of electronic monitoring directly affects such guaranteed constitutional rights of citizens as the right to liberty and security of person; right to privacy[16]. In our opinion, in order to optimize the preventive mechanism in places of punishment, there is a need to develop a draft law on electronic surveillance or other regulatory documents that provide for the use of audiovisual, electronic and other technical means in relation to convicts serving a sentence of imprisonment or restriction of freedom or other punishments not related to imprisonment.

Prevention of latent crime in places of execution of punishment and the negative consequences of its existence is impossible without a clear idea of its criminological essence, definition of a concept, signs and types. Today, as in the past, the criterion for determining the effectiveness of preventive activities in places of execution of punishment is the state of crime. In this regard, the administration of institutions are forced to ignore the existence of crimes and qualify them as disciplinary offenses. If it is impossible to hide the fact of the crime, the administration will try to replace the more serious crime with a less serious one. Latentization of penal crime should be understood as a self-determining process of legalization of socially dangerous behavior of convicts. Deliberate latentization of a penal crime is a type of criminal act [17.132].

The very existence of latent crime in correctional institutions has pronounced criminologically significant consequences, including: a) a distortion of the idea of the actual extent of crime in places of execution

of punishment, the magnitude and nature of the damage caused to a particular convict, correctional institution and the penal system as a whole; b) the emergence of obstacles to identify the causes and conditions conducive to the commission of penal crimes, and, accordingly, their timely elimination; c) difficulty in implementing the principle of the inevitability of responsibility for illegal acts, which acts as a negative factor in the formation of penitentiary criminal motivation of convicts; d) forming an opinion about the impunity and inability of the administration of the correctional institution to control the negative social processes taking place in it; e) causing in the consciousness of the convicts doubts about the ability of institutions and bodies of the penal system to ensure personal security, protect the rights and legitimate interests of convicts; f) limiting the possibility of predicting penal criminal behavior and the development of effective preventive programs and techniques.

CONCLUSIONS

In conclusion, it should be noted that crime prevention in places of execution of punishment is a combination of criminological methods and legal tools for regulating public relations and preventing crimes committed in places of execution of punishment. The main objective of penal prevention is to mitigate and eliminate these objective shortcomings in prisons.

Thus, the prevention of penal crime should be considered not only as a form of practice, but also as a theory, a conceptual system of scientific knowledge acquired in the genesis of practical activities aimed at preventing antisocial manifestations in prisons. It should also be noted that crime prevention in the penitentiary system is a holistic social process,

consisting of the implementation of various measures, identifying and eliminating the causes and conditions of illegal actions of convicts, comprehensive measures to develop methods and improve existing ones, as well as a new approach to crime in places of deprivation of freedom. General and individual preventive measures and their correct application will effectively influence the identity of the offender, the crime prevention in places of execution of punishment.

REFERENCES

1. Pulatov Yu.S. and Akhmedova G.U. Modern problems of penal crime. Tashkent., 2011., P.5
2. Yujanin V.E. and Gorban D.V. The principle of a progressive system of serving a sentence of imprisonment. // Lex russica. 2017. №2. P. 123–134.
3. Potocki N.K. About some problems in the activity of the penal system of the Russian Federation at the present stage. <https://www.sovremennoepravo.ru/>
4. Resolution the president of the Republic of Uzbekistan from 08/11/2017 «On measures to improve the activities of the bodies of the internal affairs in the sphere of execution of punishments related to detention of freedom» № 3200 and Resolution the President of the Republic of Uzbekistan from 11/07/2018 «On measures for the improvement of penal legislation» № 4006. <https://lex.uz/>
5. There too: N.K. Potocki
6. Barabanov N.P. and Klenov S.N. Information security features in the penal system. Ryazan: Academy of Law and Management of the Ministry of Justice of Russia, 2003. P.204
7. Zubkov A.I. and Filimonov O.V. Actual problems of the Russian criminal policy // Problems of strengthening the rule of law and the fight against crime at the regional level (drugs and crime). Criminal law, criminology, penal law at the turn of the XX – XXI centuries: Mater. Int. scientific-practical conf. Part 2 / Ed. L.A. Solovyov. M. Smolensk, 2003. P. 12-20.
8. Ribak M.S. Resocialization of prisoners: problems of theory and practice. Saratov, SGAP. 2004. P. 53-56.
9. Zaborovsky V.A. Criminological characteristics and prevention of penal crime.// Diss. For the academic degree of Candidate of Law. S. Petersburg., 2005., P. 166
10. Ulendeeva N.I. and Gerasimov K.I. Problems of legal support of information and analytical work in the penitentiary system. // Baltic Humanitarian Journal. 2018. T. 7. № 4(25). P.379
11. Antipov A.N. Religion and Extremism: Security Issues: A Compendium of Materials. Moscow: PKU NIIIT FSIN of Russia, 2017. P.255
12. There too: Antipov A.N.
13. Shikov A.A. Some issues of counteracting the operational units of the penitentiary system to religious extremist organizations. //Vestnik NNGU. 2016. №2. <http://cyberleninka.ru/article/n/>
14. Gromov V.G. and Minkina N.I. The principles of mediation in correctional institutions // Altai Legal Bulletin, 2016. No. 2 (14). Barnaul P. 94-97.
15. Bobylev O.V. Electronic monitoring in the penal system: Monograph. Moscow, 2010. P. 8 - 9.

16. Cazack B.B. and Borisenko I.V. The use of electronic monitoring in monitoring prisoners without isolation from society. <https://justicemaker.ru/>
17. Uvarov A.I. Latency of penal crime: concept and types. / Humanitarian, socio-economic and social sciences // P.132. <https://rucont.ru>