

Some Words about the Correctional Education Problems of Prisoners

Victor Nikolayevich Zhamuldinov and Oirat Tleubergenovich Kabzhamitov

Pavlodar State Pedagogical Institute, Pavlodar, Kazakhstan

Abstract: This article investigates some existing problems for effective using of correction means for prisoners. The aim of this work is the researching and analysis of prisoners' correction methods and the ways to improve for their efficiency. In connection with this, a comparative analysis of some norms of the criminal executive legislations of some countries of the Commonwealth of Independent States, in particular, the norms of the Republic of Kazakhstan, the Russian Federation and the Kyrgyz Republic. This is the vision and analysis of views of some researchers in this field. The work is interdisciplinary by nature and it is written at the junction of Law, Pedagogy, History, Psychology and Philosophy. Developing the idea of how the concept of a "correction" may fully reflect its notion. It is no secret to anyone that the issue remains open and controversial to our days. Not in the least the authors claim to absolute truth, we have attempted to provide our vision of solving this problem by expanding the use of community sanctions and measures will eventually humanise penal policy and make penal practice more effective.

Key words: Prisoners • Correction methods • Community sanctions

INTRODUCTION

The big issue of the ideas the prisoners' correction has next purposes: historically, it means the reduction of penalty measure and the refusal by the government from its cruel types. It is known that one of the main tasks of the "Strategic plan of the Ministry of Justice of the Republic of Kazakhstan for 2011-2015" regarding improvement of criminal executive system is transition to according to the chamber maintenance of prisoners and also creation of effective system of educational influence on convicted persons.

In our opinion the similar measures are timely. One of the problems of punishment still is the correction of the prisoners' behaviour.

The problem consists in that as well as how we will be able to reach a stated purpose. In this matter it is very important to choose effective tools for prisoners. And obviously, first of all: what means we apply; we will receive the same results.

It is necessary to notice that in the article 7 of the part 2 of "The Criminal Executive Code of the Republic of Kazakhstan" are listed simply the basic tools for the correction of the prisoners. The article is called: "The basic tools for prisoners' correction" [1].

In this article the legislator claims: "The basic tools for prisoners' correction are regime, educational work, socially useful work, getting secondary education, professional preparation and public influence".

Let us notice that at the same time The Legislator affirms the basic means only and he does not refer other correction means for prisoners. But if The Legislator speaks about the basic means, logically, we could suppose about the existing of not the basic means. However, The Legislator does not point to them in the above-mentioned article.

But if we look through the legislation of other countries we will see the same gaps. In particular, prisoners' basic means for correctional education in the article 9 of "The Criminal Executive Code of the Russian Federation" called the same things: the regime, educational work, socially useful productive work, getting the general education, professional training and public influence [2].

Let us notice that the public influence as a tool of correctional education the first time was included in the legislation of the Republic of Kazakhstan and the Russian Federation. But the mechanism of realization is still unclear and there are some problems of the execution of these measures. In our scientific

research we made an attempt to give concept to list the public influence subjects and we note on their features too [3].

The Social Influence on Convicted Persons in the Russian Empire-a Brief History: It is necessary to pay attention that to deal with issues of The Correctional Education began since the 18th century. For last centuries it was collected some materials which wait for the whole generalization by a researcher. Let us note only the following fact: on October 11, 1819 in Russia there was founded a prison aid organization by name "Popechitel'noe Obshchestvo o Tiur'makh" (The Russian Society for Care of Prisons) and its first director was Prince A.N. Golitsyn. This organization, despite semi-official status, never had any serious influence on improving fundamental conditions in Russian prisons, because the government resisted any public pressure for prison reform [4]. The approved Charter of this society ordered the following points:

- In "St. Petersburg Prisons Society" the subject of this organization is the moral education for the containing criminals and improvement prison conditions.
- Duty of this "The Society" is care about who would be maintenance in prisons and jails on comfort condition of 5 correctional tools:
- The temporary and stationary surveillance for prisoners;
- Their classifying by the nature of crimes or charges;
- Their precept by the Christian piety rules and its kind moral;
- Their occupation by worthy exercises;
- The conclusion in a punishment isolated cell who is very guilty or behaving violently.

We consider that it is necessary to use of such experience in the course of correctional education, in particular, in the closed correctional facilities.

As for other the Commonwealth of Independent States countries it is possible that is not observe any distinctions in their legislation on researched aspects. It is explained because that the Commonwealth of Independent States countries have their general history: in Stalin's camps and prisons the solution of similar tasks did not practice. For example, in the article 8 of "The Criminal Executive Code of the Kyrgyz Republic" is given some definition of correctional education and

its basic means. In this article are listed also the correctional education, which is known for us by the legislation of the Republic of Kazakhstan and Russian Federation [5].

Thus, we consider that in the course of educational work in correctional facilities can be applied by other means that is not the basic, not specified in norms of Criminal Executive Codes of the above-mentioned Commonwealth of Independent States countries.

Have We Enough Tools for the Prisoners' Correction?: It should be noted that the question of division criteria of the correctional education by the basic and not the basic did not research else by the juridical and special literature.

In our opinion, on the solution of this matter it is necessary to pay attention to the following circumstances and factors:

Firstly, it is necessary to consider the features of psychological and pedagogical influence of this or that tool on consciousness and behaviour of prisoners.

Secondly, it is necessary to understand the sufficient juridical basis on giving practical opportunity to apply and realize with those cures in the conditions of the correctional facilities.

Thirdly, it is necessary to improve the level of the structure work to provide practical application of means into the educational work with the prisoners.

Fourthly, it is necessary to pay attention to create comfortable household conditions for the prisoners.

We consider that being armed even with the most advanced correctional tools; without the solution of the above-mentioned problems we will not be able properly to solve problems of correctional education.

It is necessary to notice that the important role also played the questions that concerning on forms and methods of the correctional education. It is regulated by the article 106 of "The Criminal Executive Code of the Republic of Kazakhstan" where are specified the basic directions, forms and methods of educational work with prisoners.

It is very interesting that the legislator lists the forms of the correctional education: moral, legal, physical and also other tools to promote achievement of the correctional education.

As for the legislation of the Russian Federation in the article 110 of "The Criminal Executive Code of the Russian Federation" the main forms and methods with prisoners to imprisonment are called also the educational work.

The analysis shows that big divergences regarding to the matter of consideration in criminal executive legislation of the noted states are not available. Moreover, it should be clearly this process develops in the uniform course. It is quite clear if we recognize legislation as a standardization process of "The Customs Union" by our countries.

Let us speak about the correctional education tools. We noticed here that the educational work is one of the main measures of the correctional education. Some events are held to increase of the organization educational work to efficiency. In particular, the order of the Ministry of Justice of the Republic of Kazakhstan from October 21, 2004 No. 305 approved "The instruction about the organization of educational work with prisoners in correctional facilities" of the Ministry of Justice of the Republic of Kazakhstan.

In the Instruction it is defined that the main directions in which the educational work is carried out are moral, social, legal, esthetical, physical, psychological training and also other forms to promote achievement of the purpose for correctional education. During the Soviet period there were such directions in the prisoners' education as "ideological and atheistic ones".

The article 12 of "The Criminal Executive Code of the Republic of Kazakhstan" and the article 14 of "The Criminal Executive Code of the Russian Federation" regulate to provide a freedom of worship for the prisoners.

The practice and supervision show that take place in activity of the imprisonment places by the religious education.

In our opinion, in the improvement process of legal organizational questions and surely, in the appropriate legal form, other means are included in the system of the basic tools to correct the prisoners. It will be reflect on the major directions in development of the correctional education system. It is possible to assume that the system of correctional education will not extend at the expense by inclusion in the long term any new retaliatory measures. We consider that the expansion of this system has to go by increasing in group the means which unite by measures of the corrective educational character.

The pedagogical process in correctional facility is not something stiffened, numbed and it constantly changes and develops respectively. "The system of means never can be the dead and stiffened norm. It always changes and develops".

Such is the short characteristic some aspects of division of correctional education on the basic and not the basic ones. It is represented that the system approach to the analysis of this issue is very perspective, actual and it demands further researching.

It is necessary to notice that provide the correction as purpose of the identity some means by the all complex the criminal executive legislative service.

Not "Repairing" Prisoners' Behaviour but Correctional Education: As for the good idea of setting aims for correcting of convicted persons, historically, it depends on easing rigors, severity of punishment and renunciation by the nations around the world from their cruel types. One need accept a convicted person not only as the object of punishment but also the subject of law. The majority of the Soviet Union' authors determined that development period of the Correctional Labour Legislation as "reforging", "adaptation" of a prisoner to shape convicts' behaviour. As said A.L. Remenson the final result of this activity: "not just his neutralization and transformation into the useful member of society but capable of the honest working life". Essentially, under the same understanding of the correction is based our present criminal executive legislations in the article 9 of "The Criminal Executive Code of the Russian Federation" and in the article 7 of "The Criminal Executive Code of the Republic of Kazakhstan".

It seems to us however a man cannot "repair" because he is not a mechanism but he could be educated under particular conditions. At the same time, the concept of "education" cannot be separated from the freedom. K.D. Ushinsky wrote: "The work is the true and certainly free one because there could be no other work of such importance for our human life. And without it the life loses all of its price and all its dignity". The freedom that acts as the essential characteristic of a person should be included in any educational tool and the system of education. And Alan Mabbutt, the member of the Conservative Party noted: "Whether offenders serve their sentences in the community or in custody, there should be a far stronger focus on rehabilitation. Community sentences must contain an element of punishment which is enforced-but they should also ensure that offenders get off drugs or alcohol dependency and get into the world of work. Equally, prisons should be places of education, hard work, rehabilitation and restoration" [6].

Above all an educated man is a moral person. What is a "repaired" man about? However, a significant obstacle for the crime, there may be the "stupidity" of the crime and fear of punishment, etc. A.S. Makarenko wrote: "A man is not educated by parts he has been created synthetically". Therefore, a separate tool there could be positive and negative ones. The crucial point is not its direct logic but the logic and the effect of the whole system that is harmoniously organized. Therefore, one of the elements of the subjective part of punishment (the mental sphere of the object) can be determined by the object of punishment too. The object has only its inherent ability of psychological reactions to pressure because it is a special.

The content of punishment includes the special object of human (person) which by himself/herself is an objective-subjective unity of properties and relations. According to G.H. Shingarov "on the background of the gnoseological opposite of the external world in the consciousness of the subject happens some alienation and objectification emotional experiences of the individual. And the person can handle it in a sense like with any phenomenon of reality". In this case, the famous philosopher G. Hegel said: "that is one and the same and at the same time it may seem various and the category of equality has introduced much difficulty into the general notion of retribution. The view that it is just to meet out punishment in proportion to the special context of the crime" [7].

Therefore, in a guilty's consciousness the individual (significant) sense of endured burdens of the punishment (primarily of the reasons) may be most different one. Though punishment is objectively it is direct (the same) consequence of the crime. And the punishment follows and determinates from it. The legislator interested in that the convicted person could realize the connection between punishment and crime as fair reaction of the state and society in relation to the guilty. And he could apprehend the restrictions, burdens of punishment as a personal and inalienable activity that is his positive activity. However, if the punishment as a hardship, suffering, pain is not bound in the framework of the personal sense in the convict's consciousness whom is condemned with a crime such as an evil. If there is some necessity for alienation it by man then it is called into question immediately of the achievement to goal for behaviour's correction (education) because an interiorization (transition objective to the subjective of

the higher mental forms) is excluded essentially and there is no understanding of experience of prisoner's fault for the committed crime and negative repercussions. In this case for the state and society the convicted person is only presented as the means in achievement of the objectives for the overall prevention and social justice.

Thus, if the achievement of the aims of general prevention and social justice is provided by the property of punishment to force (through the mechanism of social consciousness) and the correction, which is understood as a moral "adaptation" of the individual, it should be considered only in the category of "accident". Accident is a category to reflect a single, individual, unusual and all of everything that derives mainly from the unstable, transient connections of phenomena (the processes of reality) which is not always determined by internal laws of their development in these conditions.

It is supposed that the legislative definition of the purposes of punishment cannot include the term "accident" and the content of the formulated purposes in the article 43 of "The Criminal Executive Code of the Russian Federation" and in the article 38 of "The Criminal Executive Code of the Republic of Kazakhstan: should be adequate for comprehension of law. In our opinion, the most close to the truth the comprehension of correction which is implemented in some international documents such as "The Standard Minimum Rules for the Treatment of Prisoners" of the United Nations Organization for the treatment of prisoners of 1955 and "The European Prison Rules" of 1987. The famous scientist Andrew Coyle said: "No prison system can be reformed in a vacuum" [8]. According to the contents from the article 14 to the article 38 of "The European Prison Rules" for the correctional education, first of all is not "violent therapy" by all means and by way of its destination. "The idea is to offer a variety of means and ways of correction and all who wants it and who is capable to apply these advantages for their good use" [9]. It is difficult to disagree with this idea. Meanwhile, it should be noted that the adult man, especially convict, is impossible "to repair". The convicted person is not a mechanism which came into disrepair!

No matter how elementary they may seem to us the primary goal remains to educate of prisoners for their interactions and skills. In any case, it is necessary for our society the prisoners after their release from jail to have an opportunity for implementation of the requirements of law by them. And it is important for their social

adaptation and their independent life. Simultaneously, the correctional process is designed with aim to minimize the negative effects of imprisonment. Hence the notion of “the correction” should include all the appropriate measures for keeping or improving of prisoners' physical and mental health. As well as the whole range of activities by promoting the process of social rehabilitation. The state must provide the prisoners of possibility of being a socially responsible citizen to live in a society without committing criminal acts. Baroness Doctor Vivien Stern, the author of famous book “A sin against the future-imprisonment in the world” said: “... we have to remember the prisoner is a human being like us who is entitled to have his or her humanity respected” [10].

In our view, the most appropriate is the term “correction” understanding as a set of measures which includes such notions as a social adaptation, school education, general education, special education, work, a rational leisure, a physical training, visits, correspondence, newspapers, magazines, books, radio, television, social works, religious support and of course, psychological and medical (including a psychiatric) treatment.

Thus, the “convicts’ correction” should not understand as “reforging”, “adaptation” of the prisoner's individuality but creation of the certain conditions for “self-education”, “self-correction” men in imprisonment. And their subsequent resocialization, that is, the prisons’ administration activities for the implementation of criminal punishment (as much humanistic as possible) on the principles of an active respect for human rights and personal dignity of prisoners. Mister Norman Bishop confirms: “Community sanctions and measures shall be made as meaningful as possible to the offender and shall seek to contribute to the personal social development of offenders that is relevant for their law-abiding adjustment in the community [11].

REFERENCES

1. The Criminal Executive Code of the Republic of Kazakhstan, 2010. Lawyer, Almaty, 84 pages.
2. The Criminal Executive Code of the Russian Federation, 2010. Prospect, Moscow, 112 pages.
3. Zhamuldinov, V.N., 2010. The social influence as one of the correction means for prisoners: theory and practice. Thesis. Almaty.
4. Adams, B.F., 1996. The Politics of Punishment: Prison Reform in Russia 1863-1917, pp: 40-42.
5. The Criminal Executive Code of the Kyrgyz Republic, 2010. Bishkek, pp: 119.
6. Mabbutt, A., 2007. Prisons with a purpose our sentencing and rehabilitation revolution to break the cycle of crime. Security Agenda. Policy Green paper, 4: 46-48.
7. Hegel, G.W.F., 2001. Philosophy of right. Translated by S.W. Dyde. Batoche Books Kitchener, Ontario, pp: 92-94.
8. Coyle, A., 2002. Managing prisons in a time of change. London, pp: 25-26.
9. Council of Europe, Committee of Ministers, Recommendation Rec (2006)2 of the Committee of Ministers to member states on the European Prison Rules. Adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers' Deputies.
10. Stern, V., 2009. European Union-Kazakhstan Civil society seminar on human rights “Judicial system and places of detention: towards the European standards”. Legal framework for protection and promotion of prisoners’ rights: international cooperation and bringing national laws and practise in line with international standards. Almaty, pp: 46-50.
11. Bishop, N., 2004. The international conference “Humanization of Criminal Policy in the Republic of Kazakhstan: achievements and perspectives”. The council of Europe’s recommendations on community sanctions and measures. Almaty, pp: 34-38.