

Principal Trends in Criminal Correctional System of the State

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Annotation

This article dwells upon evolvement of scientific knowledge of the system of execution of punishment involving imprisonment. The author brings forward his own position with regard to what the criminal correctional and penitentiary systems imply.

Keywords: prison, prison studies, penology, penitentiary system, criminology, criminal correctional system.

Over several decades, many representatives of mass media, public authorities as well as ordinary people have not differentiated between criminal correctional and penitentiary systems of the state. Therefore, media sometimes substitute a penal colony with a “prison”, and talk about a penitentiary system meaning a system which is intended to execute punishment. It appears that two concepts (“penitentiary system” and “criminal correctional system”) are confused thus confusing the institutions of different types and regimes.

This article is aimed at helping the audience to clearly realize the concept of the criminal correctional system and its components which deal with penitentiary, labor-related and repressive issues.

All these concepts are certain aspects of law and constitute a component part of the criminal correctional system of the state, yet possessing various and complementary attributes and meanings. According to Smykalin A.S.: “Fundamental concepts of any science derive from its categorical framework... An ability to accurately understand a theory or a hypothesis depends upon academic and encyclopedic support provided by the categorical framework of the relevant studies.”¹.

Criminal correctional system is primarily focused on execution of a sentence being made by the court against a law breaker who committed some acts which fall within the scope of offences punishable under criminal law. The definition derives from the very name of the system

¹ Speech made at the all-Russia conference named “Acute Issues of Historical and Legal Science”, proceedings of the conference being held by Russian Historical and Legal Society in South Ural. – Publishing Office UMTs UPI. Yekaterinburg, 2009. – page 12.

and is supported by the legal regulations pertaining to this branch of law. Aim and objectives of Criminal Correctional Code are set forth in paragraphs 1-2 of Article 1 of the Criminal Correctional Code of the Russian Federation (UIK RF) that expressly define the activity typical for all components of the penal institutions: penal colonies² and prisons³. Each article refers a reader to the basic function of the criminal correctional system – execution of punishment – the essential focus of the whole system. This gives us grounds to assume that the lawmaker was primarily concerned with execution of punishment as such. It shows a concern about protection of society and suppression of recidivism in view of inevitable punishment. Punishment of a law breaker is the main target of the criminal correctional system, thus the main aspect is the retribution. Retribution of a law breaker appeared together with the rise of human society and was strengthening as the state developed; the place of execution of such retribution was the prison.

The word prison (German ‘Thurm’ — tower) means: a) in its specific sense it means the isolated and guarded *premises* for forced retention of persons subject to the confinement under the court judgment or law enforcement authorities’ decree. Since the Middle Ages the following types of prison have appeared: 1) prison in its narrow sense as the place for serving punishment for misdemeanor and minor offences, 2) prison compartments, 3) bridewells (Zuchthäuser), 4) penal servitudes, 5) remand prisons, 6) transit prisons, 7) military prisons, 8) juvenile prison, 9) prisons for disabled, ill and abnormal people (Invaliden-Gefängnisse), 10) intermediate prisons (in Irish system), 11) political prisons, 12) prisons for war prisoners (British-run concentration camps in South Africa for boers), 13) prisons for bankrupt debtors, 14) men and women prisons.⁴ – this is the interpretation of this category from Brokgauz and Efron encyclopedia. One could see a similar definition in Vladimir Dal’s Explanatory Dictionary.

Let us see an abstract from the dictionary pertaining to the word in question: “Prison, jail, pit, place of confinement of convicts, accused persons, prisoners...Prison tower, dungeon...prison is like a grave.” According to this source, the etymology of the word implies some tall tower, fortress or its part in the form of a tower based on the undercut or the root cellar, dungeon, etc.⁵ or on the underground block house. This is what the archeologists found in Novgorod in the IX century. Taking into account the scanty interior of the bock house, and mainly the bog hole at the center of that house, the archeologists concluded as follows: “The

² Article 120 of Criminal Correctional Code of the Russian Federation as of January 08, 1997 No. 1-FZ (as amended on July 23, 2013)

³ Article 130 *ibidem*.

⁴ Brokgauz and Efron Encyclopaedic Dictionary. Publishing Office: Semenovskaya Typolitografia (I.A. Efron) – St. Petersburg, 1890-1907.

⁵ See Explanatory Dictionary of the Living Great Russian Language. Vladimir Ivanovich Dal: In 4 volumes – Saint Petersburg, 1863-1866.

construction is nothing but dungeon or more simply – ancient prison.” Prisons were organized in castles and city halls, abbeys and factories, etc. A famous scholar Gernet M.N. believed the prison policy to be an important part of criminal policy which in its turn is closely connected with overall government policy⁶. Every village, town and state had a prison system with its peculiar confinement regime that immediately encouraged the researchers to study those institutions to invent new patterns of prison punishment. This gave birth to the science to study the prison phenomenon - “prison studies”. That science established a system of specialized knowledge focused on the optimal arrangement of prison-based execution of punishment implying deprivation of liberty.⁷ The new knowledge system promoted the prison confinement as the best choice to apply multiple correctional measures as compared to other known types of punishment; furthermore, the prison regime ensures the correction of the majority of convicts. This is what Lionel Fox, a well-known English researcher, dealt with in his work. He used to point out that the first measures to correct a convict's behavior were introduced in prisons,⁸ where such measures could be supported with the regime which ensured isolation from deleterious influence of other prisoners.

Detailed study of prison confinement systems as a practical part of prison studies proves that the confinement along with isolation of a law breaker from the society “either in severe or in mild conditions has occupied the central place among existing punitive systems and still holds this position.”⁹ This conclusion is due to the high punitive (repressive) effect the prison confinement has: the imprisonment deprives a person of his/her basic value – physical (and often even mental) liberty; furthermore deprivation of liberty makes it possible to apply a wide range of methods and measures to correct a convict's behavior¹⁰. Researcher Galkin M.N. pointed out the importance of duration of imprisonment. He was sure that this type of punishment “could have various duration and severity according to criminal and developmental status of a person and has the benefit of taking optimal measures to correct the behavior of a convict.”¹¹ Furthermore, Sergeevsky N.D. talked about advantage of the prison confinement over all other types of punishment due to its “gradual” and “divisible” character, “no suffering” and “good influence on a convict”. According to the researcher, such punishment as imprisonment is fully consistent with the position of a citizen within a contemporary state as well as with present-day

⁶ See Gernet M.N. History of tsarist prison. In 5 volumes. Moscow. 1951.

⁷ Sergeevsky N.D. Russian Criminal Law: A handbook for lectures / Author's note – Saint Petersburg: Tipografia Kh.Sh. Gelpert, 1890 – page 191.

⁸ Fox L.W. The English Prison and Borstal Systems. – London: Routledge&Kegan Paul Limited, 1952 – page 24.

⁹ Chubinsky M.P. Criminal Policy Course. – Yaroslavl: Provincial Government Typography, 1909 – page 429.

¹⁰ Teplyashin P.V. Sources and development of British prison studies: Monograph. – Krasnoyarsk: Siberian Law Institute at the Ministry of Internal Affairs of Russia. 2005. – page 19

¹¹ Galkin M.N. Materials for studying the prison-related issues. – Saint Petersburg: Typography of the Second Section of His Imperial Majesty Own Secretariat, 1868 – pages 8-9.

public morality, therefore it has superseded the capital punishment, corporal punishment, types of punishment oriented to dignity, and, finally, all other types of deprivation of liberty.

As a result the prison studies were a science with developing knowledge which was complemented with different knowledge subsystems and branches. The end of the XIX century saw the uprise of penitentiary science which was complemented with the special scientific knowledge on correctional education – penology.

Thus, prison studies have undoubtedly become a universal platform for studying “the punishment as means to fight with a crime, the punishment with its external actual use and its internal effects as derived from the facts.”¹² In this context, a famous researcher, Foinitsky, I. Ya., has fairly considered the prison studies as a special domain of political and legal studies. However, the definition he gives for the category in question is too extensive and implies the branch “based on experience and focused on philosophical and practical (positive) resolution of the problem. This branch is engaged in finding out the institutes able to influence prisoners to the benefit of community life by accurate studying of peculiarities of criminal people and the influence which the measures being applied have on those people. For this purpose, the guardian association, councils and committees have being established in Russia¹³ and in other countries to implement reformation and further resocialization. Committees of the Guardian Association supplied the prisoners with food, clothes, linen, footwear, books, established hospitals, churches at prisons and employed priests, arranged for teaching young children, opened workshops to train prisoners. Thanks to the Guardian Association the prisoners attained the right to regularly attend baths, furthermore the prisons received money for feeding the children of prisoners who lived near their parents in prisons. The Guardian Association supported making vegetable gardens at prisons. Thanks to the Prison Guardian Association the criminal correctional system became more open and socially significant.

Prison activity became the branch of public assistance and education which varies according to the peculiarities of criminal class it is applied to; that is why its success depends on strong activities in the sphere of public assistance and education.¹⁴ When describing the prison system Foinitsky, I. Ya., pointed out that people tried to use the prison studies as some

¹² Przhevalsky V.V. Professor Franz List and his principal views as regards crime and punishment // Legal and social science collection book: Works of Law Society at the Imperial Moscow University and its statistical department. – Sixth volume – Saint Petersburg: M.M. Stasyulevich’s typography, Vasilievsky Island, 5th line, 28, 1896. – page 79.

¹³ Draft provision of the Prison Guardian Association was adopted on July 19, 1819. See Zabrovskaya, L.Yu. Organizational and managerial peculiarities in establishing the prison system of the Russian Empire in the XIX century / L.Yu. Zabrovskaya – Tambov: Publishing Office of Tambov State Technical University, 2006. – 16 pages

¹⁴ Foinitsky, I. Ya. Studies on punishment with reference to prison studies – Moscow. Dobrosvet-2000; Gorodets, 2000 – pages 291-292

“panacea” to cure all criminality-related problems. Single scientific field could not cover all aspects of criminal sentence execution.

Taking into account the foregoing it may be reasonable to conclude that the evolvement of national-wide punitive activity on the basis of religious and philosophic, social and economic and legal aspects gave rise to various theories of punishment and correction combinations. This resulted in establishing a specific discipline – penology.¹⁵ Penology is a field of knowledge on legal control over punishment execution where a law breaker acquired social and psychological treatment when serving punishment that finally resulted in adaptation of a prisoner to his/her future life outside prison.¹⁶ However, that process required a system of punishment execution institutions which could implement the resocialization program using special measures. The system was finally represented by a range of penal institutions having a certain psychological focus. According to Poznyshev S.V., penitentiary system is a system of “social health facilities” which have a special confinement regime based on penitence of prisoners¹⁷.

Penitentiary treatment means the process of correction or the correction itself on the basis of full penitence of a person and return of the person who has previously committed a crime to the society. In the course of this process the person begins to realize that violation of laws entails punishment from public authorities and that such punishment is inevitable. The more serious the crime is, the more severe the punishment will be. Execution of punishment within the institution forms an ability to live and abide by the laws. According to researches, at the initial stage of penitentiary treatment the convicts should be retained in prisons equipped with solitary cells which should ensure penitence of a prisoner. Such institutions should have special custodial regime. Prisoners should be as much isolated from each other as possible to prevent them from influencing each other that is to deprive them of the opportunity to share with their criminal experience. The prisoners should spend all their spare time for specific socially-oriented training and educational activities. Such activities should include the issues of restoring the family ties and rendering assistance by relatives in the course of correctional education. For the period of serving the punishment, penitentiary measures enable the convict to acquire labor skills desirable for the society that helps the person to find his/her place in the society when released. Family ties should strengthen the result. When the prisoner is released the penitentiary treatment continues:

15 See Rivman D.V., Smirnov L.B. Uprise and evolvement of penology and penitentiary science // Entrepreneurship in Russia: experience, problems, case studies: Materials of interregional research and practice conference (April 19, 2001). – Part II. – Saint Petersburg: Institute of Foreign Economic Relations, Economics and Law, 2001 – page 47; Smirnov L.B. Uprise and evolvement of penology // History of State and Law. – 2003 – No. 4. – pages 8-10.

16 Penology derives from Latin word “poena” meaning “punishment” and Greek word “logos” meaning “study of” that together mean “study of punishment execution”.

17 Poznyshev S.V. Fundamentals of penitentiary science. - Moscow. 1923, - page 3.

special bodies help a person who has served the punishment in a prison to find a job and a place of living, to restore his/her family ties, etc.

Summarizing the foregoing it is safe to say that the penitentiary system is a set of measures being taken by the government and measures aimed at establishing and running the correctional facilities. Activities of the facilities are focused on accurate and steady execution of punishment for the sake of protection of society against criminals, as well as on correctional education of criminals using a range of measures aimed at reducing the risk for society when a person is released and at teaching the law breakers to be on the right side of the law. Therefore, the main target of such treatment is the reformation of a criminal by means of relative methods and techniques intended for placing a person back to the society after serving the punishment.

On the whole, the penitentiary system is a set of means and methods of influencing on convicts to correct their behavior; furthermore, it is a scientific-related ancillary structure based upon rule of law which ensures that the criminal after being subjected to psychological and social treatment will comply with that law.

Years of evolvement of the system gave birth to a list of principal requirements to the proper operation of penitentiary system or, according to Michel Foucault, “seven universal maxims of the good “penitential condition”¹⁸:

- correction of the criminal’s behavior (reformation);
- distribution of convicts according to the penal gravity of their act;
- alteration of the penalties according to the results that have been obtained by the convicts, progress or relapses in transformation of their behavior;
- correctional education of convicts by taking religious and pedagogical measures, general and professional education;
- work must be one of the essential elements in the reformation and progressive socialization of convicts;
- the prison regime must be supervised and administered by a specialized staff;
- imprisonment must be followed by measures of supervision and assistance until the rehabilitation of the former prisoner is complete.

Modern penitentiary system is intended for supporting and managing: penal institutions, social and psychological, legal and training activities oriented to a convict being confined in a special penal institution, and is aimed at transformation of convict’s behavior and further resocialization. The principal institution of penitentiary system is a prison with strict regime and isolation which contributes to the reformation process at the

¹⁸ See Michel Foucault. *Discipline and Punish. The Birth of the Prison* / translated from French by Naumov V. / under the editorship of Borisova I. – Moscow: Ad Marginem, 1999 – pages 393-396.

initial stage of punishment execution. Reformation process includes such components as educational work, improvement of educational level, labor training and strengthening of social relations. All the above-mentioned encourages a convict to feel regret and correct his/her behavior. Therefore, the penitentiary system may be defined more clearly as a multi-aspect integration of various components resulted from the penitentiary practical activities implying the forced confinement of law breakers in a correction facility to apply correction measures as established by special authorities pursuant to law so as to ensure the process of resocialization.

In conclusion, we could state that we should rely on the following trends of criminal correctional system. Prison was the first institution of punishment execution, therefore the national system of correctional facilities acquired a name of a “prison system” since there were no other institutions within the system. Thus, the researchers who studied that phenomenon defined a new field of scientific knowledge – the prison studies. As the knowledge evolved and the practical activities developed, the science saw a birth of such new branches as penology – the study of punishment, and the penitentiary study which was engaged in organizing and managing the process of reforming the prisoners. The studies of punishment gave birth to another field of knowledge – criminology – the study of crime and punishment. In general, however, the system of punishment execution was and still remained the basis for criminal correctional branch of legal science, while punitive, penal and penitentiary aspects are just the areas of focus within this system. In addition, these areas may be considered as self-sufficient systems.

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1. Speech made at the all-Russia conference named “Acute Issues of Historical and Legal Science”, proceedings of the conference being held by Russian Historical and Legal Society in South Ural. – Publishing Office UMTs UPI. Yekaterinburg, 2009 – page 12.
2. Article 120 of Criminal Correctional Code of the Russian Federation as of January 08, 1997 No. 1-FZ (as amended on July 23, 2013)
3. Article 130 ibidem.
4. Brokgauz and Efron Encyclopaedic Dictionary. Publishing Office: Semenovskaya Typolitografia (I.A. Efron)- St. Petersburg, 1890-1907.
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11. Galkin M.N. Materials for studying the prison-related issues. – Saint Petersburg: Typography of the Second Section of His Imperial Majesty Own Secretariat, 1868 – pages 8-9.
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16. Penology derives from Latin word “poena” meaning “punishment” and Greek word “logos” meaning “study of” that together mean “study of punishment execution”. Cited from Krysin L.P. Explanatory Dictionary of Foreign Words. — Moscow: Eksmo, 2008 — 944 pages.
17. Poznyshev S.V. Fundamentals of penitentiary science. – Moscow. 1923, - page 3.
18. See Michel Foucault. Discipline and Punish. The Birth of the Prison / translated from French by Naumov V. / under the editorship of Borisova I. – Moscow: Ad Marginem, 1999 – pages 393-396.

This system of beliefs about the purposes of punishment often spills over into the political arena. Politics and correctional policy are intricately related. Many of the changes seen in corrections policy in the United States during this time were a reflection of the political climate of the day. During the more liberal times of the 1960s and 1970s, criminal sentences were largely the domain of the judicial and executive branches of government. The role of the legislatures during this period was to design sentencing laws with rehabilitation as the primary goal. During the politically conservative period, one widely accepted principle of criminal law is the rule against retroactivity, which prohibits the imposition of ex post facto laws (i.e., laws that would allow an individual to be punished for conduct that was not criminal at the time it was carried out). One of the most important general principles of criminal law is that an individual normally cannot be convicted of a crime without having intended to commit the act in question. With few exceptions, the individual does not need to know that the act itself is a crime, as ignorance of the law is no excuse for criminal behaviour. The principal institution of the penitentiary system is a prison with strict regime and isolation which contributes to the reformation process at the initial stage of punishment execution. The reformation process includes such components as educational work, improvement of educational level, labor training and strengthening of social relations. In conclusion, we could state that we should rely on the following trends of the criminal correctional system. Prison was the first institution of punishment execution, therefore the national system of correctional facilities acquired a name of a "prison system" since there were no other institutions within the system. The principles fully permeate the legal system of the State, being an integral condition for its formation, development and functioning. With this in mind, consideration of any legal institution in the light of the fundamental principles of the relevant legal branch is an important stage of its comprehensive study. The principle of legality in criminal law covers the observance of the requirements of the law not only when appointing punishment, but also when applying the norms of other criminal law institutions. For this reason, the principles of imposing punishment relate to the principles of criminal law as parts of the whole. The U.S. Correctional System Defined. Federal and state criminal justice systems most commonly use the term "corrections" as the replacement for "penology" when referring to the network of agencies that supervise individuals in a state of incarceration, rehabilitation, parole or probation. Accordingly, the term "correctional facility" has become the substitute to "penal institution." The United States has one of the highest incarceration rates in the world, not necessarily because it has an entirely dysfunctional criminal justice system. The logical reason for this is because of the transparency in reporting, unlike some countries that do not truthfully reveal incarceration statistics. Jails- By definition, jails are containment areas for suspected offenders who are awaiting trial or sentencing.