



Implementing Criminal Punishment Goals in relation to Those Sentenced to Imprisonment for Extremism-Related Crimes

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Abstract

Introduction: the article analyzes possibilities of the penitentiary system for implementing goals of criminal punishment in the execution of a penalty in the form of deprivation of liberty against those convicted of extremism-related crimes. The emphasis is placed on possibilities of correcting persons pursuing extremist ideology and preventing commission of new crimes (both by convicts themselves by isolating them from society and by other citizens following their example). The article analyzes domestic and foreign experience in the field of countering prison radicalization. Based on statistical data on the terms of imprisonment and types of correctional institutions, the authors propose implementation of various resocialization schemes when correcting convicted extremists. Recommendations for preventing the spread of the relevant ideology among convicts are presented. Purpose: to identify key current trends and problems associated with the spread of the terrorism ideology in correctional institutions; consider them in the context of achieving criminal punishment goals; develop sound proposals and recommendations for effective correction of convicted extremists, and prevent expansion of the extremist ideology in correctional institutions. Methods: the research is based on the use of a combination of general and private scientific methods: analysis and synthesis, systematic, statistical, logical, formal-logical, sociological, comparative-legal, and hermeneutic. Results: the generalized statistical data on the total number of persons sentenced to imprisonment for extremism-related crimes for the past three years, the level of recidivism among them, terms of imprisonment, and types of penitentiary institutions in which these convicts serve their sentences show that there is an upward trend in the number of such persons in correctional facilities of general and strict regimes, as well as persons with unexpunged and outstanding convictions. Trends to increase religious radicalization risks are determined. Problems associated with insufficient readiness of the penitentiary system to ensure processes of correcting convicted extremists with various mental, especially radical religious attitudes, and preventing expansion of extremist radicalism are identified. With regard to domestic and foreign experience, actual and potential capabilities of the

domestic penitentiary system, recommendations are developed to overcome the identified problems. Conclusions: the author substantiates the need to improve professionalism of penitentiary institution employees and third-party specialists involved in work with extremist convicts; the necessity to separate extremist convicts from others by creating separate sections of penitentiary institutions; the expediency of creating a specialized progressive system for the execution of punishments in relation to extremist convicts with regard to the degree of their correction; the need to introduce and implement comprehensive programs to counter the spread of the extremism ideology in correctional institutions, covering the closest circle of communication of the extremist criminal before his/her conviction.

Keywords: extremism; extremism-related crimes; radicalism; deradicalization; correction of the criminal; resocialization of the convicted person; prevention of the extremism ideology spread.

5.1.4. Criminal law sciences.

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Introduction

Extremism in the context of the problems of various social sciences and humanities is presented as one of the most dangerous phenomena not only in connection with real negative changes in society, but also in terms of capacities to develop into more radical forms characterized as terrorist activity. And although the percentage of persons serving sentences for extremism-related crimes in the total mass of those sentenced to imprisonment is relatively small, penitentiary institutions face a twofold task: on the one hand, to try to correct and resocialize these persons, and on the other, – to prevent dissemination of the extremist ideology among other convicts. Domestic and foreign experience show that possibilities of the penitentiary system to implement criminal punishment goals with the existing organizational and staff structure in this regard are quite limited. First, this is due to the fact that the law enforcement officer is focused on eliminating symptoms, not causes of the disease. It is important not only to implement goals of correcting convicts and preventing them from committing new crimes, but also to enhance interaction with other law enforcement agencies in terms of identifying and deactivating centers of the destructive ideology spread. There are also acute issues of the personnel's professional competence in terms of preventive work with convicts with various ex-

tremist orientations and of attracting specialists, including in the field of theology. Among other things, it is relevant to study relations between terms of imprisonment, types and regional location of correctional institutions where extremists and terrorists serve their sentences, the development level of a criminal subculture there and isolation of other subcultural groups on national, religious and other grounds. We believe it possible to deepen an individualized approach to the punishment execution on this basis, in particular, to work out differentiated schemes for resocialization of convicted extremists.

The core

Public danger of extremism-related crimes is assessed by the legislator significantly lower than that of terrorism-related crimes. This statement is substantiated by the comparative analysis of sanctions of the norms on liability for those and other acts. So, for example, for organizing a terrorist community (Part 1 of Article 205.4 of the Criminal Code of the Russian Federation), punishment is provided for in the form of imprisonment for a term of fifteen to twenty years with additional penalties in the form of a fine, restriction of liberty or life imprisonment, and for participation in it (Part 2 of Article 205.4 of the Criminal Code of the Russian Federation) – imprisonment for a term of five to ten years with an optional fine. For organizing and leading an extremist community (Part 1 of Article 282.1

of the Criminal Code of the Russian Federation), the legislator also provided for punishment in the form of deprivation of liberty, but compared with the previous composition, it set the minimum threshold 2.5 times lower, and the upper one was halved (without taking into account the possibility of life imprisonment). Additional penalties in sanctions of the corresponding norm are also present, however, in a slightly different set. Participation in an extremist community (Part 2 of Article 282.1 of the Criminal Code of the Russian Federation) is punished by imprisonment with the imposition of additional penalties at the discretion of the court, but also a fine as the main punishment. In both cases, there is a special ground for exemption from criminal liability – voluntary refusal to participate in activities of a terrorist community or extremist activity in the absence of signs of other crimes. An additional condition, such as commission of an act for the first time, is also fixed for exemption from liability under Part 2 of Article 282.1 of the Criminal Code of the Russian Federation. Here the question arises, whether the absence of this condition in relation to Part 2 of Article 205.4 of the Criminal Code of the Russian Federation is the legislator's omission? We do not think so. The fact is that the price of voluntary renunciation of terrorist activities is undoubtedly high, since, according to direct instructions of the legislator, a former member of the terrorist community is obliged to report its existence. In shifting this rule of substantive law to real procedural and law enforcement intelligence operations, it can be concluded that the case is not limited to only formal reporting about such a community. The law enforcement officer is interested in identifying and exposing, first of all, its organizers and ideological inspirers. The same observation is also true of voluntary refusal to participate in an extremist community or organization.

Backing legislative approaches to assessing the degree of public danger of extremism, we should not forget that the corresponding ideology always underlies the terrorism ideology development. Hence, prevention of less dangerous criminal manifestations indirectly affects the effectiveness of measures to counteract more serious phenomena.

Despite the alternative nature of sanctions for extremism, courts often choose punishments related to isolation from society against the perpetrators. So, in 2020, 304 people were involved in crimes for which liability is provided for by Chapter 29 of the Criminal Code of the Russian Federation, which includes most extremist acts that are taken into account as such without additional conditions, 70 of them were imposed real imprisonment (37 – with a term of up to 3 years inclusive, 24 – 3 to 10 years, 9 – over 10 years), and 175 – suspended sentence. In 2021, 527 persons were sentenced (+42.3%), 101 of them to real imprisonment (+30.7%, 45 – with a term of up to 3 years inclusive, 44 – from 3 to 10 years, and 12 – over 10 years), and 370 (+47.3%) – to suspended sentence. At the time of the article preparation, there are only data for the first half of 2022; however, there are already obvious upward trends in the number of convicts for crimes of this group and imposed imprisonment as a punishment for them. So, a total of 292 people were sentenced during this period, 64 of them to real imprisonment (24 – with a term of up to 3 years inclusive, 37 – from 3 to 10 years, and 3 – over 10 years), and 199 – suspended sentence [1].

We analyzed specific terms of imprisonment imposed on the perpetrators for the most typical extremism-related crimes provided for in Articles 282, 282.1, 282.2 of the Criminal Code of the Russian Federation, as well as the recidivism rate. The data are presented in the table [2].

	Total sentenced to real imprisonment	Term of imprisonment up to 3 years inclusive	Term of imprisonment over 3 years	Convicted persons with a criminal record	Convicted persons with 2 or more criminal records (from Column 5)
1	2	3	4	5	6
Article 282 of the Criminal Code of the Russian Federation "Incitement of hatred or enmity, as well as humiliation of human dignity"					
2020	3	1	2	2	–
2021	6	4	2	9	2

1	2	3	4	5	6
1st half of 2022	3	–	3	1	–
Article 282.1 of the Criminal Code of the Russian Federation “Organization of an extremist community”					
2020	4	1	1	1	1
2021	5	1	4	1	1
1st half of 2022	2	-	2	1	1
Article 282.2 of the Criminal Code of the Russian Federation “Organization of activities of an extremist organization”					
2020	33	24	7	7	1
2021	40	19	21	5	2
1st half of 2022	32	13	19	12	4

As we can see, the terms of imprisonment imposed for committing crimes of an extremist nature often approach the maximum possible level of sanctions for these acts. We also observe a fairly high level of recidivism among the category of convicts under consideration. At the same time, the question naturally arises whether the goals of punishment are achieved in this case with regard to leveling negative attitudes of the individual, eradicating ideologies embedded in consciousness, developing tolerance towards representatives of a different race, religion, nation, and political views. Without delving into theoretical reflections on the reasonability of setting such goals and critical understanding of the goal-setting process itself, we only note that it is necessary to distinguish between the final result that the legislator and the law enforcer are striving for and the process of achieving it. For example, the purpose of preventing commission of new crimes fixed in Part 2 of Article 43 of the Criminal Code of the Russian Federation is essentially a time-consuming process that is closely related to the issues of educational impact, resocialization in penitentiary and post-penitentiary periods. It is assumed that its final result may be the formation of certain stereotypes of law-abiding behavior, stable attitudes about the legality of ways to meet needs, awareness of the value of personal freedom and their own positive opportunities. In some cases, this is achievable to one degree or another. At the same time, a number of researchers of the practice of execution of punishments, including I.A. Uvarov [3, p. 28], M. Foucault [4, p. 339], V.N. Kudryavtsev [5, p. 175],

doubt capabilities of the penitentiary system in this field. Scientists' skepticism is quite understandable. The main argument here is the side effect of prolonged placement of a person in isolation conditions. The fact is that, despite all the efforts of the institution staff, socially useful connections are lost or significantly weakened, and professional skills are lost. Along with this, adaptive mechanisms of the criminal subculture act as a kind of socialization, as a result of which the reference group changes dramatically. If there are persons infected with the extremist ideology in such a group, and even more so, persons who have quite clear goals of recruiting new members into the ranks of extremists, the risk of the convict falling under their influence is quite high. This problem is aggravated by the fact that increased suggestibility and manageability are one of the leading psychological features of an extremist criminal. What is more, the disseminated beliefs can be focused not just on banal disobedience to the existing system of norms and rules, but also on the desire to achieve certain “high goals”. And this is already a direct path to radicalization of the extremist ideology and its development into a terrorist one, when any means are justified. All this points to the need for a personalized approach to organizing not only educational work with this category of convicts, but also the use of the entire arsenal of means of penitentiary influence, including operational investigative work.

One of the important steps in terms of implementing punishment goals against extremists is the correct choice of a penitentiary institution. Undoubtedly, this choice is determined

by provisions of Article 58 of the Criminal Code of the Russian Federation, which almost completely excludes the use of the strictest legal restrictions related to staying in prison in relation to persons convicted of extremism-related crimes.

The majority of those sentenced to real imprisonment for crimes against foundations of the constitutional system and security of the state, including extremism-related crimes serve their sentences in general regime correctional facilities (38 people in 2020, 56 – in 2021, and 33 – in the 1st half of 2022) and strict regime correctional facilities (25 people – in 2020, 26 – in 2021, and 25 – in the 1st half of 2022). Significantly fewer convicts are held in penal settlements (7 people in 2020, 17 – in 2021, and 5 – in the 1st half of 2022) and there are isolated cases of serving sentences in special regime correctional facilities (1 person – 2021 and 1 – in 2022) and juvenile correctional facilities (1 person in 2021) [2]. Unfortunately, the squad system created back in 1957 in such correctional institutions has a number of side effects that have an extremely negative impact on the effectiveness of preventing extremism among convicts. First of all, this system assumes rather close communication of these persons among themselves, and in some cases this communication leads to destructive consequences.

Squads are comprised on the basis of numerical occupancy, production orientation, and less often convicts' state of health, labor skills and specialization. In this regard, we also consider it appropriate to take into account religious views of the convicted person, his/her psycho-emotional status, features of social adaptation, nationality, place of birth and residence before conviction. However, there are no and cannot be any uniform recommendations to keep, for example, all Muslims or all ethnic Russians in the same squad. In some cases, on the contrary, the formation of heterogeneous convicts may be useful. Under favorable conditions and a sufficiently high level of control and supervision on the part of the administration, this can contribute to the development of tolerance towards representatives of a different denomination, nationality, etc., and a better understanding between them. The so-called "families" of convicts, united according to the national, religious, or community principle, are forms of

socialization, mutual support and adaptation to forced conditions of deprivation of liberty. Their separation can negatively affect correction, cause anger, depression and, on the contrary, push the convict to accept ideals of the criminal subculture. However, these "families", if there is a negative grouping in the correctional facility and a thief in law or an authoritative person, can become the basis for the formation of criminal organizations and communities right on its territory with the prospect of continuing criminal activity and beyond it. This situation is typical not only for the Russian penitentiary system. So, in British prisons, Muslim communities become a kind of survival teams. However, the mass adoption of Islam by the British is dictated not only by the desire to gain support and protection among other convicts of the same religion, but also to successfully advance through the criminal and subcultural hierarchy and receive appropriate preferences. Islamist extremists associated with well-known terrorist organizations, such as Al-Qaeda and ISIL, are responsible for this. For example, HM Prison Whitemoor in Cambridgeshire is described by the convicts and guards themselves as a "place of Taliban recruitment", inciting hatred and forming a new generation of extremists [6]. The US is also concerned about the problem of prison radicalization. So, back in 2011, no one raised this issue in detail. But already in 2015 this problem was defined as one of the priorities at the hearing in the U.S. House of Representatives with the participation of members of the Committee on Homeland Security, the Subcommittee on Counterterrorism, as well as three leading experts in the field. According to participants of the hearing, the complex of radicalization causes is defined as a fascination with the extremism ideology with the prospect of developing into a terrorist ideology and described as a prison association of people who, for various reasons, are dissatisfied with the social policy of the state and, moreover, are very susceptible to antisocial information influence, in the context of which complex problems of identity and belonging are exposed, existential fears about survival and disengagement in prison are discussed, philosophical questions of the search for the meaning of life are raised, followed by unacceptable ways of solving these problems. However, American researchers consider racial

extremism in prisons to be a more significant problem than problems of radical Islamization. In addition, they are concerned that gangs are formed in penitentiary institutions aimed not at committing terrorist acts, but at profitable criminal business, for example, related to drug trafficking [7].

Risk factors in relation to the spread of the extremism ideology based on hatred towards representatives of state structures and law enforcement agencies in correctional institutions are not only the presence of criminal subculture elements and criminal environment leaders, but also the identification of a great number of persons who maliciously violate discipline and internal regulations. Besides, some researchers also identify external determinants, such as illegal activities of individual religious (with a sectarian bias), public monitoring and other organizations; availability of financial assistance that comes from the authorities of the criminal environment who are at large and continue to engage in criminal activity; dissemination of radical views on the Internet (social networks, videos) and through other media [8, p. 90].

Recently, special literature has provided interesting data on the appearance of so-called green zones, ruled not by the administration or criminal authorities, but by radical Islamists. This has particularly affected the post-Soviet states of Central Asia, in particular Kazakhstan and Kyrgyzstan, where places of detention have become the radicalization epicenter on a religious basis. The former prevailing criminal-subcultural ideology is replaced by the extreme-Islamist ideology [9, pp. 35–36, 46].

We back the point of view of S.S. Oganessian and S.H. Shamsunov on the need to take into account extremists' mental specifics in the process of their re-socialization [10, p. 14]. Speaking more precisely about the religious variety of extremism, they conclude that it is necessary to use ideological foundations of the scriptures themselves to form not only religious tolerance, but also ethnic tolerance. Indeed, without deep knowledge of phenomena to work with in the course of preventive work, it is impossible to eliminate true determinants of radicalism and milder manifestations of extremism. However, opposing the authors mentioned above, we believe that the reason for the criminal be-

havior of extremists lies not in the fact that the texts of the New Testament, the Koran or other scriptures predetermine its orientation, but in the absolutization of a distorted vision of these texts. After all, if we follow this logic, then the constitutional norm on freedom of religion can also be interpreted as permission to follow radical religious trends, freely disseminate relevant attitudes, with all the ensuing consequences. Their correct and comprehensive interpretation is important. Therefore, the root of the problem lies much deeper. It is necessary to understand who and why presents texts of the scriptures in such a perverted form. After all, as a rule, all quotes adopted by extremists and terrorists are literally torn out of context, which sometimes radically changes their very essence. Undoubtedly, a penal system employee working with different categories of extremists needs to know information sources of these ideas. And for this, their training programs should include not only such subjects as religious studies, philosophy, political science, sociology, but also subjects that develop critical thinking. Besides we cannot agree with the fact that almost any psychologist, educator and head of the squad in a correctional facility should "know the Scriptures so well that they can convincingly show a religious extremist that his/her views is contrary to the information about mental specifics of a person, as well as stages of mental development of the mankind that are indicated in the Scriptures themselves" [10, p. 15]. In fact, the developers of training programs for working with convicted extremists and terrorists from the Research Institute of the Federal Penitentiary Service of Russia have come to similar conclusions. With all generalized typological socio-psychological features, individual personality traits of these persons are too different. The problem is that not amateurs, but real professionals try to manipulate consciousness of the newly appeared extremism adherents; hence, it is highly qualified specialists who should also resist them. This remark is also true of all other types of extremists: supporters of AUE, neo-Nazis, racists, nationalists.

In general, we note that singling out certain types of extremism we still should not absolutize their narrow focus. Yu.M. Antonyan, studying problems of ethnocriminology, writes that "one of the paradoxes that give rise to religious

and nationalist terror is that nationalists and religious extremists react very acutely to real or imaginary insults to their nation. Although they are usually completely insensitive to the humiliations and insults that other nations themselves or their individual representatives are subjected to" [11, p. 154]. Therefore, it is necessary to dig deep in search of true causes of intolerance and radicalism in society. There seems to be no way to solve this problem, as it is impossible to rewind history and establish universal justice. However, one can recognize and acknowledge past mistakes and move on, trying not to repeat them. At the same time, nowadays, we observe an opposite situation; some people try to rewrite history, change it, pull out old interethnic and interfaith causes of strife and speculate on them for political purposes. And here again we find the real reason for the spread of the extremism ideology – there are forces that benefit from it, as well as agents of this evil will. So, the task of all law enforcement agencies, including the Federal Penitentiary Service of Russia, is to identify and neutralize them.

Programs for countering extremism in general and deradicalization in particular in the world penitentiary practice are reduced to three main areas: destruction and separation of extremist groups; changing ideological attitudes of individual extremists; behaviorist approach with the main emphasis on modifying extremists' behavior through a progressive system of execution of criminal penalties and work with the environment of the extremist. So, for example, in France, such criminals first get used to the prison regime in solitary cells for 45 days, then, after determining the degree of their propensity for correction, milder measures are gradually applied to them, up to the possibility of working outside the correctional institution and conditional release [12]. Besides, in France, as in some other states (Uzbekistan, Norway, Saudi Arabia), there are either separate special premises or specialized penitentiary institutions for detaining extremists.

Conclusion

Summing up the stated above, it seems reasonable to strengthen the individual approach when considering issues of recruiting a squad of convicts by a special commission of a correctional institution, which presupposes a more

detailed and comprehensive study of the convict's personality.

Since preventive work in places of deprivation of liberty is insufficiently effective primarily for objective reasons and restricting communication of persons preaching extremist ideology with other convicts is impossible, there is a need to discuss creation of particular areas of correctional institutions of a multi-regime nature, where those convicted of extremism and terrorism-related crimes would serve their imprisonment. Establishment of a separate institution seems impractical due to a relatively small number of such convicts. This proposal can also be supplemented by the fact that specialized areas should be created in institutions located in the regions with a favorable and stable social situation, and guilty persons should be sent, contrary to the general rule, to areas remote from their place of residence before conviction in order to break unwanted ties with the former environment.

We believe that countering the spread of the extremist ideology in correctional institutions should be based on comprehensive programs that include measures not only within particular correctional facilities, prisons or pre-trial detention centers, but also measures to work with the convict's environment before deprivation of liberty. Thus, these programs should be based on three components: ideological, educational, and preventive. Efforts of one department (the Federal Penitentiary Service of Russia) are not sufficient. Specialists in various fields of knowledge should be involved in the development of such programs, depending on the mental specifics of extremists. At the same time, the system of control over their execution should be improved. Measures should be united by a common concept and consistently complement each other, not be isolated, point-based or formal.

We believe it useful to conduct meetings and conversations of those convicted of extremism-related crimes with former members or organizers of extremist communities who renounced their beliefs not under the influence of punishment, but because they acknowledged the inferiority of the extremist ideology or suffered from the involvement in such communities and organizations.

We cannot but support the stance on the need to deepen penal system employees' knowl-

edge in the field of religious studies, political science, sociology, and psychology. However, it should be recognized that such knowledge will help identify the problem and establish the need to seek specialized assistance only at the first meeting to. At the same time, we consider it necessary to involve narrow specialists in those areas of knowledge that are directly related to one or another type of extremism in working with convicted extremists.

Foreign countries' experience in the application of a progressive system of serving sentences by those convicted of extremism is very useful. It should be recognized that the degree of correction and perception of penitentiary means of influence varies significantly among them. This fact should be used when building deradicalization tactics. Terms of imprisonment for the acts under consideration make it possible to practice various schemes of resocialization, including taking into account the experience of such states as Ireland and France in organizing a gradual transition from strict isolation and supervision to a semi-free regime and release with the establishment of post-penitentiary control.

We believe that the implementation of the above ideas will contribute to the achievement of punishment goals in relation to convicted extremists. Besides, the following will be also achieved:

- physical isolation of convicted extremists during the entire or most of the term of imprisonment from society in order to prevent a negative impact on others;
- strengthening control and supervision measures for this category of convicts on the part of the administration;
- implementation of the principles of differentiation and individualization of the punishment execution process, choosing means and methods of correctional prevention depending on the convict's role in extremist organizations and orientation of extremist beliefs and activities (type of extremism);
- targeted work with specific causes and conditions in the mechanism of individual criminal behavior;
- definition of narrowly specific areas of group and individual psychological and educational-preventive work.

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