



Criminal Subculture Influence on Criminal Behavior of Those Sentenced to Forced Labor

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Abstract

Introduction: the article is devoted to the study of an important scientific problem – the influence of criminal subculture on criminal behavior of those sentenced to forced labor. The modern state of criminality among the specified category of persons and problems of its prevention are considered. A criminal (prison) subculture as an essential criminogenic factor is studied. *Purpose:* to study the use of criminal punishment in the form of forced labor for identifying organizational problems, including with prevention of crimes of persons sentenced to this punishment. *Methods:* the research is based on the dialectical approach to the study of social processes and phenomena. The following methods, traditional for penal law and criminology sciences, are used: analysis and synthesis; comparative legal; formal legal; sociological. *Results:* commission of crimes by those sentenced to forced labor is largely due, on the one hand, to insufficiently established legal and organizational mechanisms of preventive work with such a contingent. On the other hand, it is necessary to take into account the specifics of its composition: a significant part of the special contingent registered with the correctional center consists of persons transferred from correctional institutions of various regime types, including for committing grave and especially grave crimes, under Article 80 of the Criminal Code of the Russian Federation (commutation of punishment). It is this category of convicts who disseminate a criminal (prison) subculture that they got into in places of imprisonment. According to results of the sociological research, crimes in correctional centers are mainly committed by such convicts. *Conclusions:* the authors come to a number of conclusions. Criminological aspects of the criminal (prison) subculture influence on the criminality of those sentenced to forced labor, both on the territory of correctional centers (areas of correctional centers, areas functioning as correctional centers) and beyond, their causes and related factors are analyzed. Forms and methods of countering the spread of the criminal (prison) subculture, preventive work with convicts to forced labor, are studied. Theoretical approaches and specific preventive measures are developed. Proposals of a theoretical, practical and legislative nature with scientific novelty are formulated, aimed at improving prevention of crimes committed by those sentenced to forced labor.

Keywords: forced labor; correctional centers; isolated areas functioning as correctional centers; convicts; criminal (prison) subculture, crime prevention; preventive activities.

5.1.4. Criminal law sciences.

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Introduction

At the present stage, the criminal (prison) subculture is an immanent feature of most convicts' mentality. It is characterized by specific manifestations, such as traditions and attributes of the criminal world, conceptual and semantic basis of relations both within and outside the community, in particular, with employees of the penal system and other law enforcement agencies. There are other terms in the literature, for example, criminal ideology, penitentiary subculture. We use the definition "criminal (prison) subculture", since we believe and have every reason to believe that it originates in places of deprivation of liberty, all other manifestations (in particular, those prohibited in the Russian Federation) are derived from it.

Numerous studies confirm the direct influence of the criminal subculture on criminal behavior of convicts [1–3; 5–10; 12–19].

General characteristics of the problem

Relations in the criminal environment are characterized the struggle for dominance. As a result, stronger ("authoritative") representatives of the community impose norms of behavior ("concepts") for the main mass of convicts.

Though principles of "equality" and "justice" are postulated, in fact, these norms establish a rigid hierarchy, in particular, the minority at the top dictates its rules to the majority, putting it in an unequal and often humiliating position. There is a segregation of the social environment of convicts into groups with different status in the community.

We will consider some attributes of the criminal (prison) subculture.

1. Jargon. A special thieves' slang (jargon, argot, thug fenya) emerged in the beginning of the 18th century. This metalanguage performed the function of a certain encoding of values, interests, concepts, making conversation between the initiates incomprehensible to others. Of course, knowledge of jargon is a kind of (initial) pass (password) to communication.

Therefore, thieves' Latin, fenya has always been studied in special scientific and educa-

tional literature, as well as training of operatives, correctional officers, etc.

It is obvious that criminal jargon is not a frozen semantic system. Like any language, it develops under the influence of general cultural environment, historical, political and other factors. In this regard, it is important for a member of the criminal community or a person seeking to join it not only to speak in criminals' argot, but also to constantly monitor its changes and use the current version. Otherwise, at best he will be expelled from this environment, at worst he will be subjected to certain sanctions.

2. Nicknames (monikers, monekeers). Nicknames (monikers, monekeers) play a special role in convict environment. A nickname is defined as a conspiratorial or humorous, or mocking name. Among convicts, nicknames are assigned for almost any reason. Usually they reflect bright distinctive features of their bearer (physical disabilities or virtues), character, elements of biography, etc. In addition, nicknames are sometimes derived from the name or surname of a person.

3. Tattoos as an iconic symbol reflect one of the ways of social communication. They refer to non-verbal means of convicts' criminal communication. At the same time, it is necessary to distinguish prison tattoos from others. Their specifics consists in high information content, encrypted information about the status, criminal profession, biography, inclinations and views of the carrier. One cannot make a prison tattoo for no reason. In case the one has no right to wear such a tattoo, he has to removed it or he is subjected to the already mentioned prison sanctions.

4. Suits, groups, castes. There is a rigid hierarchy among convicts, determined by very archaic and sometimes discriminatory signs, depending on criminal specialization, thievish' record, authority in the criminal environment, nationality, and religious views. It is characteristic that there is no clearly defined system of social elevators in the criminal environment. This is expressed in the fact that not everyone can reach the highest level in the criminal hierarchy, and not only because

of personal data, but also according to a priori inherent personality traits. So, a woman cannot reach the highest hierarchy (although there have been exceptions in history, for example, Sonya Golden Pen).

In the punishment execution conditions, there are specific gradations applicable only to this particular community. Depending on the socio-moral orientation, there are groups of positive and negative orientation.

Unfortunately, the criminal subculture is highly contagious, including in relation to persons who are not its representatives. Thus, according to employees of penal institutions, they often use the terminology of informal division in their work, and sometimes characterize, evaluate and study convicts from these positions. Informal division of convicts into groups is provoked by various relations between convicts, based on customs and traditions of the criminal world, established and rooted so long ago that they have their own history.

The stated above substantiates the need to study characteristic features of the criminal (prison) subculture in order to more effectively search for measures aimed at countering its strengthening as a factor affecting not only penitentiary crime, but also activities of penal institutions.

To date, a serious factor provoking crime in institutions executing forced labor, such as correctional centers (CC), areas of correctional centers (CC), areas of correctional institutions functioning as correctional centers (AFCC), convicts whose imprisonment was commuted to forced labor under Article 80 of the Criminal Code of the Russian Federation. The modern version of this article allows substitution in respect of persons convicted of crimes of any gravity, including particularly serious ones.

According to practitioners, persons released from correctional institutions of various types of regime in which they have served sentences for committing serious and especially serious crimes comprise a significant part of the special contingent registered with the CC (ACC). It is representatives of this category of convicts who most often commit crimes and other offenses. At the same time, it is these convicts who spread the criminal (prison) subculture that they got into in correctional institutions.

Another serious criminogenic factor is that repeatedly convicted persons are held in the CC (ACC) together with those who have no previous convictions. Repeat offenders can exert a negative influence on the latter and encourage them to join the criminal subculture.

The criminal subculture influence problem is solved by means of collective and individual educational work. Thus, CC (ACC, AFC) employees note such convicts' unwillingness to work in a team together with women from the civilian staff of the enterprise, especially when women manager convicts' activities (forewoman, etc.).

There are cases of differentiation of convicts' informal status, violations of the rights of those who have a low status in the criminal environment.

During the period of serving forced labor, convicts may resort to actions of a demonstrative blackmail nature, mainly in order to attract attention to themselves (in order to earn authority in the team, make the administration ease internal regulations or get some other indulgencies). To date, the CC administration has no other adequate measures than conducting educational work.

According to CC (ACC, AFC) employees, convicts who has permanently resided in the region before sentencing are more likely to commit offenses, since they retain social ties, including those of an antisocial and criminal nature, which contributes to their unlawful behavior. At the same time, convicts who have arrived from other regions demonstrate generally more law-abiding behavior, overwhelmingly do not violate not only internal regulations, but also labor discipline at the enterprise where they work, express a desire to stay there after serving their sentence.

Thus, the main reason for the increase in the number of convicts committing illegal acts (including crimes) in correctional centers, in our opinion, is that the courts are currently actively applying this penalty, especially in relation to convicts released from prison in connection with the commutation.

Our survey of CC (ACC, AFC) employees in a number of Russian regions (Belgorod, Vladimir, Volgograd, Voronezh, Kirov, Moscow, Novgorod, and Omsk oblasts, Perm, Primorsky and Stavropol krais) showed that the most common manifestations of criminal subculture among convicts are:

- tattoos – 93.33 % of the surveyed employees;
- belonging to other antisocial communities/groups (social networks, youth criminal groups, etc.) that cause antisocial, aggressive behavior – 20% of the surveyed employees;
- without explanation – 6.67% of the surveyed employees.

Attributes in clothing, belonging to the AUE were not noted by respondents as a common manifestation of subculture

The most significant criminogenic factors affecting those sentenced to forced labor are:

- the use of alcohol/drugs/psychotropic substances – 86.67% of the surveyed employees;
- impact of the environment, social circle of the convict, criminal subculture – 46.67 % of the surveyed employees;
- organizational problems – 13.33 % of the surveyed employees;
- gaps in legislation – 13.33 % of the surveyed employees;

Other criminogenic factors are not specified.

The study identified the most characteristic features of the personality of those sentenced to forced labor, prone to committing crimes and other offenses:

- propensity to use alcoholic beverages, narcotic, psychotropic substances; lack of socially significant connections – 40% of the surveyed employees;
- repeated convictions in the past, aggression, unwillingness to work, waywardness – 13.33% of the surveyed employees;
- criminal needs and motivation, emotional and volitional deformation, negative social interests, poor socialization, low control of behavior, established lifestyle – 13.34% of the surveyed employees;
- aggression, low educational level – 6.67% of the surveyed employees;
- emotional instability, excitability, tension, pessimistic attitude to the future – 6.67 % of the surveyed employees;
- individuals with aggressive, antisocial selfish orientation, persons with mental self-regulation defects – 6.67% of the surveyed employees;
- impulsiveness, bitterness – 6.67 % of the surveyed employees;
- low level of legal awareness – 6.67% of the surveyed employees.

The number of those who committed repeated crimes while serving a sentence in the form of forced labor in the surveyed regions in 2021 amounts to 44 persons (0.68%), of whom:

- 12 people (27.27%) committed a crime within the first three months after arriving at the CC (AFCC);
- 5 people (11.36%) committed a crime on the territory of the IC (AFCC);
- 39 (88.64%) committed a crime outside the territory of the IC (AFCC);
- 7 (15.91%) committed a crime while intoxicated;
- nobody committed a crime under the influence of narcotic, psychotropic substances and their analogues;
- nobody committed violent crimes against convicts;
- 3 persons (6.82%) committed violent crimes against IC (AFCC) employees;
- nobody committed violent crimes against representatives of the administration of the enterprise where they were employed;
- 1 person (2.27%) committed mercenary crimes against convicts' property;
- nobody committed mercenary crimes against the property of the IC (AFCC);
- 1 person (2.27%) committed mercenary crimes against the property of the enterprise where they were employed;
- 14 persons (31.82%) committed mercenary crimes against other citizens' property;
- 6 persons (13.64%) committed crimes against property;
- 10 (22.73%) committed crimes in the field of illicit drug trafficking;
- nobody committed crimes against public or management;
- 6 persons (13.64%) committed other crimes.

Separately, we should focus on differences in criminal behavior of those convicted for the first time and those previously convicted. It is known that the maximum increase accounts for persons to whom forced labor is commuted under Article 80 of the Criminal Code of the Russian Federation. In 2019 it amounted to 46% (first-time convicted), 63% (previously convicted), in 2020 51% and 69%, respectively.

Almost every fourth convict committed malicious violations of the order and conditions of serving a sentence in the form of forced labor, including:

- use of alcoholic beverages;
- petty hooliganism, disobedience to the administration representatives;
- refusal to work;
- unauthorized abandonment of the CC (AFCC, ACC) territory without valid reasons;
- untimely return to the place of serving the sentence;
- manufacture, storage or transfer of prohibited items and substances.

It should be noted that in 2021, 72% of 2,871 violators accounted for convicted men, whose sentence was commuted to forced labor under Article 80 of the Criminal Code of the Russian Federation.

The data obtained confirm the existing opinion on the need to supplement current organizational and legal measures ensuring the order and conditions of serving a sentence in the form of forced labor at the place of work and stay, including of operational-investigative nature.

The most common crimes committed by those sentenced to forced labor are the acts provided for in Articles 105 of the Criminal Code of the Russian Federation; 109 of the Criminal Code of the Russian Federation; 111 of the Criminal Code of the Russian Federation; 115 of the Criminal Code of the Russian Federation; 158 of the Criminal Code of the Russian Federation; 159 of the Criminal Code of the Russian Federation; 161 of the Criminal Code of the Russian Federation; 162 of the Criminal Code of the Russian Federation; 228 of the Criminal Code of the Russian Federation; 228.1 of the Criminal Code of the Russian Federation; 264.1 of the Criminal Code of the Russian Federation; and 318 of the Criminal Code of the Russian Federation.

Thus, the structure of crime of those sentenced to forced labor is dominated by mercenary and mercenary-violent crimes (theft, fraud, robbery, robbery). A significant number are so-called drug-related crimes (Articles 228, 228.1 of the Criminal Code of the Russian Federation). The share of crimes against the person, in particular, such dangerous as murder, causing serious harm to health, etc. is also rather considerable.

The data obtained in the course of our own sociological research proves the previously stated assumption that persons to whom forced labor is imposed to commute the punishment under Article 80 of the Criminal Code

of the Russian Federation and who arrive at the CC (AFCC) from correctional institutions are more likely to commit crimes.

For comparison, the share of crime committed by convicts of the considered sociological sample (7,190 people), to whom forced labor was initially imposed, amounts to 0.37%, of which 20% within the first three months after arrival at the CC (AFCC). In the studied group the persons convicted of serious crimes make up 15.02%.

At the same time, convicts whose sentence was commuted to forced labor under Article 80 of the Criminal Code of the Russian Federation committed crimes while serving their sentence in 0.88% of cases, of which 47.5% of cases were committed during the first three months after the arrival at the CC (AFCC). In the studied group of persons convicted of serious crimes account for 68.21%.

The survey was analyzed according to the following structure of crimes of those sentenced to forced labor: commission of a crime within and outside the territory of the CC (AFCC); a crime under the influence of alcohol, narcotic, psychotropic substances; violent crimes against representatives of the administration of the enterprise where they are employed; mercenary crimes against the property of convicts and the correctional center (AFCC, ACC); mercenary crimes against the property of other citizens; crimes against property in the sphere of illicit drug trafficking; against public order or the order of management and other crimes.

The category of convicts who have committed crimes outside CC (AFCC, ACC) territory is given special attention, since 80–90% of the total number of those who have violated law belong to this category. In addition, every fourth convict committed a new offense while intoxicated.

Conclusions

The conducted research allows us to draw several conclusions.

First, we cannot but agree with researchers' stance that the Criminal Code of the Russian Federation and the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 58 of December 22, 2015 "On the practice of imposing criminal punishment by the Russian courts" lack clear criteria for courts to decide on commutation of incarceration to forced labor [11]. So, courts refer

to circumstances of the crime committed, identity of the perpetrator, conformity of the imposed penalty to the justice principle. It is possible to identify special criteria that the court may take into account when considering the issue of imposing a criminal penalty in the form of forced labor.

So, for example, with extreme caution, forced labor should be imposed to men aged 20–30 without a family, with incomplete general education, convicted of beatings, threatening to kill or causing serious harm to health, non-payment of funds for the maintenance of children, intentional infliction of minor harm to health, violation of domicile, insulting a representative of the authorities, etc.

Second, Part 4 of Article 80 of the Criminal Code of the Russian Federation should be supplemented with the following circumstances, which the court takes into account when replacing the unserved part of imprisonment with forced labor. It seems that the court, along with other information characterizing the convicted person and his behavior during the period of serving imprisonment, should evaluate data indicating the presence or absence of the convicted person's education, specialty, family, socially significant diseases, as well as guarantees of his/her employment.

Third, the number and nature of convicts' violations of the order and conditions of serving a sentence in the form of forced labor: manufacture, storage or transfer of prohibited items and substances, including the use of alcoholic beverages, narcotic drugs, psychotropic and new potentially dangerous psychoactive substances; petty hooliganism; disobedience to representatives of the CC (AFCC, ACC) administration, their insult; unauthorized abandonment of the CC territory (AFCC, ACC) without valid reasons; untimely return to the place of serving the sentence indicates the need to increase staffing of correctional centers (AFCC, ACC), including by introducing various categories of positions, *inter alia*, of operations officers.

Yu.A. Kashuba substantiates the legislative possibility to transfer convicts sentenced to imprisonment before their release on parole to correctional centers [4].

The spread of criminal subculture among convicts, as well as the concentration of convicts in dormitories of the CC (AFCC, AC), on

the one hand, and free movement within the enterprise and its location, on the other, indicates the need for operational investigative work with such convicts. However, at present, the staffing table of the CC (AFCC, AC) does not provide for the positions of an operations officer and an employee responsible for the secret nomenclature of cases.

When developing preventive work plans and its implementation in the CI (AFCC, AC), it is necessary to consider the followings:

1) identification of persons encouraging persons sentenced to forced labor to commit crimes or antisocial actions;

2) elaboration of crime prevention instructions for those sentenced to forced labor;

3) high-quality supervision conducted by the CC administration, consisting in monitoring and controlling behavior of those sentenced to forced labor in the correctional center, at work and in other places of their stay. It should include:

– control over convicts' compliance with the Internal Regulations of the CC (AFCC, ACC);

– ensuring the access regime on the territory, checking the presence of convicts of the established sample of documents certifying their identity;

– conducting checks on the presence of convicts in the CC (AFCC, ACC) and at work;

– ensuring the established procedure and conditions for serving sentences by convicts placed in premises for violators.

– use of audiovisual, electronic and other technical means of supervision and control.

As mentioned earlier, convicts who have permanently resided before sentencing in the territory of the region where they are serving their sentence are more likely to commit offenses, since they retain social ties, including criminal ones, which contributes to their delinquent behavior. At the same time, convicts who arrived from other regions demonstrate generally more law-abiding behavior, overwhelmingly do not violate not only internal regulations, but also labor discipline at the enterprise where they work, express a desire to stay there after serving their sentence. In this regard, it seems inappropriate to apply the general rule contained in Part 1 of Article 60.1 of the Criminal Code of the Russian Federation, according to which "those sentenced to forced labor serve their sentences in special institutions – correctional centers located

on the territory of the RF subject, where they lived or were convicted". We believe that when choosing a place for a convicted person to serve a sentence in the form of forced labor, it is necessary to take into account features of the convict's personality, including a tendency to socially dangerous behavior, presence of criminal ties, etc.

In most cases, repeat offenders whose deprivation of liberty is commuted to a milder type of punishment more often commit malicious violations of the internal regulations and repeat crimes, which subsequently entails substitution of punishment for imprisonment; thereby the repeated replacement of deprivation of liberty with a milder type of punishment does not encourage convicts to correct. Consequently, the repeated replacement of deprivation of liberty with a milder type of punishment does not form a proper motivation for convicts to reform, they feel the relief provided to them. So, mitigation of punishment by a milder type seems unreasonable, since it does not ensure resocialization of convicts and achievement of one of the penal legislation goals to correct convicts.

Besides, as practice shows, those convicted of particularly serious crimes and crimes against sexual integrity of minors hardly ever realize seriousness of the criminal act. When incarceration is commuted to forced labor for

them, they are more prone to illegal actions than others.

In this regard, it is proposed to:

- supplement Part 1 of Article 80 of the Criminal Code with the word "for the first time", stating it in the following wording: "1. A person serving detention in a disciplinary military unit, forced labor or imprisonment for the first time, who has compensated for the damage (in whole or in part) caused by the crime, the court, taking into account his behavior during the entire period of serving the sentence, may commute the unserved part to a milder type of punishment, except for cases of substitution of imprisonment with forced labor under Part 2 of this article. Concurrently, a person may be fully or partially released from serving an additional type of punishment";

- exclude the following paragraphs from Part 2 of Article 80 of the Criminal Code of the Russian Federation:

"especially serious crimes – at least two-thirds of the sentence or at least half of the sentence when commuting incarceration to forced labor;

crimes against sexual integrity of minors and crimes provided for in Article 210 of this Code – at least three-quarters of the sentence;

crimes against sexual integrity of minors under the age of fourteen - at least four-fifths of the sentence".

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