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Conceptual Issues of the Goals of Punishment

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Abstract
Introduction: the article considers the goals of punishment, their essence, evolution, and modern legal and doctrinal interpretation; these issues are among fundamental problems of penitentiary science. Aim: to study the legal nature, social conditionality, and achievability of the goals of punishment so as to identify their compliance with the modern criminal policy of Russia. *Methods:* the research is based on a dialectical approach to the study of social processes and phenomena. We use methods such as analysis, synthesis, comparative legal, retrospective, formal legal, logical, comparative methods; all of them are commonly used by the sciences of criminal law and criminology. We also apply private scientific methods such as the legal-dogmatic method and the method of interpretation of legal norms. *Results:* we conclude that the time has come to change the conceptual foundations on which the institution of the goals of punishment is based. We believe it is necessary to prevent crimes by combining criminal responsibility with education and prevention. The level of recidivism, the empirical non-verifiability of reformation, and the scientific inconsistency of the phrase "restoration of social justice" (how can we restore what should be an unshakable axiological guideline?) indicate that Russian penology should radically revise the existing punitive paradigm. The paper substantiates the thesis that no goal of punishment in the current form is fully achievable. It is known that general prevention is based on fear. However, according to criminological studies, those who are inclined to commit crimes, as a rule, are not afraid of punishment (their contempt for punishment, law and society as a whole is obviously cultivated by the criminal subculture). And law-abiding people do not commit crimes because of their inner beliefs, upbringing and culture. Thus, general prevention as a goal is ineffective. Reformation and special prevention are too formalized and do not assume scientifically verifiable (at least, legally enacted) criteria for their achieving, that is, the state of reformation itself. With regard to the restoration of social justice, this formulation seems absurd due to a misunderstanding of justice as such. In our opinion, it is an objectively established axiological system, which essentially cannot be violated by a crime, but represents a standard and a measure of evaluation. It is for a reason that it is legally defined as a requirement for a court sentence in the Criminal Procedure Code of the Russian Federation. The goal of punishment ultimately consists in the punishment itself and in the implementation of its functions (punishment, retribution, public condemnation of the crime, protection of society from criminal encroachments). *Conclusions:* the present research has substantiated the necessity to carry out a legislative reform of the concept of the goals of punishment. We find this problem quite relevant, because the effectiveness of judicial and penal enforcement activities and the fate of meaningless financial costs for achieving unattainable goals depend on finding a solution to it.

Keywords: punishment; goal; efficiency; restoration of social justice; crime prevention; general and special prevention; reformation of convicted persons; criminal policy; conceptual foundations.

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Introduction

The use of punishment can and should be considered as a way of social management. The necessity of the latter is due both to the consolidation and preservation of social values, and to the achievement of certain social ideals, which in turn are expressed in the goals of punishment.

The goal as a legal category is traditionally considered as the planned final result, whichthe subjects of law-making and law enforcement activities strive to achieve. In other words, it is an ideal model of the result that is supposed to be achieved through legal regulation. We believe that at the same time, the goal as a normatively modeled result should fully correspond to the guidelines in the jurisdictional activities of judicial, law enforcement and penal enforcement agencies.

The lawdoes not proceed from a social contract;it is not a self-developing object either, but the product of a goal that serves social relations. The ultimate goal of the law is to put the reward on the same line with the punishment; punitive law corresponds to reward law, and the latter corresponds to the principle of justice of the social order [8, p. 346].

We share a viewpoint of A.L. Remenson, who thinks that the dispute about the goals of punishment is a fundamental dispute, since it is the goals of punishment that determine social functions of criminal punishment, general directions of its effectiveness, and the construction of the punishment system itself [15, p. 15].

At the same time, it is obvious that legal goals are the quintessence of criminal policy and are determined by the current needs of society and the state, current ideas about social interests, values, means and methods of their protection. There is also no doubt that with the change of such ideas in the course of evolution or as a result of more drastic (revolutionary) socio-political transformations the goals of legal regulation (in our case, the goals of punishment) also change.

Results

The goals of punishment in Russian criminal law have undergone historical changes. In the time of Russkaya Pravda [Rus' Justice, the legal code of Kievan Rus'. Translator's note] they were retribution and property benefit. However, Russian medieval law was not limited to these two goals. In contrast toRusskaya Pravda and Sudebniki [codes of justice],Sobornoe Ulozhenie [the Council Code] of 1649 had new punitive guidelines of a public nature, consisting in the protection of the state and society from criminals and crimes. The main purpose of criminal legislation under Peter the Great, represented first of all in Artikuly Voinskiye [Military Regulations], was deterrence, which followed from such reservations as, for example: "in order to instill fear through the Regulations and to prevent people from doing obscene deeds". Deterrence was ensured by the publicity of punishments. It was announced that there would be an execution soon; and the execution was carried out in a public place.

According toUlozhenie o nakazaniyakh ugolovnykh i ispravitel'nykh [Code of Criminal and Correctional Punishments] of 1845, which marked the end of punitive policy of Nicholas I, the main goal of punishment was retribution, which was associated with the aim to prevent other crimes under threat of punishment. The 1845 Code of Criminal and Correctional Punishments defined in detail all the legal features that characterize criminal acts, types of punishments and conditions for their application. Along with Ulozhenie o nakazaniyakh [Code of Punishments] of 1885 and Ugolovnoe ulozhenie[Criminal Code] approved by Nicholas II in 1903, there were the following regulations: the 1864 Statute on Punishments imposed by Justices of the Peace, the 1875 Military Code on Punishments, and the 1886 Naval Code on Punishments, which did not differ in any special interpretation of the goals of punishment. The 1903 Criminal Code,which was the last criminal law act of the Russian Empire, also did not show any serious changes in the formulation of the goals of punishment [2, p. 281].

However, with the onset of the Soviet regime everything changed dramatically. The goals of punishment acquired a pronounced social character, which was due to the new (socialist) ideology of the government. The 1922 Criminal Code of the Russian Soviet Federative Socialist Republic contained the following goals: prevention of new offenses, adaptation of the offender to the conditions of communal living, deprivation of the criminal of the opportunity to commit new crimes, legal protection of the workers' State from crimes and socially dangerous elements by applying punishment or other social protection measures to violators.

The 1926 Criminal Code of the RSFSR defined the purpose of social protection measures as the general prevention of new violations both on the part of the violator and on the part of other persons [10].

And only the 1960 Criminal Code of the RSFSR defined the goals that are close to the current ones. Article 20 stated: "Punishment does not merely constitute chastisement for the crime committed; it also has the purpose of reforming and reeducating convicted persons in a spirit of an honorable attitude toward labor, scrupulous compliance with the law, and respect for the rules of socialist communal living, and the prevention of the commission of further crimes either by the convicted persons or by others. It is not the purpose of punishment to inflict physical suffering or to denigrate human dignity".

It is obvious that the above set of goals was a conglomerate that combined dogmas of the classical and sociological schools of criminal law, and therefore, in our opinion, did not have a strong doctrinal foundation. We think that this was due to the historical expediency of moving away from the much more integral and scientifically substantiated, but compromised criminal policy of the Stalinist period. One can hardly find other reasons to explain the fallback to the already outdated and bourgeois concepts of prevention and reformation.

At the same time, any full-fledged replacement of the previous penological concept developed by criminologists of the sociological school was never proposed, and the traumatic legacy of the Soviet period was borrowed in a practically unchanged form by the current criminal law.

Thus, the goals of punishment are a historically variable category, determined by the trends and level of development of public consciousness. At the same time, we believe that the effectiveness of punishment can be ensured only by setting scientifically substantiated goals, which will be based on a theoretically integral and consistent concept of goal-setting.

Considering the category of "the goal of punishment" as a kind of ideal result of state coercion (physical and psychological), taken in relation to the criminal, we cannot but agree with the fact of its historical variability. A.N. Filippov noted: "The general and ultimate goal of punishment has always and everywhere been the protection of public order and peace from someone's offenses. But since the nature of these offenses gradually changed over the epochs, as well as the relative value of the goods that were encroached upon, then the immediate goals of punishment also went through serious changes in their foundations and at times they focused on one or another task of retribution, the implementation of which required considerable efforts on the part of the authorities" [21, p.4].

Currently, these goals are formulated in criminal law, which is a fundamental branch in relation to penal law: the goals include restoration of social justice, reformation of convicts, prevention of the commission of new crimes (Part 2 of Article 43 of the Criminal Code of the Russian Federation).

As we can see, all these goals are associated with the achievement of certain positive results from the point of view of society, express the desire to eliminate the legal and social conflict caused by crime. In other words, we are talking about socially determined goals, which are simultaneously the criteria for the effectiveness of punishment. The effectiveness of punishment can be defined as the correspondence of the actual results to the expected ones. The concept of effectiveness is inextricably linked to the concept of the goal of punishment. The punishment itself, in our opinion, is a means of achieving a positive social effect, modeled taking into account two indicators: 1) what society expects from punishment; 2) what punishment is really capable of, the possibilities of which, of course, are not unlimited.

Thus, effectiveness is determined by the achievement of expected results. If we consider punishment as a social tool, its effectiveness should be evaluated from two positions:

1) to what extent punishment achieves its goals;

2) whether these goals, means and the level of their achievement are acceptable from the point of view of public consciousness.

The latter position is important because the state sees punishment as not only a blind retribution for the crime committed, but also a way to achieve the social ideal in combating crime.

We find it necessary to express some considerations regarding the nature of punishment and its ability to achieve these goals.

Since punishment is a reaction to a past event, i.e. a crime, it is a retroactive measure. In other words, punishment can hardly be considered a preventive measure, since such measures are taken before the event that has to be prevented, and not after it has been committed. Punishment deals with the consequences of a crime, but cannot affect its causes, since they are interwoven into a complex system of social and personal determination with powerful factors that remain

beyond the reach of the law. Therefore, the hope that they will be affected by the punishment does not have sufficient grounds. In this regard, punishment only expresses the public and state assessment of the act, and the assessment, as we know, must be fair, otherwise it simply will not make sense.

We believe that punishment is a form of response to crime and can be effective only in combination with preventive measures [14]. In fact, it is a measure of criminal responsibility for what has been done, assuming the obligation of the guilty to undergo punishment, and assuming the possibility of differentiating responsibility (for example, by replacing one punishment with another or assigning additional punishment).

In addition, it seems that punishment is nothing more than a means of communication between the state and society, through which the former expresses its position on what is criminal and, accordingly, dangerous.

Punishment comes from the Old Russian word nakaz – instruction, order. Thus, the real functions of punishment are social management, as well as the assertion of the will of the state, repression (suppression).

Let us consider the existing goals of punishment.

The goal of restoring social justice

In the scientific literature, this goal is revealed very ambiguously. For example, L.L. Kruglikov believes that the use of punishment for the purpose of restoring social justice is controversial due to the amorphous content and means of achieving the goal, and the result itself is uncontrolled due to the lack of the possibility of actually achieving the stated goal [18, p. 350]. I.Ya. Kozachenko is even more straightforward, he notes the amorphous and even hypocritical concept of "restoration of social justice", as well as the fact that there is no distinction between the principle of justice and the mentioned goal of social justice on the part of the legislator. He suggests replacing "restoration of social justice" with "restoration of the violated rights and legitimate interests of the victim or their loved ones" [12, p. 17].

V.A. Utkin emphasizes that ajust punishment applied to the guilty person should help the public consciousness to restore and develop the belief in the inviolability of the law and order protected by criminal law, the punishability of what was done, and the inadmissibility of following an anti-social "precedent" [20, p. 35].

Generally agreeing with the above positions of the authors, we believe that they are based on an idealized perception of the considered goal of punishment. First of all, let us ask the question: what has become of justice (as a result of the crime), if it is necessary to restore it? Social justice, in our opinion, is a relatively stable axiological category, which in itself cannot be violated, but acts as a kind of constant, a system of measurement, an ideal model, with the help of which it is possible to evaluate both criminal acts and power (judicial) acts taken on their occasion. The parameters of social justice, if they are not formulated literally, follow from legal principles, presumptions, and other norms that contain the wording of the state of public relations that is due and necessary from the official point of view and the options for their development that are approved, acceptable, or admissible from the point of view of society. With this understanding, we should not restore social justice, but bring social relations (specific circumstances) in line with relatively stable (firm) axiological requirements (criteria), which should acquire a kind of status quo.

If we proceed from the concept of restoring social justice, then we should assume by default that it is an unstable (often violated) category. But if we assume that justice needs to be restored, then where is the standard (template) by which this should happen? Or are we talking about two types of justice (violated and model)? We do not think it makes any sense.

At the same time, we cannot but draw attention to the contradiction between the considered goal and the principle of justice, enshrined in Article 6 of the RF Criminal Code, the observance of which clearly indicates that when a sentence is imposed, justice should be ensured (restored). The goal of restoring social justice means that after the punishment is imposed, social justice has yet to be achieved, that is, there is a certain prospective function. In other words, we believe that the observance of the principle of justice makes it unnecessary to achieve the goal of restoring social justice. Conversely, the requirement to achieve such a goal actually indicates that the specified principle has been violated.

In this regard, the goal can be formulated as achieving or ensuring social justice. However, in our opinion, there are no grounds for this for the sole reason that ensuring social justice is not the goal, but an attribute property of punishment;this is supported by the requirement for the court to pass a lawful and just sen-

tence. In other words, the appointment of a just punishment is more the goal of the court, rather than a measure. If the punishment is justly imposed, then it has nothing to achieve.

In this regard, we agree more with the opinion of N.D. Sergeevskii, who wrote that the main goal of punishment is reprehension, which "is the essence of all punishment" [17, p. 64].

The goal of reformation

We should emphasize that the goals of reformation and special prevention are two consecutive stages of the same phenomenon (reformation is the process, and special prevention is the result).

Reformation expresses the basic, conceptual idea inherent in the institution of punishment. The concept of "reformation of convicted persons" is specified in the penal enforcement legislation (Article 9 of the Penal Executive Code of the Russian Federation).

The concept of reformation goes back to Kant's categorical imperative. Assessing the nature of man as bad, I. Kant makes a somewhat inconsistent conclusion about the basis of moral and legal responsibility: "If a man in the moral sense is or should be good or bad, then he must make himself such..." [11, p. 29–30]. At the same time, he himself admits: "How it is possible that a man naturally bad should make himself a good man transcends all our conceptions" [11, p.47].

J. Bentham, another representative of the classical school, in his treatise on rational prison formulated the goal of private prevention and reformation. It was very thoroughly developed by subsequent representatives of the classical school of criminal law such as Grolman, Stelzer, Ahrens, Raeder, who considered reformation as the main goal of punishment [9, p. 28].

The essence of the classical school's teaching about punishment is determined by one of the postulates: by making punishment more severe, society makes crime less attractive, which helps deter people from committing it. Unfortunately, this thesis has never been confirmed in practice. For example, there would be no need to apply the most severe punishment such as the death penalty, because its fear would deter potential criminals from committing the acts for which it is provided. However, in fact, the imposition of the death penalty in those countries where its use is provided for by law does not decrease at all.

The idea of reformation in the sociological school is perceived very ambiguously and is linked to the influence of the environment on an individual.

According to G. Tarde, anthropological and physical factors have only an impulsive impact and urge toward indefinite forms of activity, while social factors direct this activity. He wrote: "In the same social environment the accumulation of social impacts can be very different: in some, moral borrowing from honest people prevails, while others imitate people who are vicious or criminal. Therefore, before trying to make a person "good", one must to ensure that they want to become good, so that it meets their interests" [9, p. 99].

Durkheim wrote that in order to find out the causes of crime, it is necessary to study the conditions in which the "social body as a whole" is functioning, rather than the state of individual people. The reason for this lies in the fact that the group thinks, feels, and acts quite differently from what its members would do if they were separated [6, p. 60]. Reformation, according to Durkheim, cannot be a universal goal. He wrote that "if crime is a disease, then punishment is a medicine and cannot be considered otherwise; therefore, all the questions it raises are reduced to finding out what it should be in order to fulfill its role as a medicine. If there is nothing painful in the crime, then the punishment should not be intended to cure it, and its true function should be found elsewhere" [4, p. 79]. In another work on punishment, he writes: "It does play a useful role. Only this role is not where we ordinarily look for it. It does not serve – or serves in a secondary way – to correct the culprit or to intimidate his possible imitators; from both these points of view, its usefulness is, in all fairness, doubtful, and in any case mediocre. Its true function is to preserve the integrity of the social connection, keeping all its vitality in the social consciousness" [5, p. 85].

In the 19th century, Italian criminologists E. Ferri and R. Garofalo developed the concept of the dangerous state of the criminal, according to which the criminal should not be punished, but removed from the state of increased propensity to crime (and until this is done, they must be isolated). This has very little to do with reformation, but rather with healing, since crime was seen as a social disease. A special feature of clinical criminology is the attempt to form a special system of measures for the reformation of personality, which would be self-sufficient, that is, it would be the main method of influencing crime. Representatives of this direction practically denied the punishment as

a preventive and deterring means. They tried to turn criminology into a kind of anti-criminogenic medicine, and the prison into a clinic. The most significant contribution to the formation of clinical criminology based on the theory of social protection was made by the Italian scientist Filippo Gramatica. According to the main provisions of his concept, criminal policy based on social protection should focus more on individual, rather than on general prevention of crimes. The re-socialization of the offender is the main goal, since the re-education and socialization of the criminal protects society from crime more effectively than severe punitive measures [9, p. 140].

Thus, when viewing crime as a social phenomenon determined by the circumstances of the external (social) environment, representatives of the sociological school consider reformation as a phenomenon in conjunction with such a concept as the causes of crime. At the same time, the issues concerning thereformation of criminal inclinations in a psychobiological rather than social sense were developed within the framework of clinical criminology. As for sociological criminology, it does not consider punishment as any effective means of reforming an individual or preventing crime. For example, American criminologist E. Sutherland explained crime by relying solely on the factors of social life. According to him, criminal behavior is not fundamentally different from other forms of human activity, an individual becomes a criminal only because of their ability to learn. They learn criminal behavior not because theyhave special criminal inclinations for it, but because they see criminal patterns more often, and they establish a closer connection with such people from whom they can adopt criminal views and skills. If the same teenager had been included in a different social circle since childhood, they would have grown up a completely different person [9, p. 178–179].

Partly agreeing with this position in the aspect of the social conditionality of crime, we note that, in our opinion, its determinism has a socio-biological character. Born as a biological being, a person has certain animal principles (instincts) in the basis of their psyche. Over the course of life, they do not disappear, but only change their intensity under the influence of those physiological processes of the body that are associated with its formation, maturation and aging. However, experiencing the influence of society from an early age, an individual goes through the stage of socialization, that is, the assimilation of the norms and rules adopted in this society, which become personally significant for the individual, and their observance becomes the individual's own need. Successful socialization results in effective self-control on the basis of a kind of shell formed by assimilated social norms; this shell seals the biological beginning of an individual and putsthem under the control of consciousness. In the case of unsuccessful socialization, this shell either turns out to be insufficiently strong, or has certain gaps that allow animal instincts to take over the human consciousness and control it. This is where the relationship between the social and biological determinants of criminal behavior manifests itself. At the same time, it is obvious that the only reliable methods of preventing it are filling in the shortcomings of socialization and minimizing the influence of destructive environmental factors on an individual. Within the framework of criminal punishment, the possibilities of re-socialization are significantly limited by the psychological state of the convicted person subjected to punitive influence (in the case of deprivation of liberty, they are practically absent). We can say that during this period the ground is being prepared for the adaptation of the individual to life in society. Obviously, it is very difficult for an individual to feel like a full member of society, when they are experiencing punitive legal restrictions imposed by punishment.

At present, reformation is firmly connected with the concept of punishment and is included in its goals (Article 43 of the RF Criminal Code). At the same time, the question of its achievement remains debatable. V.A. Utkin analyzes two extreme positions on this issue. One of them boils down to the fact that reformation is an unacceptable invasion of the internal "sovereignty" of the convicted person, and the correctional terminology itself is nothing more than an ideological cover for all sorts of (including latent, illegal) ways of suppressing the individual, dating back to the GULAG era. The second position is formed by judgments about the uselessness of the goal of reformation as unattainable, meaningless and disorienting to practice. The scientist himself believes that the exclusion of reformation from the number of goals of punishment will lead to a sharp decrease in the humanistic potential of the latter, and he determines reformation itself with the help of two interrelated aspects: a) the formation of the convict's subjective readiness for conscious voluntary compliance with the norms of crimi-

nal law; b) the formation of objective qualities in their personality, properties that contribute to responsible law-abiding (more precisely, criminal law-abiding) behavior. At the same time, he notes that it is wrong to identify reformation and intimidation [20, p. 36, 40–41]. We respect the expressed opinion, but we still note it has certain idealism. Obviously, reformation should be understood not formally, but meaningfully – as the formation of certain positive qualities in an individual; the qualities are listed in a very abstract form in Article 9 of the RF Criminal Code. However, neither criminal law nor penal enforcement legislation names the criteria for achieving this goal; specifically, it does not define the manifestations of behavior that make it possible to confirmthat an individual has been reformed. And it is hardly possible to count on a positive transformation of the personality under the influence of retribution, which, as we know, is the essence of punishment.

Reformation in its present form involves the consideration of the criminal tendency as an internal pathology that can be corrected by changing the attitude of the criminal toward social values. At the same time, in our opinion, the social determination of crime is ignored, that is, the influence of the external environment on the offender's personality. When talking about reformation, one forgets about external factors for some reason. Let us go back to the basics: how is a criminal formed? What determines crime? These problems are not new, and they became the cornerstone of the opposition of the classical and sociological schools of criminal law in the 19th century. The answer to these questions also determines the decision about the goal of reformation and whether it is appropriate to preserve it. If we proceed from the social conditionality of crime, then it would be wrong to see the root of evil only in the personality of the criminal and consider their reformation as the prime goal. To do this, it is necessary to assume that after reformation has been achieved, criminogenic factors will not affect the former criminal; or it is necessary to consider reformation abstractly, in isolation from the actual life situation of the person, and the situation after they have served the sentence.

We should point out that outside Russia punishment is associated with penalty and retribution for what one has done. This has a certain argumentation that is not devoid of rationality. If the necessity to be punished for what one has done arises only in relation to a sane person who has reached a certain age, then it is obvious that they are aware of their actions and are in control of them. Therefore, they must understand that if they commit a crime, they will be punished for it. And if so, then they consciously take a risk and pay a kind of price for their act. From a pragmatic point of view, this is true. The individual must first be punished, and only then can we demand that they change their behavior. For example, Norwegian criminologist Nils Christie considered punishment as pain, forced to be inflicted on the criminal: "One of the rules that had to be followed was: if there is doubt, then you cannot cause pain. Another rule should be to cause as little pain as possible. Look for an alternative to punishment, not alternative punishments. Often there is no need to react: the perpetrator knows as well as those around him that what he has done is bad. Many deviant actions are an expressive, inadequate attempt to say something. Let the crime serve as a starting point for a genuine dialogue rather than an equally inadequate response by inflicting pain in full measure" [13, p. 20]. In other words, at the moment of causing pain, it is difficult to expect the individual to realize their guilt.

In the West, the theories of the resocialization of the criminal have become very popular. Accordingly, important areas of social work abroad are as follows: a) post-penitentiary social work (work with persons released from penitentiary institutions); b) work with persons sentenced to punishments not related to isolation from society.

Once again, the Russian doctrine is based on a combination of punitive and correctional influence, which affects the process of execution of punishments, including the conditions of serving, regime requirements, and the powers of employees of the penal system. It is fair to say that in the last two decades there have been some deviations from it. Thus, with the adoption of the Penal Enforcement Code of the Russian Federation in 1997, the word combination such as "correctional-and-labor" has ceased to be used at the legislative level; this emphasizes the formal-legal, rather than the substantive side of the execution of punishment. If continuity is maintained, then only partially. The word "labor" has disappeared from the name of the institutions that carry out the punishment in the form of imprisonment, and they have turned from correctional-and-labor colonies into correctional colonies.

Reformation is mentioned in the legislation as the goal of punishment (Article 43 of the RF Criminal Code) and as the goal of the penal en-

forcement legislation (Part 1 of Article 1 of the RF Penal Enforcement Code).

The legal definition is contained in Part 1 of Article 9 of the RF Criminal Code: "The reformation of convicts is the formation of their respectful attitude towardan individual, society, labor, norms, rules and traditions of the human community and the promotion of law-abiding behavior".

This definition provides grounds for several conclusions. First, reformation is revealed through the concept of "respectful attitude". The following is an exhaustive list of social benefits that the convicted person should respect. The legislative definition does not provide an indication of the individual's own qualities that could indicate reformation (adherence to the law, decency, conscience, compassion, honesty, kindness, etc.).

Second, the use of nouns formed from imperfect verbs (formation and promotion) defines reformation as a process that is extended in time and does not have a final point. In other words, what to do – form, promote, but not what to have done: have formed, have achieved. Thus, the goal is formulated as a process, but not as a result. It is obvious that in this version, the achievement of reformation as the final development of some qualities in the convicted person is not required, and the implementation of reformation means the activity of subjects executing punishments and other criminal legal measures for such formation and promotion (with any effectiveness, since otherwise does not follow from the definition).

In this connection, another debatable problem arises – about the essence of reformation. Science has two viewpoints on its solution. The first one states that the goal of reformation is considered achieved if the convicted person after serving the sentence (no matter for what reasons) no longer commits crimes (the so-called legal or formal reformation) [19, p. 24].

Of course, such a reformation does not imply a genuine change in the legal consciousness and personal qualities of the convicted person for the better, since they can demonstrate a respectful attitude toward an individual, society, work, norms, rules and traditions of the human community, as well as law-abiding behavior, for example, in order to be released from a correctional institution on parole. We note that according to Part 1 of Article 79 of the Criminal Code of the Russian Federation, a person who has served in a disciplinary military unit, or has served compulsory labor, or been deprived of liberty shall be subject to conditional release ahead of time if the court finds out that for his rehabilitation he does not need to serve the full punishment imposed by the court.V.I. Seliverstov in this regard rightly notes that based on Article 79 of the RF Criminal Code of the Russian Federation, the priority criterion for parole is the behavior of a convicted person in places of deprivation of liberty. When assessing the behavior of a convicted person, the presence of penalties for violation of the regime in a correctional institution acts as a determining indicator. It is difficult for a violator of the regime, and even more so for a malicious violator of the regime, to apply for parole. This has a certain professional and targeted meaning: release on parole is the most powerful incentive for law-abiding behavior for an individual serving a sentence. However, is the law-abiding behavior of the convicted person a guarantee of non-commission of a new crime after being released on parole? The author,referring to the figures of post-penitentiary crime, believes that it is not. At present, the level of recidivism can be indirectly judged by official statistics, namely, by the proportion of persons who have previously committed crimes, based on the total number of persons who have committed a crime. On average, this figure ranges from 30 to 33%. However, the level of recidivism does not allow us to judge the effectiveness of the activities of correctional institutions and (or) its individual areas, including preparation to be released on parole [16, p.126].

According to selected scientific studies conducted in 2006–2009 by scientists at Tomsk State University, within three years after release, an average of 55% of those released from a general regime colony and 29.6% of those released from a high security colony commit a new crime (data on general and high-security colonies of the Tomsk and Kemerovo oblasts). In addition, significant differences in post-penitentiary recidivism were revealed, depending on the grounds for release from serving a sentence. For example, post-penitentiary relapse among those released from a general regime colony on parole was 68.5%, in connection with the replacement of imprisonment with a milder type of punishment – 66.7%, and after serving a sentence of imprisonment – 46.8%; when released from a high security colony – 30.6%, 47.1% and 20.5%, respectively. These figures characterize the period of time when the satisfaction of convicted persons' petitions for parole reached 85% [3, p. 8].

According to the above statistics we see that when reformation is mandatorily taken into account both at the stage of preparing the reference on the convicted person by the administration of the correctional institution and at the stage of judicial consideration of this issue, it does not guarantee the reliability of the relevant conclusion. Consequently, practical verification of the achievability of the reformation goal may be questioned.

The goal of preventing the commission of new crimes

In fact, the stated goal combines two subgoals: general and special prevention.

Prevention as the goal of punishment is a product of the classical school of criminal law. The corresponding theoretical concept was developed in the works of C. Beccaria. This goal, though beautiful and noble, was practically not supported by any methodology. As E. Sutherland wrote about the representatives of the classical school, the only method these scientists used was the chair on which they sat while writing their books [9, p. 20]. Beccaria noted: "The goal of punishment does not consist in torturing and tormenting a person... the goal of punishment is only to prevent the guilty person from harming society again and to deter others from doing the same" [1, p. 243]. As we can see, this is a pure formulation of the goals of general and special prevention. Despite all the progressiveness and nobility of the idea of crime prevention, especially at the turn of the 18th–19th centuries, this idea did not move from the sphere of good intentions to the thorny path of practical implementation. Moreover, this idea, being modern at that time, is, unfortunately, very archaic today.

General prevention is based on the postulate that people are deterred from committing a crime by the fear of punishment. The theory of mental deterrence by punishment was developed by Paul Johann Anselm Feuerbach.

Thus, after two decades of the 21st century, we are still guided by the medieval maxim that humans are not much different from animals, and that it is possible to control them through the development of conditioned reflexes based on fear.

Crime and sin, as a rule, were not separated, so punishment and reformation were often invested with a religious meaning. The most telling examples of a combination of punitive and religious influence on crime can be found in Ancient Egypt, Babylon, India (in the IV-III millennia BC). An example of such interpenetration, in particular, can be found in the laws of Manu, which represent a monument of ancient Indian literature, a collection of prescriptions. They say: "Punishment rules the human race, punishment guards it, punishment is awake when everything is asleep" [7, p. 47].

During the Middle Ages (until the 15th century), criminal law was strongly influenced by religious views, on the one hand, and by the Roman law and the philosophical teachings of antiquity, on the other.

Subsequently, with the increasing role of the Holy Inquisition, there was a departure from humanistic principles with a simultaneous deepening of theoretical research in the field of the nature of crime. The corresponding, largely mystical and religious ideas were developed in the works of John of Damascus, Thomas Aquinas, Sprenger, Kramer, and others. The theorists of the Inquisition formulated the concept of the criminal as an accomplice of evil forces and developed practical techniques for identifying them. Among such techniques, as is known, were cruel tortures, the search for special "marks of the devil" (birthmarks, pallor of the face, places on the body from which blood does not flow when they are pinched by a needle, etc.). In 1486, the inquisitor monks J. Sprenger and H. Institor published a guide to combating crime,the Malleus Maleficarum [the Hammer of Witches], in which they analyzed the reasons for the appearance of "diabolism" in people's conduct and revealed various aspects of the inquisition process.

Of course, within the framework of such a paradigm, it was not possible to talk about the reformation of the criminal. Moreover, the execution was seen as a good thing for them, because it relieved them of sin. The most humane types of punishment according to the inquisitors were burning at the stake, which was considered an earthly prototype of purgatory. In the presence of mitigating circumstances, those sentenced to the burning at the stake were suffocated prior to the act [9, p. 17].

However, even in ancient times, people came to understand that the prevention of crime cannot be based only on fear. Confucius, Pythagoras, Democritus, Socrates, Plato, and other thinkers attached great importance to education. In particular, Pythagoras laid the foundations of the system of civic education in Ancient Greece, and Democritus developed the ideas of influencing crime through education. The latter believed that crime is caused bymoral and

mental vices, that the wrong behavior of a person results from their lack of knowledge about the right behavior. Diogenes, Antisthenes, and other ancient Greek philosophers associated criminal behavior with the vices of upbringing and the resulting distorted needs (greed, debauchery, etc.).

Today, in 2021, a natural question arises: what about legal awareness, education, socialization, conscience, morality, a sense of solidarity and social responsibility? It is unlikely that punishment as an exclusively punitive measure can contribute to their formation. The goal of general prevention, in fact, ignores these personality traits developed by the long evolution of human civilization, relying only on fear.

As for special prevention, it is, as we noted previously, nothing more than the practical implementation of the goal of reformation, more precisely, the positive effect determined by its achievement – the non-commission of new crimes by a person who has already been punished.

Conclusions

The problems of goal-setting in penology, with all their theoretical nature, have practical significance. The extent to which the goals of punishment are achieved is used to assess the effectiveness of the penitentiary system and its employees. The conceptual uncertainty of existing goals and the practical non-confirmation of their achievement, in fact, make such activities meaningless and do not leave a chance for its success and justification (nobility) from the point of view of public opinion. Therefore, the adjustment of the goals of punishment and a clear legislative formulation of the criteria for the achieved result should contribute to the success and effectiveness of the criminal policy of the state and bring it social support.

In its current form, the goals of punishment are declarative. This means that even if theirintentions are noble, they do not meet the condition of achievability for a number of reasons: conceptual inaccuracy (restoration of social justice), redundancy and practical non-verifiability (reformation and special prevention), archaism (general prevention).

If punishment is the state's response to crime, then this response must be modern and relevant to the real manifestations of crime and social needs. It is obvious that, based on the essence of punishment and its modern understanding, its goals can be retribution (penalty), legal protection of society from crimes and those who commit them, as well as state censure of the crime.

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