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Conceptual Aspects of Reforming Russian Criminal Legislation

IVAN V. DVORYANSKOV
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia
diw@yandex.ru, https://orcid.org/0000-0003-0542-5254

A b s t r a c t

Introduction: the article is devoted to fundamental problems of criminal law, namely the legal and doctrinal definition of its institutions, such as a subject of regulation, objectives, principles, punishment, its goals, sanctions. *Purpose:* based on the study of the legal nature, social conditionality, and achievability of these institutions the author tries to identify problems of their conceptual 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. It used methods traditional for criminal law and criminology sciences, such as analysis and synthesis, comparative legal, retrospective, formal legal, and logical methods. Private scientific methods were also used: the legal-dogmatic one and the method of interpretation of legal norms. *Results:* the author concludes that the time has come to change the conceptual foundations, Russian criminal law is based on. Without downplaying the importance of criminal legal means, it should be emphasized that their effectiveness is largely due to its combination with the crime prevention system, as well as the implementation of social, economic, and political measures that contribute to reducing the influence of criminogenic factors. It is noted that the presentation of the main provisions of criminal law is flawed: the subject of criminal law regulation is narrowed; formulation of tasks and functions of criminal law do not correlate with each other; criminal law principles lack clarity and consistency; the goals of crime correction and prevention contradict to each other; the consistency principle is violated and a single doctrinally developed legal and technical methodology is absent in the punishment system. Therefore, the model of criminal punishment needs a serious revision, especially in the teleological aspect. *Conclusions:* as a result of the conducted research, the need for legislative reform of the main institutions of criminal law is justified, since the effectiveness of judicial and penal enforcement activities, the validity of financial costs depend on it. At the present stage, Russian criminal legislation needs conceptual reform in terms of bringing it into line with the requirements of consistency, provisions of the Constitution of the Russian Federation, international obligations of the Russian Federation, social expectations, as well as modern and predictable criminal trends and challenges.

K e y w o r d s : subject, tasks, principles of criminal law; probation; punishment; goals; sanctions; effectiveness; restoration of social justice; crime prevention; general and special prevention; correction of convicts; criminal law policy; conceptual foundations.

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Introduction.

Modern Russian criminal law is characterized by instability, violation of consistency requirements, presence of doctrinal, legal and legal-technical defects. This is partly caused by the processes of its excessively intensive transformation. Thus, according to Professor A.V. Naumov, only from December 20, 2010 to June 20, 2011, the amendments made to the Criminal Code affected 126 articles (about a third of all its articles). During the last week of 2010, 4 articles of the Criminal Code were amended within 4 days. As of the beginning of 2015, about 300 articles of the Code were amended (360 articles – in the original version) [1]. This negatively affects the consistency of presentation and quality of the norms of the CC RF.

Even basic provisions of criminal law are characterized by contradictory presentation. Thus, Article 1 of the CC RF, in fact, reduces a subject of the criminal law regulation only to criminal liability, ignoring the relations regulated by it regarding a criminally lawful order, exemption from criminal liability and punishment, sentencing (application of other criminal legal measures), etc.

The principles of criminal law are very contradictory, and sometimes discriminatory (Article 4 of the CC RF). Verification criteria for goal-setting are absent, legal and technical requirements for executing punishment are violated. All this requires a doctrinal and legal examination of the Criminal Code of the Russian Federation for its subsequent amendment.

Results.

The most important function of the state is to protect society's interests to ensure the inviolability and stable existence of basic social values, such as those of personality, property, economic activity, law and order, state and public security, as well as prevention of crimes as the most dangerous forms of delinquent behavior, reducing the influence of criminogenic factors.

Criminal legislation is of particular importance in this regard. First, it regulates the grounds and forms of criminal liability. Second, it guarantees observance of the rights and ensures the safety of participants in criminal law relations, legality, humanism, justice, equality before the law. The use of punitive measures against innocent persons is excluded, including due to age or insanity; violations of these requirements, abuse of authority, etc. are prosecuted by criminal law.

Criminal law regulates application of the most stringent response measures in relation to the most dangerous forms of deviant (deviating from the norms) human behavior – crimes. However, the same circumstance determines a targeted nature of the criminal legal impact. Criminal law should not be considered as a panacea for all the problems of society. The specifics of criminal law lies in its reactive nature. Dealing with crimes already committed as events of the past, it has a very limited resource of constructive influence on the future, including in the aspect of prevention. Therefore, without downplaying the importance of criminal legal means, it is worth noting that their effectiveness is ensured only in combination with the system of crime prevention, as well as measures of a social, economic, political nature that contribute to reducing the influence of criminogenic factors.

If we consider crime as an absolute evil, without taking into account its features as a social phenomenon connected by numerous and diverse correlations with the structure and dynamics of social development, then the most powerful means should be directed against it. The effectiveness of such counteraction, characterized by "struggle" in Soviet times, is very low, because it will affect not the underlying causes of the phenomenon, including at the level of the psychological and moral attitude of the criminal and society, but a superficial, easily observable consequence of criminal intrusion into the fabric of public life, a linear response to which plays, first of

all, the role of assessing the damage done, expressed in measures of criminal responsibility. The effectiveness of the impact on crime is obviously based on accuracy, targeting, comparability and, accordingly, fairness.

In turn, any constructive influence on criminal legislation in order to improve it, whether it is amendment, addition, reforming, etc., should be based on conceptual foundations, i.e. the fundamental positions prevailing in society, developed by theory and practice, reflecting philosophical, scientific, cultural, historical, spiritual, axiological, legal views on the subject, tasks, principles, forms and content of criminal law regulation of public relations, protection of the most important social benefits and interests.

Nowadays, a number of conceptual documents have already been adopted to ensure social security and protect law and order, in particular, the National security strategy of the Russian Federation adopted by the Order of the President of Russia No. 400 of July 2, 2021, the Concept for the development of the penal enforcement system of the Russian Federation for the period up to 2030 approved by the Decree of the Government of the Russian Federation, etc. In this regard, a Concept for the criminal law policy of the Russian Federation should be another important conceptual document, laying foundations for long-term counteraction to crime.

So, it is necessary to contemplate the need to reform modern criminal legislation, unfortunately, suffering from systemic shortcomings that prevent its full application as a tool of state policy in the field of combating crime. We will focus only on critical aspects.

1. Subject of criminal law regulation. The subject of criminal law regulation is a complex of public relations that arise either from the moment criminal law norms entry into force, or as a result of crime commission. They can be called general regulatory and protective, accordingly [3, pp. 122–123].

Thus, the subject of criminal law regulation includes not only issues of crime and guiltiness detection. Regulated relations arise not only between the state and a perpetrator, but all the persons covered by criminal law, assuming that the latter comply with it and competent state bodies control this process (the so-called relations of positive criminal responsibility) [4].

In addition, criminal law regulates commission of crime through a breach of the lawful conditions for necessary defence, extreme necessity, justified risk, etc.; innocent infliction of harm (acts committed by the insane, incidents, etc.); a system and types of punishments, sentencing, its replacement, postponement and release from punishment, expungement and cancellation of criminal records; establishment of penitentiary bodies' powers, exemption from criminal liability and punishment; amnesty and pardon; criminal liability of minors; use of coercive measures and educational influence, application of other criminal-legal measures (compulsory measures of a medical nature, confiscation of property, compensation for damage caused, a court fine).

So, it is reasonable to consider an imperative requirement of Article 1 of the Criminal Code: "The criminal law of the Russian Federation consists of the present Code. New laws providing for criminal responsibility are subject to inclusion in the present Code". Thus, most of the above-mentioned aspects of criminal law regulation are not covered by it. Does this mean that they may be contained in other regulatory legal acts or is this an example of imperfection of legislation? There is a clear narrowing of the subject of criminal law regulation.

2. Purposes of criminal law are actual socially significant problems caused by criminal threats to the most important social values (goods), which can be solved with the help of criminal law regulation. They are the following: protection of human and civil rights and freedoms, property, public order and public safety, environment, and constitutional order of the Russian Federation from criminal encroachments; provision of peace and security of mankind; and prevention of crimes.

Meanwhile, formulation of tasks should correlate with criminal law functions, i.e. actual ways of solving such tasks, thus giving the opportunity to scientifically justify effectiveness of this process.

A systematic analysis of criminal law makes it possible to distinguish, in addition to the traditionally considered protection function, such

functions, as prevention (it is conditioned by the task to prevent crimes); prohibition (it consists in imperative establishment of criminality of specific acts in the Special Part of the Criminal Code); regulatory (it is an important manifestation of the essence of criminal law, as, in addition to prohibitions, it contains norms expressing positive legal regulation, in particular, norms-rules (Articles 60–72.1 of the CC RF), norms-principles (Articles 3–7 of the CC RF)), norms-declarations (for example, Articles 1–2 of the CC RF), norms-definitions (for example, Articles 14, 43 of the CC RF), norms-guarantees (Articles 37–42 of the CC RF); incentive (first, it is expressed in the promotion of lawful behavior, including that related to countering criminal encroachments, their suppression, and detention of persons who have committed crimes; second, it concerns cases of refusal of criminal behavior at the stage of preparation or attempt (Articles 31, 34 of the CC RF); third, it consists in encouragement of post-criminal behavior, indicating a desire to minimize its consequences, make up for the harm caused, and commit active repentance (Articles 75–76.1 of the CC RF, Notes to the articles of the Special Part on exemption from criminal liability), as well as to cooperate with state authorities in matters of disclosure of crimes (surrender, cooperation agreement)); educational (it forms legal consciousness of citizens by establishing prohibitions on those acts that are recognized by the state as the most socially dangerous); and axiological (consists in value orientation of criminal law, systematization and protection of crucial social values and their consolidation in the law). It is obvious that the functions actually inherent in criminal law should be reflected in the list of its tasks.

3. Criminal law principles are fundamental ideas (guiding principles), it is based on, i.e. basic, historically formed forms of reflection of the fundamental provisions regarding criminal responsibility, criminality and punishability of acts, etc. in public consciousness. Criminal law principles are based on the provisions of the Constitution of the Russian Federation and international law. However, the content of these principles is not clearly stated.

Principle of legality is enshrined in Article 3 of the CC RF, which part one states: “The criminality of a deed, and also its punishability and other legal consequences shall be determined by the present Code alone”. This principle stipulates, on the one hand, exclusivity of criminal law regulation, and, on the other, requirement for the criminal law not to contradict the Constitution of the Russian Federation and ratified acts of international law. Criminal legislation should not contradict other federal laws that have equal legal force. Part two of Article 3 of the Criminal Code of the Russian Federation contains a prohibition on the application of criminal law by analogy. The meaning of this prohibition is based on the formal and material concept of crime that has features of both public danger and criminal illegality (Article 14 of the CC RF). In the current criminal law, there are norms stipulating analogy of the law, which is not an exception to the rule, but an example of a violation of systematic presentation of criminal law material and requires immediate elimination, such as part one of Article 228 of the Criminal Code of the Russian Federation: “Illegal acquisition, storage, transportation, making or processing of narcotic drugs, psychotropic substances or analogues…”.

The fact is that the above stated norm is blank, i.e. for its interpretation and application it refers to normative legal acts relating to another branch of law, in particular, the Decree of the Government of the Russian Federation No. 681 dated June 30, 1998 (as amended August 9, 2019) “On approval of the list of narcotic drugs, psychotropic substances and their precursors subject to control in the Russian Federation”. However, the term “analogue” gives the opportunity to bypass it, thus violating the principle of legality.

The principle of equality of individuals before the law states: “Persons who have committed crimes shall be equal before the law and shall be brought to criminal responsibility, regardless of their sex, race, nationality, language, origin, property and official status, place of residence, attitude to religion, convictions, belonging to public associations, or other circumstances”. It is obvious that in relation to criminal law, the principle of equality means establishment of the same grounds of criminal responsibility, exemption from criminal liability and punishment, conditions for criminal record cancellation, etc.

However, criminal law sometimes allows for special regulation of these grounds for certain categories of persons united by generic characteristics: minors, women, military personnel, certain categories of officials. We cannon but mention a discriminatory character of the principle of equality of individuals before the law provided for in Article 4 of the Criminal Code of the Russian Federation. Taking into account the fact that Russian criminal law applies not only to citizens of the Russian Federation, but also to foreign citizens and stateless persons, it is obvious that such a formulation, in fact, excludes the last two categories from the scope of the principle of equality.

All this shows a conditional nature of equality in the criminal legal context, applied only in relation to the grounds of criminal liability for those elements of crimes that do not provide for the presence of a special subject.

The principle of guilt (Article 5 of the CC RF) stipulates the following:

a) a person shall be brought to criminal responsibility only for those socially dangerous actions (inaction) and socially dangerous consequences in respect of which his guilt has been established.

b) objective imputation, that is criminal responsibility for innocent injury, shall not be allowed.

The principle of guilt is fundamental and one of the oldest in criminal law. Its essence consists in personal responsibility of the person who committed crime. Unlike other branches of law, for example, civil law, which provide for joint, subsidiary and other types of collective responsibility. Besides, a person may be liable only for those acts that he has committed culpably, i.e. with intent or by negligence. This unconditional requirement of criminal law is based on the postulate that only guilty people can comprehend the meaning and significance of criminal responsibility, including penalties applied against them or other criminal legal measures. In addition, establishment of guilt is inextricably (conceptually) connected with the subsequent achievement of punishment goals, such as correction and prevention of new crime commission.

This is the reason for prohibition of objective imputation, permissible, in particular, in civil law (Article 1064 of the Civil Code of the Russian Federation states that the obligation to redress the injury may be imposed by the law on the person who is not the inflictor of injury.

However, in the criminal law, unfortunately, there remains the possibility of objective imputation by taking into account certain evaluative features when qualifying, such as infliction of significant damage to the victim. A stricter responsibility for aggravation is established. It stands out, as it is evaluated after the fact. The Plenum of the Supreme Court of the Russian Federation in its decision No. 29 of December 27, 2002 “On judicial practice in cases of theft, robbery and plundering” indicated, “when qualifying actions of a person who committed theft on the basis of causing significant damage to a citizen courts, guided by Note 2 to Article 158 of the Criminal Code of the Russian Federation should take into account a property status of the victim, a value of the stolen property and its significance for the victim, amount of wages, pensions, presence of dependents, total income of family members with whom he runs a joint household, etc. At the same time, the damage caused to a citizen cannot be less than the amount established by the Note to Article 158 of the Criminal Code of the Russian Federation”. No doubt, a thief committing a crime cannot always assess the above features of the victim, especially amount of wages, pensions, presence of dependents, total income of family members. Therefore, qualifying an act as that caused significant damage is in fact an objective imputation. It seems that such features, if they were not covered by the intent of the perpetrator, can be taken into account by the court only when deciding on compensation for damage to the victim.

The principle of justice provided for in Article 6 of the Criminal Code of the Russian Federation states that punishment and other legal measures applicable to a person who has committed an offence shall be just, that is, they shall correspond to the character and degree of the social danger of the offence, the circumstances of its commission, and the personality of the guilty party. No one may bear double criminal jeopardize for one and the same crime.

Based on the above formulation, the principle of justice is implemented in two aspects: a) compliance of punitive measures with objective and subjective features of the deed; b) exclusion of double responsibility.

Exclusion of double liability is essentially an element of precedent law: a court decision that has entered into force exhausts the legal conflict in a particular case and does not allow for a retrial of the case on the same materials, as well as the application of other liability measures. Consideration of a case on newly discovered circumstances is an exception (Chapter 49 of the Criminal Procedural Code of the Russian Federation).

At the same time, the term "justice" is also mentioned in Article 43 of the Criminal Code of the Russian Federation as one of the purposes of punishment (restoration of social justice). Without delving into the study of its meaning, we see a certain contradiction with the principle under consideration, the observance of which clearly indicates that justice should be ensured even when sentencing. The goal of restoring social justice means that after sentencing it has yet to be achieved, i.e. assumes a certain perspective function. In other words, compliance with 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 this principle has been violated [5, p. 36.].

The principle of humanism states that the criminal legislation of the Russian Federation ensures human security. Punishment and other measures of a criminal nature applied to a person who has committed a crime cannot be aimed at causing physical suffering or debasement of human dignity.

This principle has a pronounced human rights character. It unites two positions that are close, but not identical to each other. The first proclaims the need to ensure human security. Given the principle universality (for criminal law), this is not about a certain person, whether it is a victim or a person who committed a crime, but a generic concept. Thus, ensuring human security means protecting an individual as a social good, respecting his/her rights, freedoms, honor and dignity. First of all, this concerns safety of citizens and other persons who are protected by the criminal law. It is ensured both by the very fact of establishing responsibility for criminal encroachments, and by its implementation.

4. Punishment, its goals. Punishment system. The essence of punishment is retribution, i.e. forced influence on the personality of a perpetrator, expressed in causing him/her suffering, legal restrictions, public censure, temporary ostracism. At the same time, punishment cannot be a blind retribution due to its instrumental nature. Both in law and public consciousness, it is perceived as a means, in addition to retribution to criminals for what they have done, to achieve any social effects related to both consolidation and preservation of social values and achievement of certain social ideals. The latter, in turn, is expressed in the purpose of punishment. Currently, these goals are formulated in criminal law as a fundamental branch in relation to penal enforcement law: restoration of social justice, correction of convicts, prevention of new crimes (part two of Article 43 of the CC RF).

Do these formulations correspond to true functions and possibilities of punishment? We consider it necessary to disclose some findings regarding the nature of punishment and its ability to achieve these goals.

Punishment, in our opinion, acts as a means of achieving a positive social effect, modeled with regard to two indicators: 1) what society expects from punishment; 2) what punishment with its unlimited possibilities is really capable of.

Punishment deals with consequences of a crime, but cannot affect its causes, since they are woven into a complex system of socio-personal determination with powerful factors that remain beyond the reach of the law. Therefore, hope that punishment will affect them does not have sufficient grounds. In this regard, punishment only fixes public and state assessment of what has been done, and the assessment should be fair, otherwise it is senseless.

We believe that punishment is a form of response to crime and can be effective only in combination with preventive measures. In essence, this is a measure of criminal responsibility for what has been done, assuming the obligation of the guilty to suffer retribution,

and also a possibility for responsibility differentiation (for example, by replacing one punishment with another, imposing additional penalties).

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 ("nakazanie" as pronounced in Russian) comes from the old Russian word "nakaz", i.e. instruction, order. Thus, punishment fulfils functions of social management, assertion of the state will, repression (suppression), official assessment of the crime, expressed fixation of the damage caused, equalized in qualitative and quantitative characteristics of punishment, and censure of the deed.

Speaking about the existing goals of punishment, it should be noted that they do not have a single conceptual basis.

Thus, the goals of correcting and preventing crimes contradict each other. The first is focused on the fact that under the influence of punishment the personality of a perpetrator will undergo a certain transformation associated with the formation of a respectful attitude towards a person, society, work, norms, rules and traditions of human community and promotion of law-abiding behavior (Article 9 of the CC RF).

Thus, correction in its existing form involves considering criminal disposition as an internal pathology that can be corrected by changing the criminal's attitude to social values.

On the other hand, the goal of crime prevention, especially in the aspect of special prevention, postulates the fear of punishment as a deterrent mechanism against possible criminal behavior in the future, thus devaluing correction effects.

At the same time, by formulating both of these goals, the legislator actually ignores social (external) determination of crime, considers the criminal abstracted from life conditions both before and after punishment.

Let us get back to the basics. How is the criminal formed? What determines crime? The decision on the goal of correction and expediency of its preservation depends on the answer to these questions. In terms of social conditionality of crime, it would be wrong to see the root of all evil only in the personality of a criminal and regard his/her correction as of paramount importance. To do this, we should assume that after its achievement, criminogenic factors will not affect offenders, or we should consider correction abstractly, in isolation from real conditions of their lives, including after serving their sentence [2].

Strengthening correction and prevention goals put the law enforcement officer in a very difficult position. We will consider as an example the activities of the penal enforcement inspectorates (PEI), executing punishment not related to convict's isolation from society. As known, punishment consists in forcing a convicted person to perform certain duties (to work, study, undergo treatment, be registered in the PEI, etc.). A number of punitive measures are provided for their non–fulfillment (evasion), including replacement of a suspended sentence with a real one, and a real one with a more severe one. At the same time, penal enforcement inspectorates organize educational and social work with convicts as part of punishment execution.

It seems that from a rational point of view it is difficult to combine punitive and socially rehabilitating aspects in PEI-convict relations. At least, both subjects find themselves in conflicting roles. Penal enforcement inspectorates, on the one hand, should exercise punitive influence, and on the other hand, provide social assistance. So, social roles clash. Undoubtedly, this is promoted by the goal of correction, achieved precisely in the process of punitive treatment, which is both logically and psychologically unreasonable. Obviously, it is difficult for a convict to adapt to constant change of the inspector's image and trust it.

As for the purpose of crime prevention, as already noted, it is based on the postulate of the fear of punishment, which fundamentally contradicts the concept of correction.

Restoration of social justice also does not have a consistent conceptual basis. In our opinion, justice is a relatively stable axiological category that acts as a kind of constant, a measurement system, an ideal model to evaluate both criminal acts and authoritative (judicial) measures. With this understanding, we should not restore social justice, but bring so-

cial relations (specific circumstances) in line with relatively stable axiological requirements (criteria), acquiring a kind of status quo.

If we proceed from the concept of restoring social justice, then we should automatically assume that it is an unstable (often violated) category. But if we assume that justice needs to be restored, what the standard (pattern) for it is? Or are we talking about two types of justice (violated and standard)? It does not make any sense.

At the same time, we cannot but pay attention to contradiction of this goal and the principle of justice enshrined in Article 6 of the CC RF, indicating that justice should be provided (restored) even when sentencing.

Thus, in its current form, the goals of punishment are declarative and conceptually imperfect. This means that, though having a noble purpose, they cannot be achieved for a number of reasons, such as conceptual inaccuracy (restoration of social justice), redundancy, inconsistency and practical non-verifiability (correction and special prevention), and their archaic character (general prevention).

If punishment is the state's reaction to crime, then it should be up-to-date and relevant to real manifestations of crime and social needs. Given the essence of punishment and its modern understanding, we can identify its goals as follows: retribution, legal protection of society from crimes and persons committing them, and state censure of crime.

At the same time, punishment as a punitive means should be consistent with subsequent forms of perpetrator's adaptation to life in society. The system of such measures should be humanitarian and supportive in nature. The probation system to be implemented in Russia may succeed.

In European countries theories of convicted person resocialization are very popular. Accordingly, important areas of social work are the following: post-penitentiary social work (work with persons released from penitentiary institutions); work with those sentenced to punishments not related to isolation from society [6–9].

Probation and punishment are different, but complementary institutions in their legal nature, goals and objectives. Punishment is an extreme form of the state's response to commission of the most dangerous forms of human behavior – crimes. Its essence is punishment for what he has done. Probation is not a retribution or other measure of a criminal nature; there is no criminal liability in this case. Unlike punishment, it is an alternative to criminal prosecution, focused on humanization of criminal policy, ensuring the possibility of resolving the conflict without the use of punitive means, compensation for the damage caused, reconciliation with the victim, assistance to persons in respect of whom probation in resocialization is applied, social adaptation and social rehabilitation, including through psychological support, assistance in socio-legal issues, in restoring social ties, employment, obtaining general and vocational education, getting medical care, etc.

When designing a modern punishment system, the legislator followed an extensive path of creating measures of criminal law repression similar in mechanism of impact. Thus, punishment in the form of forced labor became the fourth type of punishment without convicts' isolation from society, associated with their involvement in labor, along with compulsory and corrective works, as well as restriction in military service. The reasons for it remain unclear. If it is a need to expand the use of so-called alternative punishments, then it hardly depends on the number of punishments meted out by courts. As practice shows, such punishments are applied unevenly. It can be assumed that the observed punitive pluralism is caused by the task of implementing a differentiated approach in criminal policy. But such an approach can be fully ensured within the framework of a single punishment. For example, deprivation of liberty varies in severity depending on the type of regime, and there is no need to invent an independent type of criminal repression for each regime.

Comparison of 3 current labor-related punishments, such as compulsory works (Article 49 of the CC RF), corrective labor (Article 50 of the CC RF) and forced labor (Article 53.1 of the CC RF) shows their duplicative nature, since convicts' involvement in labor may be implemented within the framework of a single punishment. Only the restriction on military

service stands out, as it has certain specifics, including those concerning execution, since it applies only to special subjects – military personnel.

In addition, there is a violation of the consistency requirement, in particular, classification basis unity. While correctional labor in its content has a pronounced goal to ensure correction of a convicted person and most adequately reflects its relationship with labor, the terms "compulsory" and "forced" are, in fact, tautological, since they define the same thing – a mechanism of attracting convicts to work against their will. It is obvious that obligation implies coercion, and coercion follows from obligation. Hence, we can conclude about specific redundancy of the use of labor as a means of criminal legal influence.

In view of the above, it is advisable to propose unification of compulsory, correctional and forced labor within the framework of one punishment – correctional labor (note that during the Soviet period, forced labor was renamed into correctional labor without any damage to its content) with three degrees of severity: Degree 1 corresponds to conditions for the compulsory work performance; Degree 2 reflects the content of correctional labor in its modern form; Degree 3 (the most severe) is expressed in the application of punishment corresponding to the regime of forced labor according to their current legal regulation.

This solution has several advantages at once. First, it is possible to eliminate an unsuitable (ambiguous in terms of international and constitutional law) term "forced labor". Second, forced labor does not reflect the main purpose of punishment. Forced labor is not an end in itself, but provides correction as an important goal of punishment. Third, by combining labor-related punishments, unification of criminal law regulation and penal enforcement practice is ensured. Fourth, it makes it possible to differentiate the impact on the convicted person depending on his/her behavior, in particular, by introducing the principle of interchangeability of punishments both in the direction of increasing severity (in cases of evasive behavior or violation of service conditions) and reducing it (as a reward for compliance with the regime requirements and law-abiding behavior, as well as to reinforce the effect from correction).

As a means of differentiating the impact on convicts in case of evasion from serving correctional labor, it is necessary to provide for the replacement of punishment with a more severe one. Moreover, as correctional works of degrees 1 and 2 are characterized by small difference in punitive potential, they should be replaced by correctional labor of Degree 3, but in a different ratio of terms (1:3 for correctional labor of Degree 1, and 1:2 – for Degree 2, respectively). Evasion of correctional labor of Degree 3 results in its replacement by imprisonment as the most adequate in severity.

It seems that punishment system transformation may follow the path of generalization of punishments by the method (nature) of punitive impact: property (fine, confiscation), labor (correctional labor), disqualification (prohibition to hold certain positions or engage in certain activities) and isolating (imprisonment, death penalty).

5. Sanctions. The question of sanctions of the norms of the Special Part of the Criminal Code of the Russian Federation, as a rule, is not considered in criminal law studies. Meanwhile, as the systematic analysis of the norms-prohibitions shows, there is no single doctrinally developed legal and technical methodology when constructing sanctions. This often leads to a clear discrepancy between sanctions in terms of qualitative and quantitative parameters of the comparative severity of crimes. Thus, perpetration of an explosion, arson, or any other action endangering the lives of people, causing sizable property damage, or entailing other socially dangerous consequences, if these actions have been committed for the purpose of exerting influence on decision-making by governmental bodies, and also the threat of committing said actions for the same ends, i.e. terrorism, shall be punishable by deprivation of liberty for a term of 10 to 15 years (part one of Article 205 of the CC RF). At the same time, mere complicity in the commission of at least one of the crimes provided for in Article 205, part three of Article 206, part one of Article 208 of the CC RF is punishable by imprisonment for a term of 10 to 20 years (part 3 of Article 205.1 of the CC RF).

Conclusion.

Taking into account the above, the Russian criminal legislation requires reform in order to give it conceptual integrity and consistency, ensure the requirements of consistency, compliance with constitutional provisions and international obligations of the Russian Federation, increase its effectiveness, bring it in line with social expectations, as well as modern and predictable criminal trends and challenges.

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INFORMATION ABOUT THE AUTHOR

IVAN V. DVORYANSKOV – Doctor of Sciences (Law), Professor, Chief Researcher at the Research Institute of the Federal Penitentiary Service of Russia, Russia, Moscow, Russia, professor of the Department of Penal Law and Organization of Educational Work with Convicts at Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, diw@yandex.ru, https://orcid.org/0000-0003-0542-5254

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