



Punishment, Prevention and Protection of Rights as Areas of Combating Juvenile Delinquency

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Abstract

Introduction: the article indicates insufficient effectiveness of criminal punishment and traditional methods of countering juvenile delinquency in the conditions of modern socio-economic and socio-political reality. Criminal punishment has proved unable not only to solve the problem of preventing minors from criminal activity and achieve the goal of criminal punishment, but even to localize and contain criminal threats that are causing social tension. *Purpose:* systematic scientific substantiation of problems of criminal punishment, prevention and protection of the rights of juvenile convicts, definition of preventive measures. *Methods:* the methodology is characterized by traditional methods of cognition, based on modern principles and doctrinal approaches successfully applied in human and social sciences, including criminology, criminal law, legal psychology, sociology, and penal law. The research is interdisciplinary in nature, the following research methods are used: comparative-historical, systematic, content-analytical, sociological, statistical, contextual analysis, and perspective analysis. *Results:* prevention of crimes committed by minors, including through criminal law, is a complex, multifaceted and diverse phenomenon. Not only the state of crime, but also the achievement of goals of the criminal and penal policy of the state depend on its effectiveness. The main attention should be focused on preventive work with minors who are prone to antisocial and illegal behavior. As a rule, we are talking about criminological and psychological prevention of juvenile delinquency. Issues related to ensuring personal security are also important, including such an aspect as serving a sentence of imprisonment in juvenile correctional facilities. By studying and analyzing a whole range of causes, it is possible to boost effectiveness of crime prevention. *Conclusion:* the tightening and intensity of criminal repression measures do not bring a positive result and often lead to even worse results. A lack of proper rehabilitation work, re-socialization and social adaptation of minors who have served a criminal sentence in the form of imprisonment is one of the reasons for their repeated criminal behavior. A high scientific significance of the problem mediates the focus on obtaining new conclusions about criminal punishment as a socio-legal phenomenon, including psychological, political, and moral aspects.

Key words: victimological prevention; juvenile correctional facility; punishment; juvenile convict; prevention; juvenile delinquency.

5.1.4. Criminal law sciences.

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Introduction

The state of juvenile delinquency is one of the indicators revealing development of culture, morality, spirituality and universal values of modern society. Therefore, the fight against juvenile delinquency and the prevention of crimes committed by these persons are crucial tasks of our time and of every developed society.

About six thousand suspended sentences are appointed by the court annually [1]. However, it is widely believed that the appointment of a suspended sentence does not meet punishment goals in domestic criminal law, testifies to the impunity of a juvenile offender, reduces the authority of the power, and undermines a fundamental principle of inevitable punishment. Despite the existence of a wide variety of punishments not related to deprivation of liberty and isolation from society in criminal legislation, they are not used in practice, which indicates problems of law enforcement. However, it should be noted that a significant number of suspended sentences are due to the specifics of juvenile offenders.

Often, when sentencing a minor, there is no alternative to sanctions, which prevents courts from imposing milder types of punishments, while deprivation of liberty does not create significant obstacles. Such circumstances directly contradict international acts, for example, the UN Standard Minimum Rules concerning the Administration of Juvenile Justice. Therefore, criminal law and the court should have a wide range of measures for the administration of punishment against minors that are not related to deprivation of liberty.

Besides, penal law lacks norms that would regulate the specifics of punishment execution in relation to minors, namely: the exercise of mandatory and correctional work is hindered due to the fact that the provisions of labor legislation regarding the organization of work of minors are not defined; there is no alternative punishment for minors maliciously evading serving a sentence. In general, such circumstances reduce effectiveness of crimi-

nal law and penal policy of the state. Thus, we can identify the following problems: gaps in the legal regulation of the appointment and execution of punishment to a minor; a lack of uniformity of judicial practice in terms of the appointment and execution of a criminal punishment not related to deprivation of liberty; and a lack of legislative consolidation of the characteristics of minors as a socio-demographic group. Due to the above circumstances, in practice, the courts apply a penalty in the form of imprisonment.

Successful socio-economic development of the state is impossible without ensuring citizens' well-being in terms of their legal protection, confidence in the future, etc.

Not only positive historical experience, but also modern scientific achievements and technologies should be taken into account to promote legitimate behavior among minors.

The problems of studying juvenile delinquency in Russia and abroad have traditionally been the focus of attention of scientists. Among the foreign researchers, the works of E. Durkheim "Sociology and philosophy", G. Tarde "Young Criminals", E. Sutherland "Sociology of crime", etc., are worth mentioning.

Various aspects of juvenile delinquency were considered by Yu.M. Antonyan, M.M. Babaev, R.A. Bazarov, L.I. Belyaeva, V.Yu. Golubovskii, L.V. Gotchina, I.Ya. Kozachenko, M.F. Kostyuk, S.V. Maksimov, I.M. Matskevich, A.V. Naumov, Yu.E. Pudovochkin, A.V. Shesler, D.A. Shestakov, and V.E. Eminov.

The research

Prevention of juvenile delinquency should be based on a conceptual approach based on advantages of an individual approach. Countering juvenile delinquency should be considered as a set of interdisciplinary approaches aimed at suppressing, minimizing and reducing potential antisocial and criminal impact on these individuals.

In 2022, there was a decrease in the number of juvenile delinquents, as well as crimes committed with their participation (30,469) [2]. In

our opinion, the decline in crime rates was facilitated by activities of law enforcement and other agencies to prevent illegal behavior of minors. The search for effective ways to prevent crimes is currently underway.

Thus, the Ministry of Internal Affairs of Russia proposes to endow its employees with new responsibilities, such as monitoring violators of public order and conducting preventive conversations with drug addicts. Relevant amendments are to be made to the Order of the Ministry of Internal Affairs of Russia No. 205 of March 29, 2019 “On service of a district police officer at the serviced administrative area and organization of this activity”. The main goal is to eliminate contradictions and legal and technical errors in various regulations. Drafters of the amendments refer to a legislative lacuna that persons who have violated Article 19.3 of the Administrative Code of the Russian Federation “Disobedience to the lawful request of a police officer” or are engaged in “discrediting authorities” and “public dissemination of extremist views” are not subject to registration. In addition, a district police officer will be able to conduct preventive conversations with drug addicts or issue official warnings to them; the previous version of the order implied the application of these measures only in relation to alcohol addicted people [3].

Criminal legislation has also been amended by increasing the number of criminally punishable actions against sexual inviolability and sexual freedom of the individual. So, in 2022, a special relapse was fixed in law; Part 5 of articles 131 and 132 of the Criminal Code of the

Russian Federation were set out in a new edition, extending its effect to the protection of victims up to 18 years (previously it was up to 14 years).

As a rule, these crimes are committed outside of school hours due to a lack of employment, organized leisure of children, and proper upbringing and supervision on the part of parents. The connection between the excess of free time, low culture of its use, on the one hand, and antisocial behavior, on the other, is indisputable. These factors contribute to the commission of crimes by minors.

We should also mention a significant increase in the number of drug crimes committed by minors (2,066). The number of children and adolescents died of drug overdose has increased 2.5 times since 2017 [4], possibly due to the emergence of new psychoactive substances, including synthetic ones, which are more accessible compared to classical types. Their use leads to severe poisoning, psychosis and suicide.

A rise in the number of underage drug addicts is also triggered by a general increase in the consumption of psychoactive substances in free circulation, as well as tranquilizers and sedatives with psycholeptic properties [5].

All this has an extremely negative impact on the structure of the distribution of convicted minors depending on the crimes committed. The share of minors serving sentences for crimes involving narcotic drugs and psychotropic substances is 27.5%.

The practice of courts to impose compulsory treatment on a minor causes concern.

Table 1
Data on compulsory treatment imposed on minors by the court (as of January 1, 2023) (%)

	Juvenile correctional facility	Men	Women
Not imposed	97.8	98	94.6
Imposed on people suffering from a mental disorder that does not exclude sanity	2.2	2	5.4
Imposed on people suffering from a mental disorder of sexual preference (pedophilia), not excluding sanity	–	–	–

A negative trend in some juvenile correctional facilities is worth mentioning: administration

staff rarely goes to court to prescribe compulsory treatment to underage convicts (Table 2).

Table 2

Data on imposition of compulsory treatment on a minor by the court on the recommendation of the correctional institution administration (as of January 1, 2023) (%)

	Juvenile correctional facility	Men	Women
Not imposed	99.4	99.4	100
Imposed on people suffering from a mental disorder that does not exclude sanity	0.6	0.6	–
Imposed on people suffering from a mental disorder of sexual preference (pedophilia), not excluding sanity	–	–	–

Along with solving social issues, systematic work is currently underway to improve domestic criminal legislation and implement policy documents aimed at creating a safe, comfortable and friendly environment for minors. Activities are being carried out to test and introduce the index of children’s well-being and develop a methodology for calculating the child budget.

Despite the measures taken in the field of protection of children’s rights, the problems remain acute and require close attention and comprehensive solutions from all interested structures responsible for the implementation of state policy in the field of protection of children’s rights.

The facts of violence among minors are becoming a common phenomenon. In 2022, 24,031 criminal cases were initiated on crimes against minors, which is 1.1% less than in 2021. According to the results of the investigation, 12,930 criminal cases were sent to the courts for consideration, which is 4.2% more than in 2021 [6].

As part of the sociological research, a survey of parents related to the issues of physical and mental safety of the child is conducted. The most common parental fears are related to issues of physical and mental safety. Respondents’ confidence in the safety of their children depends on their environment.

Historically, the institution of the family has been a factor in the stability of the state. One can assess development of the state according to the latter’s attitude to the family. In this regard, all the problems related to the creation,

functioning and disintegration of the family will always remain crucial. Strengthening the institution of the family is at the same time protecting the rights of minors.

It is worth noting that age characteristics are taken into account by many authors when formulating typologies of victims. For example, B. Mendelsohn suggested “a completely innocent victim” as one of the categories. Such a victim, according to the author, can be a child or a completely insane person. Hans von Hentig, studying the relationship between the victim and the perpetrator, distinguished three classes of victims: general class of victims, psychological types of victims and the activating sufferer. The first category is the youth and children, they are physically weak and most likely to become victims of attacks, while childhood is the most dangerous period of life [7, p. 71].

Minors are a category characterized by increased victimity, since they cannot actively counteract the commission of a crime. Criminals take this fact into account when choosing an object of encroachment. It should be noted that the family and an educational institution are the most important subjects of preventive care. The family, as the closest social circle, plays a significant role in correcting teenagers’ behavior. Attentive attitude of close relatives, as well as competent preventive action can significantly reduce the level of propensity to victim behavior. A psychologist of an educational institution can diagnose certain potentially dangerous features in the behavior of a minor. Monitoring of the psychological state should

be carried out systematically. A psychologist should focus both on the minor him/herself and his/her parents, clarifying causes and conditions of the development of potentially dangerous behavioral characteristics and their correction, as well as, if necessary, describing the mechanism of work of specialized institutions providing assistance to minors (crisis centers, trust services, psychological assistance centers, etc.).

It seems that the prevention of violence is facilitated by amendments to the Federal State Educational Standard of Basic General Education, which provide for the mandatory study by minors of the main dangerous situations of an illegal nature, mastering the skills of optimal behavior in dangerous situations and ways to overcome them.

The institute of school mediation plays a significant role in the prevention of violence against minors. This issue is most relevant in situations where a child suffers from violence from peers, persons who, due to their age, cannot be brought to criminal liability. However, it seems that this institution will also be effective in a situation of violence on the part of teachers. Nevertheless, it is worth paying special attention to the persons performing functions of a mediator. In order for the latter to work effectively and efficiently in the regions, it is necessary to organize special psychological, pedagogical, and legal training of mediators working in educational institutions and resolving disputes between peers and teachers.

Unfavorable trends in ensuring children's health remain relevant despite numerous policy documents adopted in the field of healthcare. The conducted analysis of the provision of the rights to health to children indicates the need for cardinal measures to form a healthy lifestyle in children and adolescents, increase effectiveness of existing preventive measures, involve parents, teachers, healthcare professionals, and the public in the implementation of joint activities, and ensure regular monitoring of children's exposure to behavioral, social and environmental risks.

In the early 20th century, an American criminologist R. Goddard noted that most criminals were persons with a weakened psyche, for which he was criticized in many later studies.

For example, in Japan, a weakened psyche is not considered a significant delinquency factor. This is due to the improvement of intelligence testing methods, introduction of greater clarity in the evaluation criteria, noticeable progress in the protection of persons with impaired mentality, and inclusion in the plans of programs to improve special education of such persons. It can be said that the problem of a weakened psyche and delinquency is connected rather not with personality traits of minors, but with social conditions of their life [8, pp. 222–223].

The spiritual world of a person has a significant impact on his/her spiritual and bodily health. This indicates the importance of the synthesis of genetics with psychology, sociology, philosophy, legal science, as well as with psychiatry, especially in the part devoted to socially dangerous acts of persons with mental illnesses [9, p. 267].

Mental illnesses are more common among minors who live in an urban environment, because the city infrastructure harms the psyche. An urban environment is more dangerous for mental health than a rural area. Regions with a greater number of children with mental disabilities are the following: the city of Moscow, the Moscow Oblast, Altai Krai, the city of Saint Petersburg and Krasnoyarsk Krai. Alcoholism and drug addiction are more common among adolescents living in rural areas [10], which entails committing crimes and, as a consequence, serving a sentence in juvenile correctional facilities.

We can bring an indicative example. Fifteen-year-old P. killed his own parents. According to P., his parents did not love him, did not show any care and affection towards him, and drank alcohol. P. was 9 years old when he started drinking alcohol. Half of the inhabitants of the rural settlement did not work and had casual earnings. While drinking alcoholic beverages, he had a quarrel with his father, and inflicted at least three blows with an axe to the father and killed the dozing mother [11].

Drunkenness, alcoholism, and crime are closely connected antisocial phenomena [12].

Current forms of statistical reporting do not contain the column "rural area", which negatively affects the study of juvenile delinquency indicators in this area and, accordingly, timely

response to ongoing negative processes and the formation of effective measures to prevent this type of crime.

Mental disorders of convicts significantly affect the implementation of their regime of

detention in juvenile correctional facilities. Undoubtedly, every convict is a certain direction in psychological prevention [13, p. 61].

The distribution of juvenile convicts depending on mental health is presented in Table 3.

Table 3

Distribution of convicts depending on their mental health (as of January 1, 2023) (%)

State of mental health of convicts	Juvenile correctional facility	Men	Female
Do not suffer	97.8	98	94.6
Suffer from oligophrenia (the stage of debility)	0	0	0
Suffer from other mental disorders	2.2	2	5.4

So, it shows low effectiveness of criminal punishment. The census results indicate a significant deterioration in some characteristics of

convicted minors serving sentences, for example, according to severity of the crime committed (Table 4).

Table 4

Distribution of convicts in juvenile correctional facilities by crime categories (%)

Category of crimes	2009 census [14, p. 30]			2022 census		
	Juvenile correctional facility	Men	Women	Juvenile correctional facility	Men	Women
Of minor gravity	1	1	0	18.5	0.8	0
Of moderate gravity	11.1	11.5	6.3	4.5	5.5	5.6
Serious	61.9	61.9	62.1	29.7	32.9	30.5
Especially serious	26	25.6	31.6	47.3	60.8	63.9

Conclusions

Social and criminal responsibility are important to effectively combat juvenile crime. The inevitability of social responsibility is expressed in an appropriate reaction to antisocial behavior, since the impact mechanism of such a reaction on the behavior of children and adolescents is largely similar to the impact mechanism of punishment. At the same time, with regard to criminal law, we are talking about legislative consolidation of the principles of inevitability and individualization of liability (punishment), since criminal law protects public relations from encroachments that have an increased public danger. Such acts, for the most part, are the result of connivance and impunity in the process of educating children and underage adoles-

cents; therefore, the principles of inevitability and individualization of liability, mandatory response to undesirable actions in the most diverse forms (conversation, persuasion) should be applied not as principles of criminal law, but those of legal awareness and morality, inevitability and individualization of social responsibility, since these requirements are not fixed in the law or any other normative acts, and their implementation, including the choice of forms and methods of influence, depends on the conscience and qualification of the educator [15, p. 215].

For correct and reasonable implementation of these requirements in the process of preventive work with minors, it is necessary to take into account age and psychological charac-

teristics. Upbringing of a child begins from the moment of his/her birth. At the same time, in early childhood concrete thinking prevails and it is instinctive and reflex reactions that mostly influence the psyche. When a person gets older, the second signaling system plays a decisive role, and he/she can perceive and evaluate phenomena independently and make decisions [15, p. 216].

Daily educational work is the main means of persuasion and coercion methods in the fight against undesirable acts, including the most socially dangerous.

Punishment is also a measure that affects the psychology and behavior of people, and in this sense it can be considered in the system of educational measures. The process of education is characterized, first of all, by continuous interaction between the educator and the edu-

cated; the educated person shows an attitude to the surrounding reality by his/her actions. It should be borne in mind that the methods of persuasion and coercion are different, but interrelated.

Domestic penitentiary institutions in the process of executing criminal punishment experience difficulties in methodological, informational and resource provision and are in dire need for non-traditional scientifically based algorithms of activity, as well as perfection of regulatory legal acts directly or indirectly affecting the problem of criminal punishment for crimes committed by minors.

The above gives rise to the need for comprehensive, interdisciplinary research in the problems of appointment and execution of penalties against minors, as well as prevention of antisocial and illegal behavior.

REFERENCES

1. Summary statistical data on the state of criminal record in Russia for 2022. Form No. 12: Report on convicts who committed crimes at a minor age. 2023. *Sudebnyi departament pri Verkhovnom Sude Rossiiskoi Federatsii: sait* [Judicial Department at the Supreme Court of the Russian Federation: website]. Available at: <http://www.cdep.ru/index.php?id=79> (In Russ.). (Accessed October 2, 2023).
2. *Sostoyanie prestupnosti v Rossii za yanvar' – dekabr' 2022 goda* [The state of crime in Russia for January – December 2022]. Available at: <https://mvd.rf/reports/item/35396677/> (accessed October 2, 2023).
3. *Uchastkovye politsii zaimutsya profilaktikoi narkomanii i uluchshat svoi vneshnii vid* [Local police officers will be engaged in drug addiction prevention and improve their appearance]. Available at: <https://www.pnp.ru/social/uchastkovye-policii-zaymutsya-profilaktikoy-narkomanii-i-uluchshat-svoy-vneshnii-vid> (accessed October 2, 2023).
4. *V Rossii za pyat' let v 2,5 raza vyroslo chislo pogibshikh ot narkotikov detei i podrostkov* [In Russia, the number of children and adolescents killed by drugs has increased 2.5 times for five years]. Available at: <https://tass.ru/obschestvo/16548601> (accessed October 2, 2023).
5. Ment'yukova M.A., Pustovalova O.S. Modern drug situation as a criminogenic factor of crime growth. *Pravo: istoriya i sovremennost' = Law: History and Modernity*, 2022, vol. 6, no. 1, pp. 119–127. (In Russ.).
6. *Opasnyi vozrast* [Dangerous age]. Available at: <https://rg.ru/2023/05/31/opasnyj-vozrast.html> (Accessed October 2, 2023).
7. Varchuk T.V., Vishnevetskii K.V. *Viktimologiya: ucheb. posobie dlya studentov vuzov* [Victimology: textbook for university students]. Ed. by Lebedev S.Ya. Moscow, 2015. 191 p.
8. Ueda K. *Prestupnost' i kriminologiya v sovremennoi Yaponii* [Crime and criminology in modern Japan]. Ed. by Kuznetsova N.F., Eremin V.P. Moscow, 1989. 256 p.
9. Dubinin N.P., Karpets I.I., Kudryavtsev V.N. *Genetika, povedenie, otvetstvennost': o prirode antiobshchestvennykh postupkov i putyakh ikh preduprezhdeniya* [Genetics, behavior, responsibility: on the nature of antisocial acts and ways to prevent them]. Moscow, 1989. 351 p.
10. *Vrach nazval regiony, gde bol'she vsego psikhicheski bol'nykh detei* [The doctor named regions with a greater number of mentally ill children]. Available at: <https://ura.news/news/1052472206> (accessed October 2, 2023).
11. Bitter answer to “bitter”. *Na perelome = On the Fracture*, Izhevsk, 2002, p. 5. (In Russ.).
12. Kostyuk M.F., Kunts E.V. The impact of deviant behavior on ju-venile delinquency: current state of the problem. *IusHumani*, 2022, vol. 11, no 1, pp. 15–27. (In Russ.).

13. Golubovskii V.Yu. Problems of prevention of recurrent pregnancy. In: *Penitentsiarnaya bezopasnost': natsional'nye traditsii i zarubezhnyi opyt: materialy vseros. nauch.-prakt. konf. s mezhdunar. uchastiem (Samara, 1–2 iyunya 2023 g.)* [Penitentiary security: national traditions and foreign experience: materials of the All-Russian research and practice conference with the international participation (Samara, June 1–2, 2023)]. Samara, 2023. Pp. 60–62. (In Russ.).
14. Danilin E.M., Seliverstov V.I. *Osuzhdennyye v vospitatel'nykh koloniyakh: po materialam spetsial'noi perepisi osuzhdennykh i lits, sodержashchikhsya pod strazhei, 12–18 noyabrya 2009 g.* [Convicts in juvenile correctional facilities: based on the materials of a special census of convicts and persons in custody, November 12–18, 2009]. Moscow, 2011. 88 p.
15. Fefelov P.A. *Mekhanizm ugolovno-pravovoi okhrany. Osnovnye metodologicheskie problem* [Mechanism of criminal law protection. Basic methodological problems]. Moscow, 1992. 232 p.

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