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Preventing Recidivism among Convicts Serving Sentences in the Form of Forced Labor

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Abstract

Introduction: the article analyzes causes and conditions of recidivism among convicts serving sentences in the form of forced labor, as well as socio-demographic, psychological, and value-motivational characteristics of their personalities that determine the commission of recurrent crimes. *Purpose:* based on the statistics from the Federal Penitentiary Service and data from the survey of employees of institutions executing forced labor, to identify causes and conditions that determine the commission of recurrent crimes by convicts serving this sentence, their personality characteristics, and propose measures to fight recidivism. *Methods:* formal law, empirical methods of description and interpretation, theoretical methods of formal and dialectical logic. *Results:* the main determinants of recurrent criminality of convicts serving sentences in the form of forced labor are alcohol abuse, drug use, insufficient financial resources, and unjustified substitution of forced labor for imprisonment. The main personality traits that determine recurrent criminality are egoism, aggressiveness, secrecy, deceit, irresponsibility, alcohol and drug addiction. Recommendations are given on the prevention of recurrent criminality of those sentenced to forced labor. *Conclusion:* prevention of recidivism among those serving sentences in the form of forced labor should be carried out on the basis of an integrated approach, taking into account criminogenic factors, personality characteristics of convicts and the specifics of organizing the execution of this punishment, and include measures to comply with regime requirements, labor discipline, educational work, including in cooperation with employers and public organizations.

Key words: penal system; forced labor; recidivism; determinants of crime; identity of the criminal; crime prevention.

5.1.4. Criminal law sciences.

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Forced labor is one of the alternative punishments to imprisonment that are being actively introduced into modern law enforcement practice. This type of punishment was introduced

into the system of criminal penalties of the Russian Federation in accordance with the Federal Law No. 420-FZ of December 7, 2011 and has been enforced since January 1, 2017.

Forced labor refers to punishments unrelated to isolation from society. However, in fact, this punishment occupies an intermediate position between punishments related to isolation from society and those not related to it. A convict is involved in working at enterprises together with citizens who are at large. Nevertheless, he/she is obliged to stay in an institution of the penal system after work: a correctional center (CC), its area (ACC), or an area of a correctional facility functioning as a correctional center (AFCC), and in cases prescribed by law has is entitled to spend weekends and holidays or live with his/her family outside the correctional center.

Prevention of recurrent crime is one of the issues requiring attention of employees of institutions that carry out punishment in the form of forced labor. Scientific literature rightly points out that the recurrence of crimes among those sentenced to forced labor indicates insufficient effectiveness of the execution of this punishment in each specific case and requires measures to further improve activities of the CC and AFCC [1, p. 123].

Recurrent criminality of the category of convicts we are analyzing, like any type of crime, exists and develops under the influence of causes – social phenomena that naturally generate crime, and conditions – phenomena that form the causes of crime or contribute to their manifestation [2, p. 377]. The causes and conditions of crime in criminological science are designated by a general concept – determinants of crime. According to the generally accepted point of view in modern Russian criminology, the causal complex of crime cannot be reduced to any one cause [3, p. 57; 4, p. 393]. All of the above applies to the determination of penitentiary criminality, including recurrent criminality of convicts serving forced labor [5].

In order to study criminological characteristics, causes and conditions of recurrent criminality of persons serving sentences in the form of forced labor and measures taken to prevent it, the statistical reports of the Federal Penitentiary Service of Russia for 2021–2023 were

analyzed and 425 employees of the Information Center and AFCC in 32 territorial bodies of the Federal Penitentiary Service of Russia were interviewed.

According to the statistics of the Federal Penitentiary Service of Russia, the recidivism rate among those serving sentences in the form of forced labor in 2023 was 0.63% (381 crimes per 60,104 persons registered with the CC and AFCC), in 2022 – 0.74% (202 per 27,023 persons, respectively), in 2021 – 0.37% (59 per 15,791 persons).

According to the survey of CC (AFCC) employees, crimes committed by persons serving sentences in the form of forced labor include drug trafficking (articles 228, 228.1 of the Criminal Code of the Russian Federation), theft (Article 158 of the Criminal Code of the Russian Federation), fraud (Article 159 of the Criminal Code of the Russian Federation), intentional infliction of minor injury (Article 115 of the Criminal Code of the Russian Federation); repeated crimes (8.1%) were committed by convicts under the influence of alcohol.

The surveyed employees most often indicate alcohol abuse, intoxication (63.4%), drug use and drug addiction (27%), low income, and financial difficulties (23.8%) as the causes and conditions of recurrent criminality of convicts. Among other reasons and conditions, respondents single out unjustified replacement of imprisonment by forced labor by the courts in accordance with Article 80 of the Criminal Code of the Russian Federation, family and kinship conflicts, loss and weakening of social ties of convicts, influence of other convicts, as well as a milder punishment regime than in prison, which involves the possibility for the convict to work at enterprises with law-abiding people and to stay outside the correctional center.

In our opinion, this list should be supplemented by a negative influence of the criminal subculture and its spread among convicts. The ability of subculture to act as a condition for criminal behavior in a correctional institution has been noted by various Russian and foreign authors [6–9]. Since the penal legislation does

not provide for a separate detention of convicts who were sentenced to forced labor and persons to whom this punishment was imposed as a substitute for imprisonment (including those previously convicted), there is a sufficient number of criminal subculture representatives in correctional centers. It should be said that separate detention of first-time convicts and persons who have previously served their sentences is a means that significantly weakens the influence of a criminal subculture and the determination of recurrent criminality [10, p. 14]. However, unfortunately, this principle does not apply in the execution of forced labor.

One of the conditions that can lead to the commission of repeated crimes by persons serving sentences in the form of forced labor is their violation of the established procedure for serving sentences. According to the Federal Penitentiary Service of Russia in 2023, 5,573 convicted persons registered with the CC (AFCC) committed malicious violations of the order and conditions of serving their sentences in the form of forced labor. The most common of them are the use of alcoholic beverages, narcotic drugs and psychotropic substances (3,650, or 65.4% of the total number of malicious violations), untimely return to the place of serving a sentence (380, 6.8%), disobedience to representatives of the administration of a CC (AFCC) or insulting them without elements of a crime (394.7%), and unauthorized abandonment of the territory of a CC (AFCC) (266, 4.8%). It should be noted that the level of malicious violations of the order and conditions of serving a sentence compared to 2022 (9.3%) remained approximately at the same level – 9.2%; however, the level of disobedience to representatives of the administration of a CC (AFCC) increased based on the total number of registered persons from 0.43% in 2022 to 0.65% in 2023. This indicates a rise in the number of convicts with a high degree of criminal deformation among those serving sentences in the form of forced labor and a negative attitude towards the appointed punishment and representatives of the administration.

It should be noted that the determinants of repeat criminality of convicts serving forced labor are in many ways similar to those described in the works of other authors [11, p. 57], as well as the causes of penitentiary criminality of persons serving sentences in the form of imprisonment (drug addiction, influence of criminal subculture, financial difficulties, insufficient control over convicts, etc. etc.).

In terms of socio-demographic characteristics, the majority of people who have committed repeated crimes while serving their sentences in the form of forced labor are men (94.8%). The recidivism rate among female convicts is significantly lower (0.34%) than among male convicts (0.67%). The share of convicts under the age of 30 is 23.8%. Among convicts with previous convictions, the recidivism rate is 0.9%, with an average of 0.63%. The recidivism rate among convicts who have violated the established order of serving their sentences is 11.1%.

The interviewed employees most often identify the following personal qualities of convicts that are conditions for committing repeated crimes while serving their sentences: selfishness, aggressiveness, secrecy, deceitfulness, irresponsibility (31.7%), alcohol dependence (22.2%), and drug addiction (11.1%). The respondents also mention the convict's confidence in impunity, presence of previous convictions, acceptance of criminal subculture values, loss of socially useful connections, unwillingness to correct due to entrenched anti-social attitudes and habits, and a tendency to destructive behavior. The personality traits that determine the propensity of a convicted person to violate the established order of serving a sentence is confirmed by data from other studies [12, p. 84; 13, p. 437].

Having analyzed the data obtained, we identified the following typical features of a convicted person serving a sentence of forced labor who has committed a repeat crime while serving his sentence: a man aged 30–45, previously convicted, violating the established order of serving a sentence, prone to alcohol and drug abuse, characterized by irrespon-

sibility, aggressiveness and a negative attitude to the punishment and the CC (AFCC) administration.

Based on recidivism determinants, we can develop comprehensive preventive measures, carried out not only by persons supervising convicts, but also by all employees of a CC (AFCC) within their competence. Officials of other state authorities (primarily internal affairs bodies), representatives of the administration of enterprises employing convicts, and civil society institutions (public and religious organizations) should also be involved in preventive work.

Besides, crime prevention measures should be carried out in strict accordance with the law and subordinate regulations, within the framework of official duties assigned to the relevant prevention entity.

Moreover, preventive measures against convicts should be of a multi-variant and at the same time individual nature. It is necessary to take into account an occupancy rate and an actual number of convicts, location of the institution (urban or rural areas, proximity of other penitentiary institutions, settlements), nature of the convicts' work and other local conditions. In relation to a particular convict, it is important to take into account his/her socio-demographic characteristics (gender, age, family, education, profession), psychological and social characteristics (temperament, intellectual, emotional, volitional level, presence of mental disorders or dependent behavior; social status before conviction; informal status among convicts), criminological characteristics (crime committed; punishment term; previous conviction; attitude to the crime and the punishment imposed; imposition of punishment in the form of forced labor by a court verdict, in the form of a substitute for imprisonment in accordance with Article 80 of the Criminal Code of the Russian Federation, or in the form of a substitute for less severe types of punishment; tendency to certain forms of illegal behavior while serving a sentence). Figuratively speaking, crime prevention in penitentiary institutions has an individual

style, depending on specific conditions of each institution and individual characteristics of convicted persons who are objects of prevention [14, p. 109].

Based on the above, as well as taking into account the opinion of the CC (AFCC) staff, we consider it possible to formulate practical recommendations for preventing recidivism among those sentenced to forced labor.

So, it is important to ensure a high level of supervision, so that convicts follow the rules of internal order. Employees supervising convicts should pay attention to such offenses as carrying and using alcoholic beverages and narcotic drugs, unauthorized abandonment of the center, untimely return to the place of serving a sentence, disobedience to employees, since these violations are both the causes and conditions of recurrent criminality of convicts, as well as circumstances indicating the convicted person's propensity for criminal behavior. It should be borne in mind that the preventive effect is not so much the severity as the inevitability of disciplinary action for violations of the established procedure for serving a sentence.

It is necessary to focus CC (AFCC) employees to ensure strict observance of the daily routine by convicts, which makes it possible to prevent the uncontrolled presence of the convict outside the center, therefore, reduces the possibility of criminal behavior. To this end, it is necessary to interact with the administration of organizations and individual entrepreneurs who use the labor of convicts, focusing them on immediately informing the CC (AFCC) administration about violations of labor discipline by convicts (absenteeism, late arrival or early departure from work, being in a state of intoxication at work).

The work on collecting and analyzing materials indicating the propensity of convicts to certain types of criminogenic behavior will improve the quality of supervisory and other preventive work, as well as avoid inappropriate use of preventive measures, focusing employees primarily on convicts representing a risk group.

One of the measures to prevent recidivism among persons serving sentences in the form of forced labor is the use of elements of encouragement and punishment in their interrelation, as well as a progressive system of serving sentences, which provides for the possibility of changing the legal status of a convicted person depending on his/her behavior while serving his/her sentence [15, p. 167]. The presence of incentive measures, as well as the possibility of parole from punishment, on the one hand, and the possibility of punitive measures, as well as the substitution of punishment in the form of forced labor with imprisonment in case of a malicious violation of the established procedure for serving a sentence, on the other, are effective anti-criminal factors [16, p. 230].

At the same time, it is necessary to:

- achieve the inevitability of penalties for violations of the established procedure for serving sentences, increase their detection and the quality of supervisory measures;
- to individualize the use of incentive measures, especially such as granting the convict the right to leave the CC (AFCC) on weekends and holidays, to spend holidays outside the center, and to stay with his/her family outside the dormitory. These measures should be provided only to positively characterized convicts who not only do not violate the established procedure for serving their sentences, but also are conscientious about work and do not have a tendency to criminogenic behavior;
- when deciding whether to apply to the court for parole or to replace forced labor with a less severe type of punishment in accordance with Article 80 of the Criminal Code of the Russian Federation, to take into account not only formal signs of the convicted person's behavior (absence of violations of the established procedure for serving a sentence), but also his/her attitude to work and rules of the dormitory, as well as criminological characteristics of the personality, in particular, the presence of a tendency to criminogenic behavior.

Operational work helps detect crimes being prepared and committed by convicts serv-

ing sentences in the form of forced labor [17, p. 12]. Nowadays, the operational support of the CC (AFCC) is carried out by employees of the operational units of territorial bodies of the Federal Penitentiary Service of Russia. There is no operational officer position in the staff of the center; however, it is possible to interact with operational units of correctional facilities where the AFCC is located, since their employees may have more data of operational interest than the staff of operational units of the territorial bodies of the Federal Penitentiary Service of Russia.

In our opinion, the introduction of an operational officer position into the staff of a correctional center (an area functioning as the correctional center) could be the most rational solution to the problem of operational support for convicts serving forced labor. This point of view is shared by other authors considering the problems of preventing recidivism among those sentenced to this type of punishment [18, p. 52; 6, p. 377; 19, p. 132]. At the same time, we would recommend the authorities of correctional centers to establish cooperation with the operational units of the territorial body of the Federal Penitentiary Service of Russia and correctional facilities where the AFCC has been established to get information about crimes being prepared and committed by convicts and persons preparing or committing crimes.

In order to prevent recidivism, it is also necessary to cooperate with internal affairs bodies, in particular district police officers, at the place of residence of those sentenced to forced labor, who have been granted the right to live with their family outside the dormitory. According to Paragraph 36 of the Instructions on the performance of official duties by district police officers at the serviced administrative area, approved by the Order of the Ministry of Internal Affairs of Russia No. 205 of March 29, 2019, district police officers visit these convicts at least once a quarter.

It is worth noting that currently there are no interdepartmental regulations that would fully regulate the interaction between penitentiary

institutions and internal affairs bodies on the prevention of offenses on the part of persons serving forced labor [20, p. 50]. Therefore, the basis of interaction is mainly joint meetings, development of interaction plans, as well as the use of individual office contacts. Police officers when carrying out preventive measures at the location of centers and enterprises where convicts are involved in work should identify convicts who are in a state of alcoholic or other intoxication or who drink alcoholic beverages in public places, purchase alcoholic products at places of sale, violate public order or are outside of the CC (AFCC) at a time not set by the daily routine. It is also advisable for the CC (AFCC) authorities to request information from district police officers about the behavior of those sentenced to forced labor who have been granted the right to live with their family outside the dormitory and their characteristics at the place of residence.

It is important to boost interaction between employees of the CC (AFCC) and the administration of enterprises where convicts are employed. The administration of these enterprises (individual entrepreneurs) may exert influence on convicted persons to prevent them from committing repeated crimes. According to the interviewed employees of the CC (AFCC), it implies conducting preventive conversations with convicts on the consequences of their crimes and violations of labor discipline (25.4%), monitoring the observance of labor regulations and discipline by convicts (25.3%), encouraging convicts who achieve success in work and those who do not violate labor discipline (23.8%), immediate informing of the CC (AFCC) administration about violations of labor discipline by convicts (14.2%), and giving diligent convicts employment opportunities after release (11.1%).

In this regard, in order to prevent reoffending of convicts serving sentences in the form of forced labor, it is recommended that CC (AFCC) employees cooperate with the administration of enterprises (individual entrepreneurs) that employ convicts.

Security personnel of enterprises employing convicts should keep records of those sentenced to forced labor who are employed at enterprises, monitor their entry and exit from the territory of the enterprise according to the daily routine. They should pay special attention to convicts' attempts to bring alcoholic beverages and narcotic drugs into the territory of the enterprise, fix cases of convicts passing through the checkpoint of the enterprise or being on the territory of the enterprise with signs of alcoholic (narcotic) intoxication, record attempts to steal inventory from the territory of the enterprise, and immediately inform the authorities of the enterprise about violations of labor discipline.

Correctional center should motivate the administration of enterprises (individual entrepreneurs) employing convicts to conduct educational work with them, i.e. to clarify consequences of labor discipline violations, as well as to pay extra and employ conscientious convicts after release.

A standard agreement between a CC (AFCC) and an organization that employs those sentenced to forced labor, approved by the Order of the Federal Penitentiary Service of Russia No. 1,138 of December 17, 2019 provides only for the obligation to immediately inform the administration of a CC (AFCC) about violations of labor discipline by convicts. Meanwhile, Chapter 30 of the Labor Code of the Russian Federation fixes forms of employer control. Therefore, along with this, it is advisable to include in the contracts concluded by a CC (AFCC) and an enterprise (individual entrepreneur) using the labor of those sentenced to forced labor, the following duties of the administration of an enterprise (individual entrepreneur):

- to assist the administration of a correctional center in carrying out educational work with convicts in the form of preventive conversations with convicts engaged in labor;
- to monitor the observance of labor discipline by convicts during working hours.

Educational and information-legal work with those sentenced to punishment in the form of forced labor also has preventive potential.

When conducting it in the form of group and individual interviews, attention should be paid not only to the measures of liability provided for in the Criminal Code of the Russian Federation for the commission of crimes most common among persons serving sentences in the form of forced labor, but also to specific examples of bringing convicts to criminal liability. What is more, convicts should be informed about incentive measures that can be applied to them in case of law-abiding behavior, conscientious attitude to work, prevention of violations of the order of serving sentences and labor discipline (granting the right to leave a CC (AFCC) on weekends and holidays, staying with family outside the center, parole, possible employment at the enterprise after release).

The organization of leisure time for those sentenced to forced labor is also of preventive importance, since it has an educational effect, instills socially acceptable values and behaviors, and reduces possibilities for convicts to prepare and commit crimes. In addition, some forms of organized leisure activities contribute to the formation and strengthening of socially useful bonds of convicts, which also has anti-criminal potential.

It is advisable to carry out these activities in cooperation with non-profit public organizations, including voluntary ones. In a number of territorial bodies of the Federal Penitentiary Service of Russia, there are positive examples of involving non-profit organizations in psychological work with convicts serving sentences in the form of forced labor in order to correct

criminogenic personality traits, to prevent alcoholism and drug addiction, and to organize volunteer activities for convicts in their free time.

Sports, creative and other cultural events conducted in correctional centers have anti-criminal educational potential. The participation of relatives and other persons who have a positive impact on convicts in these events is desirable [21, p. 68].

To sum it up, we should note that the most common repeated crimes committed by those sentenced to punishment in the form of forced labor are crimes related to drug trafficking and crimes against property and personality. As the main causes and conditions of these crimes, the CC (AFCC) employees most often indicate circumstances related to the convict's personality, alcohol, drug use, financial difficulties, as well as criminogenic personality traits. The measures to fight recidivism include convicts' compliance with regime requirements, prompt work to identify crimes being prepared and committed, monitoring convicts' observance of labor discipline, educational measures, as well as positive incentives (the use of incentive measures provided by law, the possibility of employment at an enterprise after release). Only an integrated approach that takes into account key criminogenic factors, personality characteristics of convicts and the specifics of the organization of forced labor, including when convicts are employed in enterprises, can ensure effective prevention of recurrent criminality in the process of executing this type of punishment.

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