

BULLETIN OF NATIONAL ACADEMY OF SCIENCES
OF THE REPUBLIC OF KAZAKHSTAN

ISSN 1991–3494

Volume 3, Number 385 (2020), 191 – 201

<https://doi.org/10.32014/2020.2518–1467.85>

UDC 343.1.815

Artyom Y. Nesterov

Moscow State University of Technology and Management
named after K. G. Razumovsky, Moscow, Russia.
E-mail: ne7terov.ay@gmail.com

**CURRENT STATE AND PERSPECTIVES
OF EDUCATIONAL WORK OF THE MINORS CONDEMNED
IN THE INSTITUTIONS OF THE FSIN OF RUSSIA**

Abstract. The article presents the current state of educational work with juvenile convicts in educational colonies of the Federal Penitentiary Service of Russia. The author determines that the recidivism of youth and adolescents in the current period remains one of the acute problems in the Russian Federation.

So, juvenile delinquency is a powerful source of self-determination of crime as such. Today, juvenile delinquency produces crime of young people (from 14 to 17 years old), translates negative criminal experiences into the future, which, according to the laws of social education, again “returns” to tomorrow’s teenagers as the “social heritage” of previous generations. And also do not forget that juvenile delinquents are the social base of organized and recidivism in modern Russia.

It can also be noted that by committing repeated criminal offenses the offender is firmly convinced of his impunity. Relapse of crimes committed by juveniles sentenced to suspended sentences (or corrective labor), or to insignificant real terms of imprisonment, emphasizes the ineffectiveness of the sentence, which is reflected in the increase in the number of repeated criminal offenses committed by minors. Therefore, it is very real that, due to the weakness and inefficiency of penitentiary resocialization in prisons, the number of crimes committed by convicts, but in a more perverse form, may increase in a few years (not excluded in the composition of an organized criminal group). And also juvenile delinquency promotes the spread of a criminal way of thinking and a way of behavior in a “healthy” teenage environment, leading to its criminal infection. So, Taoist wisdom says - ... be afraid of your thoughts, for they are the beginning of your actions - Lao Tzu (VI – V centuries BC). Teenage crime causes harm to the personal development of the juvenile offender himself, thereby contributing to the continuation of the criminal activity of the minor. Based on the foregoing, juvenile delinquency should be considered as one of the most serious and significant socio-legal problems of modern Russian society.

In the article, the author proposes a “model” of the development of penitentiary institutions, includes a description of the goals and objectives of the Educational Center of the Federal Penitentiary Service of Russia, its functional and organizational structure, conditions for serving sentences and detention of juvenile convicts. The model of the educational center of the Federal Penitentiary Service of Russia for juvenile convicts is presented.

Key words: juvenile convict, resocialization, modern methods and approaches of educational work, juvenile recidivism, the social perspective of the convict, educational colony of the Federal Penitentiary Service of Russia, educational center of the Federal Penitentiary Service of Russia, Criminal Executive Code of the Russian Federation, Criminal Code of the Russian Federation, Concept - 2020, OCG – organization of a criminal group.

The deep socio-economic and political transformations in the country, the entry of the Russian Federation into the European Community and the need to implement the Council of Europe recommendation on the observance of the uniform European penitentiary rules for the treatment of prisoners entailed changes in the criminal and penal policy, reform of the legal and organizational base of the criminal executive system, bringing it closer to world standards [1,2].

The transformations aimed at humanizing and approximating the conditions of serving a sentence to the rules for the treatment of convicts and prisoners adopted in the international community affected the order and conditions for organizing the execution of sentences in educational colonies of the FSIN of Russia [3].

So, juvenile convicts due to age and social immaturity constitute a special group of convicts from among those serving criminal sentences in prison. Peculiarities of adolescence (puberty) to some extent complicate the work with the contingent, as they force the staff of educational colonies of the Federal Penitentiary Service of Russia. Considering the “explosiveness” and “impulsiveness” of their pupils, but at the same time the “plasticity” of the developing personality of the adolescent, one can hope for the success of targeted social and pedagogical work specially trained in the field of juvenile law and social pedagogy of the staff of educational colonies of the Federal Penitentiary Service of Russia [12].

In addition, the maximum possible sentences, limited to ten years, determine the social prospects for working with juvenile prisoners. The terms of punishment of adults, especially convicts, for life imprisonment doom them to a long stay in places of deprivation of liberty and postpone or deprive of any possibility of release. Convicts at a minor age drop out of the educational colony of the Federal Penitentiary Service of Russia at an active age that allows them to socially determine and gain a foothold in the future: to continue their studies, find a job, create a family, etc. "Social prospects" of the contingent of educational colonies of the Federal Penitentiary Service of Russia, determines the differences in the organization of the activities of correctional colonies, colonies of settlements of the Federal Penitentiary Service of Russia [14,15].

In accordance with the current criminal executive legislation of the Russian Federation, juvenile convicts are serving sentences of imprisonment in educational colonies of the Federal Penitentiary Service of Russia, where they are held separately from adults. This is due to the need to prevent the negative impact of more experienced adult criminals on juvenile convicts. Convicted minors held in educational colonies serve their sentences in ordinary, facilitated, preferential and strict conditions. The four-stage system of regime requirements, stimulating the process of correction of convicts, helps to increase the effectiveness of the educational impact on them [7].

So, during the scientific-practical conference on reforming the penal system, which was held on September 10, 2009 in Moscow, the tasks for reforming the penal system were identified. The solution to these problems is aimed, on the one hand, to further humanize the system of the execution of sentences, and on the other, to increase its ability to achieve the goals of correcting convicts and preventing them from committing new crimes [8, 14]. A set of measures to solve these problems was reflected in the draft Concept of the development of the penal system in the Russian Federation for the period until 2020, and further developed in the Concept of the federal target program "Development of the penal system (2017 - 2025)"¹.

Thus, the Model for the Development of Penitentiary Institutions includes a description of the goals and objectives of the Educational Center of the Federal Penitentiary Service of Russia, its functional and organizational structure, the conditions for serving sentences and the detention of juvenile convicts. The Model also presents and currently implements a characteristic of the educational center management system, as well as offers on the organization of certain areas of its activity, an approximate calculation of the staff number of the staff of the FSIN of Russia is developed. The proposals on the material and technical base of the educational center are fully presented, the issues of training personnel for working with juvenile prisoners are implemented [9,15].

A model for the development of penitentiary institutions has been prepared and is being implemented taking into account the provisions of the draft Concept for the development of the penal system in the Russian Federation for the period up to 2017-2025, based on an analysis of the International Standards of Penitentiary Activities, domestic and positive foreign experience. Statistical and other data were used on the execution of sentences of imprisonment of juvenile convicts, census materials of minors serving their sentences, questionnaires from employees of educational colonies, expert assessments and photographs of working hours of the staff of the FCU Educational Colonies of the Federal Penitentiary Service of Russia.

¹See: The concept of the federal target program “Development of the penal system (2017 - 2025)” was approved by Decree of the Government of the Russian Federation of 23.12.20016 No 2808-p.

According to the draft Concept - 2020, minors sentenced to deprivation of liberty are serving their sentences in correctional facilities of a new type - educational centers with regular and intensive supervision. The main principle of creating a system of educational centers for juvenile convicts is to ensure their separate content, depending on the public danger of the crimes committed and the level of criminal infection of the individual. Today, approaches to the implementation of social, psychological and educational work with juvenile prisoners in educational centers have been changed based on the use of individual forms of influence, wider interaction with the public.

All this made it possible to resolve the issue of creating a correctional institution of the Federal Penitentiary Service of Russia for juvenile convicts of a new type, taking into account European standards of penitentiary activity, as well as accumulated domestic and positive foreign experience. The main task of this institution is to organize a comprehensive, completed system of the execution of imprisonment for persons who have committed a crime in their minor age, aimed at socializing an adequate personality of the convicted person [9,10,16].

Today the main thing is that the state, represented by the central governing body of the penal system of the Ministry of Justice of the Russian Federation, is trying to determine the ideology and content of the correctional and educational process in the context of the emergence of new forms of state power and market relations. Since without the presence of a state Concept in the field of the correctional process, the convict cannot seriously talk about the effectiveness of the penal system in Russia. At the same time, in recent years there has been a disregard for Russian and Soviet correctional policies and attempts to Americanize them. The goal of educational work in the institutions of the Federal Penitentiary Service of Russia, both earlier and now, is to change the "criminal views", beliefs, attitudes, bad habits and prepare the convict for an honest life in freedom. At present, all educational work in the institutions of the Federal Penitentiary Service of Russia is oriented towards a specific person, as a carrier of an asocial subculture that poses a danger to society. At the present stage of the functioning of the PKU "EC" of the Federal Penitentiary Service of Russia, the educational work of convicts is based on individual and group programs [9,10,13,15].

So, educational programs for various categories of juvenile convicts serving their sentences, this is the plan of activity of the staff of PKU "EC" of the Federal Penitentiary Service of Russia and, first of all, the chiefs of detachments, psychologists, social workers in organizing work to provide corrective action and re-socialization of juvenile convicts in order to prevent the commission of them new crimes.

The relevance of the development of programs was emphasized in the main areas of social reorientation of the penal system, where it was recommended as the main document determining the content of the execution of sentences for each juvenile convict an individual program of regime and psychological and pedagogical impact.

This idea was also expressed in the Concept of reform of the Criminal Executive System - 2020, approved by the decision of the Board of the Ministry of Internal Affairs of the USSR of July 16, 1990, which determined the basis for the correction of convicts to put programs of differential exposure, taking into account their behavior, mental state and degree of social neglect [12,16,18].

In connection with the introduction of the psychological service into the Criminal Executive System, the educational work with convicts has undergone some changes:

- 1) The development and implementation of methods of socio-psychological study, psychological-psychiatric, socio-pedagogical diagnosis of the personality of a minor convict began;
- 2) Development and implementation together with other employees of prisons of individual and group programs of differential impact on offenders, taking into account their personal characteristics, the degree of social and educational neglect of a minor convict;
- 3) Adjustment of individual programs, psychological counseling and prevention of stressful conditions of juvenile prisoners [16,17].

In 1997, the goal of correction of juvenile convicts was fixed by the criminal-executive legislation of the Russian Federation. Such a statement is fully consistent with the need for more complete consideration of international legal acts regulating the treatment of prisoners and the behavior of personnel in places of deprivation of liberty.

Currently, in order to achieve the main goal of correction of a minor convict in the penal system of Russia, the following tasks are carried out:

- 1) Compliance with the convicts in the penal system of Russia all the requirements of the law, rules of conduct, order and discipline;
- 2) The desire of a minor convict to achieve the necessary level of moral and legal consciousness;
- 3) The upbringing of a convicted juvenile of a sense of positive responsibility for his actions and the assigned case;
- 4) The development in a juvenile convict of a useful initiative for society and the awakening of self-esteem, self-confidence;
- 5) Formation in a minor convicted person of the desire for the further development of professional knowledge, skills - (training in a professional lyceum (school), general education (shift) school);
- 6) Education of a convicted juvenile of a conscious attitude to work and socio-legal culture [10,19].

It should also be noted that it is of great importance in the socio-pedagogical work with juvenile convicts of the psychological service of the PKU "EC" of the FSIN of Russia.

Thanks to the psychological and diagnostic work of practical psychologists, at the present time, solving problems related to the re-socialization and correction of juvenile convicts has become more productive. Because with the socio-psychological support of educational programs for the re-socialization of juvenile convicts, expertise and the preparation of corrective recommendations by psychologists. In the process of serving a sentence, as well as relying on the frequency of psychological examinations, a specialist psychologist can track changes in the behavior and personal characteristics of juvenile convicts, provide psychological information to prison staff in a timely manner, which makes it possible to approach the educational work with juvenile convicts more differentially, with taking into account the development of the dynamics of their personal characteristics.

In the implementation of the "Concept - 2020", such scientific organizations as the Research Institute of the Federal Penitentiary Service of Russia (Moscow), the Academy of Management and Law of the Federal Penitentiary Service of Russia (Ryazan), the Vladimir Law Institute of the Federal Penitentiary Service of Russia (Vladimir), Voronezh Institute of the Federal Penitentiary Service of Russia (Voronezh), Perm Institute of the Federal Penitentiary Service of Russia (Perm), Samara Law Institute of the Federal Penitentiary Service of Russia (Samara). Also, Swiss experts working in the Penitentiary System are also involved in active work. On the basis of educational institutions of the Federal Penitentiary Service of Russia, professional training of the staff of the penitentiary institutions of the Federal Penitentiary Service of Russia is carried out for subsequent work with minors convicted in the framework of the implementation of the "Concept - 2020" [9,16,20].

So, on April 20, 2000, the Ministry of Justice of the Russian Federation approved the "Concept of educational work with juvenile convicts in the context of reforming the penal system"². She suggests using the accumulated experience of organizing educational work with juvenile convicts in institutions of the Federal Penitentiary Service of Russia. Also, this work is currently being improved taking into account trends in the development of socio-economic, political, state and legal, moral and ethical foundations of society and the state, the state of the structure and dynamics of crime, introduce foreign experience, scientific recommendations. This Concept defines a system of views, principles, priorities, it is based on the principles of humanism, the priorities of correctional goals in the execution of sentences, the development of amateur principles, consistency and continuity, the inclusion of juvenile convicts in full social activity, suggests relying on positive personality traits, restoration of social and useful links of juvenile prisoners [10,16].

According to the current criminal law of Russia (Article 56 "Imprisonment for a fixed term" of the Criminal Code of the Russian Federation), the Federal Penitentiary Institution of the Federal Penitentiary Service of the Federal Penitentiary Service of Russia has general and high security prisoners sentenced to imprisonment who have not reached the age of majority by the time the court pronounces the sentence [5,6].

²See: The concept of educational work with convicts in the context of reforming the penal system (approved by the Ministry of Justice of the Russian Federation on April 20, 2000).

So, as of March 1, 2020, in the current period in the introduction of the Federal Penitentiary Service of Russia there are 23 PKU "Educational Colonies" of the Federal Penitentiary Service of Russia. Of these, 21 educational colony - for the maintenance of non-adult male convicts and 2 colonies (in Belgorod and Tomsk regions) for the maintenance of female juvenile convicts³. So, as of March 1, 2020, 1134 convicted persons, including 105 female minors, are serving a criminal sentence of imprisonment in the PKU "EC" of the Federal Penitentiary Service of Russia.

So, the proportion of juvenile convicts serving a criminal sentence of imprisonment in the institutions of the Federal Penitentiary Service of Russia consists of the following types of crimes: convicted for theft - 15.2%, for robbery - 14.1%, for robbery - 12.2%, for deliberate infliction of grievous bodily harm - 11.8%, for murder - 10.1%, for rape - 12.6%, other crimes - 24% of juvenile convicts. Including previously had conditional conviction, compulsory or corrective labor - more than 74.8% of convicts serving criminal sentences in prison. As well as those who had previously served a criminal sentence of imprisonment in the institutions of the Federal Penitentiary Service of Russia, such 38 convicted persons⁴.

Today, in all penitentiary institutions of the penal system of Russia, the following tasks of the Concept are successfully implemented:

1) Ensuring the priority of universal values in all aspects of the social and educational work carried out with juvenile convicts;

2) The upbringing of the penitentiary system staff with respectful and benevolent attitude towards juvenile convicts on the basis of principles of justice, humanism and partnership;

3) Ensuring an individual and differentiated approach, taking into account the degree of public danger and socio-pedagogical neglect of juvenile convicts;

4) The socio-psychological and pedagogical process of the convict, aimed at preventing (preventing) further criminalization of the person, substantive use of the conclusions and recommendations of psychologists and teachers in working with juvenile convicts in institutions of the penal system of Russia;

5) Creation of conditions and opportunities for juvenile convicts to improve themselves, to work on themselves to recognize their own guilt and harm done to other people, to form a desire to correct existing personal and negative qualities, as well as self-regulation of their behavior in society;

6) Preservation, strengthening and maintenance of social and personal relations of juvenile convicts, satisfaction of their spiritual needs;

7) Strengthening the educational orientation of labor, general and vocational training, the orientation of educational work on the formation and development of aspirations for engaging in socially useful activities, raising one's own educational and cultural level, and developing intelligence;

8) The development of forms of self-government in the activities of the penitentiary institutions of the FSIN of Russia through the wide participation of juvenile convicts in amateur organizations, the solution of domestic issues, leisure activities, cultural and sports and recreational activities, the creation of interest groups (organization of Orthodox parishes under the Federal Public Institution "EC" FSIN of Russia);

9) The direction of the potential of all employees of the PKU "EC" of the Federal Penitentiary Service of Russia for the continuous psychological and pedagogical impact on juvenile convicts in various activities: labor, educational, social, leisure and creative [9,10].

As a result, in our opinion, legal education takes an important place, aimed at forming juvenile convicts a correct understanding of the prescription of laws, raising confidence in the inadmissibility of violating them and developing a stable habit of their exact execution. At the same time, take into account the existing distortions in the legal consciousness of convicts serving sentences.

First of all, this should be noted such a defect as legal ignorance - lack of knowledge of legal norms by a part of minors. The prevalence of this defect is evidenced by the results of a study of the legal knowledge of violators. 88.9% of juvenile convicts do not clearly know the law on criminal liability [as of 03/01/2020].

³See: Federal Penitentiary Service (FSIN of Russia) [Electronic resource] // Access mode : <http://фсин.рф/> / (accessed: 02.17.2020).

⁴See: Statistics and Analytics. Federal Service for the Execution of Punishment (Federal Penitentiary Service of Russia) [Electronic resource] // Access mode : <http://фсин.рф/> / (date of access: 02.21.2020).

The situation is worse when the cause of legal ignorance is the person's reluctance to obtain relevant knowledge, or he considers them to be optional. Here, legal ignorance grows into a more serious defect - "social-legal infantilism", expressed in an indifferent attitude to the rule of law.

The next defect in legal awareness is the lack of a legal culture in which a minor convict agrees with the requirements of the legal norms of the regime in the PKU "EC" of the Federal Penitentiary Service of Russia, is convinced of the need to comply with them, but violates all requirements due to the lack of a habit of law-abiding behavior. Often there is such a defect in legal awareness as legal nihilism, which expresses in a wrong, distorted understanding of legal norms, disagreement with their requirements, this is the result of an incorrect assessment of the ratio of personal and public. Under legal nihilism, legal feelings are "dulled", a teenage convict is inclined to self-justification of his criminal behavior by referring to others, their incorrect behavior. The thirst for self-assertion among their own kind in a children's colony provokes the desire of a teenage convict to prove at all costs immediately by any, even unlawful actions, "bravado", "self-mutilation", etc. [14].

The deepest defect in the moral and legal consciousness of people in social isolation is "socio-legal cynicism", which is manifested in the denial of the significance of any prohibitions. They are their own legislators. It is they themselves who create their "laws" in the PKU "EC" of the FSIN of Russia, demanding that the rest of the convicts strictly implement them.

Most often, defects in the legal consciousness of offenders are exacerbated by defects in their moral consciousness, consisting in the presence of antisocial views. Moreover, the considered defects of legal consciousness significantly affect the behavior of the individual in conditions of social isolation, and without their elimination it is difficult to talk about the prevention of deviant behavior of juvenile convicts in the Federal Penitentiary Institution "EC" of the FSIN of Russia. In order to solve the problems of preventing deviant behavior, it is important to intensify the legal education of juvenile convicted "offenders" of the regime [14,15].

Skillfully, using knowledge in the field of psychology, the teaching staff with greater return can carry out work among minor convicts in the PKU "EC" of the Federal Penitentiary Service of Russia. Means of protection and supervision, regime restrictions should create conditions in places of social isolation that would exclude the possibility of committing offenses, would contribute to the destruction of criminal habits and attitudes and the formation of habits of immoral behavior. Preventive work also includes the creation of conditions for the psychological and physical isolation of the "worst" morally convicted and young men from the "best". This is due to the fact that the concentration in the colony of a greater number of people with different depths of the "I" of a different combination of moral defects, criminal infection, generates specific social and psychological phenomena of mutual criminalization in the process of their interpersonal and intergroup interaction [17].

The psychological isolation of the "worst" from the "best" in the PKU "EC" of the FSIN of Russia is ensured as follows:

- 1) Dissociation of negatively directed "groups", "groups", hindering mutual contacts of convicts from among the "authorities" (criminal elite) with each other by placing them on different shifts in a comprehensive school (vocational school) and in the production of an educational colony;
- 2) Attaching "activists" to negatively minded individuals;
- 3) Providing an advantage in each contact group (study group, class, team, etc.) of positively convicted prisoners over negatively convicted prisoners;
- 4) Applying moral condemnation and boycott to them [14,17].

In cases that cannot be delayed by violators of the regime, order and discipline (those who refuse to work and study, who are prone to self-harm and escape from prison), physical isolation measures are applied - temporary placement in a disciplinary isolation ward (disciplinary room) of an educational colony. A very effective means of preventing delinquency and deviant behavior is the reorientation of emerging or emerging criminal groups, which is achieved by the effort of their positive core (if there are such persons in the group) or by reorienting the "informal leader", "squad hill", bringing him closer to the teacher and organizing with him individual and preventive work. At the same time, the discrediting of "thieves' authorities" in the eyes of the bulk of juvenile convicts, the display of their cruelty, injustice, dishonesty in relations with the "lower classes" and the bulk of minors can play a significant role. Creation

of all necessary conditions for the manifestation of “leadership qualities” of convicts with positive attitudes, around which later friendly groups would form in the detachment of the educational colony [14].

As a result, today, an important condition for the effectiveness of the prevention of any types of deviant behavior of convicts in the colony is to ensure the daily employment of each inmate, their active inclusion in general and vocational training, in cultural and sports activities, etc. Thus, some offenses are committed by juvenile convicts who have various deviations from the mental norm, which were not revealed during the investigation and trial, this should be taken into account in the preventive work of teachers of the educational colony of the Federal Penitentiary Service of Russia.

In the system of measures for the prevention of juvenile delinquency, they occupy the PKU “EC” of the Federal Penitentiary Service of Russia. In the context of socio-economic reforms, it is necessary to radically improve the activities of educational colonies and bring the entire system of the execution of sentences for juvenile convicts in accordance with the requirements of international standards [12,15,16].

Next, we will present the key problems in the activities of educational colonies of the FSIN of Russia, and the main directions for their improvement. Today, unfortunately, the educational colonies of the penal system of Russia of the Ministry of Justice of the Russian Federation have largely preserved the attributes inherent in correctional colonies and prisons in Russia. In fact, at the present time, further processing of the existing criminal executive legislation of Russia governing the activities of educational colonies is required. But it is impossible not to notice the fact that the Russian penitentiary system is increasingly turning to new practically verified and theoretically substantiated conclusions for help, which make it possible to explain and predict the processes occurring in crime and within the limits of their possible control. Work with persons who have committed a crime and are serving sentences in educational colonies requires knowledge of various factors that affect juvenile delinquency in Russia. Factors can be classified as follows:

1) Demographic nature (increasing general social mobility, changing gender and age structure and more);

2) The economic nature associated with the level of well-being of the population of Russia;

3) Social, socio-psychological nature, which includes a description of the educational and cultural level of the Russian population, its social activity, public opinion, free time budget, level of social control and more;

4) Organizational and legal nature in the field of social process management [14,16].

So, the criminal and penal legislation of the Russian Federation establish the principle of differentiation of the appointment and execution of sentences. Article 80 of the Penal Code of the Russian Federation establishes the separation of men and women, minors and adults. This requirement is also provided for in international standards for the treatment of prisoners (paragraph 29 of the UN Rules concerning the protection of minors deprived of their liberty) [2,7].

Thus, this principle determines the infrastructure of the penal system, which is required to ensure the isolation of minors and adults by placing them in various types of penitentiary institutions of the Federal Penitentiary Service of Russia. According to Part 1 of Article 87 of the Criminal Code of the Russian Federation, - “Minors are persons who are fourteen years old at the time of the commission of the crime, but not eighteen years old” [5].

This concept is fully consistent with the definition of a minor given in the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the “Convention on the Rights of the Child”, which states that “every human being is under the age of eighteen years old” (article 1)⁵.

At the same time, both Article 96 of the Criminal Code of the Russian Federation and Article 139 of the Criminal Procedure Code of the Russian Federation allow serving sentences in educational colonies for persons over 18 years of age until they reach 19 years of age, that is, joint detention of minors and persons who have left this age [5,7].

This decision is generally positive, since it allows to consolidate the results of educational work with pupils, as well as to attract 18-19-year-old prisoners to the chores that are necessary for the institution, on

⁵See: UN Convention on the Rights of the Child (approved by the UN General Assembly on 11/20/1989) (entered into force for the USSR on 09/15/1990) Article 1.

which teenagers should not be used. But, and when setting the age limit of 19 years, not all convicts have time to serve the appointed term of punishment [7,16,17].

However, the extension of the possibility of serving a sentence in an educational colony for persons who have overcome the eighteen-year-old age barrier of a minor. Thus, the age ratio of minors and adults noticeably changes, with the predominance of the latter, leads to an increase in the number of contingent as a whole, and poses new problems for the staff of the PKU “EC” of the Federal Penitentiary Service of Russia, which is forced to restructure its work taking into account the increasing age range of prisoners [16,17].

This also places additional financial burdens on the educational colony of the Federal Penitentiary Service of Russia, which are forced to provide adult convicts with the nutrition and logistics standards set for juvenile convicts [5,7].

It is proposed to create sections in educational colonies working in the penal colony of the general regime for pupils of the Federal Penitentiary Institution “EC” of the Federal Penitentiary Service of Russia who have reached the age of 18 years before completing their sentences without age restrictions. To implement the proposal, it is required to make appropriate changes to the Criminal Code of the Russian Federation and the PEC of the Russian Federation. Given these problems and their solutions, it is proposed to create an educational center of the Federal Penitentiary Service of Russia.

So, in our opinion, the “Educational Center” of the Federal Penitentiary Service of Russia is, first of all, one of the types of the penitentiary institution of the Federal Penitentiary Service of Russia for persons who have committed a crime at a minor age and accumulates all areas of social and educational work with the contingent.

The purpose of creating such a complex is to put a barrier to the further criminalization of juvenile convicts. The creation of the complex is carried out on the basis of an educational colony and is focused on administrative centers, which will make it possible to organize the functioning of all its structural divisions.

The creation of such a complex in the penal system of Russia, which will include two regime types of surveillance [“normal” and “enhanced”] contingent stays. And a rehabilitation center focused on the post-penitentiary adaptation of convicts preparing for release, as well as focused on consolidated work with administrative centers (municipalities) for further post-penitentiary adaptation of a minor convict, will be implemented at the educational center of the Federal Penitentiary Service of Russia [7,14,16].

Thus, the creation of a single type of regime will make it possible to protect juvenile convicts from serving a sentence in a high security colony “EC” from the negative influence of adult criminals, it will make it possible to include public associations and parents in the educational system with convicts, and it will facilitate the resolution of issues related to the labor and welfare of those released take full advantage of the rights granted by law. In addition, this will make it possible to reduce the expenses stipulated by the budget for transportation of convicts across the territory of the Russian Federation.

So, when organizing the educational process, the educational work in the colony is aimed at preparing a more socialized personality of the minor convict. Overload of juvenile convicts with negative experience has not yet been the subject of correction. On the contrary, the objective conditions of education in the artificially created closed world of places of deprivation of liberty create additional conditions for the criminalization of the environment and the prisoners themselves [16,17].

All regime requirements for a convicted person in places of deprivation of liberty are focused on the formation of an independent, professionally oriented and law-abiding personality of the convicted person. Compliance with the regime’s requirements of the colony, compulsory attendance at a general (shift) school, vocational school, and employment were assessed, first of all, from the point of view of organizing the life and work of places of deprivation of liberty and how much the convicted person “fit” into this structure. This is what determines the degree of correction.

At present, the minor convict who arrived from the pre-trial detention center in the PKU “EC” of the Federal Penitentiary Service of Russia finds signs of total social maladaptation. He, like all convicts serving a sentence of imprisonment in VK, does not know how to build relationships with their peers, to determine the line of behavior in society, to ensure their physical and spiritual needs, observing generally accepted legal and moral standards [14,16,17].

The main task that the Educational Center of the Federal Penitentiary Service of Russia should solve when carrying out educational work with the convict is, first of all, to find out the reasons for the social maladjustment of the personality of the minor convict, to correct those personal qualities that prevented him from adapting to the requirements of a law-abiding modern Russian society, and to prepare a socialized personality.

Арте́м Ю́рьевич Не́стеров

К. Г. Разумовский атындағы Мәскеу мемлекеттік технологиялар
және басқару университеті, Мәскеу, Ресей

РЕСЕЙ ЖОҒҚ МЕКЕМЕЛЕРІНДЕГІ КӘМЕЛЕТКЕ ТОЛМАҒАН СОТТАЛҒАНДАРДЫҢ ТӘРБИЕ ЖҰМЫСЫНЫҢ ҚАЗІРГІ ЖАҒДАЙЫ МЕН БОЛАШАҒЫ

Аннотация. Мақалада Ресей Федералды пенитенциарлық қызметінің оқу колонияларындағы кәмететке толмаған сотталғандармен жүргізілетін тәрбие жұмысының қазіргі жағдайы келтірілген. Автор қазіргі кезеңдегі жастар мен жасөспірімдердің рецидиві – Ресей Федерациясындағы өткір проблемалардың бірі екенін анықтайды.

Сонымен, кәмететке толмағандар арасындағы құқық бұзушылық – қылмысты анықтаудың қуатты көзі. Бүгінгі таңда кәмететке толмағандар арасындағы құқық бұзушылықтар кәмететке толмағандар арасындағы құқық бұзушылықты тудырады (14 жастан 17 жасқа дейінгі), теріс қылмыстық тәжірибені болашаққа жеткізеді, бұл әлеуметтік білім заңдарына сәйкес, ертеңгі жасөспірімдерге алдыңғы ұрпақтың «әлеуметтік мұрасы» ретінде қайтып келеді: Сонымен қатар кәмететке толмағандар арасындағы қылмыс қазіргі Ресейдегі ұйымдасқан және рецидивизмнің әлеуметтік негізі екенін ұмытпаңыз.

Сондай-ақ қайталанатын қылмыстық құқық бұзушылықтар жасау арқылы құқық бұзушы өзінің жазаланбайтынына нық сенімді екенін атап өтуге болады. Шартты түрде бас бостандығынан айыруға сотталған кәмететке толмағандар жасаған қылмыстардың қайталануы (немесе түзеу жұмыстары) немесе бас бостандығынан айырудың нақты мерзімдері жазаның тиімсіздігін көрсетеді, бұл кәмететке толмағандар тарапынан бірнеше рет жасалған қылмыстар санының өсуінен көрінеді. Сондықтан түрмелердегі пенитенциарлық қайта құрылымдаудың әлсіздігі мен тиімсіздігіне байланысты сотталушылар жасаған, бірақ одан да бұрмаланған түрдегі қылмыстар бірнеше жылдан кейін артуы мүмкін (бұл ұйымдасқан қылмыстық топтардың құрамына кірмейді). Сондай-ақ кәмететке толмағандар арасындағы құқық бұзушылық қылмыстық ойлау мен мінез-құлықтың «сау» жасөспірімдер ортасында таралуына ықпал етеді, оның қылмыстық жолмен жұқтырылуына әкеледі. Сонымен, Даостың даналығы былай дейді: «... ойларыңыздан қорқыңыз, өйткені олар сіздің әрекеттеріңіздің бастауы» – Лао Цзы (б.з.д. VI-V ғасырлар). Жасөспірім қылмысы кәмететке толмаған құқық бұзушының жеке басының дамуына зиян келтіреді, осылайша кәмететке толмағанның қылмыстық әрекетін жалғастыруға ықпал етеді. Жоғарыда айтылғандарға сүйене отырып, кәмететке толмағандар арасындағы құқық бұзушылықтар қазіргі Ресей қоғамының маңызды және маңызды әлеуметтік-құқықтық проблемаларының бірі ретінде қарастырылуы керек.

Мақалада автор пенитенциарлық мекемелерді дамытудың «моделін» ұсынады, Ресей Федералды пенитенциарлық қызметінің білім беру орталығының мақсаттары мен міндеттерін, оның функционалды және ұйымдастырушылық құрылымын, жазасын өтеу шарттары мен кәмететке толмаған сотталғандарды ұстауды сипаттайды. Сонымен қатар дәлелдеме ретінде біз Ресей Федерациясының қылмыстық атқару жүйесі тұжырымдамасын – «Тұжырымдама – 2020» әзірлеуді жүзеге асырудағы тұжырымдамалық тәсілдерді талдаймыз. Ресей Федерациясының Қылмыстық атқару қызметі кәмететке толмаған сотталғандарға арналған білім беру орталығының моделі ұсынылған.

Түйін сөздер: кәмететке толмаған сотталушы, қайта орналастыру, тәрбие жұмысының заманауи әдістері мен тәсілдері, кәмететке толмағандардың қайталануы, сотталушының әлеуметтік көзқарасы, Ресей Федералды қылмыстық атқару қызметінің оқу колониясы, Ресей Федералды Қылмыстық атқару қызметінің оқу орталығы, Ресей Федерациясының Қылмыстық атқару кодексі, Ресей Федерациясының Қылмыстық кодексі, Тұжырымдама – 2020, ұйымдасқан қылмыстық топтар.

Артём Юрьевич Нестеров

Московский государственный университет технологий
и управления им. К. Г. Разумовского, Москва, Россия

СОВРЕМЕННОЕ СОСТОЯНИЕ И ПЕРСПЕКТИВЫ ВОСПИТАТЕЛЬНОЙ РАБОТЫ НЕСОВЕРШЕННОЛЕТНИХ ОСУЖДЁННЫХ В УЧРЕЖДЕНИЯХ ФСИН РОССИИ

Аннотация. В статье представлено современное состояние воспитательной работы с несовершеннолетними осуждёнными в воспитательных колониях ФСИН России. Автором определяется то, что рецидивная преступность молодёжи и подростков в настоящий период остаётся одной из острых проблем в Российской Федерации.

Так, подростковая преступность является мощным источником самодетерминации преступности как таковой. Сегодня криминальная заражённость несовершеннолетних продуцирует преступность лиц молодого возраста (от 14 – 17 лет), транслирует негативный криминальный опыт в будущее, который, по законам социального обучения, вновь «возвращается» завтрашним подросткам в качестве «социального наследия» предыдущих поколений. А также не стоит забывать и о том, что несовершеннолетние преступники являются социальной базой организованной и рецидивной преступности в современной России.

Также можно отметить, что, совершая повторные уголовные преступления, правонарушитель твердо убеждён в своей безнаказанности. Рецидив преступлений несовершеннолетних осуждённых к условным срокам уголовного наказания (либо исправительных работ), или к незначительными реальными сроками лишения свободы подчёркивает неэффективность вынесенного наказания, что отражается в росте числа повторных уголовных преступлений, совершаемых несовершеннолетними. Поэтому весьма реально то, что из-за слабости и неэффективности пенитенциарной ресоциализации в местах лишения свободы через несколько лет может возрасти число преступлений, совершаемые осуждёнными, но в более извращённой форме (не исключено и в составах ОПГ). А также преступность несовершеннолетних способствует распространению криминального образа мыслей и способа поведения в «здоровой» подростковой среде, ведет к её криминальному заражению. Так, даосская мудрость гласит: «... бойтесь своих мыслей, ибо они начало ваших поступков» (Лао-Цзы, VI– V веков до н.э.). Подростковая преступность причиняет вред личностному развитию самого несовершеннолетнего преступника, способствуя тем самым продолжению криминальной деятельности несовершеннолетнего. С учётом вышеизложенного, преступность несовершеннолетних следует рассматривать в качестве одной из наиболее серьёзных и значимых социально-правовых проблем современного российского общества.

В статье автором предлагается «модель» развития пенитенциарных учреждений, включает в себя описание целей и задач Воспитательного центра ФСИН России, его функциональной и организационной структуры, условий отбывания наказания и содержания под стражей несовершеннолетних осуждённых. Также в качестве доказательной базы, анализируются концептуальные подходы реализации развития Концепции уголовно-исполнительной системы Российской Федерации до 2020 года – «Концепция – 2020». Представлена модель Воспитательного центра ФСИН России для несовершеннолетних осуждённых.

Ключевые слова: несовершеннолетний осуждённый, ресоциализация, современные методы и подходы воспитательной работы, рецидивная преступность несовершеннолетних, социальная перспективность осуждённого, воспитательная колония ФСИН России, воспитательный центр ФСИН России, Уголовно-исполнительный кодекс РФ, Уголовный кодекс РФ, Концепция – 2020, ОПГ – организация преступной группы.

Information about author:

Nesterov Artyom Y., Honorary Member of the National Academy of Sciences Republic of Kazakhstan (NAS RK), Master of Law, Moscow State Pedagogical University (Russia), Lecturer in Humanities, College of Management and Law, Moscow State University of Technology and Management named after K.G. Razumovsky, Moscow, Russia; ne7terov.ay@gmail.com; <https://orcid.org/0000-0001-8244-9546>

REFERENCES

- [1] UN Convention on the Rights of the Child, 1989 (ratified in the USSR in 1990) // Adopted by General Assembly resolution 44/25 of November 20, 1989. Entered into force on September 2, 1990.
- [2] United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) // Adopted by General Assembly resolution 40/33 of November 29, 1985.
- [3] Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) // Adopted by Resolution of the UN General Assembly of December 17, 2015
- [4] The Constitution of the Russian Federation, 1993 (subject to amendments introduced by the laws of the Russian Federation on amendments to the Constitution of the Russian Federation dated December 30, 2008 No. 6-FCL and dated December 30, 2008 No. 7-FCL).
- [5] The Criminal Code of the Russian Federation, 1996 // Chapter 14. "Features of criminal liability and punishment of minors" // Federal Law of the Russian Federation of June 13, 1996 No. 63-FL. (edition of 12/27/2019).
- [6] The Criminal Procedure Code of the Russian Federation dated December 18, 2001 No. 174-FL. // (edition of 12/27/2019, of 1/30/2020).
- [7] The Penal Code of the Russian Federation of January 8, 1997 No. 1-FL. (edition of 12/27/2019).
- [8] Decree of the President of the Russian Federation of May 29, 2017 No. 240 "On the announcement of the Decade of Childhood in the Russian Federation".
- [9] The concept of development of the penal system of the Russian Federation until 2020, Approved by Order of the Government of the Russian Federation of October 14, 2010 No. 1772 p.
- [10] The concept of educational work with convicts in the context of reforming the penal system (approved by the Ministry of Justice of the Russian Federation on April 20, 2000).
- [11] Large legal dictionary. / Edited by A.Ya. Sukhareva, V.E. Krutsky. 2. ed., Revised. and add. M.: INFRA-M, 2003. 703 p. ISBN 5-16-000169-7.
- [12] Vetoshkin S.A. (2003) Problems of the theory and practice of penitentiary pedagogy: Principles, content, methods, forms of the process of correction of convicts. // *Pedagogy*. 2003. N 4. P. 36-41 (in Russ.).
- [13] Nesterov A.Y. (2019) Social adaptation of juvenile prisoners in the post-prison period: theory and practice // «The Bulletin of the National Academy of Sciences of the Republic of Kazakhstan». Almaty, 2019. N 6. P.136-140 (in Eng.).
- [14] Nesterov A.Y. (2017) Genesis and development of the system of execution of criminal punishment for juvenile convicts: international and Russian experience (historical excursus). // *Synthesis of science and society in solving global problems*. - Ufa, 2017. - No. 1 Part 3. P.228-260 (in Russ.).
- [15] Nesterov A.Y. (2015) Basic principles for the execution of sentences of imprisonment in educational colonies (theory, methodology, practice). // *Human capital*. M. 2015. N 6 (78). P. 90-100 (in Russ.).
- [16] Protasov A.B. (2012) The relevance of creating a system of crime prevention measures among modern deviant adolescents in prisons // *Bulletin of the Samara Scientific Center of the Russian Academy of Sciences*. Vol. 14. N 2, 2012. P. 153-156 (in Russ.).
- [17] Pudovochkin Y.E. (2001) *Juvenile Criminal Law: Theoretical, Methodological and Historical Legal Aspects*. Stavropol: StavSU, 2001. 219 p. ISBN 5-8155-0094-1.
- [18] *Criminal Procedure Law of the Russian Federation: Textbook* // Ans. ed. P.A. Lupinskaya. M.: Lawyer, 2003. 795 p. ISBN 5-7975-0590-8.
- [19] Federal Service for the Execution of Punishment (Federal Penitentiary Service of Russia) [Electronic resource] // Access mode: <http://фсин.рф> / (date of access: 02.21.2020).
- [20] Shilovskaya A.L. (2006) Preparation of convicted juveniles for release from educational colonies as an element of prevention of recidivism // *Preventive activities of the state as one of the main means of deterring crime in the Russian Federation: Materials of the international scientific-practical conference, December 14-16, 2005* (edited by Y.I. Kalinin). M.: All-Russian Research Institute of the Ministry of Internal Affairs of Russia. P. 293-299 (in Russ.).