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VAILIDITY OF PROHIBITIONS AND OBLIGATIONS ESTABLISHED FOR CONVICTS TO IMPRISONMENT

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The subject of the research. The research focuses on the legal prohibitions and obligations for convicts to imprisonment fixed in the norms of legislation and in subordinate regulatory legal acts adopted in accordance with it.

The purpose of the research is to confirm or refute the hypothesis that there is a current discrepancy between the content of the legal responsibilities of convicts and the goals of the penal enforcement such as rehabilitation and preventing of the commission of new crimes, their social essence and legal nature.

Methods of the research. The research uses retrospective analysis of legislation in the field of execution of criminal punishment in the form of imprisonment, as well as analysis and synthesis of legal literature and empirical research data. To confirm the conclusions of the research authors use sociological survey of 364 citizens and 221 employees of penal institutions located in the Siberian Federal District (the cities of Kemerovo, Novokuznetsk, Novosibirsk, Tomsk, Omsk) aged from 18 to 73 years.

The main results of the research and the scope of their application. On the basis of retrospective analysis of the norms of penal enforcement (formerly correctional labor) law, which establish the penitentiary duties of convicts, the goals and objectives of penal enforcement legal regulation, the results of an empirical study, it is concluded that some of the responsibilities (including prohibitions) of convicts in criminal enforcement law do not have a strict scientific explanation. Their establishment is dictated not only by the need to achieve the purposes of convicts rehabilitation and preventing the commission of new crimes, but also to solve a number of other tasks that do not fit into the existing concept of the execution of punishment in the form of imprisonment and violate the balance between the "punitive" and "correctional-preventive" content of punishment. These include responsibilities that: are a relic of the Soviet socialist society; provide administrative, economic, managerial and other activities of penal institutions; unreasonably "seem" to be an effective way to rehabilitate convicts and prevent the commission of new crimes by both convicts and other persons.

Conclusions. The solution of the mentioned problems in the light of the development of penal enforcement policy in general and of its legislative form in particular is possible in several ways. The first one is that the legal responsibilities of the convicts to imprisonment should be reviewed (excluded, or the content should be changed), taking into account their real impact on the achievement of the goals established by law (or change the latter) and the constantly changing rules and traditions of the human society. The second one is to change the goals of the penal enforcement legislation to its current (and possibly future) norms. The third "middle ground" way consists in simultaneous changing of the goals of the penal enforcement legislation and of the legal responsibilities of convicts in the direction of expanding the dispositive principles of criminal enforcement legal regulation, excluding certain of their responsibilities and prohibitions and expanding their rights.

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1. Introduction.

Defining legal obligations and prohibitions established for persons sentenced to imprisonment and disclosing their content and goals have always been an important task not only for penal (formerly correctional labor) law and practice of its application, but also for fulfillment of all general and specific tasks that correctional institutions address (for example, [1, pp. 194-195; 2, pp. 131-134; 3, pp. 119; 4, pp. 30-31; 5, p. 17]). In accordance with Part 1 of Article 1 of the Penal Enforcement Code of the Russian Federation all norms (or their dominant majority) of the penal legislation should be aimed at correcting convicts and preventing them and other persons from committing new crimes. This means that punishment in the form of imprisonment should be organized in such a way that a released person is prepared not only for correct exercise of his/her rights, but also for compliance with the norms, rules and traditions accepted in society.

Such an approach to execution of prison sentences is also fixed in international acts. The 2015 UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) establish that "the prison regime should seek to minimize any differences between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings" (Rule 5). At the same time, execution of punishment focuses on establishing in convicts the will to lead law-abiding and self-supporting lives after their release and assisting them to do so (Rule 91)[1].

The 2006 European Prison Rules have a similar recommendation in their content, indicating that Restrictions placed on persons deprived of their liberty shall be the minimum necessary and proportionate to the legitimate objective for which they are imposed (Paragraph 3). The procedure and conditions for serving sentences should be close as possible to the positive aspects of life in society (Paragraph 5)[2].

These recommendations should be reflected in Russian legislation (Article 3 of the Penal Enforcement Code of the Russian Federation), but often they are not simply ignored, but are considered something contrary to our legislation. V.A. Utkin notes that certain stereotypes of a wary attitude towards them have not yet been completely overcome. In his opinion, among the most common are:

- international standards are "imposed" on us;
- international standards are "far away" and "not about us";
- international standards are too abstract;
- monitoring compliance with international standards is interference in Russia's internal affairs;
- international standards apply only to deprivation of liberty (or only to Western prisons);
- international standards are one-sided, they are aimed only at protecting the rights of convicts, ignoring the rights of employees;
- implementation of international standards requires a lot of funds [6, p. 92].

Taking into account the above, it is obvious that the norms of law and its subordinate acts in the field of execution of punishments should create objective and subjective prerequisites for convict's normal life in society after his/her release by forming a respectful attitude towards man, society, work, norms, rules and traditions of human community, stimulating law-abiding behavior.

A scrupulous analysis of current penal enforcement norms shows that many obligations and prohibitions for those sentenced to imprisonment are "dictated" not so much by goals of the penal enforcement activities as by the need to ensure other aspects of activities of the penal enforcement system, its institutions and bodies[3]. To confirm this provision, as well as other conclusions of the study, a social survey of citizens, as well as practitioners of correctional institutions of the

[1] UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). Available at: http://www.unodc.org/documents/ (accessed August 10, 2020).

2 European Prison Rules. Available at: http://www.consultant.ru/ (accessed August 1, 2021).

[3] In this case, we are talking specifically about organizational, managerial, economic and other aspects of activities of the penal enforcement system, and not about "penal activities" as such, which constitute the subject of penal legislation.

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Siberian Federal District (SFD case) was conducted (Novokuznetsk, Tomsk, Novosibirsk, Omsk, Kemerovo, etc.)[4]. The contradiction that develops with this approach between an "ideal convict" and an "ideal citizen", which has long been a common place in penitentiary science [7, p. 75], cannot but affect effectiveness of the punishment goals implementation (Part 2 of Article 43 of the Criminal Code of the Russian Federation), as evidenced by post-penitentiary recidivism rates, which, according to various studies, range from 30 to 50% (for example, [8, p. 29; 9, p. 28]).

The above indicates the need for a special study of legal prohibitions for those sentenced to imprisonment based on the analysis of specific goals of the legislation and their social essence. We will clarify that this article does not set the task of studying each of the prohibitions, highlighting the problems of their subordinate regulation [10; 11] and implementation in law enforcement [12].

It seems necessary to identify the existing problem of "goal-setting" of the norms of penal law that establish prohibitions for the category of convicts under consideration.

2. Problem of the content of obligations and prohibitions for persons sentenced to imprisonment and their legal classification.

A. L. Remenson was one of the first to distinguish binding and prohibiting norms, depending on their content, into punitive and non-punitive ones in the middle of the 20th century. The latter, according to the author, can be differentiated as such: obligations aimed at solving educational tasks (for example, obligation to study); those ensuring prevention of crime commission (for example, prohibition to keep certain items); due to the impossibility in conditions of deprivation of liberty to implement some general civil rights in the usual manner (for example, obligation to work as directed by the administration); those arising in connection with application of disciplinary measures for the offense (for example, placement in isolation cells, cell-type premises) [1, p. 204]. Other scientists are of a similar opinion [13, p. 142]. Meanwhile, analysis of the prohibitions stipulated by the Penal Enforcement Code of the Russian Federation and subordinate regulatory legal acts for those sentenced to imprisonment in terms of their goal-setting and social essence allows us to conclude that not all of them can be unambiguously attributed to one or another group of their classification (or even attributed to them).

For example, in accordance with Paragraph 17 of the Internal Regulations of correctional institutions, approved by the Order of the Ministry of Justice of the Russian Federation No. 295[5] of December 16, 2016, convicted men cannot have a haircut of hair no longer than 20 mm on their heads and 9 mm on their beard. It should be noted that the previous legislation did not have specific restrictions on this matter, except for the obligation to have a short haircut on the head, beard and mustache. The question arises: what justifies introduction of this prohibition and how its observance ensures achievement of penal legislation goals?

According to the respondents from among correctional facility employees, for the most part (87%), this prohibition is established for hygiene purposes and identification of the convicted person. In general, while agreeing with a certain logic of this stance, it can hardly be considered convincing and justified in the context of implementing requirements of Part 3 of Article 55 of the

[4] More than 300 respondents took part in the study: 364 citizens and 221 employees of the penitentiary service serving in correctional colonies located in the SFD. The respondents' age ranged from 18 to 73 years. The average age was 32 years. The margin of error was 3%. Differentiation of the respondents into two categories from 18 to 35 years and from 35 and above is due to identification of the upper limit of the category of youth in the Federal Law 489-FZ "On youth policy in the Russian Federation". The lower limit of the sample among citizens is raised from 14 to 18 years in order to increase objectivity of answers to the questions posed, presence of interviewees' superficial knowledge of punishment in the form of imprisonment.

[5] Order of the Ministry of Justice of the Russian Federation dated No. 295 of December 16, 2016 "On approval of the Internal Regulations of correctional institutions". *SPS Konsul'tant Plyus* [Consultant Plus: reference system]. Available at: http://www.consultant.ru/ (accessed August 1, 2021).

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Constitution of the Russian Federation and achieving the objective of correcting convicts and preventing commission of new crimes. To begin with, today in society (at least in Russia) there is no rule or tradition to wear a short haircut, which is confirmed by the sociological data we have received. 94% of people aged 18 to 35 years and 88% over 35 years consider it normal to have any hairstyle, beard and mustache, because it emphasizes individuality of a person. Besides, with this approach, it defies logic to allow women to wear hair of any length. It turns out that men cannot observe hygiene, having a long hairstyle and beard, and women can; the former are more difficult to identify than the latter. Consequently, validity of this prohibition comes from the punitive content of punishment, which does not seem to be true. It is enough to refer to Part 1 of Article 56 of the Criminal Code of the Russian Federation to make sure that deprivation of liberty consists only in isolating the convicted person from society, but not in any way limiting his/her individualization. It seems that this prohibition does not affect formation of the convict's respectful attitude to norms and rules of human community (which, on the contrary, support person's desire for individualization) and prevention of crimes, and is not covered by the punitive component of punishment. In support of the above conclusions, it is necessary to refer to international standard recommendations that do not contain such restrictions for convicts. On the contrary, "in order that prisoners may maintain a good appearance compatible with their self-respect, facilities ***shall be provided for the proper care*** of the hair and beard, and men ***shall be enabled*** (emphasis added) to shave regularly" (Paragraph 18 of the Mandela Rules).

Establishment of prohibitions to keep certain things and objects, sell, purchase, donate, and alienate personal things in any other way to other convicts, hang photographs, reproductions, postcards, clippings from newspapers and journals, religious objects and other objects on walls and beds, keep animals and birds, engage in gardening, breeding ornamental fish, and growing indoor plants, make sport and exercise equipment, change beds, perform or receive tattoos, keep photo albums in bedside tables, television and radio receivers, as well as personal belongings at the workplace, manufacture and use homemade electrical appliances, take food out of the canteen without the administration's permission and obligations to greet staff of a correctional institution and other visitors each time and move around the territory in formation causes criticism in the context of achieving goals of the penal enforcement activities. It seems that their establishment pursues (or pursued earlier)[6] achievement of other goals and objectives.

2.1. Obligations and prohibitions of persons sentenced to imprisonment as a relic of the Soviet society.

Retrospective analysis of the legal literature and legislation reveals that some of the above obligations and prohibitions are relics of the Soviet society and vestiges of the current legislation. Their establishment was mostly dictated by rules and traditions that existed in the Soviet society; nowadays some of them are either not acceptable by the public and the state, or have a neutral connotation.

So, for example, introduced by the Decree of the Council of Ministers of the USSR "On the organization of camps and prisons with a strict regime for the detention of particularly dangerous categories of criminals" in 1948, the prohibition to exchange, present, give and borrow personal belongings, in our opinion, was dictated, first, by abolition of private trade in the USSR, recognition of "NEPmen" as exploiters and class enemies, and prohibition of petty speculation, second, by achievement of another peak of the commodity deficit in the country after the war. With this approach, establishment of the prohibition of any transactions inside the correctional institution brought up the convicted person's intolerance for similar actions in society and stimulated law-abiding behavior.

This prohibition took root by expanding the range of acts recognized as economic crimes (speculation) in the 1960 Criminal Code of the RSFSR, which was subsequently decriminalized [14,

[6] In the law, these goals are stated as goals of the penal legislation, but it seems to us that the legislation of any branch of law has other goals.

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p. 131]. Hence, it is not entirely clear, why this prohibition is in force nowadays, when the institution of private property and commodity-money relations is restored, and the state and society encourage this activity. Consequently, abandonment and development of this prohibition has the purpose of depriving or limiting an actual opportunity to commit crimes. At the same time, none of the respondents from among the practitioners could answer unequivocally to the question: prevention of which crimes entails a ban on transfer or donation of food or essential items to another convict. Moreover, 78% of them do not consider it "illegal" and even mention existence of unofficial practice of transferring things from one convict to another "with the consent of the correctional institution administration". This situation does not contradict international standards in the field of execution of criminal penalties. It should be noted that N.V. Kiselyov drew attention to presence of such a "latent" disposition in the legal regulation of penal relations (where the law does not provide for the possibility, but this follows from its meaning, actual conditions of execution of punishment and is reasonably used in the law enforcement practice of correctional institutions) at the end of the last century [15, pp. 6-7]. Sharing the author's opinion on the need to expand dispositive principles in the legal regulation of punishment execution in the form of deprivation of liberty, we believe that in the future, the obligation under consideration should either be completely excluded from by-laws, or amended to correspond to current practice of its implementation[7].

The prohibition of performing or receiving tattoos is another example. It seems that establishment of this norm in the same 1948 and its preservation in subsequent editions of the Internal Regulations of correctional institutions was due to the need to combat criminal subculture, prohibited in the Soviet society [16, p. 7], as well as prevent the spread of HIV and other infections. Nowadays, the prison subculture is also recognized as extremist and banned on the territory of Russia[8], but the existing prohibition of performing or receiving other tattoos is not entirely clear to us. The survey showed that today there are no moral norms and rules in society that would prohibit tattoos (with the exception of paraphernalia or symbols of the Nazis, extremist organizations, or others prohibited by federal law). Moreover, the study revealed that 79% of the respondents either have a neutral attitude to tattooing, or understand and support this activity to express their individuality. With this in mind, it is advisable to amend the existing prohibition of tattooing in penal law, extending it only to symbols similar to administrative legislation (Article 20.3 of the Code of Administrative Offences of the Russian Federation).

As for the prohibition to take food out of the correctional facility canteen without permission of its administration, in our opinion, its establishment was dictated by moral rules of behavior adopted in the Soviet society, as well as the need to ensure sanitary and hygienic requirements in the dormitory (or at the workplace). Currently, the existence of this prohibition is illogical due to a number of circumstances. To begin with, it is not comparable with the rules and norms accepted in society and does not affect convicts' future life after their release as law-abiding citizens, as 84% of the respondents agree. Besides, food products, taken out after a meal, are the convicted person's property, and, therefore, cannot be alienated (Article 35 of the Constitution of the Russian Federation). Furthermore, the establishment of this prohibition in the middle of the last century was caused by a lack of storage places for these products in the dormitory of the detachment, but currently

[7] Analysis of the convict census data shows that this prohibition has a significant impact on development of penal law relations. Despite limitation of the number of parcels received, depending on the type of correctional institution and conditions of serving sentence, the majority of convicts (or rather, 87%) do not experience the impact of this restriction, since they have never got parcels during the time of serving the sentence.

[8] The Supreme Court recognized AUE as an extremist organization. *Rossiiskaya gazeta=The Russian Newspaper*. Available at: https://rg.ru/2020/08/17/verhovnyj-sud-zapretil-dvizhenie-aue-v-rossii.html (accessed August 1, 2021).

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the legislation has created all possible conditions for this (including a separate room, storage cell and refrigerator[9]. Finally, there is a paradoxical situation, when food products purchased in a store (bar), including those required for heat treatment, are allowed to be taken out and stored in the dormitory, but food from the canteen is not. Thus, this prohibition is not conditioned by goals of the penal enforcement activities, and, in the future, in our opinion, it can be excluded.

2.2. Obligations and prohibitions for convicts as a way to ensure activities of penal institutions and bodies.

We are particularly interested in obligations and prohibitions, introduced to ensure economic, managerial and other activities of institutions and bodies executing punishments that are not related to realization of the goal of correcting convicts and preventing commission of new crimes, in particular, prohibitions of using an electric boiler with a capacity of more than 0.5 kW[10], keeping more than 10 copies of books and journals[11], interfering with the work of plumbing equipment in punishment cells, ward-type rooms and single-space ward-type rooms, changing the sleeping place without permission, as well as the obligation to move around the territory of the correctional facility in formation. It should be noted that such "diverse": and "unclear" obligations and prohibitions are reflected not only in domestic, but also foreign legislation (for example, the Republic of Moldova, Estonia, etc.)[12]. At the same time, most of these prohibitions are absent in the recommendations of international acts.

At the same time, it would be absurd to deny that in any modern society it is the basis that determines the superstructure, which not only reflects and fixes it, but also creates (or slows down) regulatory conditions for its development. Hence, it is quite logical that any state system, including execution of punishments, pursues an economic interest. In this case it is necessary to change ultimate goals of the penal enforcement activities corresponding to its norms. It should be noted that such proposals have already been reflected in science of penal enforcement (formerly correctional labor) law; still, most of them do not justify existence of the convicts' obligations mentioned above.

In this regard, the provisions of the Scientific and Theoretical Model of the General Part of the Penal Enforcement Code of the Russian Federation (Model Code) are worth mentioning. They were prepared in 2016 by a working group of specialists under the leadership of Professor V.I. Seliverstov. Article 2 defines "ensuring" achievement of the goals to correct, prevent crime and restore social justice enshrined in criminal law as legislation goals. According to the developers, legislation cannot have the goal of correcting convicts, but it should create conditions for achieving such results by its

[9] Order of the Federal Penitentiary Service of Russia No. 512 of July 27, 2006 "On approval of the nomenclature, standards of maintenance and service life of furniture, inventory, equipment and household items (property) for institutions executing criminal penalties in the form of imprisonment and pre-trial detention facilities of the penal enforcement system. *SPS Konsul'tant* Plyus [Consultant Plus: reference system]. Available at: http://www.consultant.ru/ (дата обращения: 01.08.2021).

[10] The prohibition introduction might be dictated not so much by economic costs of electricity as by requirements of fire safety. However, it is not entirely clear in this case why suspects and accused persons held in pre-trial detention centers of the penal enforcement system are allowed to use electric boilers with a capacity of not 0.5 kW, but already 0.6 kW. It seems that the matter is far from the difference in the legal status between the accused and the convicted.

[11] In this case, we agree with S.E. Mayorova that introduction of this prohibition is due to complexity of creating necessary conditions for this; however, such conditions, as the author rightly notes, can be created (a specific correctional institution may have premises for this) [13, p. 103].

[12] The Statute of serving sentences by convicts of May 26, 2006. *Ofitsial'nyi monitor Respubliki Moldova= Official Monitor of the Republic of Moldova*, 2006, no. 91-94, p. 676 On the execution of punishments related to isolation from society: the Law of the Republic of Estonia of July 14, 2000. Kodeksy Rossiiskoi Federatsii [Codes of the Russian Federation]. Moscow, 2001.

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regulation [17, pp. 43-44]. Partly, consolidation of such a term will make it possible to attribute some obligations of convicted persons to ensuring its implementation, but not all of them (in fact, as well as expanding the goal of crime prevention to prevention of any offenses). We believe that the indicated problem can be solved in a different way.

The first, and probably, the easiest way is to include the goal of "ensuring activities of institutions and bodies executing punishments" in Part 1 of Article 1 of the Penal Enforcement Code of the Russian Federation. With this approach, almost all existing (and possibly future) penal enforcement obligations and prohibitions (even not the most logical ones) established for convicts will fully correspond to the indicated purpose. Unfortunately, "convenience" of punishment execution may prevail over true goals of its imposition.

The second, the most difficult, but necessary option is to reconsider obligations with regard to current social rules and traditions, convicts' attitude to themselves, impact of each obligation on real achievement of punishment goals. Moreover, it is impossible to conduct such a study without understanding certain philosophical categories and involving the public in this work, which, apparently, for the past decades has been ignored not only by the penitentiary system when drafting Internal Regulations and approving them by the relevant ministry, but also by individual scientists of departmental science[13]. According to F.A. Vestov, now science does not notice any real contraindications against "driving humanity to happiness with an iron hand" in the form of civil society and the rule of law, while using methods of coercion. Such coercion is based not only on laws, but also on specific interests of political actors associated with their constantly emerging needs in solving a wide variety of managerial and organizational tasks [20, pp. 96-97]. Unfortunately, this also applies to the penal system. Expansion of the list of prohibited items and substances is a good example of this. As noted by S.E. Mayorova, it was specified according to the degree of distribution of certain things and objects that can be used for criminal purposes [13, p. 63]. However, we can only partially agree with this conclusion.

So, it is hardly possible to consider food products requiring heat treatment, home canning products, medicinal substances, medical items without medical indications, education certificates, marriage registration certificates, and tattoo machines as means of committing a crime. Their introduction (except for storage of documents), according to practitioners, was mainly due to ensuring safety of convicts (for example, so that they would not be poisoned, would not get infected, etc.). But, at the same time, it would be absurd to believe that the presence of a green card or a bandage, or ability to fry prohibited raw meat in a frying pan can hinder achievement of correction goals or somehow refrain convicts from a crime. On the contrary, it "atrophies" the convicts' ability to independently provide themselves and others with first aid, cook food and carry out other life-supporting activities. Accordingly, these norms contradict the essence of one of the tasks of penal enforcement activities to assist convicts in social adaptation (Part 2 of Article 1 of the Penal Enforcement Code of the Russian Federation).

2.3. Obligations and prohibitions for convicts as an "apparent" way to correct them and prevent commission of new crimes.

Moreover, it is reasonable to more carefully analyze those convicts' obligations that, as it seems, are reasonably established and ensure realization of punishment goals. Special attention should be paid to the prohibition of purchase and use of cell phones. According to most scientists, practitioners, and the public its violation has such a great public danger that it is necessary to toughen penalties for this act. However, in our opinion, not everything is so obvious here either.

According to official statistics of the Ministry of the Interior, about 1-2% of all fraudulent crimes with the help of phones are annually committed by prisoners[14]. If we consider not only convicts, but also

[13] For example, taking into account the goal-setting of convicts' obligations, it seems far-fetched to include energy drinks in the list of prohibited items [18]; establish a haircut of hair no longer than 5 mm for men and no longer than 100 mm for women, chin and mustache shaving [19].

[14] The subscriber is temporarily unavailable. Deputies have introduced a bill on blocking cellular

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suspects and accused persons in custody, the percentage of crimes committed particularly by convicts is even smaller. As for the rate of such crimes per 100 thousand people, in places of deprivation of liberty it is in fact 2-3 times higher than in society[15]. However, this does not mean that allowing convicts to use cell phones will increase the crime rate by tens (or even hundreds) of times. In our opinion, the problem lies not so much in the "criminal infection" of convicts, as in their employment. Considering that as of 2020, the share of convicts involved in paid work amounted only to 30.2%[16], it is hardly possible to deny the influence of this factor on commission of telephone fraud. As noted in the media, prisoners using mobile phones "exert pressure on witnesses and coordinate actions of organized criminal group members who are at large", including for extremist purposes. However, for the most part, we are talking about suspected and accused persons, and establishment of this prohibition is quite understandable and meets the goal of choosing an appropriate preventive measure (Part 1 of Article 97 of the Criminal Procedural Code of the Russian Federation).

It seems that in fact convicts' purposes of using cell phones are not so "negative" in nature, as it is stated in the media and individual scientific studies. This, in particular, is evidenced by results of the study conducted by the Research Institute of the Federal Penitentiary Service of Russia, according to which 90% of all illegal phone calls made by convicts are of a domestic nature (calls to relatives and friends) [21, pp. 749-750]. Violation of this prohibition, as rightly noted in the legal literature, is facilitated not only by restrictions on the number, duration and time of calls, but also by their inflated cost, which is 5-7 times higher than telephone rates of almost any Russian cellular operator, although some scientists claim the opposite. Thus, according to S.M. Kolotushkin, wired telephone rates in penitentiary institutions are several times lower than cellular phone ones, which hardly corresponds to reality [22, pp. 28-30][17]. Hence, introduction of this prohibition in subordinate regulatory legal acts is not scientifically grounded and violates the balance between "punishment" and "corrective and preventive action" (Part 3 of Article 55 of the Constitution of the Russian Federation).

Contrary to the opinion wide-spread among practitioners [23, p. 34; 24, p. 56] and the public[18] on the danger of using cell phones, we believe that in the light of liberalization of legislation in the field of execution of punishments, the attitude to this issue should be reconsidered, taking into account, data of special criminological studies in this area.

communications in prisons. *Kommersant=Business Man*. Available at: https://www.kommersant.ru/doc/4215494 (accessed August 1,2021).

[15]To further initiatives of "fighters" with convicts' cell phones under the pretext of their criminal activities, it seems relevant to ban cell phones for all citizens of the country. However, it is the fight against crime that is more reasonable, but not against means of committing crimes.

[16] Decree of the Government of the Russian Federation No. 312 dated April 15, 2014 "On approval of the State Program of the Russian Federation 'Justice'". SPS Konsul'tant Plyus [Consultant Plus: reference system]. Available at: http://www.consultant.ru// (accessed August 1, 2021).

[17] Without finding out the cost of the wired telephone rates, it can be noted that 1 minute of a phone call from a correctional institution today costs a convict 2.5-3.5 rubles (see, for example, the Zonatelecom off-site. Available at: https://www.zonatelecom.ru/services/mobile/mobileapp (date of appeal: 30.07.2021). Mobile operators have tariffs where one minute costs less than 0.5 rubles (see, for example, the official website of the mobile operator MTS. Available at: https://omsk.mts.ru/personal/mobilnaya-svyaz/tarifi/vse-tarifi/ves_mts_super_itv (accessed: 30.07.2021).

[18] See, for example: The defendant gadget. A new article of the Criminal Code will be introduced for transfer of mobile phones to prison. Available at: https://rg.ru/2019/12/16/za-peredachu-mobilnikov-za-reshetku-vvedut-ugolovnuiu-otvetstvennost.html (accessed July 30, 2021); Prisoners' phones may be blocked. Available at: https://www.pnp.ru/politics/telefony-zaklyuchyonnykh-mogut-byt-zablokirovany.html (accessed July 30, 2021).).

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Perhaps, the situation is not that bad.

Correctional facility employees have no doubt about the impact of the obligation to greet employees and other persons on formal terms on correction of convicts. As noted in literature, such a traditional address emphasizes a polite and respectful attitude towards a person and sets certain boundaries in communication [25, p. 54]. However, one can hardly agree that one should greet the same person at every meeting in a short period of time (for example, several times an hour). This conclusion is confirmed by results of the sociological study: 94% of the respondents from among citizens do not consider it "normal" and "accepted in society" to greet the same person several times a day. Correctional workers themselves hold a similar position. We think that, in the near future this obligation should be changed with regard to changing ethics norms.

3. Conclusions.

Summing up, we can conclude that part of the current norms of penal law, which establish obligations and prohibitions for those sentenced to imprisonment, is not scientifically justified. As our research shows, establishment of new and prolongation of previously existing penal enforcement obligations and prohibitions is dictated not only by the need to achieve goals of the penal legislation in the form of correcting convicts and preventing commission of new crimes, but also to solve a number of other tasks that do not fit into the existing concept for execution of punishment in the form of imprisonment. These include the need to ensure economic, managerial and other activities of penitentiary institutions and bodies that are not related to realization of the goal of correcting and preventing crime commission (for example, limiting the number of books, prohibiting the use of a boiler with a capacity of more than 0.5 kW, walking in formation, etc.). A separate group should include obligations and prohibitions that are "relic" of the Soviet society, compliance with the rules and traditions of which is currently either not supported by society and the state at all, or has a neutral connotation (for example, prohibition of taking food out of the canteen without permission, prohibition of presenting or transferring personal things, etc.). In our opinion, they violate the balance not only between "punitive" and "correctional-preventive" content of punishment, but also Part 3 of Article 55 of the Constitution of the Russian Federation, stipulating that restrictions can be imposed only to the extent necessary to protect foundations of the constitutional order, morality, health, rights and legitimate interests of other persons, ensuring defense of the country and security of the state.

It seems that when developing the penal enforcement policy in general and its legislative form in particular, it is possible to solve this problem in several ways.

The first is to revise legal obligations of those sentenced to imprisonment with regard to their real impact on achieving goals to correct convicts and prevent commission of new crimes and constantly changing rules and traditions of human community, while not changing goals of the penal legislation[19]. The second is to bring goals of the penal legislation to its current (and possibly future) norms. These can be "ensuring correction of convicts", "ensuring activities of institutions and bodies executing criminal penalties", "ensuring safety of convicts, staff and other persons", "ensuring prevention of crimes and other offenses by both convicts and other persons". It is obvious that implementing only one of the indicated approaches, it is impossible to effectively execute punishment due to the bias of "retribution", "convenience of punishment execution by institutions" or "relaxation". Apparently, the "golden mean" is still required. In the light of elaboration of a draft Special Part of the Penal Enforcement Code of the Russian Federation [27] by the author's team under the leadership of Professor V.I. Seliverstov, it may be simultaneous amendment

[19] Such changes may result in convicts and other persons' actions, which, according to V.I. Seliverstov, are a kind of "clowning" and disorganizing the normal functioning of the correctional institution. These include, for example, receiving dozens of parcels and transfers per day to one addressee, having several dangerous dogs by each convict, keeping several thousand (hundreds of thousands) of books in the personal belongings storage room, etc. (see, for example, [26, p. 16])

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of goals of the penal legislation (of those indicated above) and penitentiary obligations of convicts towards expanding dispositive principles of penal enforcement legal regulation (for example, by permitting transfer of belongings, tattooing, change of the sleeping place, installation of radios at the workplace with the consent (or notification) of the administration, etc.).

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