

ANNOTATION
to the dissertation of Bazilova Aigul Abaevna,
submitted for the degree of Doctor of Philosophy (PhD) under the
educational program “8D04201 – Jurisprudence”,
on the topic: “Prevention of Crime among Persons Sentenced to
Imprisonment and Its Criminological Characteristics.”

Relevance of the Dissertation Research. At present, the political, socio-economic, and legal reforms taking place in the country necessitate the improvement of the current criminal, penal enforcement, criminal procedural and other legislation regulating the fight against crime. Combating crime and its individual types is one of the fundamental objectives of the state. One of the forms of crime is the criminality of convicted persons, which is characterized by a high degree of public danger for the state, society, and the individual.

The repeated commission of criminal offenses by persons serving criminal sentences should raise concern for the state and law enforcement authorities, since individuals to whom the regime requirements of the relevant type of punishment and corrective educational measures are applied, while being under the supervision of the bodies and institutions responsible for the execution of sentences, nevertheless commit new criminal offenses. This indicates the ineffectiveness of the applied type of punishment, as well as the existence of shortcomings in the activities of the bodies and institutions executing sentences.

Degree of Development of the Dissertation Research Topic

The majority of scholars have devoted their specialized scientific research to the problems of criminality among persons sentenced to deprivation of liberty. In particular, among domestic scholars, the scientific works of K.S. Saginbekov, R.E. Dzhansarayeva, B.R. Taubayev, and other researchers can be noted.

Object of the Dissertation Research

The object of this dissertation research is the social relations arising in the process of preventing the criminality of convicted persons.

Subject of the Dissertation Research

The subject of the research includes statistical materials characterizing the state, structure, and dynamics of the criminality of convicted persons; the personality of the convicted offender; determinants influencing the repeated commission of criminal offenses by convicted persons; measures for preventing the criminality of convicted persons; and foreign experience in combating this type of crime.

Aim and Objectives of the Dissertation Research

The aim of the research is a comprehensive study of the criminality of convicted persons and the development of proposals for improving the system of measures aimed at preventing the criminality of convicted persons.

The achievement of this aim is ensured through the solution of the following objectives:

1. to reveal the content of the concepts of penitentiary crime and the criminality of convicted persons, as well as to determine their differentiation;

2. to systematize and analyze the main determinants influencing the criminality of convicted persons in places of deprivation of liberty;
3. to identify the factors affecting the effectiveness of the probation service and to assess their impact on the repeated commission of crimes by convicted persons;
4. to analyze the effectiveness of the current criminal and penal enforcement legislation in the field of combating the criminality of convicted persons;
5. to substantiate the directions for improving criminal legislation, including determining the necessity of introducing new criminal law provisions (Articles 428-2 and 430-1);
6. to develop proposals for improving penal enforcement legislation (organization of visits, video communication, expansion of forms of correspondence, etc.);
7. to substantiate effective mechanisms of social adaptation, educational and legal influence (mediation, religious and educational activities, employment) in the prevention of the criminality of convicted persons.

Methodological Framework of the Research

The following research methods were used in the course of the study:

- the dialectical method of cognition, which makes it possible to analyze the dynamics, structure, and state of the criminality of convicted persons as a social phenomenon;
- methods of analysis and synthesis, which allow for the formulation of definitions of the concepts of “criminality of convicted persons” and other categories;
- the method of statistical analysis, which makes it possible to study the quantitative indicators of the criminality of convicted persons;
- methods aimed at improving the system of prevention of the criminality of convicted persons, as well as other scientific methods.

Scientific Novelty of the Dissertation Research

This study is the first comprehensive scientific research aimed at analyzing the problems of preventing criminal offenses committed by persons sentenced to all types of criminal punishment.

In this regard, this dissertation is the first scientific work in the field of criminology in which the problems of preventing the criminality of both persons serving sentences in the form of deprivation of liberty and persons sentenced to types of punishment not related to deprivation of liberty are comprehensively examined.

PROVISIONS SUBMITTED FOR DEFENSE

1. Penitentiary crime and the criminality of convicted persons are considered as interrelated complex criminological categories. These concepts cover not only offenses committed within the framework of the penal enforcement system, but also phenomena associated with the repeated commission of crimes during the period of serving a sentence and after its completion. From this perspective, these categories, characterizing a specific type of crime, make it possible to more deeply reveal its socio-legal nature.

At the same time, this type of crime manifests itself not only in places of detention and imprisonment, but also under conditions of serving punishments not related to isolation from society. Thus, the criminal behavior of convicted persons is formed and develops in various institutional environments. This, in turn, requires a comprehensive study of this phenomenon and a thorough analysis of the factors influencing it.

2. The main determinants influencing the criminality of convicted persons in places of deprivation of liberty are of a complex nature. The study established that insufficient administrative control, deterioration and insufficiency of engineering and technical means, as well as excessive overcrowding of convicted persons act as factors directly influencing the growth of crime. Such conditions reduce the level of supervision and weaken the possibilities of preventing offenses.

In addition, the illegal circulation of prohibited items, ineffective regulation of conflicts between convicted persons, the spread of gambling, and insufficient organization of educational work also complicate the criminogenic situation. The combination of these factors contributes to the persistent existence of crime in correctional institutions and its recurrence.

3. The effectiveness of the probation service is an important factor directly influencing the level of recidivism among convicted persons. However, at present, there are a number of organizational and material-technical shortcomings in the probation system. In particular, staff shortages, insufficient resource provision, and limited use of electronic monitoring tools reduce the effectiveness of supervision.

In addition, the incomplete functioning of the probation institution and the characteristics of the contingent of persons under probation supervision, namely the predominance of persons who have committed serious crimes, increase the likelihood of reoffending. In this regard, the necessity of improving the probation system is substantiated, including through the use of artificial intelligence technologies as an auxiliary tool, the establishment of a mandatory nature of social and legal assistance, coordination of supervision and social adaptation measures, as well as the widespread introduction of electronic monitoring tools.

4. The improvement of criminal legislation is one of the important directions in combating the criminality of convicted persons. In this regard, there arises a need to strengthen liability for the illegal conveyance of communication devices into penal institutions. Such offenses have a negative impact on the criminogenic situation in correctional institutions, contribute to the preservation of criminal connections, and create conditions for the commission of new offenses.

In this regard, it is proposed to supplement the Criminal Code of the Republic of Kazakhstan with Article 428-2 as follows: "Article 428-2. Illegal conveyance of communication devices and their components into institutions of the penal enforcement (penitentiary) system, pre-trial detention centers, temporary detention facilities, and special reception centers. Illegal conveyance or attempted conveyance of communication devices and their components into the specified institutions by any means shall be punishable by imprisonment for a term of up to two years."

The introduction of this norm will contribute to strengthening law and order in correctional institutions, limiting criminal connections among convicted persons, and reducing the level of crime.

5. The prevention of crime among convicted persons should not be limited exclusively to legal measures but should also include social and educational mechanisms of influence. In this regard, the introduction of full-time positions of religious ministers in correctional institutions will contribute to improving the moral and spiritual level of convicted persons.

In addition, the development of the mediation institution for the effective resolution of conflicts among convicted persons is of great importance. At the same time, the training of correctional staff, as well as the introduction of special explanatory programs for convicted persons, will improve the quality of preventive work.

Furthermore, the modernization of the infrastructure of correctional institutions and the expansion of employment opportunities for convicted persons are considered effective means of improving their social adaptation and reducing recidivism.

6. In order to prevent the intentional damage of electronic monitoring devices by persons registered under probation supervision, as well as taking into account the importance of such devices in preventing possible offenses by such persons, the necessity of supplementing the Criminal Code of the Republic of Kazakhstan with Article 430-1 is substantiated:

6.1 “Article 430-1. Intentional destruction or damage of electronic monitoring devices used in the penal enforcement system.” Intentional destruction or damage of electronic monitoring devices, alteration of their functions, or circumvention of their operation shall be punishable by a fine of up to one thousand monthly calculation indices or by imprisonment for a term of up to one year.

6.2 In addition, it is proposed to supplement the Criminal Code of the Republic of Kazakhstan with Article 428-2 as follows: “Article 428-2. Illegal conveyance of communication devices and their components into institutions of the penal enforcement (penitentiary) system, pre-trial detention centers, temporary detention facilities, and special reception centers.” Illegal conveyance or attempted conveyance of communication devices and their components into the specified institutions by any means entails liability established by law.

7. Directions for improving penal enforcement legislation:

7.1 The necessity of excluding food products from the list of prohibited items provided for in paragraph 1 of Article 481 of the Code of Administrative Offenses of the Republic of Kazakhstan is substantiated, since this norm does not correspond to the provisions of penal enforcement legislation and internal regulations;

7.2 It is proposed to supplement paragraph 2 of Article 106 of the Penal Enforcement Code of the Republic of Kazakhstan with a provision предусматривающей возможность организации краткосрочных свиданий в формате видеосвязи;

7.3 It is proposed to replace in Article 109 of the Penal Enforcement Code of the Republic of Kazakhstan the concept of “telecommunications” with the concept

of “video communication,” as well as to legally specify the form “telephone (video communication)”;

7.4 It is proposed to supplement Article 108 of the Penal Enforcement Code of the Republic of Kazakhstan with a provision allowing correspondence to be carried out in written, electronic, and video formats.

Regulatory Framework of the Dissertation Research

The regulatory framework of the dissertation research consists of the provisions of the current criminal legislation, penal enforcement legislation, legislation on administrative offenses, the Law of the Republic of Kazakhstan “On Probation,” the Law of the Republic of Kazakhstan “On the Prevention of Offenses,” the Law of the Republic of Kazakhstan “On Religious Activity and Religious Associations,” the Law of the Republic of Kazakhstan “On Mediation,” as well as the provisions of regulatory legal acts governing the procedure for the execution and serving of certain types of punishment, and the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Empirical Framework of the Dissertation Research

The empirical framework of the dissertation research consists of statistical reports for the period from 2015 to 2025 contained in the “Qamqor” database of the Committee on Legal Statistics and Special Accounts of the General Prosecutor’s Office of the Republic of Kazakhstan, as well as court judgments rendered with respect to convicted persons who have repeatedly committed criminal offenses.

Theoretical and Practical Significance of the Dissertation Research

The scientific results and conclusions obtained in the course of the research may be used as a basis for further scientific studies related to the problems of combating the criminality of convicted persons. In addition, these scientific results and conclusions may be applied in law-making activities, in particular in improving the current legislative acts.

Approbation of the Dissertation Results

The main scientific results, conclusions, and proposals of the dissertation research have been tested and validated through the author’s scientific publications. A total of six scientific works have been published on the research topic, including one article in a journal indexed in the international databases Scopus and Web of Science Core Collection, as well as five articles in scientific publications recommended by the Committee for Quality Assurance in Science and Higher Education of the Ministry of Science and Higher Education of the Republic of Kazakhstan.