

Psychosocial and Legal Aspects of Penitentiary Work in Bulgaria

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Abstract

The article analyzes penitentiary work and treats it as a possible model of prevention with regard to prisoners. Emphasis is placed on the existing legal norms that allow for the realization of this universal human right, as well as some psychosocial aspects in its application.

The aim is to present the problem of the existence of a unified, realistic legal model for penitentiary work in terms of its psychosocial aspect, protected by law.

The subject of analysis is the framework of the existing legal system, which has adopted the international legal norms for the implementation of penitentiary work and has become an essential part of the social life of the prisoners.

The possibilities for its positive impact on this category of citizens are outlined.

Keywords: Penitentiary legislation; Penitentiary work; Psychosocial Impact; Legal Norms.

Introduction

Hidden from the eyes of the public, far from the media interests, penitentiary work is particularly important in its psychosocial nature. Long broken with slave labor, to those in exile, with the labor of convicts and those in concentration camps today in democratic societies norms require a new approach and a different look busy with positive social saturation labor of prisoners.

According to Traikov, "The evolution of the murderous wicked labor and heavy physical labor, used as a repressive measure and as an element of the content of the punishment, to the modern understanding of labor only as a means of educating the convict and his preparation for the life of freedom accompanies the development of penitentiary law in the 20th century. Confirmation

of this evolution is also the overall legal framework of prison labor in Bulgaria by the Provisional Rules for the Establishment of Prisons of 1879 and the Act on the Work of the Prisoners from 1922 to the acting the Penal Code and the law on serving the penalties. Taken in this aspect, the present Law on the Execution of Penalties and Detention, enshrined in our contemporary democratic, legal and political constructs, formalises the work of this category of citizens and emphasizes its social and personal psychological significance.

Political and socio-economic development of the country forced the reconsideration of the overall legal and social doctrine of the legal application possibilities of the penitentiary labor. The nature and characteristics of this specific labor undergone positive development and of punishment he is no longer a social necessity for inmates and society, so that the meaning and philosophy of art. 41, para. 1 of the current Penal Code be redrafted to the current day text that makes public key objectives for the prisoners in their work, "serving a sentence of imprisonment is accompanied by suitable, respectively paid community service, which seeks rehabilitation of convicts, and the creation and improvement of their professional qualifications. "

From labor, devalued and made for physical effort, for his own sake, and as a kind of revenge against the convicted, he has other characteristics today that do not distinguish him from the conditions, necessity and efficiency of any other type of labor. The purpose of penitentiary work is busy with the expectation to become a social instrument whose elements will bring about the unconscious but presently re-educating impact on the behavior of the prisoners. They will also influence them psychologically and will make them rethink the essence of their entire existence up to and after the moment of transgression at the penitentiary, even more so that the application of this labor is realized under conditions of special regime unknown to the convicted and radically different labor outside prison.

The theme of the practical realization of penitentiary work and its psychosocial aspects as an influence on prisoners has always been relevant in the legal circles, has also generated polar discussion views in political circles expressed over time because it is saturated and treated with a peculiarity to society sensitivity.

Looking at some of the moral and social aspects of penitentiary work and its psychological impact on the convicted, we should also try to analyze the applicable legal framework as well as the conditions in which it is implemented.

In this context, it is necessary to answer the question whether and to what extent it complies with the existing international norms, such as the texts of Art. 10, p. 3 of the International Covenant on Civil Rights, the first sentence of which reads: "The prison regime includes such treatment for those convicted, the main purpose of which is their correction and social re-education."

This is the point of trying to analyze the penitentiary work in the present work because this work brings its social saturation, its nature is socially different from the work of all outside prisons, and the urge to implement it and its benefits have special and different characteristics from the generally applicable labor because they are dictated by radically different conditions.

The history of penitential labor, as an element of the social and economic models of societies, provides us with many and varied information about its initial nature. It is always the equivalent of the socio-economic system that models it, articulates it in legal acts, and implements in practice whether or not it develops at the rate at which the socio-economic system develops or does not develop in society. The processes of societal development, industrialization, war and wars, the modernization of the views of political parties, the new social ideas in the processes of their democratization and their widening social influence undoubtedly forced a new perspective on this particular work.

This is because the political systems and political forces defining the direction of the economic, social and social development in our country work in an effort to synchronize our national legislation by taking it in line with the Recommendation Rec (2006) 2 of the Committee of Ministers of the Member States on the European Prison Rules where Part I of the Basic Principles contains the following texts: "p. 5. Life in prison should be as close as possible to the positive

aspects of life in society "and so on." 6 Deprivation of liberty should be managed in such a way as to facilitate the reintegration of persons deprived of their liberty "as directly relevant to our national legislation.

Globalization and the ability to trace the restructuring of the economic, social and political space, the socio-economic and political impediments in it necessitated the adoption of new, modern policies regarding the convergence of the social and legal framework applied to prisoners in terms of the possibility to work in prisons.

The time when Michel Foucault described the birth of the prisons, and in which Fyodor Dostoevsky wrote about the psychology of the labor has long passed.

"The exercise of ruling power in punishing crimes is undoubtedly one of the most important aspects of justice," Foucault wrote, seeking an emphasis on power relations, emphasizing the role of the rulers, the development and the temporality in them. In order to explain the changes, he does not analyze the development of the trial and sentencing as a humanitarian act with the main aim of lesser violence and correction of the perpetrators of crime, on the contrary, he regards the act of pronouncing the verdict as a pompous theatrical performance with supposedly self- and analyzes his influence in people's minds while Dostoevsky defends the thesis that humanity as a whole is a sensitive, humanitarian and moral product.

Based on the moral principles laid down in the people's spirit, he emphasizes his view that every society has penitentiary institutions because none has managed to escape crime and the need to impose penalties.

According to Yankov, "Dostoevsky points out that the existing system of isolation and punishment of criminals is not intended to correct or correct criminals, but merely to punish them in order to remove them from society, preventing it from other similar acts against its constructive integrity committed "Dostoevsky stresses that every society has such institutions, because so far no society has managed to escape crime and the need to punish criminals. In connection with this, he quite soberly and clearly states that the existing system of isolation and punishment of criminals is not intended to confront or bring criminals to justice."

The historical view of the development of penitentiary work shows the temporality of its unproductive and unprincipled application to: slaves, prisoners, exiles and convicts for political reasons, from the time when it was imposed as exploitative and revenge of the rulers in favor of their protection until the moment when its fullness is of social significance for the person and society and the applicable framework, is not the only one of the ruling authorities but the legislative framework in the social legal framework tion many years have passed.

Historically the violation of human rights in the past is not comparable stronger than today, obezstoynostyavaneto life of convicted and received prison was common practice. The modern postmodern sense of penitentiary work is in the possibility of making the sentenced person become an element of his re-education, activating opportunities to reconsider his behavior and guilt to realize it, to ease his destiny and to leave the penitentiary institution before the deadline of the verdict. So meaningful and legally represented, the essence of penitentiary labor has not been subject to any legal system until the time of the adoption of a democratic legal models in society.

The psychosocial aspects of penitentiary work, the realities in the penitentiary boundaries and the perspectives in them do not exclude two main factors present in the lives of the prisoners that can be realized:

- the ability to educate and
- the possibilities to work.

For this category of persons stressful effect on prison life is particularly high severity situation such as moral and ethical standards. Psychosocial environment in penitentiary establishments is testing the physical, moral and intellectual character of inmates, and according to Kaplan and Zadok, 2002,

anti-social personality disorder occurs in about 90% of persons placed in penitentiary establishments.

These are people who suffer with emotional competence - namely emotions are immature, superficial and shallow emotions; low threshold of irritation; Quick intensity of negative emotions explosion; loss or lack of self-control over impulsive behavior; rigidity of negative affect; lack of compassion (empathy), lack of emotional resonance; lack of guilt; nartsistichnost, inability to emotionally connect; a sense of superiority and grandiosity; emotional instability of self variable feelings of abandonment, uselessness, emptiness, have suicidal impulses and show hostility.

They observed significant deficiencies in terms of social competence - not constructed disorders and communication skills: communication hampered by the inability to establish friendly contacts; problem with leadership; manipulative; socially unacceptable standards of behavior; antisocial of outlook views; life position of hostility and compensation; style habitual aggressive behavior inherent and parents or other family members; integration into the lifestyle of gangs, groups of anti-social behavior or terrorist acts; ineffective coping with problematic life situations through confrontation, acts of violence or substance abuse; unpredictable in perspective, there are no plans for the future; action without considering the consequences; inability to use their own experience in problem solving.

People with antisocial (disruptive) personality disorder usually are not able to promote and maintain therapeutic relationship, and most often they are seen as 'curable' only specialized (usually forensic) facilities. Their behavior is corrected difficult. Most modern forms of psychotherapy are ineffective, and some even considered to be kontraindikirani as increasing manipulation of people with this type of personality abnormality.

It seems a form of choice for psychotherapy is occupational therapy. Due to the large discrepancy between the behavior of persons with antisocial personality disorder and the existing social norms, they need firm boundaries and regulation in communicating with others and training to comply with framework and rules. These are the potential benefits with which the impact through systemic work can be effective in those with this psychopathology.

In this particular category of working people there is a sharp change in the intensity of life and the different nature of social contacts, the profile of the social atmosphere and its meaning transform and interfere with the interpersonal relations known from everyday life in the free society.

The impact of unemployment and forced imprisonment in prison have a negative psychosocial impact on the convicted, and often lead to: frustration, social deprivation, aggression, deadsupation and self-aggression, including a breakdown of social inclusion capabilities.

Conditions with a particular degree of weight on the psyche of the convicted, containing complex relationships and relationships between the complex realization of the personal psyche and the performance or non-performance of the work activity. Under the conditions of the penitentiary environment, the overall behavior of convicted and in particular labor is subject to different organization and different dynamics, compared to our ordinary and familiar labor process. The facts and norms explaining the behavior of the persons in the penitentiary in working conditions and the process of mutual adaptation between them and the environment in which they work are inconsistently different as the purpose and meaning of behavior with the working environment outside prisons.

Analyzing the social opportunities of penitentiary establishments in terms of working hours, at the time considered three major paradigms opposing and invariably present in theoretical discussions in the application of penitentiary policies:

- *the first* deals with deprivation of liberty as a means of depriving the sentenced person of another crime;
- *the second* relates to deprivation of liberty as an opportunity to guarantee the rights of the convict;

- *the third* is burdened with the positives of the first two, and considers imprisonment as an opportunity for a convict to reconsider his conduct and his life in a positive way and to correct his behavior.

For those psychosocial characteristics comprehended in their humane, not criminal discourse regarding deprivation of liberty must be held without dismissing that regardless of the conditions of penitentiary isolation human rights and dignity of the condemned must be respected unconditionally. In this respect labor rights of prisoners, as part of the socialization process should be implemented harmonized with the existing legal texts and depending on the conditions under which their sentence is served.

Legal realized penitentiary framework outlines a long time and warring closed regime daily, Bitu and socialization completely changed social, moral, ethical and temporal pattern of life. This environment and work in it are a counterpoint to the environment from which convicted enter the penitentiary institution. Viewed through the prism of permanently changing legal frameworks temporality and increased requirements to existing domestic realities in prisons, psycho-social environment is in constant development. As a reflection from the clash of different realities among the most common psycho-physical problems that prisoners are entrusted with are the known states of: stress, general fatigue, reduced subjective well-being, reduced self-esteem.

In the historical profile of our national legislation, the legal framework governing the health care of convicts, their placement in hospitals, the use of free medicines, advocacy, visits and correspondence is realized through the Provisional Rules for the Establishment of Prisons.

Penitentiary work is devoted to Chapter IX "For Prisoners' Occupations" of the Rules, in which item 37 is written: "The prisoners who are still under investigation are used only for prison, ie they cut wood, carry water, clean the prison yards, etc .; and convicted of imprisonment for crimes or misdemeanors, except for the execution of the aforementioned work in jail, may be ordered for urban and private work with the necessary guardian and a daily salary based on the annual fee approved by the governor. Non-imminent debtors and spiritual faces escape from all affairs. " It impresses the legislator's attitude in early penitentiary legislation with his will to order labor from both investigative and prisoners, admissible types of work, and labor valuation. In the same rules, "Form 3" presents the "Book for the enrollment of the money earned by the prisoners", indicating "the genus" of the work, the year, the month and the "number" the name of the prisoner and the genus (type) of the work, the sum (earned for the type of work amount) and the gospel for the "receipt".

National penitentiary legislation, as the result of ongoing legal reform is developed and complemented in 1896 with "Criminal Law" and in 1904 entered into force and "Rules of Procedure of the prisoners as a regulation detailing these their legal options". In 1922, these Rules are enriched and developed into "Law on the work of prisoners." The progressive positive development of the penitentiary legislation and availability of these acts are assessment that the legislature gives this kind of work and legislative determination to have a functioning regulatory framework with effective rules.

In the Criminal Law of 1896, in its Book One, Chapter II, "On Penalties," there are listed the types of punishments and the possibilities for labor through the following texts:

"16. Convicted to a strict prison of prison, they are held in common wards, and they receive food and clothing in the dungeon.

The prisoners of this family are divided into two quarters:

- 1) sentenced to at least five years, and
- 2) convicted in less than five years.

Prisoners of the first day of discharge, according to the rules of dungeon rule, use heavy labor, and at night, if possible, separate themselves.

For the work done, both inside and outside the prison, prisoners receive no reward; however, dungeon management is given the right to allow prisoners with proven good behavior after two thirds of the sentence imposed to them to deal with their own choices by receiving in their favor a third part of the net proceeds of the proceeds their work.

Such prisoners for their bad behavior can always be returned from prison to their first state of affairs.

The prisoners of the second order are engaged in their work, as far as it is not contrary to the dignity of the law; but one third of the net income of everybody's work is devoted to his own benefit, and the other two are retained to keep the prisoners at all."

For the first time in our national legislation texts related to penitentiary labor were written as a compulsory act and as a counterpoint to idleness in prisons, with the possibility that one-third of the net income from this work could be handed over to the convict. The legal analysis of the characteristics of these options implies that this is a success for national legislation because:

- For the first time in its legal field, the legislator has found legal application of the possibility for those sentenced to work;
- Prioritized the behavior of convicted persons as a major factor in their existence and development in prison;
- The possibility expressed in the text "... proved good behavior" is credited by the legislator with the actual actions of the prison administration to judge the quality of the situation of the sentenced labor in order to obtain the right to personal income, on payment.

These opportunities posterred for the first time in our legal space should be assessed as texts high legal value and social significance and the approach of the legislature to validate the terms of employment in prisons is a ratio of the country itself to the specifics of the labor protection rights of man.

The existing legal framework is evaluating the impact of this work on psychosocial profile prisoners. Back in time this work carried significant social reflections on society associated with changes in infrastructure and the construction of major economic and social facilities. It is particularly profitable for the state, because it is low paid and in some cases even free. It is important to remember how difficult it was for the administration of the respective prison to arrange this type of operation.

At Book One, Chapter II. For the punishments, p.16 of the Criminal Law of 1896, the legislator added the following text: "(Added: H. 27 January 1904) Prisoners sentenced to imprisonment for at least five years are in prison, using state or public work outside prison, as well as convicted prisoners of less than five years of imprisoned prison or of a prison prison, who wish to use the same work outside prison, obtain a reduction in the penalty imposed on them way that he counts here's a sentence served 20 working days broyata for one month in the prison."

From a psycho-social point of view, the legislator's decision to include a text under which to implement a sentence reduction for prison staff, the administration recognizing twenty working days in one month is impressive. This legal opportunity is an incentive for convicts to try to correct their behavior through labor and is socially meaningful because it binds their overall attitude to their self-discipline and re-education. Even today, this legal circumstance is in force under the National Act on the Execution of Penalty and Detention in Prison, as well as in the Regulations for its Implementation, which regulate the execution of sentences and the possibility of working in prisons.

The right to work, as the basic human right of every Bulgarian citizen, is a basic text in a place in Art. 48, para 1 of the Constitution of our country, according to which: "Citizens have the right to work. The State is responsible for creating the conditions for the implementation of this right. "And is detailed in the following paragraphs, which reads:" The State creates conditions for the realization of the right to work of the persons with physical and mental disabilities.

Every citizen freely chooses his profession and place of work.

No one can be forced to do forced labor. "

Of course, the constitutional texts are about the legislature's principal positions and attitudes towards labor in general. Penitentiary work is specific and different from the general one, and the ability to exercise is among the main legal possibilities for convicted according to the legislation in force in our country. In this sense, in the overall legal framework of our country, containing the Criminal Code, the Penalty Enforcement Act and the detention order, and the Rules for its implementation, unified with the international and community law in force, texts are written that realize the possibilities for penitentiary work.

The legal philosophy of the Criminal Code of the Republic of Bulgaria, located in the texts of Art. 41, para. 1, imposes the thesis on the realization of paid penitentiary labor as a means aiming at: "... the re-education of the convicted as well as the creation and improvement of their professional qualification", not excluding the meaning of para. 2, according to which "Other measures for education and training are also applied". This text has been multiplied in Art. 77, para 1 of the Penalty Execution and Detention Act, according to which: "At the time of serving the punishment, the prisoners have the right to a suitable job" as well as rights in this aspect, as an opportunity on the part of the administration , in order to realize the personal preference of the convict in his choice of a certain type of work.

The European penitentiary labor norms resulting from Recommendation Rec (2006) 2 of the Committee of Ministers of the Member States on the European Prison Rules, adopted by the Committee of Ministers on 11 January 2006, have been implemented in our Penal Code opportunity within the meaning of Art. 41, para. 3, according to which: "The work done (yes) is counted as a reduction in the sentence, with two working days being considered as three days' imprisonment".

This legal realization shows the social and legal meaning objectified by the legislator in the legislation of our country related to the protection of the human rights of the serving sentences. According to Part I, Basic Principles of the above Recommendation, which is obligatory for our country character for the meaning of Art. 5, para. 4 of the Constitution, according to which: "International treaties ratified by constitutional order, promulgated and enacted for the Republic of Bulgaria, are part of the domestic law of the country. They take precedence over those norms of domestic law that contradict them ", p. 1" The human rights of all prisoners must be respected. " Such is the philosophy of the legal acts, which are mandatory in the European sphere, mandatory for implementation in our country as a full member of the European Union.

Current legislation in our country in this direction not only precludes be applied work in penitentiary establishments, but it refined in the modern sense under existing labor legislation harmonized with the norms of the existing Community and international law.

The present study is not intended to detail the norms determining labor in penitentiary institutions, but it should be pointed out that they were implemented on the basis of existing modern labor and penitentiary legislation in an attempt to prevent discrimination of convicted persons and not to violate their human rights. From this point of view, following the legal analysis, it is suggested that in the Regulations for the Application of the Penalty and Prison Act, those legal norms which are most closely related to the Labor Code in terms of labor, the breaks made, its differentiation into paid and voluntary, its differentiation for its placement by sex, the presence of pregnancy, the conditions related to its payment, as well as all the details regarding compliance with the labor protection norms.

Despite these findings, indicating the relatively detailed legal framework of prison labor in line with inter-national norms and close to the national legal framework regulating labor outside prisons, it should be stressed that the two types of labor are too unequal. In conclusion of the above analysis, the following important conclusions can be drawn:

- labor inmates are not included in the social security system and therefore their work is not counted as length of service;
- this work does not necessarily bind prison administrations with a commitment to insurance;

- national criminal and penitentiary legislation does not impose imperative norms in the direction of the exercise of this work, and the existing texts are directed only towards the desired legal possibilities for realization;
- the legislator did not implement the legal protection of penitentiary workers on an equal footing with those outside the prisons.

Based on this analysis and existing legal standards on prison labor should be given the legal possibility of unification of national legislation in the direction of the inclusion of labor penitentiary system of social security.

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