


PSYCHOLOGICAL ASPECTS OF THE PERSONALITY OF THE CONVICTED PERSON

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Article Info	ABSTRACT
<p>Article history: Received Sep 17 ,2024 Revised Sep 19, 2024 Accepted Oct 17, 2024</p> <p>Keywords: <i>Criminal Record, Criminal Personality, Criminal Psychology, Social Consequences, Psychological Relief, Protection Of The Rights And Interests Of A Juvenile.</i></p>	<p>Background: Legal psychology examines the interplay between psychological aspects of individuals and legal regulation, highlighting the professional competence of legal practitioners. Specific Background: Within this field, criminal psychology has emerged as a distinct discipline, focusing on the psychological profiles of criminals and their unlawful behaviors. Knowledge Gap: Despite advancements in understanding criminal behavior, there remains a limited exploration of how a criminal record impacts an individual’s self-perception and psychological well-being. Aims: This study aims to analyze the institution of criminal records through the lens of the psychological characteristics of offenders and their perception of being convicted. Results: The findings suggest that existing criminal record principles may inadequately address the psychological needs of individuals, often exacerbating their sense of stigma and isolation. Novelty: This research advocates for a reevaluation of fundamental criminal law principles concerning criminal records, proposing the integration of psychological support mechanisms into legal frameworks. Implications: By establishing civil and social institutions dedicated to the psychological rehabilitation of offenders, the study underscores the necessity of promoting mental well-being and reducing recidivism, ultimately contributing to a more humane and effective justice system.</p> <p style="text-align: right;">This is an open-access article under the CC-BY 4.0 license.</p> 

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INTRODUCTION

It is well known that a criminal record is a legal state in which a person remains from the moment the court verdict enters into legal force, by which he was sentenced. The legal status of a criminal record in criminal law is inextricably linked not only with the verdict of the court, but also necessarily with the punishment that is imposed by this

verdict. The duration of such a state depends on the period of time that is determined by the law of the country for the repayment or removal of a criminal record. A conviction has a social and legal nature and entails various kinds of consequences that give rise to an unfavorable legal and social result for the convicted person. Consideration of the essence and legal basis of a criminal record in different countries makes it possible to identify the nature of this institution, to suggest the psychological elements of its occurrence, to study the meaning, features, terms of repayment of a criminal record for persons who have served a sentence imposed by the court.

METHODS

The study is based on the principles of objectivity, justice, historicism, integrity, explanation and understanding of social and legal phenomena and processes. To achieve the goals of the study, both methods of analysis and synthesis, as well as methods of legal and psychological sciences were used, which made it possible to compare various elements of the institution of a criminal record at the intersection of sciences.

RESULTS AND DISCUSSION

Main discussion. The concept and legal meaning of a criminal record varies significantly in different countries.

In the countries of Central Asia, the institution of a criminal record is due to the general historical development of criminal law and a unified approach to determining criminal legal consequences.

According to the first part of Article 84 of the Criminal Code of the Republic of Tajikistan, “conviction means an officially certified fact that a person has been convicted of a particular crime to any punishment. A person is recognized as having a criminal record from the date of entry into force of a guilty verdict, to which a punishment was imposed, and until the moment the conviction is canceled or expunged.

The Criminal Code of Kazakhstan states that a person convicted of a crime is considered convicted from the day the court’s conviction comes into force until the conviction is canceled or expunged. Conviction in accordance with the Criminal Code is taken into account when determining the recidivism of crimes, dangerous recidivism of crimes and when sentencing.

The Criminal Code of the Republic of Uzbekistan defined a criminal record as the legal status of a person caused by the fact of his conviction for a crime (Article 77). A person is considered to be convicted from the date of guilty verdict entering into force. A person released by the court from punishment is not considered convicted.

The criminal legislation of the Kyrgyz Republic, unlike the legislation of other neighboring countries, regulates a differentiated approach to the issue of a criminal record, depending on the severity of the crime committed. Thus, in accordance with Article 95 of the Criminal Code, “a person convicted of an infraction, misdemeanor and felony crime is considered to be convicted from the day the court’s conviction comes into

force until the moment of cancelling. A person convicted of a less serious crime is recognized as having no criminal record from the moment of execution of the sentence.

Comparing the criminal legislation of the countries of the Central Asian region, we can talk about similarities both in the definition of a criminal record and in the list of criminal legal and social consequences. So, in all these countries, the commission of a new crime by a person with a criminal record affects the qualification of the crime, the choice of the institution for serving the sentence, the calculation of the term of the actually served sentence when applying humane acts in the form of a conditional conviction, parole or replacement of punishment with a milder one, aggravating circumstances, is taken into account when sentencing for recidivism. There is also a similarity in the legislative consolidation of such criminal law norms as the redemption and removal of a criminal record after a certain period of time established by law for each crime.

At this stage, we can conclude that in the criminal doctrine the institution of a criminal record has existed for a long time, has come a long way of development and exists in many countries. At all stages, it was of great importance in the prevention and suppression of crime, determined the legal consequences of a crime committed earlier. Law enforcement agencies in many countries keep a record of a criminal record, since its presence affects the qualification and punishment for the repeated commission of new crimes by these persons. This institution predetermines a more severe punishment for those who have already been brought to criminal responsibility once, and with each subsequent violation of the law, the punishment becomes more severe.

In addition to the above legal consequences, a criminal record also entails social consequences, such as, for example, a previously convicted person does not have the right to hold certain positions or engage in certain activities. The above information gives reason to believe that a criminal record is not only a legal, but also a social phenomenon, the consequences of which have an impact on the subsequent behavior and life of a person.

In this context, we consider it interesting to take the nature of the institution of a criminal record into account from the standpoint of legal psychology.

From this point of view, it seems to us that the psychological portrait of the criminal should be regarded systematically with the socially dangerous infringement that he committed, in order to competently organize the process of his upbringing while serving his sentence. At the same time, the analysis of the personality of the offender, his behavior, the circumstances preceding the commission of the crime, together with the legal assessment of his illegal actions, which subsequently led to the sentencing and conviction, is carried out at the intersection of psychological and legal knowledge.

But what is the real perception of such a person on the part of those responsible for the criminal proceedings?

Under the personality of a criminal, many understand a sane person who has reached a certain age. We often use expressions: the person who committed the crime, the subject of the crime, the identity of the perpetrator.

The study of the identity of the offender is of great practical importance for investigative and judicial workers, since it can influence the establishment of all the circumstances of a criminal case and the final sentencing, and in other cases, the acquittal of an innocent person. Investigators are well aware that a deep study of the identity of the offender makes it possible to more accurately establish the motives for the crime, the circumstances preceding its commission. Often, knowledge of criminal psychology helps the investigation to establish the places where the perpetrator kept the objects of the crime or material evidence, such an experience of the investigator allows you to predict the behavior of the criminal in the future, to prevent his subsequent crimes.

The psychological portrait of the personality of the offender gradually emerges during the investigation, the features of his character, habits, desires, attitude towards society, people, work are determined, in some cases a previous conviction is established, which testifies to the criminal history of this person.

Knowledge of criminal psychology plays an important role in assessing his criminal actions, qualifying crimes, choosing a measure of restraint for him, and subsequently punishment, taking into account the social danger of the committed act and personal qualities.

Of particular note is the importance of the science of criminal psychology in the study of the personality of a juvenile delinquent, whose character is malleable and not sufficiently formed. The manifestation of patience, understanding, delicacy when conducting investigative and other procedural measures with a juvenile is an unconditional duty of the bodies and officials responsible for the proceedings in a criminal case involving a juvenile.

Many scientists believe that such differences do not exist at all, since the living conditions of a person, the microenvironment “levels out expressive personal traits, erases the boundaries of individuality”. Another group of scientists experimentally proves the opposite: different types of criminal behavior correspond to a specific set of psychological traits and personality traits of the criminal. Some even suggest that there is a connection between the type of crime committed and the psychological characteristics of the person who committed it.

But what arguments can be made when once occurring deviations from the balance of human needs become its characteristic feature on the basis of investigative and judicial decisions? There is a negative perception of his personality not only from the investigative and judicial authorities, but also from other people around him. Moreover, such a person is morally worried, psychologically feels like a criminal, “the dregs of society”, underestimates his self-esteem. Regardless of which person has served the sentence, his social position of the convicted person is formed in his mind, in connection with which the balance of needs is again disturbed, since “they must be considered in relation and interaction with interests and moral feelings, which reflect the social position and value orientation”.

It can be assumed that the psychological feature of the individual lies in the fact that a person is a social being and, under any circumstances, the formation of his interests and needs is associated with society. Accordingly, he passes the perception of his personality through the prism of the social relations in which he is. Consequently, acquiring the status of a convicted person forms a new mental state in a person, which is often a motive for committing a repeated crime.

Thus, it can be assumed that the public environment, the presence of special rules of conduct in the social environment, which are regulated by the rule of law, the formed public attitude towards convicted persons, are the reason for the increase in the recidivism of crimes. Moreover, the investigative and judicial authorities in the course of their activities contribute to the formation of a person who has committed a crime, stable negative thoughts from the moment of considering criminal who loses his freedom, comfort zone, privileges and his future life will no longer be happy. Such a psychologically depressed state of a person often gives rise to new motives for committing repeated crimes. These facts, of course, increase not only the number of convicted persons, but also crime in general.

We believe that it is necessary to discuss the main provisions of the social and legal nature of the institution of a criminal record, which entails various kinds of consequences and, to a certain extent, limits its legal status.

The study showed that the acquisition of a criminal record entails characteristic changes in the psychological state of a person, such as emotional depression, suspicion, distrust, bitterness towards others, lack of faith in the future, self-defense reaction, negative attitude towards the state and the activities of law enforcement agencies, decrease in positive emotions, loss of trust.

In our opinion, keeping a record of convicted persons, as is the case in many countries, is justified by the fact that it contributes to a comparative analysis of the number of crimes committed, the causes and conditions conducive to their commission. In addition, information on the number of convicted persons will reveal social problems in those territories where the maximum number of crimes has been committed. But in no way should such information, as it seems to us, be disclosed and have a psychological impact on the one who is on the specified account. The legislative consolidation of such a position will testify to the guarantees of human rights and interests.

CONCLUSION

We consider it expedient to revise the fundamental principles of the institution of a criminal record, fixing the provisions that would not limit the convicted person in social, civil, labor rights. It is also necessary to attach great importance to the improvement of the institution of a criminal record in order to prevent juvenile delinquency. The functions of bodies and institutions for the social rehabilitation of juvenile offenders should also

include the psychological recovery and protection of persons who have crossed the law in order to prevent the recurrence of the crime.

The study of criminal law, in particular, the institution of a criminal record at the junction with legal, or rather, criminal psychology, will certainly provide new opportunities and discoveries to improve the efficiency of the state in strengthening the rule of law, justice, ensuring the guarantee of the rights and legitimate interests of the individual.

REFERENCES

- [1] J. Wetterling, "Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act," 1994; Federal Version of "Megan's Law," 1996; P. Lychner, "Pam Lychner Sexual Offender Tracking and Identification Act," 1996; A. Walsh, "Adam Walsh Child Protection and Safety Act," 2006.
- [2] KPMG LLP, "Disclosure of Criminal Records in Overseas Jurisdictions," Forensic Advisory, UK, 2019.
- [3] European Commission, "European Criminal Records Information System (ECRIS)," [Online]. Available: <https://ec.europa.eu/>. [Accessed: Apr. 24, 2023].
- [4] European Commission, "European Criminal Records Information System (ECRIS)," [Online]. Available: <https://ec.europa.eu/>. [Accessed: Apr. 24, 2023].
- [5] Canadian Bar Association, "Collateral Consequences of Criminal Conviction: Considerations for Lawyers," Ottawa, 2017.
- [6] M. Hubálek and L. Zamboj, "Bezúhonnosta Rovné Zacházení na Trhu Práce (Legislativní i Faktické Požadavky Bezúhonnosti na Trhu Práce z Pohledu Rovného Zacházení)," Poradna pro Občanství/Občanská a Lidská Práva, 2007. [Online]. Available: <https://poradna-prava.cz/data/images/Bezuhonnost.pdf>. [Accessed: Apr. 24, 2023].
- [7] "Criminal Code of the Republic of Tajikistan," Ahbori Madjlisi Oli Respublicii Tajikistan, no. 9, pp. 68-70, 1998.
- [8] D. J. Suyunova, "Some Issues of Improving the Criminal Responsibility for Repeated Crimes," Central Asian Journal of Social Sciences and History, vol. 3, no. 12, pp. 207-211, 2022.
- [9] "Criminal Code of the Republic of Uzbekistan," Tashkent: Yuridik Adabiyotlar Publish, 2021, p. 335.
- [10] Y. F. Chufarovskiy, Legal Psychology: Questions and Answers. Moscow: Eksmo Education, 2005.
- [11] A. F. Ipatov, Legal Psychology: Textbook. Saint Petersburg: [Publisher not available], 2022, p. 5.
- [12] V. V. Luneev, Course on World and Russian Criminology, vol. 1, General Part. Moscow: Yurayt Publ. House, 2022.
- [13] D. J. Suyunova, "Genesis of Criminal Liability Formation for Crimes Against Women in Uzbekistan," Siberian Federal University, vol. 15, no. 8, pp. 1118-1125, 2022.

- [14] J. D. W. McDonald, "My Brain Made Me Do It: Will Neuroscience Change the Way We Punish Criminals?" [Online]. Available: <https://theconversation.com/my-brain-made-me-do-it-will-neuroscience-change-the-way-we-punish-criminals-57571>.
- [15] D. L. J. R. Meyer, "Criminal Psychology: Understanding Criminal Behaviour," [Online]. Available: https://www.researchgate.net/publication/354991065_Criminal_Psychology_Understanding_Criminal_Behaviour.
- [16] "Scientific Capital," [Online]. Available: <https://www.scientific-capital.ru/>.
- [17] "Legal Document," [Online]. Available: https://online.zakon.kz/Document/?doc_id=31575252&doc_id2=31575252#pos=90;-66&pos2=1461;-62. [Accessed: Apr. 25, 2018].
- [18] "Legal Document," [Online]. Available: <http://cbd.minjust.gov.kg/act/view/ru-ru/112309>. [Accessed: Apr. 25, 2023].
- [19] "About Your Record: What Criminal Record or Criminal History Is," [Online]. Available: <https://cjei.cornell.edu/about-your-record/what-criminal-record-or-criminal-history>. [Accessed: Apr. 24, 2023].