Social, enlightenment and penal measures to prevent Islamist terrorism

Marina Davidenko^{1*}

¹ Moscow Institute of Contemporary Academic Education, 11th Tekstilshchikov Street, Moscow, 109129, Russia

Abstract. The fight against crimes of a terrorist nature is a task of international importance. Modern penitentiary systems in various countries were not ready for effective work aimed at preventing international terrorist threat. Persons convicted of committing terrorist crimes are currently serving their sentences in non-specialized correctional institutions that do not involve targeted counter-terrorism preventive measures with convicts. On the contrary, representatives of Islamic terrorist organizations are actively using the prison environment to propagate pseudo-religious ideas that encourage terrorism. One of the few attempts to prevent Islamist terrorism among people suspected or convicted of terrorist crimes was made by the US leadership at the beginning of the XXI century. The American penitentiary experience shows that the use of purely punitive methods of correcting a criminal terrorist does not guarantee the convict's refusal to carry out terrorist activities. Therefore, it is necessary to develop a model of a special type of penitentiary institution aimed at providing an effective prevention of terrorist activity and suppressing the recruitment of new participants to terrorist organizations. The main preventive measures to use in this type of correctional institution should be the separate maintenance of convicts - representatives of various social groups, as well as educational and religious activities explaining the true social values observed both by Islam and other world religions.

1 Introduction

The high public danger of crimes of a terrorist nature, as well as of the perpetrators of these crimes, is officially recognized both at the level of national legislation of most countries of the international community, and the norms of international law governing the fight against terrorist activity. The Russian criminal law establishes quite significant periods of imprisonment for crimes of a terrorist nature. Moreover, deprivation of liberty is the only punishment possible for carrying out terrorist activities.

As a result of prolonged detention of a person in a correctional institution, his socially useful contacts are significantly weakened, criminal attitudes are acquired to continue

*Corresponding author: a.copytowa@yandex.ru

criminal activity. For individual convicts, this is the only option to continue life after serving the sentence, since it is impossible for them to quit the “criminal society”.

This issue is relevant in relation to persons committing crimes of a terrorist nature. The identity of the terrorist criminal is characterized by weak social ties and susceptibility to influence by people who impose radical religious ideas about terror as the only means of achieving justice in society. All this indicates the need for an individual approach in educational work with representatives of this category of convicts in the process of serving their criminal punishment. Hence, the choice of the type of correctional institution and formation of a set of special means of penitentiary influence on the convict is of absolute importance for prevention of terrorist activity.

The purpose of the study is to justify the need to create a specialized penitentiary institution intended for persons who have committed crimes of a terrorist nature. Achieving this goal will make it possible to formulate proposals for improving the penal legislation, to determine standard measures of social, legal and religious and educational influence on convicts for crimes of a terrorist nature. To achieve this goal, it is necessary to solve the following tasks:

- to determine the types of correctional institutions provided for by the criminal-executive legislation of Russia where convicts for crimes of a terrorist nature are serving sentences;
- to assess the existing system of remedies for convicted terrorists and the specifics of preventive activities carried out in conditions of prisons;
- to study the dynamics of annual growth in the number of convicts serving a sentence of imprisonment for crimes of a terrorist nature;
- to identify causes and conditions conducive to the spread of the ideas of Islamist terrorism in a correctional institution;
- to evaluate American experience in preventing Islamic terrorism in a specially created prison facility;
- to analyze the data of public opinion on the need to create specialized prisons for the maintenance of criminals-terrorists who commit terrorist crimes, including for religious and ideological reasons;
- to develop a set of measures of social, legal and religious-educational significance aimed at correcting a criminal terrorists and preventing them from committing new crimes of a terrorist nature.

2 Methods

The issues of developing measures aimed at preventing crimes in the conditions of activity of penitentiary institutions, as well as the issues of countering Islamist terrorism, have been the subject of many scientific studies. So, V. Kudryavtsev proposed a general strategy for crime control [1], and L. Latyshev analyzed features of re-socialization of convicts as one of the guarantees for their correction and prevention of new crimes. N. Barabanov, I. Uvarov and other authors considered prevention of criminal activity of convicts in correctional institutions [2; 3]. E. Valishin studied the issue of countering the criminal activity of participants in Islamic organizations [4] In addition, modern socio-legal science also contains other studies of different years on the stated issues, but, despite this, the need to form a specialized penitentiary institution for terrorist criminals and proposals on complex means of religious training and education of convicts for terrorist crimes remain poorly understood.

The presented study took place in several stages. At the first stage the inductive method of scientific research was used in conjunction with the comparative analysis method to justify the high public danger of crimes of a terrorist nature.

At the second stage, the method of expert assessments was applied in terms of determining the effectiveness of preventive activities carried out in relation to convicts. Mostly the same methods were used in the analysis of the peculiarities of inculcating the ideology of terrorism to persons serving prison sentences, as well as the personality traits of those convicted of terrorist crimes.

At the third stage of the study, a system-structural method was used, as well as a comparative analysis method to identify the features of functioning of institutions providing isolation of the convicted person from society, and the specific impact on the convicted person in the process of serving a sentence of imprisonment. The methods of induction, deduction, statistical analysis and synthesis were used to study the growth dynamics of the total number of convicts serving sentences in prisons for committing crimes of a terrorist nature from 2013 to 2018.

At the fourth stage, the same methods were used in conjunction with the questionnaire method in the study of American penitentiary experience in countering international terrorism, applied to persons involved in terrorist activities and held in Guantanamo Specialized Prison.

At the final stage of the study, the dialectic method was used, along with the methods of analysis and synthesis, to formulate the final conclusions, which consist in the need to create a specialized type of correctional institution for persons convicted of terrorist crimes. Using the same methods, the rationale for the use of special preventive means to influence representatives of this category of convicts is presented and subject to full compliance with the requirements of international and national law on observance and protection of rights and legitimate interests of convicts.

All these methods can be used in the process of other studies purposed to identify specifics of execution of criminal sentences and develop proposals for development of comprehensive means of influence on convicts to correct them and prevent commission of new crimes of a terrorist nature committed for pseudo-religious reasons.

3 Results

The study showed that the Russian criminal law, as well as the criminal executive law of many states does not provide for the creation and functioning of a specialized penitentiary institution to correct criminals-terrorists who have committed crimes for various, including religious, motives. The absence of a specialized correctional institution, as well as special social and religious-educational means of working with this category of convicts, promotes the spread of radical ideas of Islamist terrorism and involvement of new participants from among those previously held in places of detention in the activities of terrorist organizations.

4 Discussion

High public danger of crimes of a terrorist nature, as well as of perpetrators of these crimes, hardly anyone doubts. Therefore, current criminal law prescribes conviction of a sentence of imprisonment for a rather long period of time for commission of these crimes, without providing for the possibility of assigning alternative types of criminal punishment to imprisonment. As S.I. Dementiev rightly noted, this type of punishment should be applied exclusively to persons representing a “physical danger to society”, and if correction of these persons requires their temporary isolation [5]. Terrorist criminals also belong to this group, which is confirmed in the forensic and legal scientific sources presented above.

But so far, many researchers point to the issue of achieving the preventive and corrective goals of criminal punishment. In particular, I.A. Uvarov notes that the practice of executing criminal sentences, including those involving isolation of the convicted person from society, does not ensure achievement of any of the goals of punishment specified in the criminal law [2]. The doubtful effectiveness of modern prison practice in terms of preventing the commission of new crimes was also indicated by V.N. Kudryavtsev, M. Foucault and other researchers [1, 6]. Indeed, as a result of prolonged detention of a person in a correctional institution, a situation arises when socially useful relations are significantly weakened, and criminal attitudes are acquired to continue the criminal activity. For individual convicts, this is the only option to continue life after serving their sentences, since it is impossible for them to quit the "criminal society". It seems that this issue is also quite relevant in relation to persons committing crimes of a terrorist nature. As already noted, this personality of the criminal is characterized by weak social ties and susceptibility to influence on the part of people who impose radical religious ideas about terror as the only means of achieving justice in society. All this indicates the need for an individual approach in educational work with representatives of this category of convicts in the process of serving their criminal punishment. Hence, the unconditional importance for the prevention of terrorist activities of representatives of radical Islamist movements, is the choice of the type of correctional institution and formation of a set of special means of penal influence on the convict.

The current legislation defines several types of these penitentiary institutions, which differ in the degree of intensity of the legal restrictive effect on adult convicts in the process of executing imprisonment: colony-settlement; correctional colonies of general, strict and special regime; prisons; medical and correctional institutions. Convicted juveniles are serving deprivation of liberty in specialized institutions - educational colonies (Article 74 of the Crime Code of the Russian Federation). In accordance with Part 7 of Art. 74 of the Criminal Procedure Code of the Russian Federation, persons found guilty of terrorist acts, hostage-taking and other crimes of a terrorist nature are serving imprisonment in a prison i.e. a correctional institution, where the regime involves the greatest number of legal restrictions imposed on convicts in the process of serving their sentences [7-11].

Changing the type of correctional institution as an incentive measure for these convicts is not provided for by applicable law (paragraph "a" of part 2 of article 78 of the Crime Code of the Russian Federation). The listed legislative provisions are additional evidence of the officially recognized high public danger of persons committing crimes of a terrorist nature.

The authors of the latest research in the field of countering terrorist and extremist activities, as well as representatives of various Islamic faiths, note that the most effective recruitment into terrorist and extremist groups, illegal armed groups created to carry out terrorist activities in various countries of the world community, is carried out in prisons performing sentences of imprisonment. Psychological depression from the application of criminal liability measures, spatial and informational limitations, complete or partial loss of social ties with loved ones are favorable soil for the practically unimpeded acceptance by the convicts of radical ideas that are supposedly justified by religious teachings about good and justice. Therefore, the recruitment of persons serving criminal sentences in correctional institutions to terrorist organizations can become widespread.

Statistical data on the number of persons convicted of crimes of a terrorist nature and sentenced to serve deprivation of liberty in correctional institutions located on the territory of various constituent entities of the Russian Federation indicate steady positive dynamics in the increase in the number of representatives of this category of convicted persons since 2013. So, in 2013, in the institutions of penitentiary system, 955 people were convicted of crimes of a terrorist nature, in 2014 - 1049, in 2015 - 1189, in 2016 - 1430, in 2017 - 1683,

in 2018 - 1876. Given the dynamics presented, it is possible to point out the reality of current threat of spread of a radical ideology based on Islamic religious teachings on the justification of terrorism among people serving prison sentences throughout the Russian Federation [12-18].

Representatives of the senior management of the Federal Penitentiary Service agree with the reality of existence of this problem. In particular, the head of the operational management of the Federal Penitentiary Service of Russia, E.V. Gnedov notes that at present there are no specialized institutions in the structure of the penal system for keeping the above-mentioned persons. In order to prevent their negative impact on other convicts serving sentences of imprisonment, as well as on representatives of the administration of correctional institutions, preventive work is being carried out in institutions aimed at de-radicalization of convicts taking into account available opportunities [7]. But, according to statistical indicators, effectiveness of the ongoing preventive work leaves much to be desired, in view of the annual increase in the number of persons convicted of crimes of a terrorist nature. Therefore, we believe that under the current conditions of an increase in the number of convicts for crimes of a terrorist nature and threat of radicalization of persons serving a prison sentence, there is a need to discuss creation of a specialized correctional institution - a prison for convicts sentenced for crimes of a terrorist nature to serve their sentences.

In this part, American experience with functioning of such an institution, called the "prison for the worst of the worst," created in Guantanamo, Cuba, is of particular interest. The goal, this prison was created for, is to eliminate any influence on representatives of the American society of persons convicted of international terrorism, i.e. warning of new crimes. To do this, the prison, under the jurisdiction of the United States (US naval base), was established outside the US state border.

After the terrorist attack that took place in the United States on September 11, 2001, the country's authorities officially declared war on international terrorism, which was recorded in the adopted anti-terrorism law. Therefore, the Guantanamo prison was created exclusively for holding persons, both convicted of participation in the activities of international terrorist organizations, and persons suspected of such activities. Guantanamo prisoners in accordance with US law received a special status: "enemy combatant." This created a legal precedent for determination of all persons connected in one way or another with international terrorist organizations, by analogy with a representative of an enemy army serviceman in conditions when the USA did not declare war on any country in the world. Giving an individual the status of an enemy combatant significantly limited his rights and minimized social and legal guarantees in comparison with similar components of the legal status of other suspects, accused, and convicted by the US judicial authorities. In fact, they moved into the category of disenfranchised subjects of criminal proceedings, where any means and methods of investigative and preventive work could be applied, including physical impact in order to obtain information about terrorist activities (torture).

Representatives of the highest organs of state power of the United States have repeatedly and not unreasonably stated that many militants held in Guantanamo prison have information on activities of international terrorist organizations, including data on impending terrorist acts in the United States. Obtaining this information by methods determined by applicable law is not possible due to the refusal of prisoners to cooperate with representatives of US government. Therefore, to ensure the interests of national security and the effectiveness of countering international terrorism, it is advisable for prisoners to use any, including prohibited methods and means of obtaining information during interrogations and other preventive actions [19-22].

The results of such antiterrorist activities in Guantanamo are known: violations of international law by juscogens, representatives of American authorities have become the

subject of numerous legal proceedings in the United States, which were closed with decisions mainly made in favor of former prisoners. An unambiguous negative assessment of activities of the Guantanamo prison was given to the UN special commission, which indicated in the 2006 report on the need for immediate termination of the institution. A similar assessment of activities of American authorities in Guantanamo was made by the President of the United States B. Obama, elected in 2008, however, to this day the activities of this institution have not ceased.

The results of the preventive activities carried out by "specific" methods in a prison for terrorists were also not so significant. According to estimates by the US special services, after the release of at least 100 people out of 603 prisoners in Guantanamo prison, they carry out terrorist activities, and another 74 people are suspected of this activity. A negative assessment of this activity is also given by representatives of the leadership of the countries - allies of the United States in the anti-terrorist alliance. For example, United Kingdom Foreign Secretary D. Miliband pointed out that violations of international law, human rights and priority of a position of power in solving the problem of countering international terrorism committed in Guantanamo Prison led to opposite results. Instead of curtailing under the pressure of the West the activities of radical Islamic groups promoting violence in the name of justice, they received additional support from supporters throughout the Muslim world, especially among young people.

But, despite all of the negative consequences of the illegal methods of fighting terrorism, the significant part of American society (66% of respondents) currently opposes the closure of the prison for terrorists in Guantanamo, as it sees this as a means of protection against the terrorist threat and preventing recurrence of the tragedy 11 September 2001. Another 5% of respondents do not insist on closing the specified institution.

Taking into account the available results of preventive activities and the data of sociological studies, American experience in prevention of terrorist activities in prisons allows us to conclude that there is still a need for a specialized correctional institution for persons who have committed crimes of a terrorist nature. The functioning of a specialized institution will facilitate the solution of a number of rather complex tasks of preventing commission of crimes of a terrorist nature and ensuring the security interests of the Russian Federation from a terrorist threat. First of all, we are talking about isolating convicts who are representatives of terrorist organizations, not only from society, but also from other convicts to exclude the possibility of spreading radical Islamist dogmas about social benefits of terrorism. Within the framework of functioning of the specialized correctional institution for convicted terrorists, it is possible to ensure establishment of a regime for execution of deprivation of liberty, where conditions will most closely correspond to the public danger of the personality of the convicts and will make it possible to implement a set of special means of corrective influence.

At the same time, it is necessary to pay attention to those circumstances that did not allow the representatives of the US penitentiary service to achieve the desired results in preventing commission of new crimes by persons held in Guantanamo prison. The severity of the crime, a significant number of victims of terrorist attacks and significant material losses cause massive fear of the population against the terrorist threat. The natural reaction of society in such conditions is the demand for the authorities to toughen the measures applied to representatives of terrorist organizations. Some researchers note that the population, under the influence of fear and awareness of their own insecurity, forms a collective belief in possibility of reducing crime only by implementing extremely strict types of criminal punishments and creating extremely difficult conditions for convicts to serve them.

American experience suggests the opposite: the excessive severity of application of measures of influence to convicts, which develops into cruelty, does not provide a warning

for new crimes and can even cause sympathy among the population. Moreover, violation of requirements of the law in execution of punishment strengthens the convict's faith in the truth of radical religious beliefs about the need for terrorist activity against representatives of the authorities and the population loyal to it. Therefore, the activities of this institution, specializing in deprivation of liberty of persons who have committed crimes of a terrorist nature, should be carried out strictly within the framework of the current legislation, including international regulations on guarantees of observance of rights and legitimate interests of convicts, the rules for their maintenance in a correctional institution, etc.

In accordance with the current Concept for development of the Russian penal system, one of the main means of reducing recidivism is highly effective social and psychological work carried out with persons serving sentences of imprisonment. To achieve these goals, the Concept calls a set of tasks, including recognized [23-25]:

- socialization of convicts;
- reduction in the number of convicts held in one residential premises of a correctional institution;
- Separate detention of convicts, taking into account public danger and crime committed, and identity of the offender;
- strengthening of psychological and pedagogical work with prisoners.

Taking into account the listed goals and objectives set for the modern penal system, in conditions of the specialized prison we are offering, one of the main means of preventive influence on convicts should be religious education in order to study the basics of Islamic religion and culture. The true significance of spiritual values of Islam will create the preconditions for the convicts to voluntarily independently realize the falsity of their ideas about the allegedly existing religious approval and promotion of terrorism. In case of recognition of the fallacy of their religious beliefs justifying terrorist activities the probability of these individuals refusing to continue terrorist activities, propagating radical Islamist ideas and the desire to attract new members to terrorist organizations is quite high. To ensure the effectiveness of religious education, it is necessary to attract highly qualified teachers of Islamic universities, since unprofessional poor-quality conducting classes with convicts, the teacher's unpreparedness and inability to persuade, built on the basis of the Koran's postulates, can lead to negative consequences in form of strengthening the convict's faith in truth of radical Islamic ideas about the social benefits of terrorism. In this case, the results of the preventive activities of the specialized correctional institution will be comparable with the results of the activities of the American authorities in Guantanamo.

Another argument in favor of the need to create a specialized correctional institution for persons convicted of crimes of a terrorist nature is the actual lack of the ability to provide an individual approach to ensuring the correctional process of these convicts in a modern prison. According to the fair estimates of the researchers, despite the existence of various types of correctional institutions in the penal system that ensure isolation from society in the process of executing sentences, the means and methods used to influence convicts in each of these institutions differ little from each other. This leads to the uniformity of the correctional effect and its weak effectiveness due to ignoring the consideration of criminogenic features of the personality of the convict.

5 Conclusion

Creation of a specialized correctional institution i.e. a prison for convicted of terrorist crimes will provide:

- physical restriction of the convicted person to carry out terrorist activities for a long period of isolation from society;

- exclusion of negative influence on other convicts and spread among them of radical Islamic ideas that justify terrorism and violence;
- differentiated approach to the choice of means and methods of corrective action applied to representatives of various groups of convicts: 1) organizers and coordinators of terrorist activities, heads of terrorist organizations, recruiting new participants; 2) ordinary members of terrorist organizations involved by virtue of a combination of various, including difficult life circumstances;
- specific psychological influence on convicts in the process of carrying out group and individual educational and preventive work. In this case, it is assumed that representatives of Islamic religious schools and other religious educational institutions are required to be involved in the correctional process, if they are able to provide qualified teaching to convicts of the true principles of Islam revealing the content of good and justice in society and reject terrorism in any of its manifestations.

Solution of these tasks will increase the effectiveness of correctional effect on convicts for crimes of a terrorist nature, which in turn will positively affect the achievement of the preventive goal of criminal punishment.

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