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**Buryj V. E., Stepanenko V. I.****Бурый В. Е., Степаненко В. И.****SOCIO-LEGAL INDICATORS OF RESOCIALIZATION  
OF CONVICTS TO DEPRIVATION OF LIBERTY  
IN THE REPUBLIC OF BELARUS****СОЦИАЛЬНО-ПРАВОВЫЕ ПОКАЗАТЕЛИ  
РЕСОЦИАЛИЗАЦИИ ОСУЖДЕННЫХ К ЛИШЕНИЮ СВОБОДЫ  
В РЕСПУБЛИКЕ БЕЛАРУСЬ**

**Abstract.** Changes in the political, socio-economic, legal and cultural sphere of Belarusian society over the past decade have significantly affected the conditions of functioning and objectives of the bodies and institutions of the Penal system, and therefore the course was taken on improvement of the execution of punishment in the form of imprisonment, primarily in terms of the organization of the correctional process in places of deprivation of liberty. At the same time, in the Penal code of the Republic of Belarus adopted in 2000, the regulations on the organization of the correctional process of convicts in places of deprivation of liberty are of the most general nature and do not fully take into account modern (including international), social and legal requirements and trends in the re-socialization of persons serving sentences in correctional institutions and their subsequent social adaptation in conditions of liberty. Until the necessary unity of the legal, social and psychological aspects is ensured in the organization of the correctional process of persons serving sentences in the form of imprisonment, new approaches to the legal regulation of resocialization and social adaptation of convicts are not worked out. This is reflected in the lack of an adequate typology of persons, sentenced to deprivation of liberty, and both theoretical and methodological basis for their resocialization and social adaptation. In addition, there are no standardized requirements for the definition of indicators and degrees of convicts' correction, regarding their respective criminological typology, as well as correctional programs, specifically and functionally oriented to their resocialization and social adaptation, which led to the presence of legal, organizational and methodological gaps in the social adaptation of released persons (post-penitentiary period). The purpose of this article on the basis of the proposed criminological typology of convicts (criminals) is to offer a solution to this problem and to introduce specific legal (criminal law, criminology, penal law) and social indicators of correction during the sentences of imprisonment. The use of this typology of convicts (criminals) and socio-

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legal indicators of their correction in places of deprivation of liberty will affect not only the qualitative (and not formal) application of the institutions of early release, but also, as the Belarusian law enforcement practice shows, the gradual decrease in the high level of criminal recidivism, the structural component of which in Belarus recognizes an unreasonably high level of penitentiary recidivism.

**Keywords:** convicts, deprivation of liberty, legal indicators, social indicators, criteria of correction, resocialization, places of deprivation of liberty.

**Аннотация.** Изменения в политической, социально-экономической, правовой и культурной сфере жизни белорусского общества за последнее десятилетие существенно повлияли на условия функционирования и цели деятельности органов и учреждений уголовно-исполнительной системы, в связи с чем взят курс на совершенствование исполнения наказания в виде лишения свободы, прежде всего в части организации исправительного процесса в местах лишения свободы. Вместе с тем в принятом в 2000 г. Уголовно-исполнительном кодексе Республики Беларусь положения об организации исправительного процесса осужденных в местах лишения свободы имеют самый общий характер и не учитывают в полной мере современные (в том числе, международные) социально-правовые требования и тенденции в области ресоциализации лиц, отбывающих наказание в исправительных учреждениях, и их последующую социальную адаптацию в условиях свободы. Пока не обеспечивается необходимое единство юридического, социального и психологического аспектов в организации исправительного процесса лиц, отбывающих наказание в виде лишения свободы, не отрабатываются новые подходы к правовому регулированию ресоциализации и социальной адаптации осужденных. Это выражается в отсутствии адекватной типологии лиц, отбывающих наказание в виде лишения свободы, как теоретической, так и методологической основы их ресоциализации и социальной адаптации. Кроме того, отсутствуют стандартизированные требования к определению показателей и степеней исправления осужденных с учетом соответствующей их криминологической типологии, а также исправительные программы, определенно и функционально ориентированные на их ресоциализацию и социальную адаптацию, что привело к наличию пробелов правового, организационного и методического характера в части социальной адаптации освобождаемых лиц (постпенитенциарный период). Цель настоящей статьи – на основе рассматриваемой криминологической типологии осужденных (преступников) предложить решение данной проблемы, ввести конкретные правовые (уголовно-правовые, криминологические, уголовно-исполнительные) и социальные показатели исправления отбывающих наказание в виде лишения свободы. Использование указанной типологии осужденных (преступников) и социально-правовых показателей их исправления в местах лишения свободы повлияет не только на качественное (а не формальное) применение институтов досрочного освобождения, но и, как показывает белорусская правоприменительная практика, на постепенное снижение высокого уровня уголовно-правового рецидива, структурным компонентом которого в Беларуси признается неоправданно высокий уровень пенитенциарного рецидива.

**Ключевые слова:** осужденные, лишение свободы, правовые показатели, социальные показатели, критерии исправления, ресоциализация, места лишения свободы.

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Correction of convicted persons is defined in the Belarusian penal legislation (as well as in the legislation of other countries) as one of the main tasks of sentences' execution. The formulation of such a task, according to the logic of legal regulation, should provide criteria of assessing the success of its solution. This assessment, in turn, is based on the progressive system of punishment – mitigating the isolation and improvement of conditions of detention, replacement of the appointed punishment on a more lenient one or on parole exemption from penitentiary measures. In general, the essence of the correction of convicts is defined in article 7 of the Penal code of Belarus (hereinafter – the PC of Belarus), as the formation of their readiness to lead a law-abiding lifestyle.

Article 116 of the Penal code establishes three degrees of correction and establishes formal behavioral criteria for their evaluation and determination. However, these criteria relate only to the behavior of the convicted person during the period of serving the sentence and include: 1) the degree of convicted persons' compliance with the obligations established by law, in terms of keeping with the requirements of the regime, the attitude to labor, including the performance of cleaning and self-service; 2) the officially expressed position on the commitment to law-abiding behavior; 3) the manifestation of activity in the participation of the work of self-regulating organizations.

This approach is traditional in the Belarusian penal system. It was actually used even before the introduction of the Penal code of Belarus, although such criteria for assessing the degree of convicts' correction were not enshrined in the early edition of legal documents.

However, according to A. N. Pastushenya (2008, pp. 79–80) the lawful behavior of the convicted person during the period of serving the sentence although is an important argument in assessing the degree of his correction, it does not itself determine the readiness to lead a law-abiding life in freedom. There are many examples when a convict, who complies with the established regime requirements, after

release (including early release) during a short time recommit the crime. Because of this, behavioral criteria should be considered as the initial requirement for assessing the degree of correction, but not as fully characterizing the readiness for a law-abiding lifestyle. In this regard, article 116 of the PC of Belarus states that the assessment of the degree of correction is based on a comprehensive study of his personality. However, the legislation does not specify what and how it is necessary to study and evaluate the convict's personality, since this issue is the subject of scientific theory and methodology of studying the convict's personality and its controlled confirmation after release.

As a consequence, V. M. Homich (2015, pp. 9–11) rightly recognizes (when summarizing the study of the quality of the organization and the state of the correctional process in the colonies) that by 2016 the level of criminal law recidivism was prohibitively high (more than 47 %), and the criminological recidivism exceeded 50 %. In the structure of recidivism, about 50 % refers to the so-called penitentiary recidivism. This phenomenon is connected with persons serving a sentence of imprisonment and having a criminal record at the time of committing a repeat crime. In such a situation both imprisonment and parole are difficult to consider as serious factors even for the prevention of crimes. There is no need to speak about the corrective effect of such punitive practices on criminals.

This position was previously shared by I. V. Kuchval'skaya (2008, pp. 156–157), who claimed the authors of the article 116 of the Penal code for the usage of scientific justification, theoretical work of Soviet times and the Soviet experience of correctional institutions... the Consolidation of such criteria for the correction of convicts, indicates a serious lag from the current trends in the development of criminology. The same conclusion was formulated by the participants of the college penitentiary department of the Ministry of internal Affairs of the Republic of Belarus in February 2010: "Practice shows that the criteria of correction are already unacceptable" (Strigalev A. 2016).

It should be noted that the problem of generalization and systematization of the regulations concerning the criteria of criminals, sentenced correction to deprivation of liberty is one of the key issues in penal law. Unfortunately, many of its theoretical and practical issues remained undeveloped and require further scientific study. At the same time, attention is drawn to the fact that most of these works are related to the previous criminal and penal codes.

Conventionally, the problem of misunderstandings on this issue can be summarized to two points of view. In the issue of determining objectively perceived signs (indicators) of convicts' correction, the first group of scientists stands on the position that the final evaluation of the degree of correction should be based on social and legal criteria. The second group of scientists insists on psychological and pedagogical criteria. The first position from different sides and in various aspects was covered by legal scholars and practitioners from Belarus (A. V. Barkov, I. I. Gorelik, P. A. Dubovec, L. M. Gladkih, O. V. Moroz, V. M. Homich, V. B. Shabanov), Kazakhstan (P. N. Posmakov, A. Skakov), Russia (V. A. Avdeev, Z. A. Astemirov, I. D. Badamshin, S. G. Barsukova, A. V. Brilliantov, A. I. Vasil'ev, I. M. Gal'perin, A. A. Gorshenin, R. A. D'yachenko, I. I. Evtushenko, A. I. Zubkov, P. M. Malin, M. F. Nesterec, I. S. Noj, N. I. Titov, A. A. Tihonov, A. S. Sevryugin, A. A. Sinichkin, A. F. Sizyj, V. A. Fefelov, E. V. Chernyshenko, S. A. Levitin, A. M. Potapov, A. E. Shevchenko, I. V. Shmarov), Ukraine (N. M. Pisot'ko, O. B. Ptashinskij, A. H. Stepanyuk, S. V. Tsaryuk).

At the same time, the growth of penitentiary recidivism among released convicts shows that simplified (or only polar) understanding of the criteria of correction of the convict should be avoided. As a rule, convicts are judged by external signs: high productivity, lack of discipline, commitment to law-abiding behavior, non-conflict, sociability, flexibility in communication, etc. But the fulfillment of all the requirements that serve as the basis for determining the degree of convicts' readiness for early release often

indicates not about their correction, but about their adaptability to the conditions of detention centers. It has the aim of maximizing the benefits for themselves, obtaining additional benefits from the staff of the colony.

Modern criminological research in the sphere of penal law suggests that educational and preventive work in the colony would be more substantive and effective if it will be based on the typological characteristics of each convicted person. On this issue Yu. M. Antonyan and E. A. Antonyan (2009, p. 81) argue that the organization of the correctional process in places of deprivation of liberty should be based "...on the typology (not classification), which involves the division of people into groups on more significant features. The typology of convicts can be carried out on different reasons. But... the main, distinctive factor is the motives of actions". The same conclusions were drawn by A. I. Mokrecov, V. P. Golubev, A. V. Shamis, Yu. N. Kudryakov (1998, p. 97): "...a typological approach based on criminologically relevant features available for study and correction is essential. It allows to reveal characteristic features of separate groups of criminals, to show their specific features and to offer differentiated and individual methods of correction. The typology of convicts serves the purpose of their correction, i.e. it has a specific practical orientation".

In this regard, we can conclude that the development of criteria for convicts' correction on the basis of the proposed typology is relevant and important for the penitentiary system. This was proved by the results of empirical research that was carried out in the form of anonymous survey, conducted in October–November, 2017. Among the respondents were employees of correctional institutions (officers and civilian) and more than 1,500 persons sentenced to imprisonment to correctional colonies for persons who have not previously served a sentence in places of deprivation of liberty. The Penitentiary Department of the Ministry of internal Affairs of the Republic of Belarus notes that 76 % of employees and 59 % of convicts

consider that for an objective assessment of the degree of convicts' correction, the criteria specified in article 116 of the PC of Belarus are not enough. At the same time, it is confirmed by answers of employees on other questions of the worksheet: only 21 % of respondents consider "the list of criteria and degrees of convicts' correction specified in article 116 of the PC of Belarus to be exhaustive", and 91,2 % claim that the process of determination of degree of convicts' correction is need to be based not on the general (for all) criteria of correction, but according to character of crime (convicted for violent crimes, mercenary, recidivists, minors must have concrete criteria of correction).

According to criminal law, penal law, criminology, legal psychology and pedagogy, a typology of convicts should be distinguish due to their individual predisposition to crime: selfish (1st type), violent (2nd type), selfish and violent (3rd type), unintended (4th type), 5-th type convicts, addicted to recidivism (selfish or violent recidivism, selfish and violent), 6th type – minor (selfish, violent, selfish and violent). The main objective signs of their correction are summarized to three groups of criteria: legal, social, psychological and pedagogical. In the article we consider only the socio-legal indicators of resocialization of persons sentenced to deprivation of liberty.

1. Legal (penal and criminological law) criteria for the correction of convicts to deprivation of liberty are the legal grounds that allow, taking into account the level of resocialization by social, psychological and pedagogical criteria, to consider in relation to convicts the issues of changing the type of correctional institution and the conditions of the regime, early release, the application of Amnesty laws, the application of incentives and penalties.

The most important criteria is penal law criteria.

1.1. Penal law criteria are applied:

a) the aim is to obligate more effective and integrated approach to maintain the necessary punitive and preventive potential of deprivation of liberty in the institution of early release.

Thus, for the parole of adults it is necessary to serve at least 75 % of the sentence in all cases (for minors – at least 67 %), and to replace the punishment with a milder one – at least 67 % (for minors – at least 50 %). Thus, the punitive-preventive potential of serving the sentence is enhanced;

b) as additional measures of criminal responsibility at the final stages of its implementation; after serving the sentence of deprivation of liberty, but within the period of conviction (after serving early release), through the establishment and implementation of social adaptation and preventive control over convicts (preventive monitoring, preventive supervision). It should be noted that preventive monitoring and preventive supervision can and should be used more effectively to ensure the controlled behavior of convicted persons after serving (release from) punishment, and not only in the performance of alternative to punishment criminal liability measures; it should be filled with specific rehabilitation programs, and not be limited only to the accounting and registration activities of the relevant penal bodies.

1.2. Penal and criminological criteria involve such parameters of convicts' assessment, which is based on compliance with the requirements of the regime and measures of correction and are applied in the period of serving of punishment: a) a commitment to obeying the law and, as an indicator of its fulfillment, the presence / absence of violations and penalties; the nature of the violated order of serving sentences; b) reception (at the written request of the convict) in the section of civil organizations and meaningful involvement in their work; c) participation in the conduct of educational activities; d) in case of civil liability of convict, measures for reimbursement of damages caused by the crime, according to court orders for child maintenance; for prisoners sentenced for selfish and violent crimes, and recidivism – 100 % reimbursement; e) surrender; f) a useful initiative of site improvement and offices of the colony; g) intention to education and self-education: studying at schools of colonies/

absence of education (according to some reasons); h) conclusions about the degree of convicts' correction in personal files; i) whether it was submitted to conditional early release, replacement of unserved part of punishment by softer punishment, transfer to correctional colony-settlements, pardon, reduction of term of punishment (under Amnesty), results of consideration; k) date of convicts' release; l) criminal records in the past (if such exist): court, date of sentence, article of the Criminal Code) level of public danger (high/medium/low), as a forecast of possible recidivism (table 1).

2. Social criteria for the correction of convicts, sentenced to deprivation of liberty are specific signs showing the elimination of deviations in the social sphere of their life. The level (degree) of asocial or antisocial actions and habits is set, the dynamics of their expression and changes (subject to the availability, conservation of destructive factors that determined the Commission of a crime), including the level and condition of the systems of interpersonal relations "a convict – his family, relatives", "a convict – another convict", "a convict – his friends, acquaintances", etc.

Social criteria include the following characteristics:

2.1) presence/absence of socially useful links: accounting for long or short-term visits (With whom? How often?); correspondence with relatives/friends (With whom? How often?); money transfer activity of the convict (When? From whom or to whom?); receiving/sending parcels, transfers by the convict (When? From whom or to whom?); telephone conversations of the convict (When? With whom?);

2.2) the level and condition of the systems of interpersonal relations: the presence/absence of family: relationships with parents, a spouse, children, relatives and friends; social connections with other convicts, taking into account their interprison hierarchy; relationships with friends/acquaintances (including previous convictions, if available);

2.3) the presence/absence of destructive factors that determined the Commission of the

crime: the decision on the labor and household device after release from the colony (positive, negative or not resolved); in the presence of the court's sentence of article 106 or 107 of the Penal code of the Republic of Belarus, passed/not passed a full course of treatment (what results); reasoned attitude to the use of alcohol, drugs, psychotropic substances and precursors;

2.4) indicators of the usefulness of socialization in the conditions of freedom: education: higher, incomplete higher, secondary, incomplete secondary education, illiteracy; following the rules of self-care and neat appearance; plans after release (recreation and Hobbies); attitudes to work and other activities: if a convict worked/did not work (why), the performance standard was fulfilled/not fulfilled (why); the intention to support financially their living;

2.5) religious and spiritual level of social development of personality: attitude to religion-believer (what confession) or non-believer (why); who supports (performs) or does not support (does not perform) the culture, traditions and customs of his nation (table 1).

Thus, the allocation of legal and social (as well as psychological and pedagogical) indicators of correction of convicts to imprisonment will allow to solve qualitatively the following tasks of criminal, penal policy and penitentiary system of the Republic of Belarus:

- to fully comply with the requirement of the President of the Republic of Belarus in the sphere of improving the efficiency of institutions of the penitentiary system (Reforms for the sake of improvement 2016);

- to fully implement not only the principle of differentiation and individualization of execution of punishments and other measures of criminal responsibility, but also the principle of rational use of corrective measures of convicts, stimulation of their law-abiding behavior (article 6 of the PC of Belarus);

- to reduce the level of penitentiary recidivism among released (on various grounds) citizens, and this, in turn, is a qualitative aspect of the purpose of the penal law "correction of convicted persons and prevention of commit-

Table 1

## Degrees of correction of persons sentenced to deprivation of liberty

No. p/n	Correction criteria	Degrees of correction				
		basic		intermediate		
		The convicted person took the path of correction 1	The convicted person who firmly took the path of correction 2	The convicted person who proved the correction 3	The convicted person is on the path of correction 4	The convicted person who didn't take the path of correction 5
1	Legal (criminal law, criminology, penal and criminological)	Basic	Basic + expanded list	Basic + expanded list	The convicted person tries to comply with the basic criteria (has an unstable but positive orientation)	The convicted person has penalties, started to follow the rules of the criminal world, shows careless relation to labor, dissatisfies with the regime, etc.
2	Social	Basic	Basic + expanded list	Basic + expanded list	The convicted person tries to follow basic criteria (has an unstable, but positive orientation)	Discrepancy with basic criteria
3	General characteristics of the criteria	All criteria must be followed for at least 1/3 of term of punishment	The convicted person steadily follows the basic criteria for at least 2/3 of the term of punishment, and the criteria of the extended list at least 1/2 term of punishment	The convicted person steadily follows the basic criteria for at least 3/4 of the term of punishment, and the criteria of the extended list of at least 2/3 of the term	Positive orientation should be observed continuously for three months	The convicted person makes no effort to correct himself. Acts stealthily. Behavior is situational-unstable
4	Notes	The legal status of the convicted person does not change	The legal status of the convicted person changes, the replacement of a more lenient punishment is possible	The legal status of the convicted person changes, it is possible to submit to parole	The legal status of the convicted person does not change	The legal status of the convicted person does not change



ting new crimes by both convicted and other persons” (article 7 of the PC of Belarus).

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