



REGULATION OF PUNISHMENT OF MORAL CORRECTIONAL LABORS IN THE CRIMINAL LAW OF FOREIGN COUNTRIES

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Article history:	Abstract:
<p>Received: 17th March 2021 Accepted: 2th April 2021 Published: 18th April 2021</p>	<p>This article considers the content and essence, the aim of moral correctional labors, the procedure and conditions of imposition of this type of punishment, its particular features, the rights and obligations of persons sentenced to moral correctional labors, as well as the best practices of foreign countries in the application of correctional labor have been studied thoroughly and recommendations to address the problems in the usage of this punishment are developed.</p>
<p>Keywords: Criminality, punishment system, term of imprisonment, moral correctional labors, persons who are not subject to punishment, regulatory organs, restrictions, obligations.</p>	

Crime is a socially negative phenomenon that has always petrified all of humanity. It has always been in the center of attention of specialists to search for modern means and methods of combating crime. One of these means is to impose the fair punishment on the guilty person by the court.

Special attention is paid to improving the efficiency of criminal penalties as the ongoing reforms in the judicial sphere in our country in recent years. In particular, special focus on the liberalization of the criminal liability and punishment system is given in the Resolution of the President of the Republic of Uzbekistan dated on February 7, 2017 N^oPR-4947 "On the Strategy of actions for further development of the Republic of Uzbekistan" [1], and the Decree N^oPD-3723 dated on May 14, 2018 "On measures to radically improve the system of criminal and criminal procedural legislation" [2] and other legislation in this area.

As the President of our country Sh. Mirziyoyev noted: "It is obvious that the main task of law enforcement bodies and courts has been to punish people in most cases until now. This is the bitter truth. We pay special attention to the transformation of criminal penalties from the humanitarian point of view" [3].

It should be stated that, along with the definition of the system of punishment based on the level of social danger of the crime in the Criminal Code of the Republic of Uzbekistan, it is of paramount importance to bring the punishment in line with more humane principles. Moral correctional labors have a special place in our criminal law. "Moral correctional labors is the process of forcing the person to work, withholding ten to thirty percent of his salary (wage) to the state budget, and the sentence is served in accordance with the court's decision at the convict's place of work or in other places determined by the supervisory authorities" according to the Article 46 of the Criminal Code of the Republic of Uzbekistan.

Moral correctional labors is almost one of the most common types of criminal punishment in court practice, and it has the positive effect on achieving the purpose of punishment. The essence of this punishment is that the person convicted of a crime is ensured by involuntary forced labor without separation from society, through the educational influence of the previous workplace and permanent residence with the help of the labor collective [4]. Punishment for Moral correctional labors are imposed mainly for crimes that do not pose the significant or less serious social risk, and in rare cases are imposed in the manner prescribed for sanctions of serious crimes. This punishment is regulated by law on the basis of various approaches in the criminal law of foreign countries. In particular, "Moral correctional labors punishment are imposed on persons who have the main place of work and those who do not have the place of work, and convicts who have the main place of work undergo Moral correctional labors at their place of work in the criminal law of the Russian Federation. Convicts who do not have the main place of work shall be transferred to work in the place determined by local self-government bodies in coordination with the penitentiary inspection" [5].

Although the title and essence of the punishment of moral correctional labor are the same in the criminal law of the CIS countries, this punishment differs from each other in the scope of persons to be sentenced, the restrictions imposed on the convict and other aspects.

Firstly, the criminal law of the Russian Federation, Azerbaijan [6], Armenia [7], Kazakhstan, Kyrgyzstan [8], and Georgia [9] stipulates that 5 to 20 percent of the convict's income is deducted in favor of the state as a result of the imposition of moral correctional labor while the criminal law of Ukraine [10] stipulates 10 to 20 percent, the criminal code of Belarus [11] for 10 to 25 percent, and the criminal code of Tajikistan [12] for 10 to 30 percent of the convict's income is deducted in favor of the state as a result of the imposition of moral correctional labor.

Secondly, it can be observed that the term of punishment of moral correctional labor is from one month to two years in Georgia (Article 45 of the Criminal Code (henceforth CC)) and Armenia (Article 56 of the Criminal Code), two months to two years in the Russian Federation (part 2, Article 50 of the CC), Azerbaijan (part 1, Article 49 of CC), Kazakhstan [13] (part 1, Article 43 of the CC) Tajikistan (part 1, Article 52 of the CC), from six months to two years in Belarus (part 1, Article 52 of the CC), Ukraine (part 1, Article 57 of the CC), and from three months to three years in Kyrgyzstan (part 2, Article 46² of the CC).

Thirdly, the period of commencement of the punishment of moral correctional labor begins from the moment the executive organization where a convict employed receives a copy of the punishment in Ukraine [14] (part 3, Article 43 of the Criminal-executive Code), and the beginning of the punishment is from the first day of the convict's employment in the Russian Federation [15] (part 2, Article 39 of the Criminal-executive Code).

In contrast to the above-mentioned countries, "The term of imprisonment shall begin from the date of notification of the Probation service by the administration of the enterprise, institution, organization, and for persons sentenced to moral correctional labor in other places from the date of commencement of work in the enterprise, institution, organization to which they were sent", according to the part 3, Article 30, of the Criminal Procedural Code of the Republic of Uzbekistan.

It is noteworthy that the criminal executive legislation of foreign countries also defines the supervisory organs that control the execution of moral correctional labor.

For example, it is indicated that the convict's execution of punishment (namely moral correctional labor) is carried out by the bailiff in Azerbaijan [16] (part 2, Article 48 of the CEC), by the probation authority in Ukraine [17] (part 3, Article 41 of the CEC), and by the penitentiary inspectorate in the Russian Federation (part 1, Article 39 of the CEC), Belarus [18] (part 1, Article 38 of the CEC), Armenia, and Kazakhstan. In contrast to these countries, the execution of moral correctional labor punishment is carried out and monitored by the probation service of the Ministry of internal affairs in accordance with the laws of our country.

Moreover, it can be seen that the legislation of foreign countries imposes various restrictions on persons sentenced to moral correctional labor. In particular, the restrictions on moral correctional labor in the Russian Federation (Article 40 of the Criminal execution code) are as follows: withholding of 5 to 20 percent of income in favor of the state; inability to resign voluntarily without the written consent of the penitentiary inspection; withholding of a part of monthly insurance payments against accidents at work and occupational diseases; determination of the right to 18 days of annual paid leave; convicts sentenced to moral correctional labor must comply with the terms and conditions of serving the sentence, be honest in their work, be present at the penitentiary inspection upon notification, and notify the body within 10 days in case of change of place of work and residence (part 5, Article 40 of the CEC of the RF) [19].

The Article 42 of the Criminal code of the Republic of Tajikistan states that "Moral correctional labor Inspectorate has the right to impose the following obligations and prohibitions on convicts sentenced to this punishment: not to leave the house at the certain time of the day; not to leave home during the leisure and vacation; determination of residence in certain places of the city (district), to visit twice a month to register with the Moral correctional labor Inspectorate" [20]. An important aspect of this state law is that these obligations and prohibitions are set for the period of up to six months. The sentence may be extended for another six months if necessary. In this case, the fact that the convict does not have a place of work does not mean that these obligations and prohibitions do not apply to him. The Article 45 of the Criminal Code of Ukraine sets restrictions on the right of persons sentenced to moral correctional labor to be dismissed without the consent of the probation authority. It can be noted based on the analysis of the criminal law of a number of foreign countries that the punishment for moral correctional labor is mainly determined by the criminal law of the CIS member states. At the same time, the rules governing the punishment of moral correctional labor are different depending on the specifics of the legislation of each state.

In this regard, Yu.A. Ponomarenko [21]. noted that "this restriction is not in fact a restriction, but the deliberate decision of the legislature to convict those sentenced to moral correctional labor, because in the case of high unemployment, those sentenced to correctional labor are guaranteed pecuniary work". The punishment for moral correctional labor is indicated in the Article 46 of the Criminal Code of the Republic of Uzbekistan, and the procedure and conditions of its execution are determined in Chapter 7 of the Criminal Procedural Code of the Republic of Uzbekistan.

Two types of correctional facilities, which are divided into correctional facilities for convicts at their workplaces and in places designated by the executive organ is stipulated in the Article 46 of the Criminal Code. The first type of moral correctional labor is usually determined by the court in respect of persons who have a permanent job or position, in which case the convict continues to work in his community until the verdict is handed down. The type of moral correctional labor to be carried out in places determined by the executive body shall be identified by the court in terms of persons who do not have a permanent job or are not currently working. In the case of a convict who has

permanent job, his pre-trial duties may be established only if the court finds it inappropriate to retain the accused in that position.

Analyses and researches show that a number of experts have also expressed their critical views on the possibility of imposing a penalty in the form of moral correctional labor on persons who do not have a job. In particular, S.M. Zubarev and S.V. Romanova argue that the imposition of moral correctional labor on those who do not have a job significantly reduces the effectiveness of this punishment [22]. A number of problems in the process of execution of sentences imposed on individuals in the form of moral correctional labor are occurred.

To simply put, with the term of the convict`s evasion to serve moral correctional labor (refusal for more than one-tenth of the total punishment), as well as when the court replaces the unserved (excluding) period of moral correctional labor with the same term of restriction of liberty or imprisonment. However, this situation consists of two problems, which can be divided into: 1) the specific mechanisms of evasion from correctional labor are not reflected in the legislation, but are associated only with the terms of evasion, as well as the variability of the periods of evasion to pass more than one-tenth; 2) the excluding period of moral correctional labor may be replaced by the punishment of restriction of liberty or imprisonment for the same period after the convict`s evasion to serve moral correctional labor, which does not correspond to each other in terms of severity, and that this creates the appearance of the situation of corruption due to the human factor.

The fact that the exact mechanisms of evasion from moral correctional labor are not reflected in the legislation, but only associated with the terms of evasion, as well as the variability of the periods of refusal to pass more than one-tenth causes various problems in practice. Despite the fact that the probation department officers responsible for the execution of moral correctional labor found out in a timely manner that a person is refusing to do moral correctional labor, the employee has to wait until the period of refusal to serve the sentence is more than one tenth. In addition, in case the person`s refusal to serve a sentence is formalized after the expiration of this period, remains hitherto vague whether the Criminal Code shall be replaced by a punishment one sentence higher in level in some cases than a sentence double-degreed punishment higher in level in the penitentiary system and this leads to convicts making various formally requests to the judiciary (causes corruption) or repeatedly appealing to higher courts with applications and complaints in order to serve a lighter punishment.

It should be highlighted that there appears a problem with the evasion of a person to serve the punishment imposed by a court in accordance with the fourth part of the Article 46 of the Criminal Code. In our view, based on the analysis of the above-mentioned correctional punishments of foreign countries, we consider it expedient to state the disposition of the fourth part of the Article 46 of the Criminal Code in the following stipulation: "If a person evades to serve moral correctional labor punishment imposed by a court, the court shall replace the excluding period of correctional work with a sentence of restriction of liberty or imprisonment for the same period". We believe that the proposed amendment in the legislation shall have a positive impact on the execution of moral correctional labor sentences imposed on individuals by the court, and the number of cases of evasion to serve punishments imposed to individuals shall be sharply decreased.

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