

## Execution of Imprisonment and Convict's Labour Organization in the USA

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**Abstract:** The results of the research of the main features of imprisonment execution and convict's labour organization in the USA are presented in the study. The study contains the results of comparative law research of penal, administrative and procedure aspects of the incarcerated convict's labour organization in the USA within Russian legislation and experience. The study was based on the usage of narrative, comparative and historically-genetic methods of scientific research. The information base of the research include acts, analytical and statistical data that concern execution of imprisonment and convict's labour organization in the USA. Legislation of the Russian Federation in the observed sphere was also used. In the study were defined key features of the USA prison system. Analyzed the experience of the convict's labour organization on the objects of American Federal Prison Industries of the US government that is also known as the UNICOR.

**Key words:** Prison system, incarceration, USA, labour, law

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### INTRODUCTION

Execution of imprisonment in the United States and great Britain in the context of convict's labour organization is quite specific and differs from Russian experience, due to peculiarities of organization and legal regulation of the execution of this kind of criminal punishment. In the United States was accumulated a great experience of convict's attraction to socially useful work. At the initial stage of the formation of the US prison system, it was based on the British colonial law. However, further development of the penitentiary system of Great Britain and the United States took place in parallel and conceptually similar way.

The USA for a long period remains the world leader in the number of incarcerated people (2.2 million people in 2014) and have the most extensive network of penitentiary institutions. The US government is one of the world leaders in creation and development of the institution of private prisons (experience of private prison's functioning is considered in the law periodicals, where scientists research possibilities of its implementation on the base of government-private partnership (Yastrebov, 2009; Skiba, 2010). The US prison system is an object of numerous researches of the

Russian scientists (Tarasov and Vasilieva, 2008; Shhitov, 2014; Bykov *et al.*, 2015; Khizhnyak, 2015; Kikoť, 2016; Shevchenko 2016).

The US prison system consists of numerous facilities which perform on two levels. The first level of this network include federal penitentiary institutions (prisons) controlled by the Federal Bureau of Prisons (FBP). On the second level of the US prison system operates the network of institutions controlled by concrete states (integrated network of correctional institutions in Russia is centralized and controlled by the Federal Penitentiary Service in accordance with the law "about institutions and bodies that execute criminal penalties in the form of imprisonment" researcher's note). FBP is a structure that subordinates to the Ministry of Justice of the United States and controls 117 federal prisons.

Persons who have committed crimes and violated state laws and/or laws of certain areas are usually incarcerated in state prisons and/or prisons of certain areas. In federal prisons, punishments are served by persons who violated federal criminal laws. Adult persons who were convicted for violations of the of the district columbia legislation are the exception. In accordance with the law, crimes committed in the metropolitan district are

punished by incarceration to a federal prison (National capital revitalization and self-government improvement act in 1997).

All penitentiary establishments in the United States, no matter the level of prison system on which they operate are classified according to the level of danger of prisoners and accordingly the level of measures to be applied for their isolation (rather close classification is used in Russia in accordance with Articles 56 and 58 of the criminal code of the Russian Federation and articles 16, 74 and etc. Of the Penitentiary Code of the Russian Federation-author's note). Accept this is also taken into account the nature of applied corrective (remedial) measures. Depending the level of undertaken security measures and a number of other features, institutions subordinated to the FBP are classified into the following types: minimum security institutions, low security federal correctional institutions, medium security federal correctional institutions, high security institutions, federal correctional complexes, administrative facilities.

At the same time on different levels of security and in different states operate institutions with a broad list of titles: correctional center, work camp, prison farm, cattle ranch, boot camp, correctional institution/correctional facility and infirmed center, etc. However, all these kinds of institutions subordinate to concrete states, regardless to their titles, in the whole correspond to one of the six classes of safety and conditions of detention, adopted on the federal level.

Minimum security institutions that are also known as federal prison camps are equipped by dormitory housing have a relatively low ratio of prison staff and prisoners. Fences are minimal or don't exist at all. Institutions of this type are primarily focused on the implementation of various programs of convict's labour organization. To facilities of this type often adjoin small camps which provide work for convicted persons from the prison as well as for convicts who were sentenced to punishment that isn't connected with incarceration. Low security correctional institutions have double perimeter fence. Prisoners live in dormitories. In these institutions is established more rigid regime and implemented the program the prisoner's labour organization. Medium security correctional institutions have reinforced perimeter (usually double fences with electronic detection systems). In these institutions mostly used chamber type of convict's detention. Wide range of labor programs and prisoner's treatment is often widely spread. High security institutions also known as United States Penitentiaries, differ by more serious isolation system (including walls and reinforced fences). In these prisons is usually practiced collective and/or solitary confinement of convicts. In high security institutions is often

established the most stringent ratio of staff to prisoners as well as careful monitoring of inmate's movement inside the perimeter. Federal correctional complex is a group of penitentiary institutions with different goals and levels of security. Such establishments are located in close proximity to each other. This improves the efficiency of the complex activities through the synergies of sharing the capacity of institutions at various levels of security and profiles. The operation of correctional facilities allows employees to gain experience in the different levels of security settings.

## **MATERIALS AND METHODS**

Administrative facilities have specific goals and objectives: the maintenance of defendants and suspects, treatment of prisoners with serious or chronic illness, suppression of particularly dangerous prisoners etc. Administrative facilities are presented by the following types of establishments: Metropolitan Correctional Centers (MCCs), Metropolitan Detention Centers (MDCs), Federal Detention Centers (FDCs), Federal Medical Centers (FMCs), Federal Transfer Center (FTC), Medical Center for Federal Prisoners (MCFP) and Administrative-Maximum Security Penitentiary (ADX). Administrative facilities except ADX are able to provide detention of convicts on all levels of security.

Significant role in the processes of incarcerated convict's labour organization in the USA is performed by Federal Prison Industries of the US government also known as the UNICOR. This organization is the federal property of the US government. It was established in 1934 and is focused on the employment of inmates of the FBP institutions through the organization of production and services provision. Experience of >80 year of this organization's functioning is worth to be considered. Neither Russia nor other countries don't create any corporate structures for organization of prison production in such form.

UNICOR restricts its sales and provide products and services only for federal government authorities, including the United States Armed Forces. Only recently, private companies gained access to UNICOR's labour resources. Private employers were allowed to outsource their services to call centers of UNICOR.

It should be noted that UNICOR is legally limited in scopes of competition with private employers. Moreover the labor market in the USA is also protected against dumping capabilities of the American prison system's manufacturing sector.

UNICOR as a public corporation in the federal property was created on the basis of federal legislation acts that were consistently adopted in 1930 and

1934. UNICOR is the main employer of the US federal prisons and accordingly is responsible for the organization of labour of convicts who serve sentences on the first level of the USA prison system. It is worth to note that UNICOR is an almost exclusive deputy for organization of production activities in federal prison establishments.

Into the basis for the creation of the UNICOR was laid the program which was supposed to provide all incarcerated convicts by vocational training and work. It was assumed that this would be an effective measure to struggle recidivism and professional crime in the USA. (Richmond, 2014). UNICOR is practically self-sufficient financial organization. In 2014 fiscal year UNICOR received \$2.7 million of public subsidies (in comparison with 2013 fiscal year, sum of public subsidies increased by \$51 thousand). UNICOR's revenue in 2008 was \$765 million which were distributed as follows: 74% for the purchase of raw materials, 20% on staff salaries, 6% on prisoner's salaries. Wages of convicts in the UNICOR varies between 0, 23-1, 15 dollars per hour (McCollum, 2006).

Like the Russian enterprises of the penitentiary system, UNICOR has an advantage over private producers on public procurement tenders (due to this UNICOR often becomes the object for criticism from the society). Meanwhile, these norms don't concern the United States Department of Defense which is not obliged to give the priority to UNICOR's goods. US law obligates all incarcerated convicts (except for particularly dangerous persons and those whose health doesn't allow to work) to work on UNICOR or any other prison employer. At the same time no more than the half of the official earnings of convicts in UNICOR are directed on payments for convict's obligations that were sentenced by the court (fines, compensation of damage and harm to victims, etc).

Economical activity of the UNICOR is also regulated by the norms of the Code of Laws of the USA (Office of the Law Revision Counsel, 2016). According to title 18, Part 3, Chapter 307, §4121 of the US Code, UNICOR is considered as the state corporation that is managed by the Board of Directors which consists of 6 persons, appointed by the US President. Members of the Board of Directors don't receive salaries and control a number of certain functional areas and represent the following interested business groups and public authorities: industry, labor, agriculture, retailers and consumers, the Secretary of Defense, the Attorney General.

Thus, the functions of the Attorney General in the United States differ greatly from the functions of the Russian General Prosecutor. In the USA, he is also

involved in administrative activities while in Russia is more focused on the solution of problems of criminal procedure.

Section "a", §4121 of the US Code establishes the exclusive right of the UNICOR to determine all aspects of production organization in penitentiary establishments of the country. UNICOR also establishes the norms for regulation of selling and consumption of goods, produced in the USA prisons.

The UNICOR's Board of Directors is tasked the provide the employment for the biggest possible number of inmates of federal prisons. However imperatives of employment must comply with the economic efficiency of UNICOR. Corporation must keep the balance between the needs of the production load (including the employment of convicted prisoners) and government procurement market penetration (Section "b" §4121 of the US Code).

Any decision of the UNICOR in the sphere of organization of the new product manufacturing or significant expansion of existing production must be approved by the Board of Directors of the corporation. The main objective of the UNICOR's functioning is the vocational training of incarcerated convicts in order to form their competencies with which they will be able work honestly after their jail release (§4123 of the US Code). In the US Code is also mentioned that manufacturing activity can be carried out on the basis of FBT institutions and on the basis of other objects.

Usage of the sentenced to imprisonment convict's labour as well as the functioning of the various prison camps are regulated by §4125 of the US Code. It was determined that the US Attorney General has the right to transfer convicts at the disposal of deputies of the relevant departments after the mutually agreed terms and pay rates. Very close legal position is expressed in The United Kingdom Prison rules from 1999. It is worth to mention that even nowadays, when prison systems of the USA and of the United Kingdom develop separately a great number of principal positions in American and British prison legislations retain similarity.

The Attorney General has the right to establish, equip and maintain the productivity of working camps for prisoners in any location except Indian reservations. The Attorney General may determine such camps as the places of detention of convicts who were committed for crimes against the laws of the United States.

Thus, it turns out that in fact the Attorney General in the United States has the power to transfer convicts from one institution to another (in Russia it is an exclusive competence of the Federal Penitentiary Service) as well as a possible change of the type of the correctional facility (in Russia it is the prerogative of the court according to

Article 78 of the Penitentiary Code of the Russian Federation and articles 397 and 399 of the Criminal Procedure Code of the Russian Federation) (Krymov, 2015).

Production activity is significantly extended in US private prisons. The level of labor commercialization of prisoners in private prisons is significantly higher in comparison to UNICOR although prisoners in US private prisons are deprived of the state labor guarantees. Payment for their labor is on the level of \$0.17-0.25 per hour. However, the administration of private prisons regularly receives government funding for each incarcerated convict.

## **RESULTS AND DISCUSSION**

The main operators of private prisons in the USA are Corrections Corporation of America and The GEO Group Inc. It should be noted that private prisons in the United States are not included in the number of federal establishments and act as establishments within the prison systems of concrete states. Thus, private prisons in the USA operate exclusively within the framework of the second level of the American prison system.

Prison farm is a huge penitentiary institution in the USA which is characterized by the relevant number of incarcerated convicts and size. In prison farms labor of convicts is aimed on the extraction of economic benefits for administrations of institutions. The main activity of incarcerated convicts on the US prison farms is agriculture. In fact, prison farms are the successors of the US labor camps of the early 20th century (Vaught, 2006).

Prison farms have different names and are created on the basis of separate penitentiary establishments (as a result, they continue carrying the name of the prison on the basis of which the farm was established) or in the form of newly established farms. As an example we can mention the Farquhar Cattle Ranch which has the status of Alabama prison.

A number of studies of the US researchers note that the US prison farms are actively using leasing system (Joy, 2005; Grant and Grant, 2001) which is an addition to using of convict's labor on state jobs. Penitentiary establishments are often involved in the transfer of convicted persons to private employers for a defined term. Wages for prisoners are usually paid with a significant discount compared to the wage rates of civilian personnel for these types of agricultural work in the region.

Currently, penal system development program operates in the USA. According to this program until 2040 prison farms must fully meet the needs of the US prison system in food. This orientation is explained by

expediency of the costs reduction. Budget financing on the incarcerated convict's maintenance in the US penitentiary establishments is going to be significantly reduced. The cost of the convicted person's day of detention in custody ranged in 2010 in the average from \$53.35 (Florida) to \$70 (South Carolina). The maintenance of all prisoners in the USA in 2010 worth US \$106.68 million per day while 29% of the costs were spent on food. Estimated savings from the development of the prison farms in the context of the US prison system self-estimation count \$1.7 billion per year.

The problem of an adequate feeding provision of convicts in the USA has already moved beyond the borders of the penitentiary system activity and is observed in the procedural order in courts. As the result, diet of sentenced to imprisonment in the USA was acknowledged as dangerous for their health. It was acknowledged by decisions of the Supreme Court of the USA.

## **CONCLUSION**

Thus, it is obvious that the execution of imprisonment in the United States in the context of the organization of labor of convicts is quite different from the Russian practice and legislation (penal, criminal procedure, etc). It can be partly explained by the history of the formation of penitentiary systems of Russia and the USA.

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