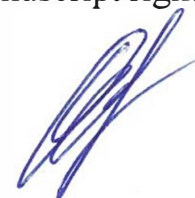


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Dolgoplov Kirill Andreevich

**Stratification factors of the conventionality of criminal punishment**

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Professor Lushnikov D. A.

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The relevance of the study of the conventionality of criminal punishment follows from the need to understand the dynamic balance, which is based on the relationship between the recognition of the legitimacy of the legal norm and the social perception of the adequacy of punishment for its violation. This assumes that the established norm should be universal and mandatory for every member of society, without violating the rights of the individual and not depending in its implementation on his social status.

In modern social stratification, there is a gap between the perception of the norm by the upper, middle and lower classes. That is, the stratification factor determines different levels of conventionality of norms, including criminal law. The production of the norm is considered as an institutionalized professional activity, which contradicts the conventional nature of the norm and reflects the class-stratum interests of the position of the individual/group/community in social stratification.

It is important to understand that the conventionality of criminal punishment is achieved through the formation of a broad socio-structural consensus that determines what is considered a fair punishment in a particular situation, which ultimately contributes to the creation of trust in the rule of law and the criminal legal system as a whole. Conventionality also reflects the attributive characteristics of the social, acting not only as a tool for the formation and reproduction of social relations, but also as a reflection of the natural need of man and society to establish consensual, non-conflict and understandable relations that do not require additional reflection. Conventions in relation to the same objects may differ in different societies due to differences in culture, mentality, as well as socio-economic and socio-political living conditions.

Thus, the attitude towards punishment and its legitimacy in the public consciousness are closely related to the perception of the legal norm and the attitude towards it. The conventionality of punishment is based on the assessment of the norm and the adequacy of punishment for its violation, striving for a balance

between the legitimacy of the norm and the legitimacy of punishment, taking into account all aspects of the social structure. This creates the basis for the formation of punishment that would be "correct" or "deserved" in the eyes of the majority of members of society, taking into account the specific functional aspects of certain actions. Inadequate imposition of criminal punishment increases social inequality and stratification, when representatives of different social classes are subjected to unfair or disproportionate punishments, which increases interclass social barriers and gaps.

The unconventionality of punishment determines the public discourse on its legitimacy. The legitimization of criminal punishment is closely related to its compliance with the moral, ethical and social standards of society, the loss of which can lead to a crisis of the criminal law system.

Resolving these contradictions requires a thorough analysis and systemic changes in the field of criminal legislation and judicial practice.

The current novelty of the study of stratification factors of the conventionality of criminal punishment is determined by the need to constellate the opinions and approaches of key actors in law enforcement activities, in particular, the convicts themselves, representatives of the law enforcement and judicial systems, as well as society as a whole. This approach to the study of stratification factors of the conventionality of criminal punishment allows us to study at a deeper level the dynamics of social relations, values and norms that determine the attitude to punishment. It provides an opportunity for more accurate identification and understanding of contradictions in the criminal justice system, and also contributes to the development of strategies for improving and optimizing the system of assigning criminal punishment.

The above determines the relevance and prospects of the study of key contradictions in the sphere of conventionality of criminal punishment in modern Russian society, as well as stratification factors that determine the features of modern law enforcement activities.



The object of the study is the conventionality of criminal punishment in modern society.

The subject of the study is the influence of social inequality and stratification on the conventionality of criminal punishment for economic crimes in modern Russian society.

The purpose of the study is to identify and characterize the influence of stratification factors of the conventionality of criminal punishment in modern Russian society.

In accordance with the purpose, object and subject of the study, the following tasks were set:

1. To interpret the concept of conventionality of criminal punishment in social and humanitarian knowledge.
2. To systematize the results of theoretical and methodological studies of the influence of social inequality on criminal punishment in world criminology and sociology.
3. To characterize the methodological principles of determining the influence of social inequality on society's attitude towards crime and criminal punishment.
4. To develop a theoretical and methodological justification for the study of the conventionality of criminal punishment
5. To study inequality in criminal punishment in domestic judicial and penitentiary practice.
6. To analyze the dynamics of the attitude of Russian society towards criminal punishment.
7. To formulate and verify the criteria and indicators of the sociological analysis of the conventionality of criminal punishment.
8. To study the features and characteristics of stratification differences in attitudes towards criminal punishment in modern Russian society.
9. To assess the functionality and legitimacy of criminal punishment for economic crimes in law enforcement activities.

10. To identify the specifics of the conventionality of criminal punishment for economic crimes in the views of those sentenced to imprisonment.

Provisions submitted for defense:

1. A convention is an informal agreement arising between social subjects, that is, an informal solidarized value-normative construct. Conventionality is a property of conventions, expressed in varying degrees of agreement of these subjects with a common convention, which appears in the forms of values, norms and rules shared by a certain group. The conventionality of criminal punishment is the degree of agreement of society regarding the goals and functions of punishment declared by the state, the types of punishment applied by it, the adequacy of punishment to the act committed, taking into account the alternatives to punishment available in society.

Stratification factors of conventionality of criminal punishment characterize the influence of social differentiation and inequality on the perception and attitude towards criminal punishment among various social groups and communities that form the structure of society.

2. Systematization and analysis of classical and modern theories of the sociology of deviant behavior and criminology based on the influence of social inequality on criminal punishment allows us to assert that this factor determines various aspects of inequality: 1) in the production and reproduction of criminal law norms; 2) in the institutionalization and legalization of various norms; 3) in the significance of certain norms; 4) in the selection of institutional agents of criminal law and punishment institutions; 5) in the application of certain norms to the accused in the course of legal proceedings, as well as in the classification of the type of crime committed; 6) in the appointment of the type of punishment; 7) in the conditions of serving the sentence; 8) in the perception and assessment of the accused, which are influenced by his stigmatization and/or belonging to a professional criminal community, deviant or delinquent subcultures and groups.



This theoretical result can be considered as a methodological tool for studying the conventionality of criminal punishment in modern Russia.

3. The methodological principles of studying the influence of social inequality on the attitude of society towards crime and criminal punishment allowed us to identify the following patterns and formulate a number of conclusions: 1) conventionality is mediated by the social structure and stratification of society; 2) the more complex and heterogeneous the social community/society, the more levels of formation of conventions, the number of conventional relations at the macro-, meso- and micro-levels of social reality, conventional nonconformists in the social structure; 3) the social contract/social agreement (macroconvention between society and the authorities) concerns the opinion of the majority and always presupposes the presence of conventional nonconformists, determined not only through their personal position, but also through their position in the social structure; 4) the conventionality of criminal punishment for certain crimes is determined by the objective conditions of the existence of society and its perception of these conditions. The conventionality of criminal punishment depends on the state of public consciousness in a certain historical period: on social well-being, social sentiments, representations and assessments of the current state, social expectations, etc.; 5) in modern society, with a complex system of division of labor, social structure and stratification, there are differentiations in the conventionality of criminal punishment in the opinion of various social communities, therefore this conventionality is determined through the opinion of the majority; 6) society is ready to accept the introduction of criminal liability and punishment for crimes related to the distribution and use of drugs. However, the state does not go for tougher punitive measures and the introduction of criminal liability. The same applies to the attitude to crimes of a corrupt nature and the possibility of introducing the death penalty. In its criminal policy, the state "runs ahead" in liberalization relative to the opinion of the majority. Consequently, it can be stated that the conventional adoption of criminal punishment under these articles of the Criminal Code of the Russian Federation is



problematic, since the degree of public agreement regarding the goals and functions of punishment declared by the state, the types of punishment applied by it, the adequacy of punishment to the act committed, etc. is low; 7) in stable periods of development, society tends to humanize its attitude to criminal punishment and thereby supports the trend of the criminal justice system towards liberalization; in periods of socio-economic crisis, a multidirectional process of tightening the attitude towards criminal punishment prevails; 8) a decrease in the degree of conventionality of criminal punishment during periods of socio-economic crisis is expressed in a certain radicalization of public consciousness and a tightening of the attitude towards criminal punishment.

4. The conventionality of criminal punishment is determined by stratification factors and the process of social differentiation, which affects the perception of justice, legitimacy and effectiveness of punishment for economic crimes in modern Russian society. The conventionality of criminal punishment is operationalized through the level of trust in the criminal punishment system, the perception of public participation in the formation of criminal policy and the assessment of the compliance of punishment with social norms and values. The legitimacy of punishment is studied through the indicators of the level of trust in the police and courts, the perception of the legality and transparency of judicial processes, as well as the general assessment of the legitimacy of criminal policy and punishment. Stratification factors are manifested in social inequality and differences in access to resources and opportunities among different social groups. Empirical indicators include the influence of social status on the perception of the fairness of punishment, the assessment of differences in access to justice and legal resources, as well as the subjective perception of discrimination in criminal proceedings. 5. Negative factors influencing the implementation of criminal proceedings in Russia and determining the manifestations of social inequality in the appointment and execution of criminal punishment are: 1) corruption of investigative bodies in pre-trial settlement through reconciliation of the parties; 2) the possibility of exerting external administrative, political and financial pressure on the court; 3) the lack of



real independence of judges; 4) judicial arbitrariness; 5) corruption in judicial practices; 6) liberalization of criminal liability, decriminalization of a number of violations and replacement of criminal liability with the imposition of fines for crimes in the sphere of economic activity; 7) socio-demographic (age and gender) differences; 8) socio-professional status of the offender, including his professional and official position; 9) corruption in penitentiary institutions; 10) additional paid services for convicts in penal institutions.

5. Negative factors influencing the implementation of criminal proceedings in Russia and determining the manifestations of social inequality in the appointment and execution of criminal punishment are: 1) corruption of investigative bodies in pre-trial settlement through reconciliation of the parties; 2) the possibility of exerting external administrative, political and financial pressure on the court; 3) lack of real independence of judges; 4) judicial arbitrariness; 5) corruption in judicial practices; 6) liberalization of criminal liability, decriminalization of a number of violations and replacement of criminal liability with fines for crimes in the sphere of economic activity; 7) socio-demographic (age and gender) differences; 8) socio-professional status of the offender, including his professional and official position; 9) corruption in penal institutions; 10) additional paid services for convicts in penal institutions.

6. Sociostructural and stratification factors of conventionality of criminal punishment, expressed in the attitude towards crime and criminal punishment, are: 1) sex/gender; 2) race/nationality; 3) negative racial and ethnic stereotypes and prejudices; 4) age; 5) level of education; 6) income level; 7) socio-territorial community (city/village, type and density of housing development); 8) social status (social stratum/class); self-assessment of belonging to a social stratum; 9) political orientation (liberal/conservative, moderate/radical, etc.); 10) religious affiliation, level of religiosity; 11) experience of being a victim of a crime ("victimization experience"); 12) channels of communication about the crime situation; 13) level of public awareness about crime problems; 14) the factor of media and political use and "information pumping" of the problem of fear of crime; 15) assessment of the



level of conflict and criminalization in one's own socio-settlement community; 16) assessment of the socio-economic situation in the country; 17) fear of crime (social and individual); 18) the level of trust in the police ("assessment of the police reputation"), both institutional trust (as in a social institution) and individual trust (trust in specific institutional agents); 19) assessment of police corruption; 20) assessment of the corruption of municipal and state authorities; 21) opinion on the existence of links between government structures and organized crime; 22) feeling of vulnerability to crime; 23) assessment of the risk of becoming a victim of crime; 24) avoidant and self-isolation behavior; 25) the level of social solidarity in the local community of the territorial location of residence, "cohesion of neighbors", communication practices; 26) subjective assessment of the seriousness of the offense; 27) attitude towards criminal punishment and punitive sanctions (attitude towards the goals of criminal punishment, attitude towards the intensity of sanctions, attitude towards certain forms of sanctions).

7. Public perception of the conventionality of criminal punishment is associated with the transparency and understandability of decisions made by law enforcement agencies. The majority of respondents (72.4%) indicate a lack of explanation by law enforcement agencies of their actions and decisions. The perception of fairness and impartiality of law enforcement agencies and the judicial system may be associated with the social status of respondents. The study showed the presence of age differences in the perception of the conventionality of criminal punishment. Young people are more likely to believe that everyone has an equal chance of being found guilty, which may reflect their lesser life experience or, conversely, belief in progressive changes in society. The study identified stratification factors that influence the conventionality of criminal punishment and attitudes towards it in modern Russian society. Education has a significant impact on conventionality in relation to the police. Respondents with a higher level of education more often agree with the final verdicts of the court, which may be associated with a deeper understanding of legal processes and awareness of the role of the police in the judicial system. Gender also plays an important role in

conventionality, especially in relation to the police institution in the Russian Federation. Although specific findings may depend on context and cultural characteristics, the overall analysis indicates the influence of gender on the perception of conventionality. The importance of attitudes toward the judicial system in the context of conventionality is also noted. Respondents who express distrust of the judicial system and see it as a body that protects the interests of the rich and powerful tend to have lower conventionality. Classification of respondents by variables such as education, gender, attitude toward the judicial system, social status, type of employment, and others allowed us to identify groups with different levels of conventionality.

8. Using factor analysis, four key factors influencing the perception of criminal punishment were identified. The likelihood of punishment is especially high among young men and representatives of blue-collar jobs. The severity of punishment is important for the group with higher education and those holding status positions. The perception of the fairness of punishment is especially noticeable among middle-aged women and pensioners. Perception of the rehabilitation potential of punishment is important for young people, students, and people with higher education employed in the service sector. The results also indicate that the conventionality of criminal punishment depends on stratification factors such as education, profession, age, and gender. People with higher education and those in high-ranking positions have a stricter and more repressive view of criminal punishment, while young people and those employed in the service sector are more likely to emphasize the rehabilitation potential of criminal punishment. Stratification factors, including gender, education, type of employment, social status, and attitude toward the judicial system, play a significant role in determining the conventionality of criminal punishment. Men and women, people with different levels of education, and different attitudes toward the judicial system have different views on criminal punishment and its effectiveness.



9. A significant portion of economic crimes are committed by the age group from 31 to 52 years, which has demonstrated a high level of criminal activity throughout the period under review. The lowest activity is observed among adolescents and young men aged 14 to 17 years, which may be due to stricter control by adults and society as a whole. Persons who have committed crimes in the economic sphere, for the most part, have secondary or higher education. The predominant motive for committing crimes in the economic sphere is the desire for material gain. However, status motives should not be excluded, including the desire to improve one's social status or maintain an already achieved social status. The conducted analysis of the punishment structure reveals that a significant proportion of convicts are subject to financial sanctions in the form of fines. Suspended sentences are also quite common, which may indicate the desire of the judicial system to humanize punishments. A low percentage of acquittals is noted, which may indicate a high degree of proof of guilt in the cases under consideration.

10. The functionality of criminal punishment for economic crimes includes a set of measures aimed at preventing crimes, rehabilitating persons who committed the crime, and restoring law and order through the fair and legal application of punishments. Qualitative empirical data obtained from the informants of the study indicate that at present, the highest degree of conventionality, corresponding to the severity of the economic damage caused and the degree of punishment imposed, include crimes against the procedure for the circulation of money, precious metals, precious stones and securities, as well as the procedure for recording rights to securities, crimes against the procedure for carrying out foreign economic activity, crimes against the procedure for lending and the procedure for satisfying creditors' claims, illegal entrepreneurship and banking activities. Most experts believe that punishments for these types of economic crimes are the most conventional and correspond to the expectations of the majority of actors in the legal process. Partially conventional, judging by the results of the study, are the legalization of funds or other property acquired by a person, smuggling, smuggling under aggravating circumstances. According to the

experts who participated in the study, various types of fraud, embezzlement or misappropriation, acquisition or sale of property known to have been obtained by criminal means, as well as bribery, are unconventional.

11. Differences in socio-economic status, value orientations and conventions lead to differentiated perceptions of criminal punishment for economic crimes among different social strata. High social status contributes to the perception of punishment as less severe and fairer, which correlates with the general conventionality of approaches to criminal justice. Research data confirm that most representatives of the upper strata feel more protected in legal and institutional terms.

Low-income individuals more often perceive the criminal justice system negatively and assess punishments as unfair, since for higher-status groups economic crimes are the most common and typical, which is manifested in a more conventional attitude to penalties for economic crimes, in which the balance between imprisonment and economic sanctions is most important.

In Russian society, two oppositely directed parallel trends are observed: a trend towards decriminalization and, at the same time, toughening of punishment for economic crimes. Representatives of the lower and middle classes tend to toughen the types of punishment for economic crimes that cause great harm and are the prerogative of the higher classes. On the other hand, representatives of these same classes tend to decriminalize some crimes that cause less economic damage. Representatives of the upper class and upper middle class express a desire to liberalize criminal legislation regarding economic crimes. There is a clear relationship between the socio-economic status of the convicted person and the nature of the criminal punishment. High social status often correlates with more lenient and shorter punishments compared to the lower classes. Public opinion confirms that law enforcement agencies and courts tend to treat representatives of the upper class more loyally. Differences in income, education, socio-professional status and belonging to certain social communities and groups form a differentiated perception of criminal punishment.



Practical significance of the work. The results of the study can be used to optimize the criminal justice system, increase its efficiency and fairness.

The data obtained during the empirical study can form the basis for revising the legislation in the field of criminal punishment for economic crimes. Based on specific figures, legislators can adjust the punishment standards, making them more adequate and fair, which in turn can improve the public perception of the judicial system.

The results of the study can be introduced into the educational process, including university lecture courses and advanced training programs for sociologists of law, lawyers, judges, prosecutors and other specialists in the field of justice. This will help prepare personnel capable of working in a new, more fair and effective approach to criminal punishment.

In addition, the results of the study can be used by criminal justice agencies to analyze the current situation and develop measures to improve the conditions of detention of convicts, as well as to introduce alternative methods of punishment that could contribute to the successful rehabilitation of convicts and their return to society. The study can become a tool for public organizations and human rights activists, allowing them to base their arguments on empirical data when filing petitions and proposals to improve the criminal punishment system.

The work was tested and its results were used in educational, research, expert-consultative and publication forms.

The results of the dissertation were introduced into the educational process of the Rostov Institute (branch) of the VSUYU RPA of the Ministry of Justice of Russia, as well as into the practical activities of the FSIN Directorate of Russia for Stavropol Krai, the Andropovsky District Court of Stavropol Krai, and the Shpakovsky District Court of Stavropol Krai.

Some materials were discussed at conferences, including all-Russian and international ones.

The volume and structure of the dissertation. The work consists of an introduction, three chapters containing ten paragraphs, a conclusion, a list of references, and 7 appendices. Bibliography - 215 units. Volume - 552 p.