

INTERNATIONAL SCIENTIFIC CONFERENCE "ARCHIBALD REISS DAYS"  
THEMATIC CONFERENCE PROCEEDINGS OF INTERNATIONAL SIGNIFICANCE



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# REAL POSSIBILITIES OF PRISON INSTITUTIONS IN RESOCIALISATION OF DELINQUENTS AND PREVENTION OF CRIMINALITY

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**Abstract:** Ever since the verdict of imprisonment was introduced a question that has permanently been posed is –what are real possibilities of imprisonment in prevention of criminality? In addition, another question which is always present is what are possibilities of prison in changing the pattern of criminal behaviour of offender? Effects of penitentiary institutions on prevention of crime depends on a number of factors (offender's age, kind of misdeed, length of punishment, personality of offender, treatment programme, etc.), each of them individually affecting delinquent's resocialisation. Research shows that the rate of recidivism considerably declines with aging of offenders, that there is no significant correlation between length of punishment and recidivism and that the effects of long punishment are quite moderate, except for the fact that the effects of long punishments are displayed in disabling the offender to commit new criminal offences during his/her stay in prison. Classical mechanisms of penal and legal reaction fail to give expected results and have no effect on decreasing criminal behaviour. Over a long period of time the concept of resocialisation of offender has been considered as an ideal solution for fighting crime but the evaluation of the results of this concept shows a number of weak points along with small effects in preventing criminal behaviour. As a result of modest, or better, small effects of resocialisation, the intensifying of punishment policy, regeneration of prison punishment, politicising of penal mechanism and affirmation of penal and legal mechanisms in fighting crime are more and more present. Apart from making the punishment policy more severe and using a repressive concept, the effects on crime prevention are unsatisfactory. The rate of criminality is constantly high, recidivism is very high, new forms of criminal behaviour, very dangerous for society, are emerging (cyber crime, corporate, organised and other forms of crime), and prison population increases dramatically, up to a point of endangering the prison system on a global scale. In such circumstances the effects of criminal sanctions of institutional character are smaller and smaller in sector of rehabilitation, so only the offender's isolation from the society kept its function.

Sanctions of institutional character have significant effects if they are definite and conducted shortly after committed criminal offence. Both the goal and purpose of penal sanctions and their execution may decrease significantly if legal process is long and if a long time elapses from offence committed to the execution of sanctions.

**Keywords:** prison institutions, prevention of crime, resocialisation, penal sanctions, recidivism, prison punishment.

## INTRODUCTION

A general purpose of instituting and pronouncing penal sanctions is to suppress the activities which can damage or endanger the values protected by penal laws (Article 4, paragraph 2. the Criminal Code of the Republic of Serbia, Official Gazette no.85/2005, 88/2005-am end.107/2005,72/2009,111/2009,121/2012,104/2013,108/2014 and 94/2016.). Within the frame of this general purpose, the goals of penalties are the following: (1) to prevent offender to commit criminal misdeeds and to exert an influence over him/her not to commit them in the future (individual prevention); (2) to exert influence over others not to commit criminal offences (general prevention); and (3) to express social condemnation for criminal offence, to strengthen morale and to enforce the obligation of respecting the law (educational function), ( Article 42, point 1,2 and 3 KZ RS). *Individual prevention* has two aspects: disabling and resocialisation. With prison punishment, disabling is only partial: while in the institution - prison, the offender is not in a position to commit certain criminal offences. Resocialisation means to change those offender's habits and values considered to have led him/her to commit criminal offence and to prepare him/her for socially acceptable way of life.

*General prevention* lies in assumed frightening effect of punishment. In order to be afraid of it the punishment must represent evil, at least from the standpoint of potential offenders. The evil embodied in prison punishment can and must only consist of depraving of freedom; no other deprivations are allowed. It is assumed that a potential offender decides rationally whether to commit misdeed or he decides not to do it. In reality, of course, it is not always the case. For example, many crimes are committed out of passion, under the influence of strong emotions which allow no rational resolution and for many professional and organised criminals the punishment represents a professional risk. For this reason instituting more and more severe punishments, what seems to be a constant demand of all populist politicians, cannot alone act preventively (Stevanović, Z. 2012. , p.202-203. ).

If we have a purpose to institute and execute assigned criminal sanctions, the question arises as to how and in what degree that purpose is being realised. The question on what degree a freedom depriving punishment and its execution in prison institutions accomplish the purpose of punishment is of essential importance. Over a few recent decades the opinion that prison punishment and institutional rehabilitation exerts no expected influence over the change of offenders' pattern of behaviour and that they very quickly return to criminal pattern of behaviour, very often committing much more brutal criminal offences is more and more prevailing. Such a state can be explained by unsuccessful resocialisation, more dominant influence of negative informal structure of prison, by a consequence of prison deprivation, inadequate treatment in prison and similar, i.e. insufficient influence of prison institution on the change of offenders' pattern of criminal behaviour.

The question: *What has happened with the prison punishment and its execution?* is often posed. In order to understand the current discussions about the purpose of punishment it is necessary to bring to mind how different ideas developed in the past. The main question to answer is – what do we want to achieve, what is the aim of punishing criminals? The essential idea of different theories which explain the purpose of punishment can be reduced to three theoretical concepts, in literature known as absolute, relative and mixed theories. *Absolute theories* see the purpose of punishment in the revenge of one who is punishing and in suffering of the one who is being punished. By punishment the evil which has been inflicted by criminal offence is being paid back. Purpose of punishment is exhausting itself by focusing on the past (*punitur quia peccatum est*). Punishment is the goal in itself regardless of whether it is applied on the grounds of divine, moral or legal justice. *Relative theories* fall into period of social speculations on suppressing criminality by leaving the idea of revenge while recognising

the punishment as a means to protect society against criminality. Those theories are directed towards future – punishments are carried out in order to prevent offences in the future. Therefore, it is clear that theories of prevention - special and general ones, are in question.

Within these groups there are a number of theories that will be briefly mentioned here. The group of theories of special prevention includes: (a) theory of frightening by executing the punishment, (b) theory of guardianship, (c) theory of improving and (d) theory of resocialisation. The group of theories of general prevention includes: (a) theory of general frightening by predicting punishment, (b) theory of general frightening by executing punishment and (c) theory of warning. *Mixed theories* try to find a compromise between these two conflicting groups of theories, a basic starting point of these groups of theories being that punishment, not only can, but also must have more goals. A historical review of the development of theories about the purpose of punishment starts from a classical school according to which punishment in Europe in 18th century was arbitrary and very retributive, characterised by severe and corporal punishments. Punitive and legal systems allowed judges great discretionary power that enabled “culprits” to go unpunished and innocent people to be convicted (Cavadino, M., Dignan, J.1992) Representatives of classical school evaluate such system as inhuman and unjust and as an irrational and inefficient way of controlling criminality. Representatives of this school make effort to reform the system of punishment and start from the hypothesis that it is necessary that criminal should be legally defined, punishment adequate for the offence committed, a man commits criminal offence by his own will and punishment norms should suppress or prevent criminal. Cesare Beccaria, as the most important representative of classical school says that the “purpose of punishments is neither to torment nor distress a human being, nor to smooth out already committed crime as if it was not committed. Therefore, the only purpose of punishment is to prevent the culprit from causing new damages to his fellow citizens and to restrain the others from doing similar misdeeds. Therefore, those punishments and the way of their execution that will take care to be proportionate to crime committed making the strongest possible impression on human soul and inflicting the smallest possible corporal pain to a culprit should be given a preference to.”(Stevanović, Z. ,2012. p.208.)

Positivists reject concept of free will interceded by classical school and in focus of their interest they place criminal offender who is thought not absolutely free from external influences in his behaviour. Positivism is particularly significant for development of criminology as a science because it represents the first efforts for scientific explanation of criminality, development of “positive” factual knowledge on doers of criminal misdeeds grounded on observations, measurements and inductive method, rejecting speculations about human character which were present in a previous corrective and legal practice. Central question referred to discovering differences between delinquents and prosocial citizens. Positivism, therefore, represents early development of rehabilitational ideal which prevailed in criminological speculations and rhetoric around the middle of XX century.

## CURRENT STATE IN PRISON SYSTEMS AND EFFECTS IN REHABILITATION OF OFFENDERS AND PREVENTION OF CRIMINALITY

A high rate of repeated crime, inefficient resocialisation and unsuccessful reintegration of prisoners lead to increasingly expressed disagreement towards measures undertaken by a society in prevention of criminality. An ambivalent standpoint that “criminal is an unavoidable



phenomenon in modern society – you should get used to it, be realistic, protect yourself and survive“ s more and more present today while the others regard criminal as “a catastrophe for society in which somebody should be responsible for such a state because criminal degenerates the society and it is the sign that it is high time people returned to traditional values and discipline.“ (Stevanović, Z., 2012.p.207.). These views are a consequence of insufficient efficacy of prison punishments and prison institutions in accomplishing the purpose and goals of punishment inducing also theoretical speculations about the purpose of punishment.

Conception of resocialisation started from the idea of possible elimination of established factors of delinquent behaviour using very differential individualistic models of institutional treatment. This period is called the period of “*rehabilitational optimism*”. This idealism was based on the idea of “treatment” of doer of criminal offence for his/her delinquent tendencies and this “treatment” involved the change of the personality and his/her qualities, appearance, habits or possibility of committing criminal offence. The idea of rehabilitation developed under the motto “of helping” delinquent assuming that he wants that help. Answorth rightly suggests that the others – the citizens for whom the risk of victimisation decreased in that way had more benefit of that help (Ainsworth, P.,2000., p. . 112).

Rehabilitation as a purpose of punishment went through numerous criticisms. Development of rehabilitational models and the way of their application led to another extreme. As Brody says: “... rehabilitation came to a point where it represents not only an unreal and unfeasible goal but a threat to principles of prisoner’s rights and humane treatment and can be harmful to convict’s chances to become pro-social”( Garland, D. 1997. Law Review 1(2): 1-20). Martinson, in his investigations, questioned efficacy of prison punishment and treatment, as well as conception of resocialisation, because investigations produced very poor results. After he had investigated the effects of treatment, there followed thorough research of the effects of various treatment models. The results, generally, indicated a poor effect of treatments and a conception of rehabilitation of offenders. However, a compromise solution has been found indicating that it is true that poor results have been realised in application of conception of resocialisation of convicted persons, but they point out the legitimacy of the treatment which, if adequately applied, can achieve much better results than previously. In fact, the problem of insufficiently qualified personnel for executing the prison punishment and application of treatment and inadequate choice of adequate model of treatment for some categories of convicts has been pointed out. Supporters of the conception of resocialisation, Rex and others, emphasize the elements which indicate a possible success of treatment and rehabilitation of delinquent. According to the results of the investigation about the success of executing the prison punishment and resocialisation, positive effects are displayed in decreasing impulsiveness, enforcing the interrelatedness in community, modelling pro-social behaviour of delinquents and in a greater chance that stay in prison should accomplish the purpose of punishment (Stevanović, Z.,2012.,p.207-210 ).

During nineties of the last century, Canadian researchers discovered that significant effects in the work with prisoners can only be achieved if attention is being paid to “*criminogenic needs*” of prisoners. It means that treatment is focused on the field of offender’s criminal thinking. In a study about the effects of treatment on the change in the pattern of prisoners behaviour it was established that programmes of cognitive treatment, with respecting professional standards, can decrease recidivism from 25-30 % .Such and similar investigations give hope that the change of the viewpoint of prisoners towards criminal offence is possible, with professional approach and adequate treatment in the prison. A tendency of punishment policy to frequent arresting and severe punishing has no significant effect on criminal prevention and provokes resistance, revenge, stubbornness and other forms of resistance towards society in delinquents. Therefore it is necessary to build trust with delinquent and, respecting his/

her personality and dignity, to offer him/her a possibility of his/her change: possibility to change and take active part in a society, to accept necessity of respecting legal norms and to respect his/her abilities and his/her own choices in life. In realisation of cognitive treatment it is emphasised that every offender will decide whether to use the opportunity to change his/her behaviour or to keep on violating the law. Delinquents should know that they always have a capacity to think freely, to choose their own way of life. By admitting their freedom we offer them something that they already have. We simply respect them as human beings. As Viktor Frankl said in *Man's Search for Meaning*: "Everything can be taken from man except one thing: human freedom – freedom to choose his own view in any given situation, to choose his own way of life".<sup>1</sup>

In the context of discussion about the crisis of effects of prison system on rehabilitation of prisoners, i.e. on the change of pattern of criminal behaviour, literature reports many kinds of prison crisis. The crisis of prison system is one of dominant factors of rehabilitation that failed in high percent of prisoners. Literature reports more kinds of crisis such as: *crisis of content* – relating to the content of living and work in prison, way of organisation and making sense of regime of the life of prisoners. The crisis of content in prison is caused by overcrowded prisons and inefficient organisation of living regime<sup>2</sup>. In addition, there is a *crisis of conditions* in prison. This refers to conditions of life and everything connected with it.

A particular emphasis is placed on the *crisis of authority* in prison as well. Crisis of authority is a consequence of status of prison administration, particularly guards and tutors and social pedagogues. Lately, the participants in treatment have had a limited authority which was more and more emphasized due to respecting the rights of prisoners although the prison administration experienced this as violating its own personal and professional authority. In such circumstances they lose motivation and most often do nothing to change the situation, what is reflected on their authority on convicts. Literature states also the *crisis of publicity* – which refers to traditional conservatism and reserved attitude of prison system towards public. In majority of cases there is a mystery about what is going on in prison and even the prisons themselves contribute to that. In modern time of developed communications it is not possible to hide the events in prison. Prisoners in various ways place information about events in prison and even the state itself more and more tries to make this segment of society public. There is a *crisis of legitimacy* – which is the most distinct in British prison system and which refers to a "call for suspension of punishment of depraving of freedom". This crisis is being experienced as morally justifiable.

The fact that crisis of prison has become a serious problem was indicated by numerous reports at the First Congress of the European Society of Criminology which was devoted to problems of depriving of freedom and prison. The most frequent problems are seen in a lack of adequate programmes for work with prisoners, bad and very bad conditions in prison, insufficiently developed system of protection of rights of prisoners, overcrowding in prisons, growing number of drug addicts in prison, growing number of psychiatric disorders in convicts, strong non-formal system of prisoners – up to the level of mafia<sup>3</sup>, bad financial status both of prisons and the employed and so on. In such an ambient it is very hard to achieve

1 <https://www.ncbi.nlm.nih.gov/pmc/articles/532018>.

2 According to the reports of competent ministry for prison system in England and Wales the prisons are overcrowded by almost one fourth of their designed capacities accounting for 20 995 prisoners. Out of total of 117 prisons in England, 76 prisons are overcrowded and function with difficulty-<http://www.prisonreformtrust.org.uk/portals>

3 According to the data of the Ministry of Justice of USA, there are 11 very well organised mafia-like groups in prisons in America which operate both in prison and outside. They mostly distribute and control drugs, commit robberies, murders, thefts, etc. Each of these mobs has its own activities, for example, one of them controls gambling and prostitution in the prison system and outside it. Majority of prison mafias are connected with Mexican and other cartels.

more significant results in rehabilitation and reintegration of prisoners, so a great majority of them returns to criminality (Stevanović, Z., 2012., p.213). In theoretical discussions on the influence of prison on prevention of criminality there are different speculations and theoretical assumptions. It is possible to define all those speculations in three schools of thinking about prison possibilities of preventing criminal. *First* school of thinking expresses the opinion that prisons definitively suppress criminal behaviour.

According to this school of thinking prisons act as means of averting and influence the offender to reduce or to give up his/her criminal activities. Economists support this opinion because arresting imposes direct and indirect expenditures of prisoners (for example, loss of income, stigmatisation). Thus, confronted with a possibility of going to prison or after having experienced a life in prison, a rational individual will not indulge into further criminal activities. The *Second* school of thinking supports a view that prison is a "school of criminal" and that prisons not only do not prevent criminality but that they influence increase in criminality. Representatives of this school of thinking suggest that prisoner, who had spent a long time in prison conditions, has enforced his/her tendencies towards criminal and therefore it is more probable that he/she will commit offence again compared to a prisoner who spent less time in prison. Many criminologists are of opinion that prison conditions produce highly negative consequences for offender what can most probably increase criminality. *Third* school (minimalistic school) of opinion supports more moderate standpoints about the effects of prison on prevention of criminality suggesting that the effects of prison on delinquents, with certain exceptions, are minimal, so they have no significant effect neither on the change of criminal pattern of behaviour nor on return as well. Representatives of this theory think that effects of prison are minimal on recidivism as well but also on the process of rehabilitation of prisoners and process of community integration. Certainly there are many factors that influence human behaviour particularly in the conditions of physical isolation.

Most criminologists and penologists agree that the prison punishment and prison institutions are in serious crisis because the fighting criminal failed and major aims of punishment in society have not been accomplished. It is certain that multilayer reasons exist for it at all levels of society. When by the end of eighties of XX century it was realised that prison was in serious crisis and that punishment did not accomplish proclaimed goals, they traditionally reached for repressive concept of punishment. This is present even today in practice in majority of developed countries whose model and concept accept most other countries in the world. Application of stricter concept of reaction to criminality did not significantly change the trend of increase of criminality, on the contrary, such approach increased the number of prisoners to unbearable limits for prison systems what leads to serious crisis on all levels. With the phenomenon of globalism and neoliberal capitalism the problem of punishment and execution of prison punishment becomes more and more expressed while arresting becomes a "recipe" of massive settlement with criminals.

Starting from the effects accomplished by pronouncing the prison sentence, particularly a long prison punishments, and consequences produced by staying in prison, advocating limited pronouncement of prison punishments and avoiding prison is more and more heard, since shortcomings are very serious and reflected both on the personality of prisoner and on society. Therefore, prison punishment did not completely fulfil expectations and did not in a significant degree fulfil its function and philosophy for which it was originally introduced into the system of punishment. Even greater disappointment is felt in prison as an institution, which does not succeed to change the behaviour of criminals, so previous comparison with school – the more schools the more educated and well bred people in a society, and the more prisons the less criminal, did not prove its justification. A great number of prisons does not mean greater security and healthier society. Certainly, these speculations does not exclude

the prison punishment as a sanction but provoke the question of measure of using prison punishment, its length, purpose and searching for modern sanctions adequate to state-of-the-art conditions that would have greater effects on prevention of criminality. Theorists and practitioners more and more often pose question: how much did we really move away from previous examples in the history of punishment and did we, really, become more humane in our relationship towards convicts or do we take a hypocritical position of supporting the human rights of convicted ones only talking about it or when great powers “discipline” small nations and their leaders? Unfortunately, in recent past we have seen such practice.

Today some authors often speak about so called “*penal populism*” by which they describe tendency of current policy to promote policy of punishment on the basis of anticipated popularity, regardless of its penology value. Garland , (2001, Law Review 1(2): 1-20. ), speaking about “re- birth of prison”, states that “in difference to conventional wisdom of previous times, current supposition is that - prison functions not only as a mechanism of reform or rehabilitation but as a means of arresting and punishing which satisfies popular political demands for general safety and more severe retribution”. The same author speaks about major characteristics of mass arresting in America. He states striking figures about the number of imprisoned in America, since mass arresting implies the rate of arresting and rate of prison population which is significantly above any historical and comparative norm for society of that type. American prison system, according to Garland, satisfies that criterion. The another significant characteristic is social concentration of imprisonment effect so he suggests that mass arresting means arresting individual offenders and becomes a systemic arresting of whole groups of population. In the case of America it is the question of young black people in great urban centres. In this way imprisonment becomes one of social institutions which significantly structures the experience of groups, i.e. becomes the part of process of socialisation (Stevanović, Z. & Igrački, J., 2011., p.409).

A similar situation can be observed in European countries as well, which Schwind describes as pessimistic. He speaks about the state in Germany in the 1980's (Stevanović, Z. & Igrački, J., 2011., p.410) where, regardless of newly built prisons, increased number of treatment personnel and opening of social and therapeutic institutions, as a model of rehabilitational approach to delinquents, the effects of prison punishment and stay in prison were very modest and the rate of recidivism high. Poor effects of arresting and treatments, as well as inadequate changes in prisoners' behaviour, according to him, are the result of weakening of rehabilitation idea, financial problems due to economic recession and overcrowding in prisons as a consequence of increased rate of criminality. Stern analyses consequences of overcrowded prisons and concludes that they lead to increased tensions, objectively decreased quality programme of education of prisoners, restricting the advantages, increasing risk situations which cause incidents, violence and alike. Stern, rightly, poses a question – is arresting an answer to increased social and economic problems?

Policy on severe punishment of offenders by prison punishment did not significantly affect prevention of criminality. Statistical data about the rate of arresting of offenders in the United States of America in period 1980 to 2007 which accounts for 264% <sup>4</sup> is interesting. In England and Wales the rate of pronouncing prison punishments increased by 61% , in Australia by 73%, in Sweden by 36%. On the contrary, some nations had stable levels of imprisonment , while in a number of countries the rate of imprisonment decreased. The rate of arresting in Germany remained relatively stable (3%) while the rate of arresting in Finland dropped by 19%<sup>5</sup>. Differences in rate of pronouncing prison punishment in America and

4 The rate of imprisonment in America, before 1980 was about 100 prisoners in 100 000 inhabitants. Today it is about 730 prisoners in 100 000 inhabitants.

5 International Centre for prison studies, 2008. (<http://vuv.kcl.ac.uk/schools/lav/research/icps>)

other countries are certainly a consequence of policy of punishment and the obvious fact that America significantly relies on prison punishment as a sanction in prevention of criminality. The general principle of penal policy in Finland and Germany, as well as in other European countries, is that the prison punishment should be avoided as much as possible and should be used only as a last resort. In principal, European Western democracies show tendency to use fine more often than prison punishment as opposed to England which pronounced fine sentence in only 17% of cases.<sup>6</sup>

As a rule, the prisons are full of a huge number of young people who spend their best years there instead of devoting that time to acquiring knowledge and skills necessary for life. Modest effects of prison punishment on prevention of criminality encouraged discovering some other options of punishment recognized in the idea of alternative sanctions (sanction in community). Alternative sanctions can be defined as an option of punishment which is placed on the continuum between traditional probation and traditional punishment. Following terms are commonly used for them: alternative to arresting, external institutional measures, programmes in community, and sometimes they are associated with wider penal strategies which are called: dissuading or diversion, deinstitutionalism, decarceration or penal reductionism. In 1986 the European Union submitted report in which measures alternative to prison punishment were described and used in member countries. Thus there are *modified institutional sanctions* that include: semi-imprisonment, advising on work, imprisonment during weekends, house arrest, serving a sentence in another institution (hospital, addiction treatment centres). Another group of alternative sanctions consists of *extra institutional sanctions* which include: fines, sanctions which limit or deprive of some right (taking away the driving licence, confiscation, restitution, placing a ban to perform vocation), educational measures, moral sanctions (court warning, special obligations), supervision. A separate group of alternative sanctions include: *measures of probation*, as well as *unpaid work in community*. The measures which relate to delaying of punishment execution include: delaying the execution of institutional punishment, postponing the pronouncing the sentence and non-pronouncing the sanctions.

In certain countries alternative sanctions such as: *mediation*, i.e. reconciliation of the victim and perpetrator of a crime are often used, often followed by restitution, then, *restitution or compensation* - which is manifested through paying the damage, repairing of a destroyed structure, work for the victim as a kind of improvement. There are also other modalities of alternative sanctions such as: daily fines, work in community (non-paid work in community as reparation to the victim or community, expressed in hours of work in a determined period), sending to daily centers and increase of supervision, electronic supervision (electronic bracelet or phone calls), intensive programmes of supervision, military camps (*boot camps*), designed for younger adult first-time sentenced delinquents of criminal misdeeds - "shock-therapy" with military strict regime (Stevanović, Z. & Igrački, J., 2011).

Besides discovering new extra institutional sanctions and measures against criminal offenders, in majority of countries the reform of prison system has lasted for a considerable period of time, beginning from organisation, kind of management, application of specialised treatments for certain categories of delinquents, prison architecture, to employing specialist professions for working with convicts. Government of England and Wales in 2012 organised discussion on the theme: "The role of prison in rehabilitation of delinquents" in order to overcome or alleviate problems faced by prisons. It was concluded that problems are complex, not only criminologically, i.e. criminally and legally, but there are the issues of mental health, misuse of substances, homelessness, family diseases and other social issues. The question as to whether this is possible is often posed among the experts. Communications at this scientific

<sup>6</sup> Refers to 2016

gathering showed that innovative prisons in private and public sector are in the phase of developing stronger partnership with local organisations and additionally accomplish positive effect on rehabilitation of delinquents and on decreasing the recidivism. The idea is that in the process of re-education of delinquents, the focus should be on delinquents, not services. In such circumstances the focus on rehabilitation is of vital importance<sup>7</sup>.

## CONCLUSION

As a reaction to moderate effects in the prevention of criminality, over recent decades, we took up a traditional way of fighting crime - by intensifying punishment policy and by applying the repressive conception of punishment. Unfortunately, results of such an approach do not give expected results in the prevention of criminality, on the contrary, criminality in most various shapes is more and more present, prison population has increased to the limits when prisons are not able to fully control prison population, institutional treatment does not affect the change of pattern of behaviour in delinquents, and therefore, the results of prevention are quite moderate. Prison punishment is the hardest punishment which in significant degree limits human rights and which results in a wide scope of negative consequences for delinquent. Efficacy of prison punishment is being more and more intensively re-examined because results show that the purpose of punishment is not accomplished to the expected extent. If we regard efficacy of prison punishment via recidivism of convict, we can conclude that efficacy of prison punishment is questionable. Namely, the rate of recidivism of convicted population, on a global scale, accounts for even up to 70%. Therefore, institutional prevention showed modest results. When we speak about aspects of efficacy of individual prevention, we can conclude that prison punishment partly disables delinquent to repeat criminal offence – in the greatest number of cases the highest percent of disabling is in the period when convict is in prison. As regards resocialisation whose aim is to change those convicts' habits and values which are thought to have led them to commit criminal offence and to qualify them for socially acceptable way of life, the state is undefined. Namely, over recent decades they gave up the concept of resocialisation (rehabilitation) and treatment, because they did not give expected results, so the vacuum was created, which, as a rule, shifts the whole concept of punishment into a field of retributive approach to punishment, as indicated by modern punishment policy.

Critics of the concept of resocialisation point out that resocialisation not only represents unreal and unfeasible aim, but also represents a threat to the principles of convicts' rights and humane treatment and it can have harmful effect on formation of pro-social personality in consequence. Consequences of depriving of freedom are multiple and lead to disturbing privacy, deprivation, hypersensitivity of the convict's personality, provokes suspicion in his/her own capabilities and convicts retreat into themselves, manifesting neurosis, and in more severe cases depression as well. Studies show that convicts that have contact with the outside world, who are in contact with others via work or some other activities, manifest considerably more stable behaviour and are emotionally more balanced. It seems that modern tendencies towards discovering new measures of crime prevention, conducting extra institutional treatments and introducing alternative penal sanctions are at the same time the right way towards more serious resistance to criminality and to individualisation of penal sanctions up to a degree of real expectation of better results in an entire prevention of criminality.

<sup>7</sup> <http://www.reform.uk/reformer/the-role-of-prisons-in-offender-rehabilitation/> 6.4.2018.

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