



ISSUES OF IMPLEMENTATION OF THE RIGHTS OF PERSONS WITH LIMITED FREEDOM TO RECEIVE HIGHER EDUCATION

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Article history:	Abstract:
Received: December 11 th 2022 Accepted: January 10 th 2023 Published: February 20 th 2023	There are many significant issues that need to be resolved in the domain of the achievement of human rights in today's fast developing globe. Particularly, criminality of all kinds is rising in newly developing partnerships. The preservation of the rights of those incarcerated has traditionally received special consideration. The dilemma of implementing the right to higher education for those serving prison terms for crimes connected to the restriction of personal freedom is analyzed scientifically in this article. The benefits of foreign practice in this area are examined, and the prospect of incorporating them into national law is considered.

Keywords: expulsion from the student; the right to higher education; punishments; deprivation of liberty; limitation of liberty.

INTRODUCTION

We are all aware that all democratic nations regard implementing human rights and freedoms to be their primary responsibility in the emerging world of today. Both in industrialized and emerging nations, a number of significant initiatives are being worked on to fully guarantee individual rights.

Examples of such beneficial improvements include the extension of a person's right to higher education, the integration of digital technology into educational practices, and the growth of options for higher education study via remote learning.

MATERIALS AND METHODS

Nowadays, the education system, particularly, the higher education system receives considerable attention from a variety of international organizations as well as from all nations that consider their future growth. This has led to the appearance of several legal papers pertaining to education as well as scientific works and resources by various scientists and researchers. Therefore, the main materials used in this article are legislative documents and various scientific sources for full coverage of the issue raised, so the method of **comparative analysis** was used. In addition, statistical observation, analysis, synthesis, and other such general scientific methods are widely used in the article.

RESEARCH RESULTS

Everyone has the right to an education, regardless of their language, race, religion, gender, country, citizenship, socioeconomic origin or any other attribute.

These human rights are outlined in several international treaties as well as the fundamental state constitutions. In particular, Article 26 of the Universal Declaration of Human Rights, which was adopted by the United Nations in 1948, emphasizes that everyone has the right to an education and that higher education options should be enough for everyone depending on everyone's capacities. [2]

Article 13 of the International Covenant on Economic, Social, and Cultural Rights, which was adopted on December 16, 1966, also calls for taking all necessary steps to ensure that each person receives an education while taking their abilities into consideration, including gradually implementing free education. It is emphasized that everyone should have access to education. [3]

Article 41 of the Constitution of the Republic of Uzbekistan states that education is a constitutional right for everyone. [1]

These standards demonstrate that guaranteeing everyone's right to higher education is thought to be the proper thing to do in every manner.

However, in the Republic of Uzbekistan, issues with the right to higher education for those who have done a socially harmful conduct, have been found guilty by a court, and are now serving their sentences in prison institutions are evident.

For instance, Article 9 of the Criminal Executive Code of the Republic of Uzbekistan outlines the fundamental rights of inmates, and it is clear that no such right to education, particularly higher education, is provided for. Furthermore, according to Article 100 of the Code, inmates housed in address colonies are not permitted to attend higher or secondary special educational



institutions, with the exception of part-time departments.[4]

In addition, a student is included in the students excluded under paragraph 36 of the Regulation "On the Procedure for Transfer, Restoration, and Expulsion of Students of Higher Education Institutions," which was approved by the decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 393 dated June 20, 2017. [5]

It can be said that these norms in our legislation serve to limit a person's right to receive higher education. Therefore, when human rights and their value are the main priority today, it is necessary to improve the procedures that limit these human rights. Analyzing the cutting-edge experience of democratically developed nations is crucial for this.

We will analyze whether prisoners have the right to higher education based on the experience and legislation of the following countries:

The Criminal Code of the neighboring Republic of Kazakhstan According to Articles 123 and 127, the rights of prisoners to education and the procedure for their implementation are defined. It states that prison facilities are set up to provide elementary, general, and general secondary education to prisoners under the age of thirty. For individuals who are older than 30, it can be planned according to their preferences. It's interesting that Article 127 of the Code states that inmates are encouraged to pursue higher education and that this is seen as having a beneficial public character. However, it is unknown how, for how long, and how to protect these individuals' access to higher education after being convicted. [6]

The fundamental rights of inmates are outlined in Article 9 of the Armenian Criminal Code, including the right to education that is permitted by the law. [7] There are different types of education, including full-time, part-time, and externships, according to Article 12 of the Law of the Republic of Armenia "On Education," and according to Article 10 there is a type of professional higher education, and prisoners have the legal right to receive this education. [8]

Convicts in Germany are given the chance to finish their high school, college, and university degrees. For instance, prisoners can complete their high school, college, and university degrees at the Freiburg Prison in Germany. The University of Hagen in Germany offers online classes to prisoners at this facility. Notably, those who are serving a sentence are excused from any employment at the facility and even have the option of receiving a stipend of 120 euros per month. [12]

Generally, several academics have conducted in-depth analyses of the educational rights of inmates. In

particular, John Vorhaus, in his article entitled "Prisoners' right to education: A philosophical survey," deeply researched what international legal documents exist on the right of prisoners to education and how important it is for society to ensure the rights of prisoners to education. [9]

David Elvans appointed that Higher education in prison not only humanizes incarcerated students, it fosters a belief in us that our lives have value and meaning and that we are worthy of living among other productive, social people. Without this belief, it is akin to the cycle of addiction. When we are in the gutter, we reach for the object of our addiction to lift us out. That object eventually drags us back down into the gutter and around and around we go. Higher education helps to offset this, particularly when the teachers do not implement a banking approach. [11]

The essential role of imprisonment in Israel, as defined in its basic strategic documents is to "keep prisoners and detainees under safe and appropriate detention, securing their lives and dignity and providing their basic needs, Provide corrective measures to all prisoners (in case any of these measures is suitable for the prisoner) in order to improve their ability to be absorbed by society once being released" (<http://www.ips.gov.il/Web/En/About/Vision/Default.aspx>, 01.08.2016). In line with this social target, many rehabilitation programs suitable for varied populations are found within prison walls. Education programs constitute an important component of prisoners' rehabilitation and as a tool to prepare prisoners to reintegrate into the community as effective and law abiding members (<http://www.publications.parliament.uk/pa/cm200405/cmselect/cmhaff/193/193.pdf>).

According to researchers who support these theories, educational activities enable prisoners to adopt abilities and habits that help develop a legitimate lifestyle removed from the criminal world (MacKenzie, 2008). These researchers believe that acquiring education leads to moral advancements amongst learners that forms a basis for making appropriate moral judgments in circumstances faced (Ubah & Robinson, 2003).[10]

Furthermore, Jill McCorkel and Robert DeFina concluded that a discussion of how higher education programs in prison might contribute to building more just, safe, and democratic communities.[]

Based on the above, the following proposals are put forward in connection with ensuring the rights of prisoners to receive higher education in the Republic of Uzbekistan:

Firstly, the Criminal Code of the Republic of Uzbekistan The following addition should be added to Article 9.



In the method and format prescribed by law, prisoners have the right to obtain education, including higher education.

Secondly, the following amendments should be made to Article 100 of the Criminal-Executive Code of the Republic of Uzbekistan:

Prison inmates who are serving sentences in institutions have the option of receiving correspondence or distance higher education in line with the system of criminal execution, with the exception of special order colonies.

Thirdly, in addition, the provision stipulated in paragraph 36 of the Regulation "On the procedure for transfer, restoration and expulsion of students of higher education institutions" approved by the decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 393 of June 20, 2017, i.e. if a student is deprived of liberty by the court the rule that if punishment is imposed, he will be expelled from the ranks of students, should be canceled. Instead of this rule, it is necessary to establish the rule that if the punishment of the committed act is not executed in the special order colonies, the study can be transferred from the daytime form to the part-time or distance form.

CONCLUSION

The question of what these suggested reforms would accomplish for the interests of the person, society, and state emerges in conclusion.

Firstly, the right deprived for the committed crime prevents the deprivation of another right. Specifically, the right to education, which is not directly connected to the conduct of a crime, is not violated as a result of the act done by a person, and a suitable penalty for the crime is attained. [14]

Secondly, offering prisoners the opportunity to pursue higher education will decrease recidivism. It will be simpler for the individual who has completed their term to integrate into society and find meaningful job if they are released with a diploma in hand.

Without a diploma, a student finds it challenging to get employment and fit into society. A person felt that it was necessary to perpetrate a crime once more as a result. It is also known from the conducted scientific researches that granting the right to education to convicts serves to reduce recidivism by 60-70 percent.

Finally, we can state that granting prisoners the right to higher education in the age of cutting-edge digital technologies and expanded distance learning opportunities serves to protect their constitutional rights on the one hand while also fostering societal trust in government and lowering recidivism on the other.

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