



## **PREVENTIVE FUNCTION OF THE PENITENTIARY SYSTEM AND ISSUES OF INCREASING ITS EFFECTIVENESS**

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<b>Received:</b> March 21 <sup>st</sup> 2023 <b>Accepted:</b> April 26 <sup>th</sup> 2023 <b>Published:</b> May 26 <sup>th</sup> 2023	This article analyzes the role of penitentiary policy in achieving the goals of criminal punishment from a legal point of view. In many countries and in the modern criminal law doctrine as a whole, punishment is used to correct the morality of the convict, to prevent him from continuing his criminal activity, to restore social justice, and to prevent both the convict and other persons from committing a new crime. In the article, he analyzed the best practices of foreign countries and the approaches of legal scholars to the form of public administration in this regard.

**Keywords:** penitentiary system, convict, sentencing, execution of punishment, differentiation.

### **INTRODUCTION**

Nowadays, because of the penalties have been excluded from the ideology, the purpose of the punishment is not only to moral correction of prisoners, but also their moral upbringing. In this process, human beings, their rights and freedoms are the highest value.

The problem of criminal offenses is crucial for determining the functions of penitentiary institutions and for determining the nature of their activities. The objectives of the Penalty will have a significant impact on the nature of the penal system, the types of punishments, including the role of imprisonment and the penal institutions. According to M.P.Melentev, the social responsibility of punishment is not moral education, but moral correction and upbringing, as it is impossible to re-educate a person in the conditions of imprisonment, and this task should not be put in the execution of short-term punishments.

Changes in the socio-political and economic development of society in the modern period intend to improve activities of bodies and institutions for the execution of punishments. Reforming this system, subject to ongoing state reforms in the country, simultaneously means changes in the penal enforcement legislation, legal regulation and activities of the institutions of the penal system of the Republic of Uzbekistan.

The ongoing reforms are fundamentally changing the approach to the state's criminal policy. Its essence is to expand the practice of using

punishments that are not related to the isolation of convicts from society against persons who committed insignificant crimes. At the same time, it is necessary to shift to a predominantly serving sentence in the form of imprisonment in prisons of the so-called international type.

### **MATERIALS AND METHODS**

General scientific methods such as historical, comparative legal, and logical (analysis and synthesis) methods were used in the framework of the article.

### **RESEARCH RESULTS**

Most people would agree that hurting someone or subjecting them to pain is wrong. However, punishment, by definition, involves the infliction of pain. Does this make punishment wrong? Philosophers are divided on this issue. One group believes that inflicting pain as punishment is fundamentally different from inflicting pain on innocents, and therefore is not inherently wrong. Another group believes that punishment is a wrong that can be justified only if it results in a "greater good"[1].

The advantages of a penitentiary system are noted above, but to what extent does a nation-state attempt to incarcerate its citizens? How many beds are necessary and what kinds of programs are to be developed? The types of programs or management styles are used largely a policy issue at the discretion



of executives and staff. The required capacity of correctional institutions is entirely another matter[2].

One of the many important challenges that the newly independent nation-states face is how to put together a correctional system that will adequately serve them in the years to come. To accomplish this task they must not only determine what their correctional facility needs are and will be in the future, but also how to organize their particular penal system perfectly.

The number, capacity, organization, type and location of correctional facilities of a nation-state are dependent on a variety of factors. Some of the most important of these are: the size and distribution of the population, location and size of urban centers, geographical size, crime rate, social and cultural norms, and the political and economical situation. A factor that can be easily overlooked but yet plays an important role in the development of a correctional system is the experience that a country gains over time while administering its penal system. Obviously, this experience factor is not directly available to the new nations, but can be critical in helping a nation to avoid some very costly mistakes. An effective method to overcome this difficulty is connected to the planning and development phases of correctional facilities the experience of others. By using the comparative approach, countries or regions with similar territorial and demographic characteristics and with developed correctional organizations can be selected and their prison organizations used as examples for deciding what should or should not be done.

The size of the population is one of the key determinants of the number and type of facilities that are needed in a particular country. Larger population size is positively related to the size and capacity of correctional facilities.

By the way, it should be noted that there is a conflict in the CEC, related to the above other measures of criminal law. Thus, article 2 of the CEC refers to "ensuring the enforcement of punishment". At the same time, article 1 of the CEC provides, in addition to punishment and "other measures of criminally-legal influence". Furthermore, this provision refers to criminal punishment. **Based on this, it is advisable to make appropriate changes to Articles 2, 3, 5 and 7 of the Code.**

Dwelling on the preventive function of the penitentiary system, we conclude the concept of prevention in two aspects: 1) a set of medical measures aimed at preventing cures; 2) a set of measures aimed at preventing crimes. In this sense, the **preventive function of the penitentiary system** refers to activities and tasks that cover a set of measures aimed at preventing convicts from

committing new socially dangerous acts by correcting it, re-educating them as a law-abiding citizen.

The constitutional basis for securing the principle of social justice is the indications contained in Article 14 of the Constitution of the Republic of Uzbekistan "The state builds its activities on the principles of social justice and legality in the interests of the well-being of man and society".

Benefits and incentives should also be judged from a position of fairness. In general, justice is one of the most important ethical characteristics, from the point of view of which the convict assesses the activities of the personnel of the penitentiary institutions and bodies. Finally, one can not ignore the aspect of justice that proceeds from the peculiarities of the situation of convicts in relation to law-abiding citizens. In this respect, in our opinion, not all measures can be used as a means of educational (corrective) impact.

Proceeding from the foregoing, it is advisable to define **"restoration of social justice" in article 2 of the CEC as one of the tasks of the penal enforcement legislation.** Similar practice exists today in article 4 of the CEC of the Republic of Kazakhstan [3].

In the theory of criminally-executive law, along with the term "correction", the term "resocialization" is often used. It seems to us that the re-socialization of convicts should presuppose the formation of socially useful qualities and personal qualities necessary for the convicts in conditions of human dormitory, carried out by forming a respectful attitude to the person, society, work, norms, rules and traditions of human community and to stimulate law-abiding behavior [4].

Thus, the correction and re-socialization of convicts can be achieved with the help of such means of influence as are envisaged by law, such as the serving of punishment, socially useful work, educational work, general and special education, vocational training, etc. (Part 2 of Article 7 of the PEC). **In this connection, we believe that in Article 2 of the CEC it is necessary to define the goals of resocialization and social adaptation of convicts.**

In the future, the established prisons of the general, reinforced and special regimes will become the main institutions of the system of execution of sentences in the form of imprisonment. Taking into account the prevailing social, economic, political and legal conditions, at the present stage of the development of the penal-executive system, the problems of increasing the effectiveness of the execution of sentences in the form of imprisonment acquire special significance.

In our opinion, we should briefly dwell on the history of this issue. As it is known, at first the punishment pursued the goals of retaliation and



intimidation. Intimidation belongs to the oldest and most clearly emphasizes the former principle of punitive activity.

The prison made every effort to ensure that even after release, the prisoner did not return to society: hence the wolf passport, branding, and deprivation of honor. Therefore the conclusion: the main thing in the content of punishment and its main function was retribution and intimidation.

In the future, punitive punishment is a thing of the past. Along with the continuation of imprisonment, the reference is widely spread. The penitentiary character of the prison does not receive its development due to frightening punishments. Because of the use of prison labor, the state derives enormous benefit.

## **CONCLUSIONS**

In our opinion, it is necessary to create rooms for psychological assistance in every penitentiary institution.

In view of the foregoing, it is proposed to supplement the CEC with Article 98<sup>1</sup>. The organization of work on the social adaptation of convicts and the provision of psychological assistance.

So, it is proposed to supplement the PEC with a new article 98<sup>1</sup> with a next content:

The administration of the penitentiary institution organizes with the convicts on an individual basis the work on their social adaptation and the provision of psychological assistance.

The work on social adaptation and psychological assistance to convicts is carried out in the following forms:

- 1) development of intraditional programs for work with convicts;
- 2) development and implementation of programs to provide convicts with social and legal assistance;
- 3) involvement of state authorities in the localities, other state bodies and the public with a view for providing convicts with social and legal assistance;
- 4) expansion of positive connections of the convict with the public;
- 5) the implementation of other activities, based on the behavior of the convict.

The administration of the penitentiary institution, in order to correct the convicts, takes measures to ensure the restoration of their legal status, as well as law-abiding behavior as full members of society.

To conduct educational work with convicts, assess the individual psychological characteristics of each convicted person, provide them with psychological assistance in adapting to the conditions

of isolation from society, and also in order to prepare for release.

In each institution to execute the punishment, based on the number of convicts, a regular unit of the psychologist is allocated, and a psychological assistance room is also organized".

The modern organization of correctional and preventive treatment in the colonies presupposes the rejection of the detachment system and the transition to individual and group forms of corrective action aimed at the formation of the spiritual and moral foundations of the individual and based on social priorities. The conditions for ensuring the physical development and self-education of convicts, raising their cultural and educational level, organizing leisure, artistic creation must be created without fail.

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