

REFORMING PENITENTIARY INSTITUTIONS: UPHOLDING RIGHTS AND ADVANCING REHABILITATION

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Abstract

This paper examines the current state of Uzbekistan's penitentiary system in light of ongoing reforms. Drawing from international practices, the article offers suggestions and recommendations to enhance existing legislative documents to safeguard the rights and liberties of individuals in correctional facilities. Furthermore, the author proposes the establishment of baseline standards for the employment of inmates in private sector manufacturing, addresses issues concerning the tenure of incarcerated individuals, and delves into protocols for transferring inmates between facilities.

Keywords: Correctional system, ethical rehabilitation, instruction, certainty of repercussions, prison ombudsman, redress, inmate rights, inmate labor, privately-operated prisons.

Introduction

In recent years, our nation has taken significant strides in fortifying the protection of human rights and liberties, upholding individual honor and dignity, particularly concerning the enforcement of criminal penalties and other juridical sanctions, ethical rehabilitation of convicts, crime prevention, and safeguarding prisoners' rights and lawful interests. Several regulatory acts have been instituted to deepen the adherence to principles of legality, fairness, humanity, and democracy, with an emphasis on integrating international standards and drawing from best foreign practices.

Notably, the outcome of the Concept for the Enhancement of the Penitentiary Legislation of the Republic of Uzbekistan for 2019-2021, sanctioned by the Presidential Decree No. DP-4006 on November 7, 2018¹, underscores ethical rehabilitation of convicts. The aim is to deter their further criminal involvements and establish a robust system that prevents criminal activities among the broader populace.

There is a consistent effort in our nation to assure citizens' rights and freedoms, prevent any compromise of their honor, and protect their lawful interests. This commitment is evident in the recent legislative documents pertaining to sentence enforcement and the initiatives adopted to combat torture and other cruel or degrading treatments within correctional facilities.

To enhance the rights and freedoms of inmates, limitations on visits from minors in the company of their parents or guardians have been removed. Moreover, inmates now possess the right to address any staff member of the facility or associated authority, seeking assurance of their personal safety. The frequency of phone communications and meetings for those in high-security prisons has been doubled. The privilege to vote has been extended to convicts who were sentenced for crimes deemed of minimal societal impact or of a less severe nature. Significantly, regional representatives from the Office of the

¹ National base of legislation of the Republic of Uzbekistan. <http://old.lex.uz>

Human Rights Commissioner have been integrated into the board overseeing inmate progression within the correctional system.²

There is a pronounced focus on the ethical rehabilitation of individuals who have committed offenses, emphasizing their comprehensive participation in productive activities and nurturing them into becoming constructive members of society in the future.

Literary review and methodological approach

In the past half-decade, the legal landscape has witnessed the adoption of 3 laws, 1 presidential decree, 6 resolutions, 10 governmental directives, and over 14 additional legal instruments, all with the aim of enhancing the legal rights and liberties of incarcerated individuals³.

Specifically, Presidential Decree No. DP-3200, issued on August 11, 2017, profoundly reformed the domain of sentence enforcement, especially those entailing incarceration, while also broadening the spectrum of inmates' rights⁴.

Following the directives of Presidential Decree No. DP-5268 from November 30, 2017, a comprehensive installation of 123 state-of-the-art video surveillance devices was undertaken⁵.

Furthermore, in alignment with Presidential Decree No. DP-5441 dated May 12, 2018, 69 consultation spaces within pre-trial detention facilities and penal colonies were revamped to facilitate attorney-client meetings. Additionally, discrete areas, devoid of surveillance and eavesdropping equipment, were designated exclusively for legal consultations⁶.

The "Minimum Standards for the Treatment of Prisoners," also known as the Nelson Mandela Rules, ratified by the UN General Assembly on December 17, 2015, have been integrated into the criminal code of the Republic of Uzbekistan. Notably, these provisions include:

- Affording prisoners access to psychological support.
- Permitting inmates requiring medical attention to be transferred to regional healthcare institutions under the Ministry of Health.
- Granting inmates with severe illnesses the privilege to make phone calls and arrange visits, contingent upon medical approval.
- Abolishing disciplinary actions for infractions executed by prisoners under mental distress.
- Determining that wage deductions for social insurance do not apply to convicts, ensuring provision of pensions, and nearly doubling the allowance for phone communications, visits, and meetings for those in high-security prisons⁷.

In response to the objectives outlined in the Presidential Decree from March 26, 2021, titled "On Measures to Elevate the Efficacy of Law Enforcement Activities in the Realm of Public Safety and Crime Mitigation" (No. DP-61968)⁸, further reforms were initiated on April 2, 2021, under Decree DP-5050. This decree focused on "Organizational Steps to Refine Law Enforcement Activities in Public Safety and Counteracting Crime." Subsequently, guidelines for the Department of Punishment Execution under the

² Internet information. <https://xs.uz/uzkr/post/>

³ Improvement of penitentiary system in the Republic of Uzbekistan: Legislation and practice. 2021, T. P-16.

⁴ National base of legislation of the Republic of Uzbekistan. <http://old.lex.uz/docs/163629>

⁵ Information from the Department of Corrections (August 2023).

⁶ Information from the Department of Corrections (August 2023).

⁷ Criminal Code of the Republic of Uzbekistan. Source: <http://old.lex.uz/docs/163629>

⁸ National database of legal documents, <http://old.lex.uz/docs/5344118>

purview of the Ministry of Internal Affairs were sanctioned. The operational domains of this department are explicitly defined, placing it under the direct oversight of the Minister of Internal Affairs. The Minister is tasked with sculpting a framework for the imposition of criminal sanctions by the law enforcement agencies, ensuring rigorous discipline therein⁹.

All pretrial detention facilities and correctional institutions have been restructured, moving them from the jurisdiction of regional law enforcement agencies to centralized oversight. Six district coordination centers, embedded within the departmental framework, have been mandated with the efficient organization and day-to-day supervision of these facilities.

- Enhancing the living conditions of inmates to align with international norms by renovating existing dormitories in correctional facilities into compartmentalized spaces and constructing six new housing units.
- Digitizing the penitentiary system, incorporating technologies that facilitate 'Electronic Supervision' of inmates.
- Equipping facility staff with wearable video recording devices (body cameras) during their operational hours.
- Installing body scanner apparatuses at institutional entry points to counteract contraband introduction.
- Deploying SMART surveillance systems within institutions to oversee inmate behavior, with phased implementation for these projects.

To exemplify, 54 correctional entities have been outfitted with 3,280 contemporary surveillance tools, reinforcing transparency in detainee conditions and mitigating instances of abuse or maltreatment. From these, 2,203 are located within the residential sectors of the facilities, 432 within the production zones, and 645 in the external administrative sections¹⁰. Furthermore, in synchronization with the Supreme Court of the Republic of Uzbekistan's video conferencing system operating on the local Tas-ix network, collaboration with regional branches of JSC Uzbektelecom has produced a 10 mb/s internet conduit, facilitating connectivity with the Supreme Court's 'TE -Desktop' video conferencing platform. Fifty-four specialized rooms have been crafted and furnished with the necessary hardware, enabling those in correctional colonies and pretrial detention centers to virtually participate in court proceedings and senior court official consultations¹¹.

Discussion and Results

At the core of every reform lies the commitment to safeguard human rights and guarantee the protection of legitimate interests. The Penitentiary Code of the Republic of Uzbekistan mandates the purpose of the penitentiary system as effectively executing sentences, morally rehabilitating convicts, crime deterrence, and ensuring the protection of the rights, freedoms, and lawful interests of incarcerated individuals. Concurrently, endeavors associated with punishment must realign social justice. Moreover, punishment execution underscores the imperative of the inevitability of criminal repercussions. Proverbs such as "The inevitability of punishment for a crime is pivotal for societal

⁹ National database of legal documents, <http://old.lex.uz/docs/5353841>

¹⁰ Department of Corrections data under the Ministry of Internal Affairs of the Republic of Uzbekistan (August 2023).

¹¹ Department of Corrections reports under the Ministry of Internal Affairs of the Republic of Uzbekistan (August 2023).

sustenance"¹² and "If a prison doesn't instruct an inmate about societal life, they'll acclimatize to prison life"¹³ encapsulate profound implications. Without a defined punishment structure, a state risks undermining its societal role. If correctional facilities fail to educate inmates, their likelihood of recidivism escalates. Consequently, penitentiary facilities must prioritize the reeducation and rehabilitation of inmates, fostering a law-abiding mindset, and promoting adherence to institutional regulations.

Presently, there are 54 correctional facilities in Uzbekistan, comprising 18 high-security institutions, 25 strict-regime colonies, and 11 pretrial detention centers¹⁴. As of August 1, 2020, per capita incarceration rates stood at 639 in the United States, 340 in Russia, 335 in Turkey, 343 in Belarus, and 68 in Uzbekistan¹⁵. Unlike some foreign penitentiary models, Uzbekistan's current legal framework stresses convict rehabilitation through engagement in socially productive work, labor education, and fostering respect for societal norms, individuals, and cultural traditions. The onward trajectory necessitates refining the national criminal law, assimilating best practices from advanced foreign systems, iterative reforms to the correctional framework, and enhancing inmate conditions to promote moral rehabilitation. Critical to this is recognizing and rectifying legal lacunae, gleaned insights from leading international practices, and incorporating them judiciously into our legislation.

Under Article 57 of the existing Penal Code, individuals sentenced to imprisonment generally complete their entire sentence within a singular facility. There may be transfers between institutions of similar categories for the safety of the convict or based on their explicit consent. Certain circumstances, especially those related to medical conditions verified through clinical evaluations, may require transfers to specialized medical institutions. The protocols for these institutional transfers are laid down by the Ministry of Internal Affairs of the Republic of Uzbekistan. However, there are noted discrepancies between this guideline and the "Regulations on the Procedure for Transferring Convicts between Punishment Execution Institutions," ratified by the Minister of Internal Affairs of the Republic of Uzbekistan on July 27, 2014 (Order No. 103). Notably, the provision which allows for transfers "based on the application of either the convict or their family" is included within this regulation. Given Article 57's emphasis on serving predominantly in a single institution, the rationale for transfers based on familial requests appears inconsistent. In 2021, the Department for Sentence Execution registered 16,632 requests, of which 49% (8,185) pertained to inmate transfers. Without a definitive legal protocol concerning such transfers, especially those driven by familial requests or without factoring in individualized considerations, the system might inadvertently foster corrupt practices.

Consequently, it seems prudent to integrate into the criminal law a provision mandating that convicts serve their sentences in alignment with a judicial verdict, leveraging computer technology to minimize human intervention. Currently, within the Department for the Execution of Punishments' purview, there are 25 designated colonies. Of these, 17 are agricultural, but due to underdeveloped production

¹² Айибжанов С. ЖАЗОНИ ИЖРО ЭТИШ МУАССАСАЛАРИДА ТАШКИЛ ЭТИШ ВА ТАКОМИЛЛАШТИРИШНИНГ БУГУНГИ ВА АВВАЛГИ ХОЛАТИ: ТАҲЛИЛИЙ НАТИЖАЛАР //JOURNAL OF INNOVATIONS IN SCIENTIFIC AND EDUCATIONAL RESEARCH. – 2023. – Т. 6. – №. 5. – С. 777-785.

¹³ Айибжанов С. ЖАЗОНИ ИЖРО ЭТИШ МУАССАСАЛАРИДА ТАШКИЛ ЭТИШ ВА ТАКОМИЛЛАШТИРИШНИНГ БУГУНГИ ВА АВВАЛГИ ХОЛАТИ: ТАҲЛИЛИЙ НАТИЖАЛАР //JOURNAL OF INNOVATIONS IN SCIENTIFIC AND EDUCATIONAL RESEARCH. – 2023. – Т. 6. – №. 5. – С. 777-785.

¹⁴ Department of Corrections reports under the Ministry of Internal Affairs of the Republic of Uzbekistan (August 2023).

¹⁵ Internet information.<https://xs.uz/uzkr/post/>.

activities, 65-70% of convicts undertake contract work in other sectors. Out of 7,361 physically capable convicts, 1,444 are employed within the colonies, 4,835 work in distant contract locations (ranging 90-150 km), and 1,082 remain unemployed due to work shortages.

A study of international strategies for inmate employment reveals the prevalence of private prisons in numerous countries, including the USA, UK, Australia, Brazil, Estonia, Japan, and Sweden. Defined as correctional facilities owned and operated by commercial entities under state agreements, private prisons are purported to reduce government expenditures. Such institutions, overseen by the state, should prioritize inmate well-being over profit margins, diverging from medieval penitentiaries that often mistreated prisoners at their discretion. Notably, the inception of private prisons in the US dates back to the 1980s, and their numbers surpassed 100 in 2008. Russian legal scholar E. Mandalyan, in his article "Private Prison: Business or Slavery," notes that the UK's first private prison emerged in 1992. By 2012, there were 14 such prisons in England and Wales, and the British government declared intentions to privatize the entire system. It is posited that privatizing prisons, while maintaining state oversight over inmate treatment, can lead to significant public expenditure savings.

Although the prevailing Penal Code in our nation stipulates that individuals sentenced to incarceration are primarily employed within penitentiary institutions, or in certain instances, other enterprises, it does not delineate explicit conditions regarding employment, detainment locations, or specific regulations safeguarding detainee rights. Such ambiguities might precipitate oversights or even infringements on the rights of convicts, especially when they are engaged at contract facilities managed by private enterprises. Therefore, we advocate for the establishment of precise minimum employment prerequisites for convicts in both private business entities and governmental enterprises. This can be achieved either by revising the current penitentiary legislation or through the formulation of a new legal instrument. Moreover, to bolster the employment prospects of individuals under probation, it might be beneficial to foster collaborations with private entities in creating 'work houses' supervised by probationary units, thus integrating these individuals into the workforce more seamlessly.

Furthermore, we observe that certain aspects pertaining to the employment of convicts within penitentiary facilities remain unaddressed in both criminal and labor legislations. For instance, the inclusion of a convict's tenure during their sentence within their overall employment history might raise contentions. Hence, to safeguard the labor rights of inmates, future legislative efforts should encapsulate norms on convict labor standards and the maintenance of a comprehensive employment record during their incarceration period.

Conclusion

In summary, it is imperative that penitentiary institutions rigorously uphold the rights of those convicted and incarcerated, safeguarding their honor and dignity. Further, meticulous oversight should be ensured over staff adherence to their official responsibilities, emphasizing the eradication of corruption and misuse of authority. These institutions ought to refine their re-education and moral rectification processes, fostering a culture that values legal compliance, societal norms, and the continuous pursuit of intellectual and ethical betterment. After all, in an environment where justice, law, and discipline prevail, progress is inevitable.

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