



General grounds and types of assignment of criminal punishment not related to imprisonment for women and men over sixty years of age

OPEN ACCESS

SUBMITTED 24 January 2025
ACCEPTED 23 February 2025
PUBLISHED 25 March 2025
VOLUME Vol.07 Issue03 2025

CITATION

Beknazov Shahriyor Bobur ugli. (2025). General grounds and types of assignment of criminal punishment not related to imprisonment for women and men over sixty years of age. *The American Journal of Political Science Law and Criminology*, 7(03), 57–61.
<https://doi.org/10.37547/tajpslc/Volume07Issue03-09>

COPYRIGHT

© 2025 Original content from this work may be used under the terms of the creative commons attributes 4.0 License.

Beknazov Shahriyor Bobur ugli

Independent applicant, prosecutor of the Tashkent regional prosecutor's office, Academy of Law Enforcement Agencies of the Republic of Uzbekistan

Abstract: In the contemporary global context, the struggle against criminal activity has attained a degree of international significance that demands urgent attention. In this regard, particular emphasis is placed on the comprehensive reduction of the role and participation of women in criminal activity. The global community, cognizant of the magnitude of female criminality as a universal threat, endeavors to consolidate global efforts in formulating contemporary international standards and overarching directives for the reform of criminal and penitentiary legislation. A notable development in this regard was the adoption of the Bangkok Rules by the UN General Assembly in 2010, which stipulates guidelines for the treatment of female prisoners and non-custodial penalties for female offenders. This development underscores the necessity for fundamental reforms in the operations of penitentiary institutions, as well as the provision of theoretical and practical support for the development of effective measures and mechanisms to prevent female crime. This includes the study of the processes of adaptation of convicted women within the penitentiary system.

Keywords: Contemporary global context, female criminality, penitentiary legislation.

Introduction: In the contemporary global context, the struggle against criminal activity has attained a degree of international significance that demands urgent attention. In this regard, particular emphasis is placed on the comprehensive reduction of the role and

participation of women in criminal activity. The global community, cognizant of the magnitude of female criminality as a universal threat, endeavors to consolidate global efforts in formulating contemporary international standards and overarching directives for the reform of criminal and penitentiary legislation. A notable development in this regard was the adoption of the Bangkok Rules by the UN General Assembly in 2010, which stipulates guidelines for the treatment of female prisoners and non-custodial penalties for female offenders. This development underscores the necessity for fundamental reforms in the operations of penitentiary institutions, as well as the provision of theoretical and practical support for the development of effective measures and mechanisms to prevent female crime. This includes the study of the processes of adaptation of convicted women within the penitentiary system.

It is acknowledged that the administration of criminal punishment is inextricably linked with the need to encourage law-abiding behaviour among convicts and to prevent evasion of punishment.

The liberalisation of criminal legislation and the corresponding penal system has resulted in the prioritisation of norms that are imbued with the spirit of humanity and mercy in the establishment of measures for offences committed by minors, women and the elderly. Minors, in particular, necessitate particular consideration. The demographic landscape of Uzbekistan is predominantly youthful, with the majority of the population comprising young people. Indeed, 40% of the total population are under 18 years of age, and 64% are under 30 years of age. It is a general rule that a minor is devoid of life experience and does not possess a fully formed consciousness and will. Consequently, they are gullible and susceptible to the influence of others. Consequently, it is imperative to exercise caution when determining the sentence of a minor. As the head of our state has emphasised, "crime among young people is, first and foremost, a mistake made by adults in their upbringing. Consequently, the reintegration of young individuals into society following the commission of a crime, without having developed a fully formed spiritual and moral compass, constitutes a sacred duty to their parents and the state. It is imperative to acknowledge that, irrespective of the efficacy of the organisation of the colony, it does not serve as an adequate environment for the upbringing of young people. In numerous instances, an adolescent who has been subjected to a substantial sanction for a minor infraction often finds themselves entering the criminal milieu within the confines of the colony. By associating with these hardened criminals, these juveniles begin to

acquire the skills and characteristics that are emblematic of their newfound criminal milieu. Consequently, the norms introduced on the basis of liberalisation stipulate that if minors perpetrate crimes that do not pose a significant public threat, or crimes due to negligence, they are not subject to imprisonment as a form of punishment.

The significance of international legal instruments in the sphere of criminal punishment cannot be overstated, as they serve as a crucial social "instrument" for the adjustment of penitentiary policy and the humanisation of coercion in the form of isolation of convicts and prisoners. These instruments are recognised or approved by the international community and are considered a factor in the introduction of generalised and acceptable practical experience, with a view to preventing violations of human rights in places of serving punishment. The Republic of Uzbekistan's accession to numerous international treaties and documents in the field of human rights is indicative of its favourable perception of international legal norms in this area.

Among the widely recognised legal instruments, the following, adopted by the United Nations, are of particular importance: 1) Universal Declaration of Human Rights (1948); 2) International Covenant on Civil and Political Rights (1966); 3) Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); 4) Code of Conduct for Law Enforcement Officials (1975). [3, 8] Furthermore, the stipulations of international instruments, including the International Labour Organization Convention on Forced or Compulsory Labour (1930), and the World Medical Association Declaration on Principles of Medical Ethics for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment of Prisoners or Detainees (1975), are also considered obligatory for the process of execution of punishment.

Furthermore, a number of special international documents have been adopted in this area. These include the Standard Minimum Rules for the Treatment of Prisoners (1955) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (1988). [3, 16] The observance of these rules is monitored by representatives and experts of various international organisations.

In a similar fashion, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (1985) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990)

are also applied, with due consideration for the specific regional conditions of social, economic and cultural development of the Republic of Uzbekistan.[3, 9]

The Constitution of the Republic of Uzbekistan establishes the primacy of widely recognised principles and norms of international law over national legislation. In the event that an international treaty of the Republic of Uzbekistan establishes rules and requirements that differ from those provided by law, the provisions of the international treaty shall apply. This principle is further elaborated in Article 4 of the Criminal Executive Code: The stipulation therein is as follows: "If an international treaty of the Republic of Uzbekistan establishes rules other than those provided by criminal executive legislation, the rules of the international treaty shall apply."

International instruments addressing human rights concerns within the context of penal activities offer a valuable opportunity to elucidate the status of national legislation in ensuring the equal enjoyment of rights and freedoms by convicted persons within any given state. A number of international treaties and agreements on human rights are currently in force, which directly affect the content of the legal status of persons sentenced to imprisonment. These instruments serve to guarantee the protection of fundamental human rights, which may be violated through the implementation of coercive measures such as forced isolation. Furthermore, they are instrumental in establishing the requisite political and legal frameworks necessary to counteract such negative phenomena.

The influence of international legal standards has resulted in the comprehensive definition of the legal status of convicted women and elderly convicts within the national criminal-executive legislation for the first time. In particular, it is important to note that convicts have the rights, freedoms and bear the obligations provided for citizens of the Republic of Uzbekistan, taking into account the exceptions and restrictions established by the Criminal-Executive Code and other relevant laws. This provision is in full compliance with Article 29 of the Universal Declaration of Human Rights, which stipulates that any individual may be subject to restrictions on their rights and freedoms only in accordance with the law.

At the same time, one more issue should be noted.

The Basic Principles for the Treatment of Prisoners, adopted by the UN General Assembly on 14 December 1990 as a universally recognized international document, states as its first principle that all prisoners have the right to be treated with respect due to their inherent dignity and their value as human beings.

It is imperative to direct particular attention to the United Nations Convention against Transnational Organized Crime, which was ratified by the Republic of Uzbekistan on 30 August 2003. Of particular significance within this Convention are the Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplement the United Nations Convention against Transnational Organized Crime.

An analysis of the legislation of the Republic of Uzbekistan demonstrates that mechanisms of differentiation and individualisation in the execution of criminal penalties are also applied to women and the elderly:

Firstly, coercive measures applied to adults and minors are defined separately in accordance with their category (Article 15 of the Criminal Executive Code); secondly, the institutions that carry out the punishment in the form of imprisonment differ depending on the personality of the convicted person (adult or minor, woman or man, previously convicted or recidivist, etc.).Furthermore, the institutions responsible for implementing these measures are subject to specific criteria, including the degree of public danger posed by the crime committed (Article 50 of the Criminal Code, Article 45 of the Criminal Executive Code).

Thirdly, special procedures have been established for certain categories of individuals, including minors, women, foreign citizens, and stateless persons, as well as convicted persons from among former employees of the courts and law enforcement agencies (Articles 53, 58 of the Criminal Executive Code). In particular, as outlined in Article 58 of the Criminal Executive Code, penitentiary institutions are obliged to house male and female inmates separately, as well as juveniles and adults. Furthermore, individuals who have been sentenced to imprisonment for the first time, in addition to those who have previously undergone this form of penal sanction, are to be housed in separate facilities.

Fourthly, the implementation of incentive measures and disciplinary sanctions is contingent on the nature of the imposed punishment and the personality of the convicted individual, as outlined in Articles 44, 102, 105, and 109 of the Criminal Executive Code. Notably, Article 109 of the Criminal Executive Code stipulates that disciplinary sanctions in the form of placement in a disciplinary department are not applied to disabled persons of Group I and women released from work due to pregnancy and childbirth, as well as women with a nursing child.

In order to identify a pragmatic solution to the issue of applying international standards for the treatment of convicted women and elderly people within the penal

system, particular attention must be paid to the following issues:

1) the preferential consideration of non-custodial sentences; 2) the consideration of the material, social and spiritual interests of this category of offenders during the sentencing process; 3) the protection of convicted persons from the adverse effects of the microenvironment in places of deprivation of liberty, if such a sentence is imposed.

4) continuous improvement of professional qualifications of women when assigned to correctional labor;

5) provision of social rehabilitation assistance to convicted persons and persons who have served their sentences;

6) increasing the effectiveness of the use of alternative punishments to imprisonment.

In addition, in order to improve the legal status of this category of convicts, it is necessary to carry out work in the following areas:

a) In the process of educational work with convicted persons, it is advisable to pay special attention to the individual approach to convicted persons, since "in each convicted person it is necessary to see and feel a person in need of help, care, expecting attention to solving his life problems. This approach should be the fundamental principle and guideline for all individuals involved in the criminal justice system." [3, 20]

b) The further humanisation of conditions for serving sentences not involving deprivation of liberty. This requirement necessitates a paradigm shift in the staffing of the probation service. The fundamental premise of this requirement is that the practical implementation of even the most advanced and humane penal principles established by the legislative authority is contingent on the personnel within the penitentiary system. In the context of reforming the national penal system, the tasks of the employees of these institutions are becoming increasingly complex. In this regard, the necessity of enhancing the legal awareness of employees of penal institutions, with an emphasis on humanistic aspects, is paramount.

c) The enhancement of the quality of social services provided to the convicted person by the state is imperative. In the context of international law, this obligation manifests in the form of the following social guarantees for convicted persons: the provision of adequate living conditions, clothing and footwear appropriate to the season, proper nutrition, access to medical and sanitary-hygienic services, the opportunity to receive an education, acquire a profession (including advanced training), acquire

socially useful skills and knowledge, and the issuance of relevant documents (e.g. diploma, certificate, etc.).

When determining the special status of convicted persons, legal restrictions and obligations aimed at ensuring conditions for serving a sentence not associated with imprisonment occupy an important place.

Achieving an enhancement in the effectiveness and efficiency of non-custodial sanctions necessitates substantial modifications to the prevailing penal policy. It is therefore the opinion of the present author that the time has come to develop a state concept of penal policy. The necessity for such a concept is determined by a number of objective and subjective factors.

The necessity of the concept of penitentiary policy in the process of further deepening democratic reforms and development of civil society in our country is explained by the following:

Firstly, the insufficient level of legal culture in society is a contributing factor. A study of the situation in foreign countries on this issue reveals that in Bahrain, which ranks 4th in the world in terms of low crime rates, one in 50 citizens is a police officer. In Denmark, where 83% of the population consider themselves to be completely protected from criminal attacks, the figure is 196 out of 100,000 people. In Ireland, it is 322, and in Switzerland, 216. Conversely, the level of legal culture and legal awareness among law enforcement officers is typically higher than that of the general population. In light of these observations, it is recommended that alternative mechanisms be considered for significantly enhancing the legal culture and legal awareness of the population in foreign countries. Furthermore, proposals should be developed for incorporating the beneficial aspects of these mechanisms into national legislation.

Secondly, the issue of staffing the new penal services, including the probation service, with qualified personnel must be given due consideration. It is evident that there is an absence of any specialised educational institution within the Republic that trains personnel for penal institutions and services. For instance, at the Tashkent State Law University, the curriculum for criminal-executive law comprises 20 hours of lectures, 20 hours of practical classes and 36 hours of seminars, yet this is inadequate, providing only general knowledge. Furthermore, the regulatory framework surrounding practical training opportunities for students within penal institutions is found to be inadequate. A survey of foreign practices reveals the establishment of specialised educational institutions tailored to meet the needs of penal institutions. For instance, in Japan, there are special faculties that train personnel for penal institutions in the direction of

jurisprudence.

REFERENCES

United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) [Electronic resource]. URL: http://www.un.org/ru/documents/decl_conv/conventions/bangkok_rules.shtml .

Karimov I.A. Mamlakatni modernization qilishi va iqtisodiyotimizni barkaror rivozlantirish yulida . 16th volume, “ Uzbekistan ”, 2008, - B.163.