



Current State of the Penal System in Tajikistan

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Abstract

Introduction: the article considers a current state of the penal system of the Republic of Tajikistan through the prism of the legislative framework, historical reality, transformation of the penal system, as well as achievements in the scientific-theoretical, scientific-practical and scientific-educational contexts, taking into account the preparation and publication of relevant works. The legislative framework indicates both advantages and complex problems of the penal system, which require their proper legal regulation. *Purpose:* to reveal a current state of the penal system, to determine sectoral problems of the system and to identify promising areas for the development of the system. *Methods:* dialectical cognition, analysis and synthesis, historical, comparative legal, method of collecting information (all available regulatory legal acts were collected and analyzed and scientific, educational and practical works were reviewed). *Conclusions:* despite a number of achievements in the reform of the penitentiary system of Tajikistan, a number of major complex problems related to the precise definition of further policy in the sphere of execution of criminal penalties are still visible. The authors also adhere to the idea of organizing and conducting annual monitoring of the system of execution of criminal penalties.

Key words: penal system; crime; punishment; counteraction; policy; humanization; education; science; practice; personnel training.

5.1.4. Criminal law sciences.

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As a part of the modern world community, the Tajik society strives to modernize social relations. It seems to us that the most important thing in this competition is to defend one's spiritual and moral foundations of society, mentality, traditions and rituals.

According to researchers [1–3], the crime rate in Tajikistan as a whole remains consistently high and requires maximum efforts.

The State Program for Combating Crime in the Republic of Tajikistan for 2021–2030 approved by the decree of the Government of the Republic of Tajikistan of June 30, 2021 No. 265¹ additionally indicates that in modern realities maximum efforts are required from all sectors of society, various institutions of civil society and government agencies in countering various criminal manifestations.

In the context of countering various criminal manifestations, an important role is assigned to other government agencies that are responsible for executing sentences and correcting convicts. In Tajikistan, as in many CIS member states, the criminal punishment system is subordinate to the Ministry of Justice of the Republic of Tajikistan.

It should be noted that in Tajikistan close attention has recently been paid to the system solution of the penal system problems.

After Tajikistan gained state independence, legislation has been gradually updated. Sectoral legislative acts are important in this extensive legislative activity. Thus, over the past few years, a number of key regulatory legal acts have been adopted in the sphere under analysis.

In 2002, the decree of the President of the Republic of Tajikistan of July 26, 2002 “On reforming the penal system of the Republic of Tajikistan” and the decree of the Government of the Republic of Tajikistan No. 367 of September 12, 2002 on the implementation of this decree were adopted. Several key issues were fixed there, namely:

1) gradual reforming of the penal system and its transfer from the jurisdiction of the Ministry of Internal Affairs of the Republic of Tajikistan to the jurisdiction of the Ministry of Justice of the Republic of Tajikistan;

2) creation of a government commission for reforming the penal system that within one

month was to develop and submit proposals for resolving organizational, legal, financial, and logistical issues related to the transfer of the penal system (up to October 1, 2002); to submit relevant draft laws and regulatory legal acts to the Parliament (until November 1, 2002);

3) before the adoption of relevant regulatory legal acts, issues of personnel policy, procedures for further service of transferred employees from one system to another, etc. were resolved.

The same decree initiated complete transformation of the Tajik penal system and its proper compliance with the requirements of international standards.

To solve the problems stated, the Program for Reforming the Penal System of the Republic of Tajikistan for the Period of 2004–2028 adopted by the decree of the Government of the Republic of Tajikistan No. 533 of December 5, 2003. The Commission for Reforming the Criminal Punishment System of the Republic of Tajikistan was formed to:

- ensure strict control over the transfer of institutions and facilities of the criminal penalty execution system from the jurisdiction of the Ministry of Internal Affairs of the Republic of Tajikistan to the Ministry of Justice of the Republic of Tajikistan;

- develop proposals for the solution of organizational, financial and logistical issues on reforming the system and submit them to the Government of the Republic of Tajikistan;

- submit draft laws and other normative legal acts to the Government of the Republic of Tajikistan.

The same resolution additionally recognized that the institutions and bodies of the criminal punishment system of the Ministry of Justice of the Republic of Tajikistan are legal successors of the institutions and bodies of the criminal punishment system of the Ministry of Internal Affairs of the Republic of Tajikistan.

The decree of the Government of the Republic of Tajikistan No. 245 of July 4, 2004 approved the Plan for the Implementation of the Program for Reforming the Penal System of the Republic of Tajikistan for the Period of 2004–2008.

¹ Legal sources are provided on the “ADLIA” database.

It should be noted that in 2009–2014, the development of the criminal punishment system remained without due legal attention.

At the end of 2014, the Program for Work Organization and Industrial Production Development in Correctional Institutions of the Republic of Tajikistan for the Period of 2015–2020 was adopted by the decree of the Government of the Republic of Tajikistan. Further, the decree of the Government of the Republic of Tajikistan No. 101 of February 28, 2015 on the Program for the Development of the Justice System for the Period of 2015–2020 was adopted. To improve activities of structural divisions of the criminal punishment system of the Republic of Tajikistan and to fully implement requirements of the Code of Execution of Criminal Penalties of the Republic of Tajikistan and relevant international acts, the criminal penalty execution system was assigned the following tasks:

- to gradually upgrade correctional facilities and pre-trial detention facilities, some of which were built in the 1920–1940s;
- to upgrade engineering and technical means of protecting these institutions and restricted areas;
- to construct a pre-trial detention facility with regard to relevant norms;
- to create a separate department on the basis of the Academy of the Ministry of Internal Affairs of the Republic of Tajikistan to train specialists in the field of penal enforcement.

Currently, the Academy of the Ministry of Internal Affairs of the Republic of Tajikistan annually trains domestic personnel for the needs of the criminal punishment system.

Further, the Program for vocational training and provision of jobs for convicts in penitentiary institutions and persons released from places of detention for 2021–2030 was approved by the decree of the Government of the Republic of Tajikistan No. 134 of February 29, 2020 and then the Strategy for Reforming the Criminal Punishment System of the Republic of Tajikistan for the period up to 2030 was approved by the decree of the Government of the Republic of Tajikistan No. 385 of June 25, 2020. The strategy provides for key directions, forms and ways of improving the penitentiary system of the republic, its relationship with government agencies that en-

sure functioning for the period up to 2030.

The strategy pursues three main objectives:

- improving the efficiency of institutions and bodies executing sentences to the level of international standards for the treatment of prisoners and the needs of social development;
- reducing recidivism of crimes committed by persons who have previously served sentences of imprisonment by increasing the effectiveness of social and psychological work in places of detention and developing a system of post-penitentiary care for such persons;
- humanizing detention conditions of persons in pre-trial detention centers and convicts serving sentences of imprisonment, as well as conducting educational and labor activities related to the employment of convicts serving sentences without deprivation of liberty, increasing guarantees of respect for their rights and legitimate interests.

Despite all the positive changes in the system of execution of criminal penalties, some problems remain unresolved, which include:

1. The high number of convicts creates difficulties in housing, ensuring regime and supervision, preventing offenses in places of deprivation of liberty, ensuring the safety of convicts, as well as conducting educational work with them.
2. Low employment of convicts (20% of the total number of convicts serving sentences in places of deprivation of liberty).
3. Insufficient level of social security for employees of the penal system, their safety and professional training.
4. Deterioration of technical means of supervision and protection in correctional institutions.
5. High degree of deterioration of correctional facilities.
6. Increase in the number of convicts in institutions with a prison regime of serving sentences (persons sentenced to life imprisonment and a prison regime of serving sentences). There is only one penitentiary institution in the republic with a prison regime of serving sentences, and the number of convicts in it is beyond the established capacity limit.

7. Insufficient number of professional institutions to provide convicts with guaranteed secondary education, as well as vocational training. Five general education and two professional lyceums in correctional institutions cover more than 750 people.

8. Problems related to the medical care of convicts. Today, more than 750 convicts with tuberculosis and 218 HIV-infected people are held in prisons. Treatment and prevention of these types of diseases require additional purchase of medical equipment and improvement of the material and technical base of hospitals.

9. Uncompetitiveness of the products manufactured due to a low technological level of production, using the capabilities of low-skilled workers by enterprises of the penitentiary system.

The identified problems, characteristic of correctional institutions of many post-Soviet states, require their own resolution.

The expected results of the implementation of the Strategy for Reforming the Criminal Punishment System of the Republic of Tajikistan for the period up to 2030 are the following: improvement of the conditions of detaining convicts, their compliance with international standards; maximum coverage of convicts with rehabilitation in order to further reintegrate them into society; widespread use of alternative types of punishments; phased reconstruction of institutions and construction of new cell-type institutions; improving the image of the penitentiary system and involving qualified staff in it, creating appropriate working and recreation conditions for employees of the penitentiary system.

It should be noted that taking into account historical experience of the development of the Tajik penitentiary system will help bring it more quickly into line with modern international standards and requirements.

Nowadays, the society and the state should reform and update their institutions, bring them as close as possible to the recommendations of international legal acts of the United Nations and use the achievements of world criminal justice.

According to the latest available data, there are 19 correctional institutions in Tajikistan, including a female correctional facility in the

city of Nurek, a juvenile correctional facility and 5 pre-trial detention centers. The country's oldest penitentiary institution was built back in 1935 in Dushanbe. According to data of the Main Directorate for the Execution of Criminal Penalties of the Ministry of Justice of the Republic of Tajikistan, as of January 1, 2024 there were 13,556 convicted and 1,355 suspected, accused persons in penal institutions, including 14,466 men, 455 women, 134 minors and 244 foreign citizens. In 2023, 1,445 convicts were transferred from correctional institutions to penal settlements (1,403 in 2022), and 174 were released on parole (68 in 2022). Besides, for 12 convicts the unserved part of the punishment was commuted to a lighter penalty (correctional labor).

It is worth mentioning that the government policy is aimed at improving the criminal punishment system, humanizing legislation on the detention of persons held in these institutions, and bringing detention conditions in line with the requirements of international standards. Significant work is being carried out in these areas [4, pp. 60, 61].

It seems that any type of activity needs scientific and educational, scientific and practical support. In our case, the penal system of Tajikistan, despite a number of transformations, is trying to maintain its status at the current stage of its development. One of the achievements of the domestic penal system is the holding of two penitentiary forums "Development of the criminal punishment system in the Republic of Tajikistan" (November 20, 2019, October 23, 2023, Dushanbe), where key issues related to the effective management of the penitentiary system reform were discussed. Other complex issues were additionally discussed.

In Tajikistan, a sufficient number of scientific, educational and practical works have been published on various issues of science and practice of criminal, penal law, and the execution of punishment for several decades [5, pp. 144–157].

It is possible to mention the scientific research of Sh. J. Makhmudova [6; 7], T. Sharipova [8; 9], U. Azizzoda [10–12].

The issues of the history, formation and development of criminal law science are considered in several dissertations, monograph-

ic studies and other scientific publications [13–34].

We will also highlight the research on the problems of the penitentiary system by A.M. Abdulov [35–40].

Of particular note is the publication in the official Tajik language of textbooks on penal law, educational publications [41–44], [45–55] and commentaries to the Code of Execution of Criminal Penalties of the Republic of Tajikistan [56].

The above works are undoubtedly valuable. In the process of training highly qualified personnel, especially for the needs of the penal system, they should be actively used. Currently, at the second stage of the reform of the penitentiary system, training of highly qualified personnel stands out among other complex issues. Consolidation of efforts, conduct of joint educational and practical activities, advanced training courses, short-term retraining courses are crucial to achieve results.

Summarizing the above, we draw the following conclusions:

1. When reforming the penal system of the Republic of Tajikistan, it is necessary to create monitoring groups from among specialists at various levels to study and possibly implement the best practices of the CIS member states and other foreign countries.

2. Comprehensive monitoring of the problems of the penal system should be carried out based on which specific recommendations should be developed, which will be further purposefully generalized and implemented into the educational and practical activities of relevant government agencies and universities.

3. Taking into account the urgent need, educational, and other materials for training, retraining and advanced training of current and future employees of the penal system should be comprehensively reviewed.

4. Taking into account development of modern technologies and digital transformation of public relations, there is a need to digitize some areas of activity of the penal system in terms of interaction with various institutions of civil society.

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