



DIFFERENTIATION, INDIVIDUALIZATION, EXECUTION OF CRIMINAL PUNISHMENTS AND ITS GOALS: WAY TO SUCCESS

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ДИФФЕРЕНЦИАЦИЯ, ИНДИВИДУАЛИЗАЦИЯ, ИСПОЛНЕНИЕ УГОЛОВНЫХ НАКАЗАНИЙ И ЕЕ ЦЕЛИ: ПУТЬ К УСПЕХУ

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ДИФФЕРЕНЦИАЦИЯ, ИНДИВИДУАЛЛАШТИРИШ, ЖИНОИЙ ЖАЗОЛАРНИ ИЖРО ЭТИШ ВА УНИНГ МАҚСАДЛАРИ: МУВАФФАҚИЯТГА ЙЎЛ

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Annotation: this paper aims to explore the multifaceted meaning of the rational application of spice principles, such as differentiation and individualization in the execution of criminal penalties. The author reported on the reforms in the penitentiary system that is being conducted in Uzbekistan, while at the same time critical analyzing the existing problems in penitentiary legislation and practice. On the basis of scientific analysis, the author gives concrete suggestions and recommendations on the elimination of these problems.

Keywords: crime, punishment, differentiation, individualization, penitentiary system, prevention

Аннотация: мазкур мақола жиноий жазоларни ижро этишида дифференциация ва индивидуаллаштириши каби махсус принципдан мақбул тарзда фойдаланишни ўрганишга бағишланади. Муаллиф Ўзбекистонда пенитенциар тизимда олиб борилаётган ислохотлар ҳақида сўз юритади, айни чоғда пенитенциар қонунчилик ва амалиётда мавжуд муаммоларни танқидий рўҳда таҳлил қилади. Муаллиф томонидан илмий таҳлил асосида ушбу муаммоларни бартараф этиши бўйича аниқ таклиф ва тавсиялар берилади.

Калим сўзлар: жиноят, жазо, дифференциация, индивидуаллаштириши, пенитенциар тизим, профилактика.

Аннотация: настоящая статья посвящена изучению многогранного смысла рационального применения при исполнении уголовных наказаний такого специального принципа, как дифференциация и индивидуализация. Автор говорит о реформах в пенитенциарной системе, которые проводятся в Узбекистане, в то же время критически анализирует проблемы, существующие в пенитенциарном законодательстве и практике. На основе научного анализа автор дает конкретные предложения и рекомендации по устранению этих проблем.

Ключевые слова: преступление, наказание, дифференциация, индивидуализация, пенитенциарная система, профилактика.

What about?

Along with the recognition of a committed crime as a crime, the appointment of a punishment against the guilty person, the issues of determining the fair mechanism for the execution of the punishment and its organization play a decisive role in achieving the final result of the fight against crime and its prevention. In other words, the lawfulness of imposing punishment on the person who committed the crime, as well as the degree of correctness and professionalism of the implementation of the enforcement mechanism, are considered one of the main factors directly affecting the prevention of crime in each state.

Only in cases when the convict has been reformed, and also the commission of other crimes has been prevented, the purposes of punishment can be considered achieved. This ultimate goal, in turn, largely depends on the quality of the execution of the punishment, the legality, the fairness of the legal mechanism, most importantly, respect for the principle of differentiation and individualization in the execution of punishment. Thus, it can be said that the rational organization of the system of enforcement of criminal penalties is an important factor in achieving the goal of punishment.

Retrospective analysis

The main phase of the development of the penitentiary system of Uzbekistan falls on the years of independence. In particular, in 1997 the Criminal Executive Code of the Republic of Uzbekistan was adopted. This code is considered to be a codified normative legal act that reflects the legal basis for the execution in Uzbekistan not only of criminal penalties, but also of other criminal law measures, precisely in connection with the comprehensive coverage of the whole system of execution of criminal penalties, it differs radically from the previous one The criminal-executive legislation. Thus, prior to the adoption of the Penal Enforcement Code, the Corrective Labor Code of 1970, which contained the legal framework for the enforcement of types of criminal penalties related to correction only through labor, other penal sanctions were regulated by other legal acts.

Differentiation and individualization

If speech goes about the importance of differentiation and individualization of the execution of criminal penalties in achieving the goals of punishment, it should be noted that these principles mean the organization of the execution of punishment, taking into account the specifics of the public danger of the crime and the nature of its commission. As a reflection of the importance of this principle in the relevant articles of the Penal Enforcement Code, there are provisions for the rational use of coercive measures against convicts, the application of incentive measures, taking into account their approximate behavior.

The issue of differentiation and individualization of the execution of criminal penalties is separately mentioned in many international documents.

It should be noted that in the article of the 6th Criminal Code of the Republic of Uzbekistan, the principles are defined as special principles of the penal enforcement legislation.

Facts

Analysis of legislative acts of the Republic of Uzbekistan indicates that the following mechanisms have been introduced to differentiate and individualize the execution of criminal penalties:

Firstly, the rights and duties of convicts are determined on the basis of the procedure and conditions for the execution of a particular type of punishment;

Secondly, the remedies are applied taking into account the type of punishment, nature and degree of public danger of the crime committed, as well as the personality and behavior of the convict;

Thirdly, a range of institutions and bodies that execute punishments and other measures of criminal-legal influence, the procedure for their implementation;

Fourthly, coercive measures against adults and minors are defined separately;

Fifth, based on the type of institution for the execution of punishment, the rights of convicts differ;

Sixthly, according to the article 58 of the PEC in penitentiary establishments, separate content of men and women, minors and adults, first convicted to imprisonment and previously serving this type of punishment, is established;

Seventh, the measures of encouragement and disciplinary punishment are applied to convicted persons, taking into account the personality and their behavior. Thus, in accordance with the article 109 of the Criminal Executive Code, disabled persons of the I-st group are not placed in disciplinary offices, women released from work on maternity and having babies with them;

Eighth, based on the personality of the convict, different types and conditions of detention are determined. Thus, according to the article 122 of the Penal Enforcement Code, pregnant women and women carrying infants, as well as disabled groups I and II, are serving their sentences in prisons under improved conditions of detention.

The above mechanisms together have a positive effect on the personality of the convicted person, his behavior is improving, he is brought up in the spirit of respect for the law, he is prevented from committing new crimes, this, in his turn, clearly indicates the significance of differentiation and individualization in achieving the goals of punishment.

That's issue

In Uzbekistan, despite the existence of the aforementioned positive provisions, the analysis of the forensic and law enforcement practices shows the insufficient effectiveness of the existing regulatory and legal acts in crime prevention, the need to study the experience of developed foreign countries in this regard and the implementation of certain norms in national legislation, with special attention should be given to the issues of differentiation and individualization of the execution of punishments.

In particular:

Firstly, despite the fact that legislative acts concerning the execution of punishments in the Republic of Uzbekistan have been codified, in recent years a number of laws and by-laws have been adopted that regulate the procedure for differentiation and individualization of the execution of sentences. However, today there is a need to revise and systematize, codify the legislative acts that regulate this sphere. Thus, it is necessary to improve the criminal enforcement legislation of Uzbekistan and eliminate certain contradictions between the norms through the inventory of laws;

Secondly, despite the fact that in the PEC the principle of differentiation and individualization of the execution of punishments is mentioned as a special principle, while its content and conditions for compliance are not defined. For this reason, in the PEC of the Republic of Uzbekistan it is necessary to introduce separate norms regarding "observance of differentiation and individualization in the execution of punishment", they should clearly reflect the content, subjects of application, forms and mechanism for their implementation;

Thirdly, the maintenance of the criminal among criminals similar to him is one of the negative factors of the process of execution of punishment. Since, there is a threat that convicts can act on each other in a negative way. Therefore, the development of a certain effective mechanism to eliminate this problem is an actual time requirement;

Fourthly, for the formation of penal institutions, special psychologists should be involved in the study and assessment of the behavior of persons serving sentences, establish special commissions to further categorize convicts, and develop new psychological and pedagogical methods of working with them;

Fifth, the requirements of modern times show the need to reform existing forms of execution of punishments, taking into account the principle of differentiation and individualization. To transform penal institutions and reform the penitentiary system as a whole, it is advisable to develop a Concept of the penitentiary policy of the Republic of Uzbekistan, planned for the next 10 years;

Sixth, the application of the principles of differentiation and individualization in the organization of employment, taking into account gender, age, education, physical data, persons serving sentences, should be reviewed;

Seventh, there are colonies for the execution of male prisoners, as well as colonies for the female. This rule is not provided for sex division in educational colonies, in particular, it is not enshrined in article 124 of the PEC. There is a violation of the principle of differentiation. Do not forget about the specific socio-medical characteristics of the so-called "transitional age" of juvenile convicts. For this reason, in our opinion, educational colonies should be organized separately for men and women;

Last words

As a conclusion, it should be noted that if the above principles do not find their own sufficient legal regulation, and no measures are taken to fully and rigorously implement the relevant laws, it is impossible to enforce the punishment in the full sense of the word.

Thus, having studied the specifics of this issue, it can be concluded that only through an integrated approach to the reform of the penitentiary system, taking into account international standards and the experience of developed countries, it is possible to achieve the goals of criminal and penal policy, as well as ensure welfare in the society.