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Some Changes in the Criminal Punishment System of Uzbekistan and Issues Related to their Implementation

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Abstract: According to Article 46 of the current Criminal Code, this type of punishment involves forcing a person to work, deducting from 10% to 30% of the salary at the expense of state income. This type of punishment, like the essence of all punishments, aims to educate a person, extinguish his tendency to criminality, morally correct him and return him to a socially healthy state. This type of punishment is carried out without separating the person who committed the crime from society, without losing the socially useful aspects of it, and by involving him in forced labor, having a material impact on the criminal. Thus, it is difficult to come to a single opinion, taking into account the existing opinions about this type of punishment. It seems that, despite the many definitions, the essence of correctional punishment requires a little more explanation. This can also be done by comparing this type of punishment with other types of punishment. In particular, the penalty of correctional work has been compared to the penalty of a fine in many cases.

Keywords: fine, deprivation of certain rights, compulsory community service, correctional works, service limitation, restriction of freedom, sending to the disciplinary department, deprivation of liberty, life imprisonment, person and citizens.

The penal system is of particular importance in the implementation of the main function of criminal law. Criminal punishment is considered to be one of the most important institutions of criminal law, and it prevents crime in a certain sense and prevents new crimes from being committed by the convict. On this basis, each country pays special attention to the penal system in the fight against crime, defines the criminal act and the types of punishment assigned to it through the relevant norms in its legislation, and thereby conveys the inevitability of punishment for any crime to its individuals and citizens.

In the world, special attention is being paid to the study of the policy of ensuring the correct application of laws on the sentencing system and the conducting of scientific analyzes on the issues of effective organization of the activities of law enforcement agencies in this regard.

M. Kh. Rustamboev looks at punishment as one of the important institutions of criminal law, it is the leading form of implementation of criminal responsibility, "on the one hand, punishment is the logical consequence of committing a crime by a person, and on the other hand, it is also a means of restoring social relations protected by the Criminal Code"[1], believes that. E. Kh. Norbotaev says that "Punishment is the deprivation of rights and interests provided for by the law, which is used by the court on behalf of the state for the crime committed by a person"[2]. I. I. Karpes puts forward the opinion that persuasion and coercion are common in the context of punishment, which is one of the means of fighting crime. M. Sh. Nazhimov defines that "criminal punishment is a coercive measure of the state expressed in the criminal legal norm and which can be applied by the court only to a person found guilty of committing a crime"[3]. Although each of the above definitions reveals one or another aspect of punishment, in their content lies the fact that punishment is a measure of state coercion. The concept of punishment consists of deliberately subjecting the guilty person to the suffering prescribed by law, and there are guardians as a specially designed measure for this. We cannot agree with this opinion. Because the understanding of punishment as a means of deliberately inflicting suffering and deprivation is contrary to the principle of humanity in Article 7 of the Criminal Code, according to

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which punishment and other legal measures do not have the purpose of inflicting physical pain or humiliating human dignity.

The current Criminal Code of the Republic of Uzbekistan (hereinafter referred to as the Criminal Code) also includes punishments for crimes, and according to its Article 43, the following punishments are imposed on persons found guilty of committing a crime:

a) fine;

b) deprivation of certain rights;

c) compulsory community service;

d) correctional works;

e) service limitation;

f) restriction of freedom;

g) sending to the disciplinary department;

h) deprivation of liberty;

i) life imprisonment;

j) deprivation of a military or special rank (additional punishment).

Among these punishments, correctional work is one of the most common types of punishment in the criminal punishment system. According to Article 46 of the current Criminal Code, this type of punishment involves forcing a person to work, deducting from 10% to 30% of the salary at the expense of state income. This type of punishment, like the essence of all punishments, aims to educate a person, extinguish his tendency to criminality, morally correct him and return him to a socially healthy state. This type of punishment is carried out without separating the person who committed the crime from society, without losing the socially useful aspects of it, and by involving him in forced labor, having a material impact on the criminal. This punishment measure is used only as the main type of punishment. That is, the special part of the Criminal Code is used in the cases directly provided for in the sanction of the relevant article.

Article 26 of the Criminal Code, which was adopted on May 21, 1959 and was in force until 1995, reflected the punishment of correctional work and was used as the main type of punishment. However, unlike the current JK, its term was not from 6 months to 3 years, but from 1 month to 2 years. Later, these terms were slightly extended in order to fully use the means of moral correction of convicts and to achieve the purpose of punishment. In addition, in the articles of the special part of the Criminal Code, which determine responsibility for many minor crimes, correctional work is presented as an alternative punishment together with imprisonment, which became important in the widespread use of this type of punishment.

If we dwell a little on the history of the punishment of correctional work, this type of punishment was first introduced by the People's Inspectorate of Justice of the RSFSR on December 19, 1917 "Revolutionary tribunal, its composition, punishments applied by it and the procedure for conducting its meetings" on" which contained a list of punishments and allowed the courts to apply "forced labor" to the perpetrators"[4].

Later, this type of punishment was reflected in the Criminal Codes of the RSFSR of 1922 and 1926 and the Criminal Code of the Uzbek SSR adopted on May 21, 1959, with certain amendments and changes.

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If we think about the nature of the punishment of correctional work, different opinions and views about this type of punishment have been put forward by scholars in the field of criminal and criminal law. Many authors (B. M. Leontiyev, N. I. Zagorodnikov, B. S. Utevskyi) commenting on the nature of the punishment of correctional work, focused on the convict's place of work and residence.

At this point, B. S. Utevskyi connected the essence of correctional punishment with the fact that "the convict can continue to work at the previous place of work without losing his job" [5].

N. I. Zagorodnikov explains the main feature of correctional work as follows: "A person is not separated from his permanent place of residence, he remains there. Punishment is carried out together with the labor team, not in isolation from society, but under the influence of corrective labor in relation to it" [6].

According to V. Y. Bogdanov, the essence of correctional work lies in the specific nature and content of the work performed. In his opinion, "punishment will achieve its intended purpose only if it has the following characteristics:

1. Work should be productive.
2. Correctional work should be carried out in designated and standardized workplaces.
3. Work should require professional development from the prisoner.
4. The convict must undergo correctional work in front of the labor team" [7].

However, in our opinion, we cannot fully agree with this proposed point of view. V. Y. Bogdanov's assessment of the nature of correctional work as a type of punishment in this way reminds us of the foundations of the institution of compulsory community service. This equates the nature of this type of punishment to the nature of mandatory community service.

Another scientist, M. I. Kovalev, described the punishment of correctional works as "property punishment" [8].

V. A. Guskova, S. N. Ponomarev, and P. K. Khokhlov called for correctional works "enforcement of the prisoner's participation in labor, withholding a part of the income determined by the court, control of his behavior in public, correction of him by labor inspectorates, political- "They evaluated it as a type of criminal punishment" [9].

Thus, it is difficult to come to a single opinion, taking into account the existing opinions about this type of punishment. It seems that, despite the many definitions, the essence of correctional punishment requires a little more explanation.

This can also be done by comparing this type of punishment with other types of punishment. In particular, the penalty of correctional work has been compared to the penalty of a fine in many cases. Russian scientists S. V. Poznishev, M. M. Isayev assessed this type of punishment as "nothing but a disguised fine", and V. D. Menshakin called it "delayed fine"[10]. Of course, there were reasons to say so. Because both punishments are carried out by materially influencing the prisoner. However, there are differences that separate them from each other, of course.

First, "if a fine is considered as a punishment executed by a separate act as a criminal punishment, correctional work is carried out as a process, during the period specified in the court verdict (from six months to three years)" [11].

Secondly, the procedure for determining the property amount is different for both types of punishment. In the event of a fine being imposed on a prisoner, a certain exact amount is determined, taking into account his financial situation. When the penalty of correctional work is imposed, not a specific amount, but a certain percentage (from ten to thirty percent) of the prisoner's income is determined. In

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this case, the amount of the appointed amount is not fixed, because it is collected not only from the basic salary, but also taking into account certain types of other income of the prisoner (reward money, bonus).

In addition, if we compare correctional work with compulsory community service, we can say that this type of punishment is essentially the same as correctional work. Initially, correctional work, in its early stages of use, was expressed in the form of forced labor and meant "forced work" performed on a free basis. However, later, after the possibility and necessity of introducing a new type of punishment appeared in science, this type of punishment was further improved. As the society developed, there was a need for compulsory community service in order to carry out work necessary for the needs of the state, such as general public service. Compulsory community service is also a type of punishment that is served by keeping the prisoner engaged in forced labor without separating him from society. While it is similar to the punishment of correctional work in these respects, it differs from the punishment of correctional work in terms of the limitation of labor rights. Correctional work gives the prisoner more rights than mandatory community service. One of the main differences between correctional labor and forced labor is material restraint. By serving the sentence of correctional work, the prisoner receives a certain amount of financial benefit, but the prisoner does not receive any financial benefit from serving the mandatory community service, and this indicates that correctional work is a lighter sentence than mandatory community service.

Another feature of correctional work that differs from forced labor is that the calculation of the term of punishment is different in both types of punishment, that is, forced labor is calculated in hours, and corrective work is calculated in days, months and years.

The above-mentioned points show the differences and similarities between the types of punishments that are somewhat close to correctional punishments in terms of content, i.e. fines and mandatory community service punishments, and this helps to reveal the nature and essence of the type of punishment.

One of the main elements of the punishment of correctional work is the withholding of the convict's wages. At this point, a question arises, that is, should the punishment of correctional work be considered as one of the property type punishments?

The Criminal Code of the Republic of Uzbekistan does not have a clear definition of what punishments are property type punishments. Scientists have different opinions on this issue. There are two main points of view in the criminal law literature. According to the first of them, that is, A. C. Mikhlin and Y. N. Zagudaev, property punishments include only fines and confiscation of property. In the opinion of Professor B. M. Leontiev, in addition to the above, it is necessary to include compensation for the damage (if it is expressed in a property form) among the property punishments. Although the last two types of punishments are not used in practice today, they were implemented at the time by imposing property restrictions on convicts.

From the above points, it can be concluded that at present property punishments include fines, that is, the punishment in which confiscation of property is the main element of punishment.

On the same basis, correctional work also provides an element of property recovery - the deduction of a certain amount of interest from the convict's income for the benefit of the state. However, the application of correctional work leads to a more serious change in the legal status of the person serving the sentence than a fine, and a wider range of rights, duties and interests of the guilty person is limited.

Among the scientists of the second party, A.C. Mikhlin expressed his opinion that "despite the fact that the punishment of correctional work has a material impact, it cannot be included in the property punishment." The reason for this is that the punishment affects other important rights and interests of the prisoner. In our opinion, this approach is quite correct. Because a number of other types of

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punishment in the legislation can be indirectly connected with reducing the income of the convict. For example, deprivation of a certain right, restriction on service, deprivation of liberty and other similar types of punishment cannot fail to affect the property interests of the convict. We can see this in the reduction of the income of the prisoner as a result of his release from the position he held or in his dismissal from his job without his freedom. For this reason, correctional work cannot be considered a type of punishment that has a purely property or a purely moral effect. In our opinion, it is necessary to include this type of punishment in the type of mixed punishments, because in this punishment, the effect of moral correction is combined with the property impact on the prisoner.

Thus, from the above, it can be concluded that:

Among the types of punishment listed in Article 43 of the Criminal Code of the Republic of Uzbekistan, the punishment of correctional work is similar to the types of compulsory community service and fine punishment and reflects some elements of punishment in them, and in the moral recovery of the convict, these two influence also has a special place.

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