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THE CONCEPT, PURPOSE AND OBJECTIVES OF THE EXECUTION OF PUNISHMENT OF THE IMPRISONMENT AGAINST MINORS

Submission Date: April 20, 2024, **Accepted Date:** April 25, 2024,

Published Date: April 30, 2024

Crossref doi: <https://doi.org/10.37547/ijlc/Volume04Issue04-12>

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ABSTRACT

The article analyzes the concept of minors, the essence of imposing a sentence of imprisonment on minors, the legal status of minors, the concept of execution of the sentence of imprisonment, its goals and objectives, the principles of execution of punishment, the history of the establishment of educational colonies. Also, in the article, the author researches the opinions of scientists regarding the execution of the punishment of imprisonment against minors. In addition, the article provides recommendations aimed at effective execution of the sentence of imprisonment against minors.

KEYWORDS

Minors, criminal liability, criminal punishment, imprisonment, convict, correctional colonies, execution of sentence.

INTRODUCTION

A perfectly regulated and efficiently organized system of execution and serving of the sentence of imprisonment is important in achieving the goal of criminal punishment. It also serves to observe the rights, freedoms and legal interests of prisoners, and to ensure legality in penal institutions.

It is known that the legislation of the Republic of Uzbekistan defines special procedures and rules for imposing and executing criminal punishment against minors. According to Article

1 of the International Convention “On the Rights of the Child” (adopted by the resolution of the UN General Assembly No. 44/25 of November 20, 1989, ratified by the decision of the Supreme Council of the Republic of Uzbekistan No. 757-XII of December 9, 1992), any person under the age of 18 is considered a minor [1]. The provision of this content is also defined in Article 3 of the Law of the Republic of Uzbekistan on September 29, 2010 “On the prevention of delinquency and delinquency among minors” [2].

Since minors are individuals with a special legal status, it is determined that their rights and freedoms are guaranteed by each country on the basis of domestic legislation, as well as on the basis of internationally recognized norms. In particular, Article 2 of the International Convention “On the Rights of the Child” stipulates the following norm:

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

On the other hand, in Article 45 of the Constitution of the Republic of Uzbekistan, it is noted that the rights of minors, disabled people and lonely elderly are protected by the state [3].

According to the scientist B. Umrzakov, if a person commits his first crime as a minor, the probability of his becoming a recidivist increases several times [4]. Therefore, determining the causes of juvenile delinquency and preventing crime by neutralizing them is one of the urgent issues.

It is known that according to Article 28 of the Constitution of the Republic of Uzbekistan, everyone, accused of committing a crime, shall be presumed innocent until proven guilty by a public trial in accordance with the procedure prescribed by law and established by a court verdict that has entered into legal force. The accused person shall be given every

opportunity for his or her defense. All doubts about guilt, if the possibilities of eliminating them are exhausted, shall be resolved in favor of the suspect, accused, defendant or convicted person.

If the imposition of punishment against a person is regulated by the Criminal Code of the Republic of Uzbekistan, the issues of organization and execution of the imposed punishment are regulated by the Criminal-Executive Code of the Republic of Uzbekistan.

The punishment imposed on a person who has committed a crime is used in order to educate him morally, to prevent the convict from repeating his criminal activity or committing a crime, and to prevent the convict from committing a new crime.

Doctor of legal sciences, professor N. Salaev, in addition to imposing a punishment on a person who committed a certain crime, the correct organization and implementation of the execution of the punishment as one of the priorities of the country's criminal-legal policy, implementation of complex measures against crime emphasized that it is important to increase and organize crime prevention [5].

In fact, the extent to which the imposed punishment complies with the principles of legality and justice, as well as whether the procedure and mechanism of the punishment is properly organized in a professional manner based on the principles of the criminal-executive legislation between the citizens of the country and the persons who committed the crime is one of the primary factors that directly affects crime prevention.

DISCUSSION

It is known that, according to the legislation of the Republic of Uzbekistan, minors are included in a special

category of persons, and the procedure and rules for imposing punishment against them are defined in a separate chapter XV of the Criminal Code of Republic Uzbekistan.

It is also important to note the presence of special provisions for the appointment and execution of criminal penalties against minors based on our current criminal and criminal-executive legislation, including:

- not to apply all types of punishments specified in the criminal law to this category of persons, i.e. only basic types of punishments are assigned to this category of persons and additional punishments are not required;
- that the most severe punishment assigned to this category of persons is imprisonment, and the procedure for the appointment and execution of this punishment is regulated by separate special rules;
- the crime committed by this category of persons is evaluated by the court as a mitigating circumstance during the sentencing;
- age, personal characteristics, level of health, physiological and psychological conditions, as well as conditions and family upbringing, living conditions should be taken into account when sentencing minors;
- this category of persons shall serve the sentence of imprisonment in a separate penal institution.

Doctor of legal sciences, professor N. Salaev, who studied the effectiveness of the preventive function of the penitentiary system, believes that one of the means of increasing the effectiveness of the penitentiary system is working with minor prisoners. The main principle of the penal institution for minor convicts is to ensure their separate composition depending on the danger of the committed crime for

the public and the level of the social danger of the individual [6].

It should be noted that the Criminal Code of the Republic of Uzbekistan Article 81 provides a strict list of types of punishment that can be imposed on minors, including fines, compulsory community service, correctional work, restriction of freedom and imprisonment depending on the type of punishment [7].

In the practice of law enforcement, minor are mainly given alternative punishments to imprisonment, which is undoubtedly due to their inclusion in the ranks of a special category of persons. In this regard, in the opinion of legal scholar M. Najimov, alternative punishments to imprisonment, in contrast to punishment in the form of imprisonment, are aimed at correcting the morals of prisoners without separating them from society, and educating prisoners to respect and obey the laws of society [8].

According to the legislation of the Republic of Uzbekistan, the court imposes imprisonment as the most severe punishment for minors. In Article 50 of the Criminal Code of the Republic of Uzbekistan, this punishment is determined in the form of placing the person who committed the crime in a penal colony or prison, completely separating him from the life of society.

Pursuant to Article 17 of the current Criminal Code of the Republic of Uzbekistan, sane individuals who have reached the age of sixteen before committing a crime are held responsible. However, minors who have reached the age of fourteen may also be held criminally liable in cases of committing socially dangerous acts specified in a number of norms of this Code. As one of the important aspects, in our criminal legislation, minors who committed a certain crime before reaching

adulthood are only charged with serious or extremely serious crimes. For example, intentional killing, intentional infliction of serious bodily injury, assault, robbery, crimes against sexual freedom, such as rape, forceful sexual intercourse in unnatural form.

The fact that such a provision is defined by the legislator in the Criminal Code of the Republic of Uzbekistan is based on the fact that the imposition of a prison sentence on minors who commit crimes of low social risk and not very serious is not effective and acceptable in achieving the intended purpose of the punishment.

If imprisonment is imposed for persons aged fourteen to sixteen years at the time of committing the crime, for a serious crime - up to six years, for a very serious crime - up to ten years, for persons between the ages of sixteen and eighteen, a term of up to seven years is imposed for a serious crime, and up to ten years for a very serious crime.

At this point, it is appropriate to define the concept of the execution of a criminal sentence before clarifying the concept of the execution of the sentence of imprisonment imposed on minors. In general, execution of criminal punishments is a specially directed activity of the state as one of the means of implementation of public tasks in the field of fighting crime.

Execution of punishment is an activity that covers all the processes related to the execution and serving of the sentence imposed by the court on a person who has committed a socially dangerous act. The execution of the sentence of imprisonment includes the procedure and conditions of serving the sentence by the convicts in the penal institutions, moral education of the convicts and activities aimed at preventing them from committing crimes again.

Based on the above definitions, it is appropriate to provide the following author's definition of the concept of execution of the penalty of imprisonment imposed on minors.

Execution of the sentence of imprisonment imposed on minors – the process and principles, procedures and conditions of the execution of this sentence, the mode of execution of the sentence, the methods and tools used for the purpose of educating minors serving the sentence, institutions and bodies that execute the sentence activity is a legal category that includes the participation of state authorities and citizens' self-government bodies, enterprises, institutions, organizations, public associations and citizens in the moral correction of prisoners.

In the system of execution of criminal punishments, moral correction of convicts is one of the main tasks of execution of punishment. In the same way, the main purpose of the execution of the sentence of imprisonment against minors is to re-educate them, that is, to educate them in the spirit of compliance with the laws and regulations established in society and the state, and to adapt them to the individual, society, labor, rules and traditions of community life.

In the implementation of this goal, the process of execution of the sentence of imprisonment against minors should consist of the following tasks, in particular:

- ensuring execution of punishment;
- moral correction and re-education of a minor who has committed a crime;
- to prevent the convict from committing a crime again;
- ensuring and protecting the rights and legal interests of minors serving a sentence.

At this point, it should be noted that the process of execution of the sentence imposed on the convict must comply with the principles of criminal-executive legislation, in particular, legality, justice, humanity, democracy, differentiation and individualization in the execution of the sentence, defined in Article 6 of the Criminal-Executive Code of the Republic of Uzbekistan should be based on principles such as rational use of coercive means and encouraging law-abiding behavior of prisoners.

In particular, the application of the principle of differentiation in the execution of punishments against minors is manifested in the consideration of such circumstances as the age of this category of persons, the level of social danger of their crime, their gender, whether they have committed a crime before, and whether they have served a sentence.

In our opinion, the separation of the penal institution intended for the execution of the sentence by minors serving the sentence of imprisonment in a special manner and the naming of these institutions as “educational colonies” is directly related to the application of the principle of differentiation in the execution of the sentence

It is worth noting that in the special penal institution where minors are kept, in contrast to general, strict and special-order colonies, in contrast to the general methods of educating and morally correcting prisoners, special tools designed specifically for minors are used, and in this process, adults special attention is paid to the socio-demographic status of minors.

It should be noted that the priority of the principles of humanity, differentiation and individualization in the imposition and execution of the punishment in the form of deprivation of liberty against minors is also defined in a number of international norms. According

to the International Declaration “On Civil and Political Rights” of December 19, 1966, the penitentiary system provides prisoners with a procedure aimed at their correction and social

re-education. Minor prisoners are segregated from adult prisoners and are treated according to their age and legal status [9].

Undoubtedly, the prevention of juvenile delinquency has been of great importance for centuries. Studies show that until the 18th century, minors over the age of 7 were subject to the same criminal justice system as adults for their crimes. It was the economic difficulties of this period, the closing of factories, that created the basis for the growth of crime among minors. Because at that time, many minors were considered workers in factories, like adults.

In 1825, the “House of Refuge” was established in New York City to rehabilitate juvenile delinquents. The main activities of this asylum included the provision of discipline, guidance and education for juvenile delinquents. Only juveniles who are considered remorseful for having committed a socially dangerous act were admitted to the asylum. Juvenile criminals, who were not found to be remorseful for their crimes, were sent to serve their sentences in correctional institutions intended for adults.

The concept of creating a “House of Refuge” later spread to other regions, and in 1899 a special court was created in Illinois (USA) to try cases of crimes committed by minors. The rules for the creation of this court not only generalized the rules for the separate consideration of previously existing cases of minors, probation and isolation of minors in correctional institutions, but also created the concept of the protection of minors by the famous American lawyer P.

Tappen. and laid the foundation for their special concern in the field of criminal justice.

It should be noted that the reforms carried out in the 19th century, the Law “On the Prevention of Delinquency among Juveniles” adopted in 1968, as well as the “Justice and Prevention of Delinquency among Juveniles” in 1974 as a result of the adoption of the National Law on receiving, created conditions for the institutionalization of juvenile offenders, their separation from adult criminals, and the abolition of the procedure for serving sentences in correctional institutions intended for adults [10].

For a long time in criminal and political life, the law did not consider a minor as a separate subject of criminal-legal relations, as a result, minors were kept together with them in institutions where adult convicts were kept. In many European countries, the colonies intended for the detention of juvenile prisoners sentenced to imprisonment are called “correctional institutions”, “educational colonies”. As we can see, the institutions where minor convicts are kept have different names, but they are almost similar in terms of content.

According to the legislation of the Republic of Uzbekistan, institutions designed to keep minor prisoners sentenced to imprisonment are called educational colonies. In our opinion, the fact that such institutions are called “educational colonies” is directly related to the fact that the main focus during the sentence is on changing the behavior, manners and upbringing of minor prisoners in a positive direction.

Doctor of Legal Sciences, Professor N. Salaev stated that the moral correction of persons belonging to the category of minors requires appropriate social and rehabilitation support, which will allow to effectively restore the conditions of modern social life [11].

CONCLUSION

In conclusion, it can be said that the main task of today’s modern penitentiary for minors is to organize psychological, pedagogical and rehabilitation activities, and these activities take into account not only their age, but also their individual (psychological, criminal-legal) characteristics. Also, it is more appropriate to use more forms of individual influence in carrying out social, psychological and educational work with minor convicts during the execution of the sentence, and at the same time to carry out these works on the basis of wider cooperation with the public.

This undoubtedly indicates the objective necessity of developing effective mechanisms for the execution of punishment against minors by implementing advanced experience of foreign countries and international standards into national legislation in the penitentiary system. The main goal of this should be to help re-socialization and reintegration of minor convicts after serving their sentence and to organize a comprehensive and effective system of punishment aimed at moral correction.

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