PREVENTIVE LEGAL STATUS OF CONVICTS IN THE PENITENTIARY SYSTEM OF
UZBEKISTAN

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Abstract: This article is dedicated to develop proposals and recommendations on improving the effectiveness of the preventive function of the penitentiary system of Uzbekistan. As well as, in this research in order to develop specific proposals for improving the legal status of convicts in order to increase the effectiveness of preventive measures had been provided recommendations on expanding opportunities for implementing preventive measures in institutions and bodies that carry out criminal punishments.

Author says, "On the basis of identifying specific features of increasing the effectiveness of the preventive function in the world, it is important to improve the penitentiary system. Strengthen the implementation of international standards for correcting convicts' behavior in national legislation".

In this article the author suggests some proposals in order to increase the effectiveness of preventive measures in the execution of sentences on the basis of studying the experience of developed foreign countries.

Keywords: penitentiary system, liability, preventive function, penalty, convict, prison, punishment, imprisonment, Criminal-Executive Code (CEC), appeal, differentiation, humanism, legality.

I. Intrduction

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Execution of criminal punishment in the form of imprisonment is an important direction of state policy. Its content is the lawful and humane execution of punishment in the form of isolation of convicts, ensuring human rights in criminal-executive activity and achieving the goals of punishment.

In connection with joining the international community as a full member, Uzbekistan has undertaken to bring national legislation into line with international norms and standards in the field of observance of human rights. In particular, such fundamental documents as the Convention for the Protection of Human Rights and Fundamental Freedoms and the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment have been ratified. In January 2006, the European Prison Rules were adopted, which became the benchmark for bringing the penal system of many states into line with the most modern world standards[1].

The problem of the legal status of prisoners sentenced to imprisonment is conditioned by the specifics of the formation of places of imprisonment, traditionally insufficient policy of the state to the problem of criminal executive activity. The negatives of the organization of the colonial system of penal institutions for the Soviet period continue to play a negative role in penitentiary practice, restraining the overcoming of violations of human rights. However, the changes that have occurred in the society require further improvement of the regulatory and legal framework, additional organizational arrangements, and specific managerial decisions to clarify the legal status of the convicts in prisons in order to solve the problems of their correction.

Criminal punishment in the form of imprisonment is the isolation of convicts through their placement in special state institutions. The content of their isolation is strictly legal in nature, in criminal-executive legal relations they act as their main subject. Imprisonment dramatically changes the way of life of the convict[2].

From the moment he arrives at the penal institution, his behavior is regulated in detail by law. Apart from punitive punishments, almost all spheres of the convict's life are subject to legal regulation, including those that are regulated in the society by morality, ethics and morals. On the one hand, this is due to the need to streamline the joint maintenance of a significant number of criminals concentrated in a relatively small territory, and on the other, the need to clearly define the requirements of the personnel of institutions and bodies executing punishments by the framework of legal regulations. Thus, it is possible for convicts to exercise their rights and legitimate interests, not limited by law, or specially established by the criminal executive law.

The detailed regulation of the process of execution of punishment in the form of imprisonment, and hence the legal status of the persons who leave it, is hampered by the variety of relations in which the convict participates. In this connection, a significant number of norms related to the sphere of the

criminal-executive law are concentrated not only in the law, but also in subordinate, mainly departmental, normative legal acts.

II. Discussion

Convicts to imprisonment, as subjects of criminal-executive legal relations in the sphere of execution of punishment, acquire a certain legal status.

As citizens of the state, they have the rights and freedoms of man and citizen. These provisions stipulate the content of normative legal acts that fix the limitations of their civil rights and freedoms, as well as determining the special status of convicts.

A clear definition of the legal status of convicts in the law is a guarantee of securing the legality in the activities of institutions for the execution of punishment.

The basis of the legal regime for the execution and serving of imprisonment is, above all, the legal obligations of convicts and subjective rights, as well as legal interests[3]. They determine the whole procedure of criminal-executive activity to achieve the goals set before the punishment, first of all - the correction of the convicts[4].

The legal status of convicts serving a term of imprisonment is defined by the norms of the Constitution, the penal enforcement legislation and other laws, the situation of convicts in the procedure for serving a criminal punishment, while preserving in it the general civil rights and legitimate interests not restricted by law and responsibilities.

In the theory of law, it is customary to distinguish three types of legal personality status: general civil status, special legal status of a certain category of citizens and individual legal status of a citizen.

The legal status of prisoners sentenced to imprisonment is one of the types of special legal status.

The basis of the special legal status of those sentenced to imprisonment constitutes a civil legal status. This is due to the retention of citizenship citizens convicted of criminal punishment. Guarantees of the right of convicts to imprisonment for citizenship reflect the requirements of international acts on the treatment of convicts, the spirit of the principles of legality, democracy and humanism in the field of the execution of criminal penalties. This circumstance, as noted in penitentiary science, makes it possible to raise the educational potential of punishment and to shape the civil feelings of convicts[5].

Persons sentenced to imprisonment enjoy, without any significant restriction, rights in the sphere of hereditary, marital, family, labor and other relationships[6].

Convicts are subjects of both general, civil, and special, inherent only in the conditions of serving punishment in the form of imprisonment, legal relations. However, the basis for the emergence of their special status is the court verdict that entered into legal force, addressed to execution. Convicted

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as a subject of criminal-executive legal relations, is vested with special rights by law, he has legitimate interests and he is forced to perform legal duties.

In legal form, state coercion is expressed in the form of restrictions on the rights and freedoms of man and citizen. Those sentenced to imprisonment for the purposes of isolation and restriction of freedom of movement, choice of place of residence and place of stay are placed in special institutions for the execution of punishment and kept there under guard and constant supervision[7].

The peculiarity of the state coercion applied to convicts is that it often goes beyond the punishment, the order and conditions of its execution, and also the use of corrective influence. In the norms of the civil, labor, marriage, family and other branches of law there are provisions restricting the rights and freedoms of citizens regulated by these branches of law to convicts.

In the conditions of execution and serving of punishment, there are restrictions on the general rights of citizens, their specification or addition. Specification is expressed both in the specification of subjective rights, freedoms and responsibilities, and in the detailing of their content. For example, the specific rights and duties of prisoners sentenced to imprisonment in the field of their general education are supplemented by the provision that for persons under the age of 30 this requirement is mandatory. Supplement of the general rights and freedoms of citizens in relation to the conditions of serving punishment occurs due to regulation of the law specific relations that have no analogue in public life and are inherent only in the conditions of serving a sentence in the form of imprisonment.

In the content of the legal situation of prisoners sentenced to imprisonment, the norms of the criminal-executive law that form their special status play a dominant role. At the same time, a significant circle of relations condemned is regulated by the norms of state, administrative, labor and other branches of law. For example, the norms those define the guarantees for ensuring the health of convicts in places of imprisonment.

By its content, the legal status of those sentenced to imprisonment is a combination of legal means, by which their position is consolidated as a set of rights, legitimate interests and obligations expressed in the norms of various branches of law.

Persons serving sentences in the form of imprisonment and correctional labor shall bear the duties and enjoy the rights established by law for the citizens of the republic, with restrictions on the rights and freedoms of the person and citizen provided for by law for convicts, as well as with restrictions resulting from the verdict of the court and the regime established by the Criminal-Executive Code (CEC) to serve these types of sentences.

Criminal punishment is one of the most acute forms of state coercion, which is carried out through the implementation of legal restrictions, imposing special duties on the convicted person, conferring on him the rights resulting from the nature of the procedure for execution and serving of punishment.

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For the state, when determining the limits of legal restrictions to the convicted person, the general legal civil status of such a person appears as the initial legal principle.

In the general theory of law, it is generally accepted to distinguish three types of legal personality status: the general legal status of citizens, the special legal status of any category of citizens and the individual legal status of the citizen. The legal status of prisoners sentenced to imprisonment represents a kind of special legal status of persons serving various types of punishment (imprisonment, correctional labor, etc.).

The legal status of prisoners sentenced to imprisonment presupposes the need, on the one hand, to ensure the exercise of the rights of convicts, their legitimate interests, the performance of their duties within the legal framework, and on the other hand, to provide institutions for the execution of punishment with legal means for the execution of punishment, forcing convicts to serve punishment, order and discipline in institutions for the execution of punishment, as well as the prevention of new crimes and other offenses among them, as well as their correction.

Restrictions of prisoners sentenced to imprisonment in constitutional rights and freedoms must be assessed on the basis of their social significance in satisfying the needs and interests of the individual. In accordance with this, all the rights and freedoms of the individual can be divided into three groups: personal, political and socio-economic.

Personal rights and freedoms are human rights guaranteed by the law and other social institutions that characterize the content of self-organization of the person and serve as an obstacle to illegal and unapproachable intrusion into private life and inner peace, as well as all kinds of external encroachment.

Personal rights and freedoms of the individual unite in themselves: the right to: life, health, dignity of the person, freedom and personal inviolability, privacy, personal and family secrets, protection of one's honor and good name, secrecy of correspondence, telephone conversations, postal, telegraphic and other communications, the inviolability of the home, the free determination and indication of their nationality, the use of their own language, the free choice of the language of communication, instruction and creativity, free movement throughout the country, freedom of residence and place of residence, freedom of conscience and religion.

The right of the convict to life is of a natural nature and as social value gets its expression in the political and legal acts of the state. This right is enjoyed by all citizens, including those sentenced to imprisonment. The inviolability of the individual in the norms of the penal enforcement legislation is specified in the right of convicted persons to personal security, which allows a specific person to apply to any officer of the institution for the execution of punishment with a statement about the occurrence of his personal security threat. In turn, an official is required to immediately take measures to ensure

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personal safety of such a person. Convicts, regardless of their consent, cannot be the object of medical experiments that endanger their life and health.

The dignity of the person of the convict is not only protected by the state without any restrictions, but is also the basis for carrying out and re-socializing work. Modern international prison standards emphasize this circumstance [8].

Thus, dignity is inherent to all human beings. It recognizes the innate worth and right of individuals to be treated with respect and humanity. It is enshrined in Article 10 of the International Covenant on Civil and Political Rights (ICCPR) that: 'all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person'. The UN Human Rights Committee specified that respect for human dignity constitutes a norm of general international law not subject to derogation [9].

As the international organizations stressed, imprisonment establishes a regime "of absolute control, loss of privacy, limitation of living space and, above all, a radical decline in the individual's means of defending himself". The Commission concludes that as a consequence the act of imprisonment "carries with it a specific and material commitment to protect the prisoner's human dignity" [10].

While the most fundamental component of dignity is the absolute prohibition of torture, the right to dignity includes the provision of adequate material conditions, including sufficient food, water and access to healthcare. De-humanizing or humiliating prison routines can also infringe on the dignity of prisoners, such as particularly uncomfortable prison uniforms. For example, in Texas and Rwanda, male prisoners were forced to wear pink prison uniforms, purposefully humiliating them. Obliging women prisoners to wear overalls as prison uniform may have the same effect in that it forces them to undress when using the toilet. In some countries, problematic practices, not justified by security considerations, include pointless routines such as prisoners having to march and sing patriotic songs or only being allowed to walk in certain ways [11].

The right to dignity also includes operating fair and just rules and procedures, which do not discriminate, and promoting respectful relations between staff and detainees. Attitudes, behaviors, public exposure or abusive language can equally infringe human dignity, taking into account what individuals experience as humiliating or debasing.

The responsibility of the state goes beyond preventing active abuse against prisoners: it includes refraining from humiliating routines that infringe on human dignity and serve no security or other purpose, and ensuring that the suffering involved in places of detention does not exceed the level inherent in the imprisonment.

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Guarantees for the protection of honor and dignity of convicts are the norms of CECs that do not allow representatives of the media and other persons to make films, photos, videos of convicts and interview them without their written consent.

The procedure for the execution of imprisonment does not limit the right of convicts to express their nationality. This applies also to the language of their communication in cooperation with the administration of penal institutions and in resolving other issues related to the serving of punishment, as well as the implementation of other rights. Convicted citizens of the Republic of Uzbekistan give explanations, conduct correspondence, and also address proposals, applications and complaints to the relevant bodies, public associations "in the official language of the Republic of Uzbekistan or at their request in their own language or in a foreign language". Convicted persons are foreign citizens and persons without citizenship has the right to give explanations and keep correspondence, as well as to apply for proposals, applications and complaints in their native language or in any other language they own, and, if necessary, in the absence of an opportunity to provide a response in the language of the appeal, it is given in the state language with the translation of the response to the language of treatment provided by the institution or the body executing the punishment".

At the same time, in our opinion, there is a need to review the system for examining the appeals of convicts. Thus, CECs should be supplemented with Article 12¹ "Appeals of convicts":

"Article 12¹. Appeals of convicts

Those convicted of whom punishment has been imposed that are not related to imprisonment may be treated in the usual manner, established by acts of legislation. Written appeals of convicts, with respect to whom sentences related to imprisonment sent to higher bodies of bodies and institutions for the execution of punishment, sentences, prosecutors, other state bodies, public associations and other organizations, submitted through the administration of the execution of punishment, sentences, prosecutors, other state bodies. Consideration of appeals of convicts, as well as the response to them in a manner and time frame stipulated by the legislative acts of the Republic of Uzbekistan on appeals of individuals and legal entities.

According to the appeals of the convicted the administration of the authority and the institution for the execution of punishment immediately takes appropriate measures. To file complaints about the illegal actions of officials in the bodies and institutions for the execution of punishment in convenient for convicted persons are placed special boxes. Special boxes once a week are opened by the employees of the prosecutor's office in the presence of employees of bodies and institutions for the execution of punishment, and a corresponding act is drawn up. Appeals of convicts to the Commissioner for Human Rights of the Oliy Majlis of the Republic of Uzbekistan (ombudsman), as well as the Commission on observance of constitutional human rights and freedoms, are not subject to

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censorship by bodies and institutions for the execution of punishment. It is not permissible to address on behalf of the convicted person without his consent, harm to the convict or his close relatives in connection with the treatment."

Taking into account the importance of convicts' culture, their moral development of convictions, religious and other consciousness, the legislator emphasized the provision of the right of convicts to freedom of conscience and freedom of religion. This right of convicts is enshrined in the CECs, which provide for the possibility of performing religious rites and ceremonies in places of imprisonment.

Those sentenced to imprisonment are directly restricted in their right to freedom of movement. They are obliged to be in prison for the entire term of punishment. They are prohibited from violating the security line of the facilities of the institution. Escape from places of confinement is a crime.

The right to freedom of movement of prisoners sentenced to imprisonment is limited significantly, almost in full. For the period of serving their sentence, instead of the right to freedom of movement, a special regime for their isolation is established: minimal in colonies-settlements, medium-in colonies of general, strict and special regimes under general or facilitated conditions of detention and on general, facilitated or preferential conditions in educational colonies and maximum - in the special regime colonies, prisons, as well as pre-trial detention facilities, IVS and single cells [12].

At the same time, depending on the behavior of convicts, the degree of their isolation may change both in the direction of mitigation, up to parole, and in the direction of tightening, up to transfer to a penal institution with a more strict regime of detention.

Political rights and freedoms are constitutional rights of citizens to participate in the state and socio-political life, in the governance of the state and society, as well as freedom of political self-determination. They include freedom of thought and speech, the right to unite in public organizations, to hold meetings, rallies, demonstrations, processions and pickets, to participate in the management of the affairs of the state, to apply to state bodies and institutions. These rights of convicts are also limited to the period of serving a sentence by establishing forms of control, suspension of action.

Convicts can freely express their thoughts, opinions and beliefs on any issues, either verbally or in writing, but the specificity of the implementation of isolation lies in the fact that they are supervised to monitor their behavior. Therefore, their objectified thoughts are evaluated: speeches, statements, statements, threats, and appeals. Cultural-mass, sports activities of convicts and the work of their assets are conducted under the supervision of the administration, correspondence and publication of convicts are censored.

The right of citizens to unite in conditions of places of imprisonment cannot be realized. Amateur organizations convicted in institutions for execution of punishment, in our opinion, cannot be considered a form of association of citizens. This is a special form of limited self-organization of

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convicts in order to develop a useful initiative, collective principles, spirituality, and creativity, physical and personal abilities. Thus, through amateur organizations convicts have the opportunity to self-organization, self-expression, and the manifestation of the ability to work in a specific community. Participation of convicts in amateur organizations is taken into account when determining the degree of their correction.

As already noted, the Constitution guarantees citizens freedom of speech, the press, meetings, rallies, demonstrations, processions. However, the regime in penal institutions excludes the possibility of granting these freedoms in full. Convicts have the opportunity to speak at meetings, in large-circulation and wall newspapers of the institution, but all meetings and the press are organized and are under the control of the administration.

The presence of citizenship of a specific person indicates a politico-legal, social, ideological and moral connection and the mutual responsibility of the individual and the state. The citizenship of a person is not only the legal registration of his status. The substantive side of the right to citizenship for a physically and mentally healthy person is sufficiently expressed in the recognition of its political relations (participation in the management of the affairs of the state, elect and be elected).

On this important side of citizenship, M.V. Baglay said: "The right to elect and be elected (electoral rights) gives the greatest sense of the citizen's belonging to his state and the democracy of this state" [13]. Those sentenced to imprisonment are limited in their right to take part in the management of the affairs of the state. They cannot elect and be elected to representative bodies of power. This provision, in our opinion, negates the right of the convicted person to citizenship. A person sentenced to imprisonment, as a rule, for a grave or especially grave crime, is condemned by the court on behalf of the state for unlawful and obviously immoral behavior.

At the same time, serving a sentence is a rehabilitation process in accordance with its legal (legal) meaning. The verdict of the court, representing the act of justice of the state, has both retrospective and perspective significance. Its retrospective meaning lies in the fact that, in it, the guilty person is convicted of the commission of a crime and establishes his responsibility in the form of punishment or other measure of a criminal-legal nature. At the same time, the verdict puts the convict in the position of the subject who, through the procedure of execution and serving of punishment, has the opportunity to become a law-abiding citizen and he identifies himself in this capacity in the present and the future.

In order that such identification of the person of the convicted person takes place after the sentence has been pronounced, it must be recognized that the act of justice formally "separates" it from crime by transferring from the category of the criminal to the category of the person burdened with criminal responsibility - the convicted person. This gives rise to legal, psychological, and social prerequisites for

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correcting the convict. However, the legislation significantly restricts the convicted person's rights as a citizen, depriving him of his suffrage for the period of serving his sentence. Thus, in our opinion, the status of the convicted person as a citizen of the state is deformed, and the corrective role of justice is weakened (the legal connection between the convict and the state becomes limited and formal).

It seems to us that the constitutional restriction of active suffrage to persons deprived of their liberty should be abolished. Moreover, this negative Soviet legacy must be resolutely rejected. The Criminal Executive Code not only does not duplicate this constitutional restriction, but also establishes the principle of equality of convicts before the law.

The concept of imprisonment in the theory of law is used in the sense of punishment in the form of imprisonment for a certain period [14], as well as to denote all types of punishment related to the isolation of convicts: imprisonment for a certain period, life imprisonment, arrest, and detention in a disciplinary military unit.

This restriction of electoral rights does not apply to persons detained on suspicion of committing a crime in accordance with the procedure established by the criminal procedural law against suspects and accused, against whom a measure of restraint - detention (arrest, detention) and those contained in the conditions isolation from society in temporary detention facilities and pre-trial detention centers. However, this rule does not apply to persons convicted by the court of imprisonment and for various reasons provided for by the Code of Criminal Procedure and the PECs held in pre-trial detention centers (persons brought to the remand center for investigative activities, convicts left in the pre-trial detention center for economic services, etc.) [15] .

It seems to us that in the procedure of serving the sentence, the convicted person, being the subject of social rehabilitation, should have the maximum possible civil rights. In this process, the legal and social guarantees of the state are particularly important in the form of preserving the rights of those convicted who determine the essence of the civil rights of convicts.

It is about the possibility of preserving such political rights as the right of convicts to participate in elections. Taking away the right to vote from the convicts (restricting) the state makes their citizenship sufficiently formal and passive, reducing it mainly to designate the subject's belonging to the state, granting him the right to live on the territory of the state, imposition of duties to fulfill the laws of the state.

The fact is that those sentenced to imprisonment, were implicated in crime because of the objective social conditions in the country in a particular historical period. Convicts through the right to vote could not only realize themselves as citizens and members of society, but also influence the political and social processes in the country. To exclude them from this process is to make democracy in the country truncated and not effective enough.

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The content of the legal situation of those sentenced to imprisonment is influenced by a number of factors: the socio-economic state of the country, the level and dynamics of crime, the conformity of the criminal and penal enforcement policies of the state, as well as the generally accepted international standards for the treatment of convicts and prisoners, the degree of civilization and humanization of activities of seats imprisonment, historically formed national peculiarities of the functioning of the penitentiary system.

International legal acts in the sphere of the execution of criminal penalties are assigned a special role of the most important social "instrument": the correction factor of the penitentiary policy, the humanization of coercion in the form of isolation of convicts and prisoners; imparting conditions and methods of work to the penitentiary institutions formally defined and approved by the world community, generalized and acceptable work experience for the exclusion of violations of human rights in places of isolation of offenders. The Republic of Uzbekistan has positively adopted the norms of international law concerning the protection of human rights and is a party to a number of international treaties.

The Constitution enshrines the principle of the supremacy of universally recognized principles and norms of international law and international treaties before the norms of the national legal system. If an international treaty of the Republic of Uzbekistan establishes other rules than those provided for by law, the rules of the international treaty are applied. This provision is also fixed in the Criminal Execution Code: "If the international treaty of the Republic of Uzbekistan establishes other rules for the execution of sentences and treatment of convicts than those provided for by the penal enforcement legislation, then the rules of the international treaty are applied".

International documents on human rights issues in criminal-executive activity allow the unification of national legislation to ensure that those sentenced to deprivation of freedom have equal legal opportunities to exercise their rights and freedoms in any country in the world. To date, there are a number of international human rights treaties that directly affect the content of the legal status of convicts for sentencing in the form of imprisonment. They provide protection for those most vulnerable to human rights violations when using coercion in the form of isolation of the person or create the necessary political and legal preconditions for countering this negative.

Under the influence of international standards, the legal status of convicts was defined in the criminal-executive legislation (articles 8-13 of the CEC). Thus, when executing punishments, convicts are guaranteed the rights and freedoms of citizens with exemptions and restrictions established by criminal, criminal executive and other legislation, which meets the requirements of Article 29 of the Universal Declaration of Human Rights, according to which, in exercising their rights and freedoms, each person must only be exposed such restrictions as are established by law.

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Previously, there was no such norm in the legislation, since the state did not undertake to protect the rights, freedoms and interests of convicts. In addition, the CEC in separate articles for the first time determines the specific most important rights and duties of convicts that meet the requirements of international standards, in particular: the right to receive information about their rights and obligations; the order and conditions of serving punishment; the right to be treated courteously by staff, executing punishment: the right to handle proposals, applications and complaints to almost any instance; a ban on holding medical and other experiments with convicts endangering their life and health; the right to health protection, social security, personal security, freedom of conscience and religion.

First of all, it is proposed to state Article 8 of the PEC as follows:

"The rights, liberties and legitimate interests of convicts as a person and a citizen are protected, lawfulness of the use of means of their correction, their personal safety and legal the defendants have all the rights and freedoms, and also bear the obligations provided for the citizens of the Republic of Uzbekistan, with the exception of the exceptions and restrictions provided for in this Code and other laws. The convicted foreign citizens and stateless persons have all the rights and freedoms, bear obligations provided for the citizens of the Republic of Uzbekistan, unless an international treaty of the Republic of Uzbekistan provides for provisions different from those of the penal enforcement law. The rights and duties of convicts, as well as legal restrictions are determined on the basis of the order and conditions of serving a particular type of punishment or other criminal law measures. It prohibits the insult or humiliation of convicts depending on gender, race, nationality, language, religion, social origin, identity, place of residence, and social status. From the moment the convicted person arrives for the execution of a punishment or other measure of the criminal-legal effect, institutions and bodies executing punishment or other measures of criminal-law influence should explain, as well as provide to the convicted person in writing information about his rights, duties and legal restrictions, and rules of the internal order.

At the same time, the list of rights of convicts presented in article 9 of the CEC is not exhaustive. In our opinion, the rights of convicts should be listed in full. Thus, in this article, additional rights should be indicated to the following rights of convicts:

- Submission to the President of the Republic of Uzbekistan of a petition for pardon in accordance with the procedure established by law;
- Recognition of human dignity, protection from torture and other inhuman or degrading treatment;
- Ensuring personal safety;
- Receiving psychological help from a psychological service employee or a person having the right to provide such assistance.

Also, article 9 of the CEC is a norm that provides an opportunity for persons with visual, SLU, or speech impairments to use the services of specialists who can communicate using dactylology (sign language) or Braille.

The improvement of the penal enforcement legislation is a consequence of the recognition and reflection of the recommendations of international law in legal matter, as well as the application in practice of the activities of institutions and bodies executing punishment. However, there are international standards, the practical application of which requires a certain amount of time and appropriate material means, in particular, it concerns:

- placement of convicts in separate rooms (cells);
- ensuring the right of persons released from places of imprisonment to effective social and material support after release;
- construction of new and reconstruction of old places of detention and institutions that carry out punishment.

In connection with the foregoing, it seems necessary to ensure the implementation of international cooperation on the basis of studying the activities of foreign prison systems, forms and methods of work on the observance of human rights with regard to persons deprived of their liberty, approbation of methods for training personnel, and the introduction of territorial bodies and institutions executing punishment in practice [8].

For the practical solution of the problem of the application of international standards for the treatment of convicts in the penitentiary system, the most relevant:

- 1) Creation of conditions for serving a sentence excluding distortions of the requirements of the law;
- 2) To have in places of imprisonment such places of work that would satisfy the material, social and spiritual interests of convicts;
- 3) Ensuring the protection of convicts from the negative influence of the subculture of the environment of places of imprisonment;
- 4) Raising the professional level of prison staff;
- 5) Provision of social and rehabilitation assistance to convicts and released from serving their sentence;
- 6) Improving the criminal policy aimed at the effective use and execution of alternatives to imprisonment punishments [16, p. 6; 21, 214].

It is advisable to improve the legal status of convicts in places of imprisonment in the following areas:

In the process of educational work with persons sentenced to imprisonment, to focus on the individual approach to convicts, since "in each prisoner one must see a person who needs participation, attention to his life problems. Such an attitude should be the norm of communication for all personnel system" [17].

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Humanization of punishment determines a qualitatively new approach to the staffing of the penitentiary system. This is all the more important, since the direct implementation of the principles of the criminal-executive policy, developed at the legislative level, is limited to the staff of penitentiary institutions. In the conditions of reforming the domestic criminal-executive system, the tasks of its employees became more complicated. Particularly topical is the task of increasing the level of special qualification and civil liability of the prison personnel [18].

Thus, for example, in Swedish male prisons, 28 percent of prison officers are under 35, 33 percent are women and 20 percent have university degrees. The staff inmate ratio is 1:1. The position is quite similar in the other two countries. In Norway, trainee prison officers, nearly all of whom have tertiary qualifications, receive two years training while on full salary. In all three countries, this training is likely to take place alongside that provided for probation officers – there is no great difference in the academic and professional ethos that separates these two groups of correctional workers. In Finland, about 80 officers are recruited each year from 300 applicants; in Norway, 150 from 2,000. Officers wear uniforms, but these have no military trappings or insignia. In Sweden, local communities compete with each other for the location of new prisons, recognizing their economic and social benefits. ‘Prisoners can play a positive role in local communities, a Norwegian senior civil servant told me. Prison work seems a relatively more attractive career option than in most other modern societies. Thus, prison officers need not feel any shame over their working environment here [19].

Norwegian students often work as prison officers on a casual basis is indicative of the generally relaxed conditions to be found in most prisons and the socially acceptable nature of prison work. In contrast to concerns in other countries about the management of ageing prisoners, in Oslo Prison, there is a unit for elderly prison officers – those coming to the end of their career who supervise the quietest and most well behaved prisoners. That we can find such an arrangement in this era of penal excess exemplifies the differing organizational priorities of prison life in this region [20].

In this regard, it will be useful to establish annual (semi-annual) special training courses on the preparation (retraining and skills training) of specialists for inspections of the execution of the penalties of the internal affairs bodies on the basis of the Tashkent State University of Law.

Considering that imprisonment for a certain period, one of the most severe types of punishments, in which the isolation of convicts significantly affects the personal and social life of each of them, including the interests of the family, relatives and relatives, the state has to take on the decision of the whole a number of social issues concerning persons held in places of imprisonment.

For convicts, this duty of the state is expressed in their right to social guarantees: the creation of proper living conditions, the provision of seasonal footwear, food, medical and sanitary services,

training, vocational training, and instilling socially necessary skills, documenting each one, the availability of training, and an indication of other important elements of the individual status).

An important block of the special status of prisoners sentenced to imprisonment is the legal rights and duties that determine the content of serving a sentence [16, p. 219].

III. Conclusion

Nowadays, the requirements of the Standard Minimum Rules for the Treatment of Prisoners and penitentiary standards for isolation of prisoners sentenced to imprisonment (colony) are not fully met. They retain the concentration character of the convicts' content, which complicates their habitat, increases the risk of tuberculosis and other infectious diseases.

The problem of serving a sentence is connected with the need to stimulate the law-abiding behavior of convicts and prevent evasion from serving their imprisonment. This question in the theory of criminal and criminally-executive law has been studied rather poorly. Until now, the problem of evasion and malicious evasion of convicts from serving a sentence of imprisonment has not been studied. The escape of convicts from places of imprisonment has not yet been recognized as the most dangerous form of malicious evasion from serving a prison sentence. There is a need for an additional theoretical evaluation of the system of punishments sentenced to imprisonment and the procedure for their application.

Thus, the PEC does not envisage the procedure and criteria for assessing the behavior and morals of convicts. As a result, the preventive function in penitentiary institutions does not give the desired effect. In order to eliminate this gap in the legislation, it is proposed to supplement the CEC with article 60¹ "Assessing the morals of convicts". In this article, it is useful to determine the goals of assessing the morality of convicts, the degree of their morality, the criteria for their determination, and the procedure for assessing it":

"Article 60¹. Assessing the morals of convicts

During the execution of punishment, in order to individualize punishments by determining the degree of behavior of convicts, an assessment of their morals is carried out.

The degree of behavior of convicts is the basis for:

- changing the institution for the execution;
- changing the conditions limits of one institution for the execution of punishment;
- the expansion or restriction of rights and freedoms.

The degree of behavior of convicts is determined by the head of the institution on the basis of information reflecting the behavior of the convicts (compliance with the internal regulations of the

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institution, relations to work and study, participation in educational activities, participation in programs for the provision of social and legal assistance to convicts, measures for compensation for harm, with charged with crime, etc.) collected by a special commission.

The behavior of convicts begins with the arrival of convicts for the execution of punishment.

The degree of behavior of convicts is determined by the following criteria:

1) for convicts whose behavior is assessed positively:

1-the degree of positive behavior - the convict for whom at least 1 incentive measure is applied, and for 3 months or more, disciplinary measures are not applied;

2-the degree of positive behavior is the convicted person, for whom at least 1 incentive measure is applied, and also for 6 months or more not disciplinary measures;

3-degree of positive behavior - convict, for whom at least 2 incentive measures were applied, and no disciplinary measures were applied for one year or more.

2) for convicts whose behavior is assessed negatively:

1-degree of negative behavior - the convicted convict recognized as the offender, the order of execution of the punishment;

2-the degree of negative behavior - the convicted convict recognized as a systematic offender, the order of execution of punishment;

3-the degree of negative behavior - the convict, the procedure for the execution of a punishment known to a violent offender.

Recognition of a convicted person as a violator, systematic or gross violator of the procedure for the execution of punishment is carried out in accordance with Article 111 of this Code".

Thus, we can give the following definition of the concept of the principle of the penal enforcement legislation: the principles of the penal enforcement legislation are the governing provisions determined by the state on the basis of the laws of development specified in laws, according to the norms of international law and aimed at the implementation of criminal penalties and preventive measures.

In Article 6 of the CEC, the legislator limited himself to enumerating the principles of the penal enforcement legislation. It neither reflects the content, the essence of these principles, nor provides guidelines for the use (application) of these principles. In our opinion, the CEC should disclose the content of each principle and pay special attention to their preventive nature.

Proceeding from the importance of this principle, we believe it necessary to consolidate this principle in article 6¹ of the CEC "The legality":

"Article 6¹. The legality

Principles, procedure and conditions for the execution of criminal penalties and other measures of criminal legal effect, the legal status of convicts, remedies for convicts and the procedure for their

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application, mechanisms for the preventive effect on them, the procedure for the release of convicts from serving a sentence, the procedure for the activities of institutions and enforcement agencies, participation in the correction of convicted bodies of state power and self-government of citizens, enterprises, institutions, organizations, public associations and citizens are determined in the present Code.

Convicts enjoy the rights and fulfill the duties established in the law".

Proceeding from the foregoing, it is advisable to define "restoration of social justice" in article 2 of the CEC as one of the tasks of the penal enforcement legislation. Similar practice exists today in article 4 of the CEC of the Republic of Kazakhstan.

In addition, taking into account the above content of the principle of fairness, we believe, it appropriate to consolidate this principle in article 6² of the CEC "The justice":

"Article 6². The justice

The procedure and conditions for execution of punishment for persons guilty of committing a crime and other measures of criminal-legal influence should be fair, that is, correspond to the gravity of the crime, the degree of guilt and the public danger of the person".

Taking into account the above content of the principle of humanism, we believe, it expedient to consolidate this principle in Article 6³ of the CEC "The humanism":

"Article 6³. The humanism

The procedure and conditions for the enforcement of criminal penalties and other criminal law measures, the procedure and conditions for the use of remedies for convicts, the measures of preventive treatment applied to convicts, as well as the activities of institutions and bodies for the enforcement of sentences are carried out with the help of rules of morality, which provide for the organization on the basis of actual respect for the rights and freedoms and legitimate interests of a person and citizen, their observance and protection".

"Article 6⁴. The democratism

Public associations, citizens' self-government bodies and collectives have the right to participate in rendering assistance to institutions and bodies for the enforcement of sentences in education and correction of convicts, implementation of public control over their activities, in accordance with the procedure provided for by law.

For the participation of public associations, self-governing bodies of citizens and collectives, in accordance with legislative acts, the institutions for the enforcement of sentences are open".

Considering the above, based on the content of the principle of differentiation and individualization of the execution of punishment, it expedient to consolidate this principle in article 6⁵ of the CEC "Differentiation and individualization of the execution of punishment":

"Article 6⁵. Differentiation and individualization of the execution of punishment

In the execution of punishment, depending on the nature and degree of public danger of the crime, as well as the personality of the convicted person, the punishment is executed separately in accordance with the legislative acts different categories of convicts. To prevent negative influence on other convicts, convicts of various categories are held separately. When applying coercive and corrective means to different categories of convicts, a differentiated approach is observed. With regard to convicts who differ in their negative behavior and dangerous convicts, the coercive effect is intensified, with respect to persons not posing great social danger and being characterized positively, the scope of legal restrictions is reduced. Penitentiary institutions create the conditions necessary to observe differentiation and individualization in the execution of punishment".

In this regard, based on the experience of Kazakhstan, it is proposed to state part three of article 7 of the CEC as follows:

"The means of correction shall be applied taking into account the type of punishment and other measures of the criminal legal effect, the nature and degree of public danger of the crime, the person and behavior of the convicted person, and the terms of serving the sentence and release from it".

Moreover, taking into account the importance of fixing the content of this principle in the law, we believe, it expedient to state it in article 6⁶ of the PEC "Rational use of coercive means and stimulating the law-abiding behavior of convicts":

"Article 6⁶. Rational use of coercive means and stimulating the law-abiding behavior of convicts

Convictions should be applied to convicts with law-abiding behavior".

Taking into account the importance of fixing the content of this principle in the law, we believe, it expedient to state it in article 6⁷ of the PEC Correction of convicts":

"Article 6⁷. Correction of convicts

With a view to formation of condemned law-abiding behavior, respectful attitude to the individual, society, the state, labor, social norms and tradition, the main means of correcting convicts are: the established procedure for the execution and serving of punishment (regime), socially useful work, educational work, general and vocational education, vocational training and public influence. The remedies for convicts are applied in view of the type of punishment, nature and the degree of public danger of the crime committed the identity of convicts and their behavior.

It is proposed to supplement Article 98 of the CEC with part two of the following content:

"The participation of convicts in the educational process is taken into account when deciding whether to apply incentive or disciplinary measures against them".

There is a need to review the system for examining the appeals of convicts. Thus, CECs should be supplemented with Article 12¹ "Appeals of convicts":

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"Article 12¹. Appeals of convicts

Those convicted of whom punishment has been imposed that are not related to imprisonment may be treated in the usual manner, and established by acts of legislation. Written appeals of convicts, with respect to whom sentences related to imprisonment sent to higher bodies of bodies and institutions for the execution of punishment, sentences, prosecutors, other state bodies, public associations and other organizations, submitted through the administration of the execution of punishment, sentences, prosecutors, other state bodies. Consideration of appeals of convicts, as well as the response to them in a manner and time frame stipulated by the legislative acts of the Republic of Uzbekistan on appeals of individuals and legal entities.

According to the appeals of the convicted the administration of the authority and the institution for the execution of punishment immediately takes appropriate measures. To file complaints about the illegal actions of officials in the bodies and institutions for the execution of punishment in convenient for convicted persons places are placed special boxes. Special boxes once a week are opened by the employees of the prosecutor's office in the presence of employees of bodies and institutions for the execution of punishment, and a corresponding act is drawn up. Appeals of convicts to the Commissioner for Human Rights of the Oliy Majlis of the Republic of Uzbekistan (ombudsman), as well as the Commission on observance of constitutional human rights and freedoms, are not subject to censorship by bodies and institutions for the execution of punishment. It is not permissible to address on behalf of the convicted person without his consent, harm to the convict or his close relatives in connection with the treatment".

It is proposed to state Article 8 of the PEC as follows:

"The rights, liberties and legitimate interests of convicts as a person and a citizen are protected, lawfulness of the use of means of their correction, their personal safety and have all the rights and freedoms, and also bear the obligations provided for the citizens of the Republic of Uzbekistan, with the exception of the exceptions and restrictions provided for in this Code and other laws. The convicted foreign citizens and stateless persons have all the rights and freedoms, bear obligations provided for the citizens of the Republic of Uzbekistan, unless an international treaty of the Republic of Uzbekistan provides for provisions different from those of the penal enforcement law The rights and duties of convicts, as well as legal restrictions are determined on the basis of the order and conditions of serving a particular type of punishment or other criminal law measures. It prohibits the insult or humiliation of convicts depending on gender, race, nationality, language, religion, social origin, identity, place of residence, and social status. From the moment the convicted person arrives for the execution of a punishment or other measure of the criminal-legal effect, institutions and bodies executing punishment or other measures of criminal-law influence should explain, as well as provide to

the convicted person in writing information about his rights, duties and legal restrictions, and rules of the internal order.

At the same time, the list of rights of convicts presented in article 9 of the CEC is not exhaustive. In our opinion, the rights of convicts should be listed in full. Thus, in this article, additional rights should be indicated to the following rights of convicts:

- Submission to the President of the Republic of Uzbekistan of a petition for pardon in accordance with the procedure established by law;
- Recognition of human dignity, protection from torture and other inhuman or degrading treatment;
- Ensuring personal safety;
- Receiving psychological help from a psychological service employee or a person having the right to provide such assistance.

Also, article 9 of the CEC is a norm that provides an opportunity for persons with visual, SLU, or speech impairments to use the services of specialists who can communicate using dactylology (sign language) or Braille.

It is proposed to supplement the CEC with article 60¹ "Assessing the morals of convicts". In this article, it is useful to determine the goals of assessing the morality of convicts, the degree of their morality, the criteria for their determination, and the procedure for assessing it":

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The degree of behavior of convicts is determined by the head of the institution on the basis of information reflecting the behavior of the convicts (compliance with the internal regulations of the institution, relations to work and study, participation in educational activities, participation in programs for the provision of social and legal assistance to convicts, measures for compensation for harm, with charged with crime, etc.) collected by a special commission.

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2-the degree of positive behavior is the convicted person, for whom at least 1 incentive measure is applied, and also for 6 months or more not disciplinary measures;

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4) for convicts whose behavior is assessed negatively:

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2-the degree of negative behavior - the convicted convict recognized as a systematic offender, the order of execution of punishment;

3-the degree of negative behavior - the convict, the procedure for the execution of a punishment known to a violent offender.

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