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PENITENTIARY SYSTEM OF CONTEMPORARY UZBEKISTAN: CURRENT CONDITION AND FUTURE PROMISES IN THE REFORMATION PROCESS

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Annotation: This article illustrates concept of penitentiary system and essence of some definitions in the process of reformation by referring to the works of world’s various scholars. The paper also examines types of penitentiary establishments of Uzbekistan by analyzing legal framework of legislative acts. Furthermore, the author aimed to propose private penitentiary establishments as an alternative to public institutions. At the same time, the foreign experience in particular, experiences of USA, UK, Sweden studied in order to implement to national penal practice.

Keywords: penitentiary system, penitentiary institutions, Penal Policy, criminal-executive system, models of penitentiary system, prison officer.

The establishment of civilized penitentiary systems in many states, especially in the US and most of Western European countries, was influenced by the ideas of the sociological school of criminal law on the imposition of punishment and its execution, the emergence of penology and penitentiary science.

In the current criminal-executive legislation of the Republic of Uzbekistan, the term "penitentiary system", "penitentiary institution", "penitentiary policy" is not used. At the stages of development of criminal law in our Republic alternative terms are used in these concepts: labor correction system, criminal penalties system, penitentiary system and others.
The history of penitentiary has a very long period[1], this word (from Latin "poenitentia" - "remorse") means the maintenance of the system of execution of punishment[2]. The usage of the term "penitentiary system" in the modern legal literature occurs most often in two cases: in works of a historical and legal nature, in which the concepts of "penitentiary system" and "penitentiary institutions" are a general nature and used to characterize various stages of historical development (these concepts are often combined with terms officially used in specific historical conditions)[3]; in acts containing the norms of international law (such as the "Standard Minimum Rules for the Treatment of Prisoners" adopted at the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders on August 30, 1955, "European Prison Rules" on February 12, 1987[4] and others), as well as in studies on foreign law and foreign legislation[5]. Most scientists believe that the penitentiary system includes all organs and institutions of the state that carry out all types of criminal punishment, organizational and legal, social and public institutions that provide the goal of correcting convicts[6].

Currently, the term "penitentiary system" and other phrases with the adjective "penitentiary": "penitentiary policy", "penitentiary institutions" find their application only in the scientific environment. Thus, I.Kamaliieva believes that the penitentiary system includes all organs and institutions of the state that carry out all types of criminal punishment, organizational and legal, social and public institutions that provide the goal of correcting convicts[7].

According to M.P.Melentiev, "the penitentiary system is not a system of placing prisoners in prisons, but the whole correctional system connected with the execution of the punishment in the form of imprisonment, together with the means and methods of legal influence on the convicted persons, with the aim of restoring social justice, correcting the convict and warning committing new crimes"[8].

Scientists V.B. Spitsnadel and S.I. Velezhev[9] under the penitentiary institutions and the penitentiary system understood institutions and bodies that carry out sentences in the form of imprisonment. Nonetheless, I think that such interpretation is too narrow.

Most often in modern legal literature it is a question of the penitentiary system. For example, concepts that characterize social systems operating in the political and legal field are "law enforcement system" and "judicial system". In all these cases, I am talking about certain institutions, means and methods, the totality of which in their interrelationship constitutes a certain system. Penitentiary system is a system of punishment execution and application of other measures with a criminal-legal nature, which covers the whole set of institutions and bodies executing criminal punishment.

In general, the criminal-executive system is a social multi-component, multifunctional and multi-level system[10]. However, the use of the concept of "criminal executive system" does not deny the understanding of the penitentiary system as a set of all means and methods aimed at correcting convicts. Therefore, I can talk about the penitentiary system in a narrow and broad sense. Also, T.Sinelnikova claimed that, the penitentiary system is a set of interconnected and interrelated state and legal means, methods and guarantees aimed at achieving the goals of criminal punishment (restoring social justice, correcting a convicted person, preventing the commission of new crimes) in institutions connected with isolation from society[11]. A.Ovchinnikova has an analogical opinion[12].

The penitentiary system in the narrow sense is a system of institutions and bodies that carry out criminal penalties related to isolation from society, which are currently the correctional facilities. Thus, in modern legal science there is not yet a single approach to the definition of the concept of "penitentiary system". In our opinion, the most reflective content of the socio-legal phenomenon "penitentiary system" is the approach within which the penal system is examined in a broad and narrow sense.

In all these cases, penitentiary system - a system that includes the educational, moral, pedagogical, psychological, political, legal, socio-economic and other areas of state bodies' activity and institutions for the implementation of criminal penalties and other measures of criminal law aimed at correcting and resocialization of convicts.

While revealing the importance of the penitentiary system in the organization of the criminal and legal policy of the state, it should be noted that the reform of the penal system began with the moment when Uzbekistan gained national independence. Since, it was necessary not only to rework the regulatory framework, but also to determine the strategy for the development of the system for a long period. Unfortunately, up to the present time, a harmonious and unified Concept for reforming the criminal execution system has not been developed in our country.

Today the creation of the penitentiary provides a clear example of the basic dynamic of penal reform. The penitentiary was originally hailed as a symbol of progressive political and religious ideas. Instead of tormenting wrongdoers, the penitentiary would effect their moral reformation. The penitentiary also filled a more basic need. The new nation, such Uzbekistan, founded upon ideals of a virtuous citizenry, found that the old penal methods were inadequate to keep many of its citizens virtuous. The penitentiary represented a new and more effective means of suppressing crime. Perhaps, the most
important influence upon the nature of the new punishment had nothing to do with the goals of punishment, though—it was institutional. This system, adopted in most institutions across the nation, ensured that the penitentiary was a place, not of benevolent rehabilitation, but of often brutal repression[13].

Signs of the penitentiary system of Uzbekistan:
-as one of the elements of the constitutional foundations of the Republic of Uzbekistan for the purpose of strengthening and protecting the rule of law, it is implemented by a specially created state body with separate powers;
-operates in all spheres of penitentiary relations, regulated by legislative acts;
-carried out in connection with violation of laws.

On the base of national legislation, the followings are the tasks of the criminal-executive legislation of the Republic of Uzbekistan:
-execution of criminal penalties in the form of fines, compulsory public works, deprivation of certain rights, correctional labor, restrictions on service, restriction of freedom, deprivation of military or special ranks, referral to disciplinary units, imprisonment and life imprisonment;
-maintain supervision of the conditionally convicted persons’ behavior, other measures of criminal legal effect in the form of compulsory medical measures, imposition of an apology on the minor, compensation or elimination of the damage caused, placement in a special educational institution;
-ensuring law enforcement and lawfulness in the bodies and institutions for the enforcement of criminal penalties, the safety of the convicted prisoners, workers and employees, officials and citizens on their territory;
-attraction of convicts to work, provision of their general and vocational education, vocational training;
-ensuring the health of convicts;
-rendering assistance to the bodies carrying out operatively-search activity, etc.

By the analyse of several institutional models of the penitentiary systems in the world, based on the jurisdiction of these bodies and institutions to one or another government agency, I can identify five models of the organization of the penitentiary system:
1) The model of the penitentiary system, which is located in the Ministry of Internal Affairs in full;
2) The model of the penitentiary system, administered in full by the Ministry of Justice;
3) The model of the penitentiary system, under the joint management of the Ministries of Justice and Internal Affairs;
4) The model of the penitentiary system, which is part of separate state department that is not controlled by neither the Ministry of Justice nor the Ministry of Internal Affairs;
5) a mixed model where the execution of types of punishments or measures of procedural coercion are transferred to the competence of various departments (penitentiary institutions are under the jurisdiction of the Ministry of Justice, places of pre-trial detention are administered by the Ministry of Internal Affairs).

Based on this classification and complex analysis of penitentiary systems in a number of countries, it may be concluded that in the mechanism of the rule of law, penitentiary institutions perform certain functions of law enforcement and executive authorities.

In my point of view, today in Uzbekistan, the existing legislative framework in this area has ceased to meet modern realities, especially in the aspect of the need to strengthen its preventive principles, which necessitates the development by the scientists and specialists of the Concept of reforming the criminal execution system of the Republic of Uzbekistan for the period up to 2021. This Concept, in our opinion, should contain a number of provisions that will help realize the real opportunities associated with the functioning of the executive system, without going beyond the scope of financial and economic costs.

Moreover, the measures envisaged in the Concept to reduce the number of convicts and detainees, reduce the intensity of their movement across the country and other measures should significantly reduce the costs of maintaining the penitentiary system. At the same time, in full accordance with modern ideas about the role and significance of institutions and bodies of the penitentiary system, the preventive function of the penitentiary system should be at the heart of the matter.

At the first stage of the Concept implementation (2018-2020), it is planned to:
-approve the plan of measures to implement the Concept;
-develop normative legal acts aimed at implementing the provisions of the Concept;
-evolve and adjust target programs for the main directions of the Concept implementation;
-develop new mechanisms to promote the activities of public monitoring commissions;
-improve new approaches to the application of the institution of conditional early release;
-form organizational structure of the medical service criminal o-executive system ensuring the effective implementation of activities aimed at achieving a single level of medical care for both employees and convicts as well as those held in custody;
-advance the issue of providing medical assistance to convicts and persons held in custody, in full volume by health care institutions that are not part of the criminal execution system.

At the second stage of the Concept implementation (2021-2023) it is envisaged:
-re-profiling most of the penal institutions into general, reinforced and special prisons;
-creating new settlement colonies, analyzing the work done and (if necessary) adjusting the activities envisaged by the Concept.

At the third stage of the Concept (2024-2027), planned and programmed activities will be completed in the main areas of the criminal-executive system, as envisaged by the Concept. It is projected to develop a document on planning the development of the penal system for subsequent years.

So, which provisions should be included in the proposed concept?

In our opinion, the reform of the penal system of Uzbekistan can not be considered only from the perspective of reorganizing the system itself, it must be carried out in a comprehensive manner, linking the state, structure and dynamics of crime in the country, criminal and penal enforcement policies and legislation, the system of enforcement agencies, their tasks, functions, the structure of management apparatuses and their competence, the organization of the entire criminal-executive system and individual links.

Rebuilding philosophy of the penitentiary perhaps best expressed in A Program of Principles, the statement of six principles adopted in 1993 (Ministry of Justice of Denmark, 1994). Drafted by William Rentzmann (then Deputy Director) and other colleagues in the Prison and Probation department of the Ministry of Justice, the document was adopted by parliament and the Minister for Justice, and thus became official policy[14].

The six principles as a whole, or particular principles like “normalization” or “least possible intervention”, were repeatedly referred to in the interviews and visits for data collection for this thesis in Denmark and it was striking the extent to which senior prison staff at least had internalized these ideas. These principles will, therefore, feature frequently in this chapter. For now, it will suffice to state them as follows:

1. **Normalization**
The daily activities of the Prison and Probation Service shall in general be related to normal life in the general community.

2. **Openness**
Prison and probation work shall be organized so that the offender is offered good opportunities to make and maintain contact with the ongoing life of the community.

3. **Exercise of Responsibility**
Prison and probation work shall be so organized that the offender has the opportunity to develop a sense of responsibility, self-respect and self-confidence and become motivated to actively strive for a crime-free life.

4. **Security**
Prison and probation work shall ensure that the sentence of the court is carried out with due attention paid to the protection of the community from crime as well as protecting the inmate from aggression or damaging influences emanating from other persons.

5. **Least Possible Intervention**
The Prison and Probation Service shall choose the least intervenient means for dealing with any particular task.

6. **Optimum Use of Resources**
The Prison and Probation Service will use resources effectively, flexibly and in relation to perceived needs[15].

In this regard, the significance of the penitentiary system in determining the criminal policy of the state is also that this system is exclusively polyfunctional[16]. It not only executes punishments both in the form of imprisonment and without isolation from the community, but also engages in purely industrial activities, carries out general and professional training of specialists, conducts sanitary and preventive work and treatment of convicts, and operational-search activity, takes part in social work and monitoring the behavior of conditionally convicted persons.

Being a specific subsystem of the executive bodies, the criminal executive system is under the control of the state authorities. It is ready for public control, seeing in it the most important guarantee of
observance of the rights not only for convicts, but also for personnel, especially their social security and the possibility of implementing international standards when executing criminal penalties [17]. One of the tasks of reforming penitentiary institutions and bodies is the maximum possible introduction of these international standards into practice.

Currently, social, economic and legal prerequisites for the emergence of the penitentiary system are gradually forming in Uzbekistan. Socio-economic prerequisites for the emergence of the penitentiary system are the state’s ability to have special social institutions for the enforcement of criminal penalties.

The analysis of the penitentiary system at this stage shows the existence of an unconditional tendency of its humanization, recognition of the self-esteem for the convicted, recognition of its inalienable rights.

Simultaneously, it should be recognized that throughout the world, penitentiary institutions are one of the most important elements of not only the state mechanism, but also the political system of society. However, we must avoid "Soviet" mistakes, that is, merging the system with state bodies, when the penitentiary system becomes the most important tool for carrying out state policy.

The penitentiary policy is implemented in various forms, and above all, in the penal enforcement legislation. Therefore, the principles of penitentiary policy are at the same time the principles of the criminal-executive law and the principles of the penitentiary system.

It seems to us that the system of principles contained in Art. 6 CECs do not adequately reflect the full range of prison policy, and therefore must be supplemented by other principled provisions.

Penitentiary system, as a punishment execution system and application of other measures with a criminal-legal nature, which covers the whole set of institutions and bodies executing criminal penalties, including institutions of the penal system, disciplinary military units, the command of military units executing punishment in the form of restrictions on military service, guardhouses, executing punishment in the form of arrest, officials and state bodies executing the requirements of the verdict on the deprivation of a special or military rank, the administration of organizations executing the demands of the verdict on the deprivation of the right to hold certain positions, or to engage in certain activities.

The penitentiary system also includes organizational, legal, social and public institutions with the primary goal of correcting convicts.

Nevertheless, in our opinion, in the rule of law the role of the penitentiary system should grow into a completely different quality. Of the repressive, punitive organs that they were under totalitarianism, it must grow into a law enforcement agency in the true sense of the word. This means that all of its activities should be directed, first of all, to protecting the rights and freedoms of citizens, the legitimate interests of society and the state. Thus, the penitentiary system will ensure in every possible way the rule of law, and not the domination of the state.

In the theory of criminally-executive law, along with the term "correction", the term "resocialization" is often used. It seems to us that the re-socialization of convicts should presuppose the formation of socially useful qualities and personal qualities necessary for the convicts in conditions of human dormitory, carried out by forming a respectful attitude to the person, society, work, norms, rules and traditions of human community and to stimulate law-abiding behavior.

Great importance in educational work on the re-socialization of convicts in penitentiary institutions should be given to the formation of positive legal responsibility among convicts as a means of preventive policy. Positive legal responsibility presupposes such an attitude of a person to society, the state, and other persons, which includes emotional and psychological comprehension and rational awareness by the person civil duty to the society, state and other persons, as well as readiness to act in accordance with this personal direction.

The importance of educating the positive legal responsibility of convicts stems from the defining role of the creative function of society, as it is refracted through various types of lawful behavior, including active ones [18]. In modern conditions, the means of social and psychological influence acquire great importance in the exercise of educational influence on convicts. Thus, in our opinion, there is every reason to consider measures of a socio-psychological nature as a means of corrective action and to consolidate them as such in the criminal-executive legislation. The enforcement of these funds in the Penal Enforcement Code meets not only the requirements of the time, but also the needs of practice. Socially useful work is a prerequisite for the execution of such punishments as imprisonment, restriction of freedom, compulsory labor, and correctional labor [19].

In addition, the state should not consider the criminal-executive system as a source of budget revenues, and therefore it must be exempted from all types of taxes. Thus, the gradual transition of Uzbekistan's penitentiary system to models of penitentiary systems in countries with developed market
economies presupposes the need to abandon economic goals labor to ensure the self-sufficiency of institutions for the execution of punishment. The funds received from the production activities of penitentiary institutions should be directed to the development of the system of employment, the improvement of the convicts’ detention conditions and the development of the social sphere of institutions.

In a democratic society with a keen attention to the protection of human rights, penitentiary institutions should be established that differ in their desire to bring the conditions of freedom, the developed contacts with the public structures, closer to them in their lives.

The penitentiary system of Uzbekistan should be built on the moral and ethical principles of the execution of punishment. The activities of penitentiary institutions should be oriented towards a gradual reduction of authoritarian-administrative methods and methods of influencing convicts and switching to trusting cooperation with them, which has a preventive effect.

The study of the problems of the formation of the legal culture of the prison officer allows us to come to the following conclusion:

Firstly, the formation of a the personnel’s legal culture in the criminal-executive system is extremely important. Legal culture helps the penitentiary officer to correctly orient himself in a different, in some cases very unusual, situations.

Secondly, the importance of respecting and implementing the constitutional and legal situation of the convict has a clear, legally justified and socially justified definition of the ratio of the content of imprisonment and the existing restrictions applied to convicts in penal institutions. Restriction of the individual’s basic rights in conditions of imprisonment, in our opinion, should be legally and socially justified.

Thirdly, the constitutional legal concept of human and citizen's rights and freedoms should be based on the entire legal system of the country. All branches of legislation, including criminal-executive law, should be brought into line with the principles and norms of this constitutional and legal concept.

Thus, it seems possible to determine the following characteristics of the penitentiary system of a democratic society and the rule of law:

1) Humanization of execution and serving of sentences;
2) Ensuring the priority of the purpose of correction in relation to the preventive purposes of punishment;
3) Use of corrective influence with the consent of the convict;
4) The possibility of using non-traditional means of corrective action;
5) An effective system of post-penitentiary adaptation of persons released from penitentiary institutions;
6) Openness and transparency of the penitentiary system;
7) Active use of international experience;
8) Control and accountability of the penitentiary system to authorized human rights bodies;
9) Decentralization and demilitarization of the penitentiary system;
10) Participation of public institutions in the affairs of penitentiary institutions;
11) The existence, for the most part, of forms of punishment alternative to imprisonment;
12) All funds received from the production and economic activities of penitentiary institutions should be directed exclusively to the needs of these institutions.

The legal consolidation of the legal status of convicts in the legislation is the most important legal guarantee for the realization of their rights. Legal guarantees for the protection of the convicts’ rights and freedoms include domestic and interstate mechanisms for guaranteeing human and citizen rights.

In conditions of penitentiary institutions, a well-established procedure for the submission of complaints by convicts, or expressions of dissatisfaction with the conditions of detention, the actions of the administration, violations of rights, have great preventive importance. The convict must be sure that his claims will be fairly and impartially examined. An effective system of complaints, claims and offers should be created, which should be distinguished by efficiency, accessibility, persuasiveness, objectivity and flexibility.

Subjects of social influence with regard to convicts, in our opinion, can and should become private individuals, as well as public institutions. This is due to the fact that recently the public interest in the activities of the penitentiary system has slightly decreased, which causes some concern. Such a trend, in our view, is caused by ineffectiveness of public institutions in influencing the penitentiary system, as well as in the absence of real positive results of the functioning of penitentiary institutions.
They should have an idea that the tasks and purposes of the punishment execution not to work permanently in the penitentiary institution. They could help convicts in training, in the development of useful skills, prepare them for life at large, and provide support during the period of resocialization.

The main directions for developing and improving the public associations’ activities that involved in the affairs of penitentiary institutions, in our opinion, should be:

- development of legislation on certain types of public associations;
- increase of efficiency of interaction of the state and public organizations;
- social partnership between the state and public organizations;
- social monitoring of public relations associated with the creation, activities, reorganization and liquidation of public organizations involved in the affairs of the penitentiary system;
- regulation of various spheres of public participation in the activities of penitentiary institutions;
- constant consideration of the nature of the social relations’ evolution in the process of implementing law-making activities in the field of legal regulation, creation, operation, reorganization and liquidation of public organizations involved in the affairs of the penitentiary system;
- development of the public organizations’ infrastructure in penitentiary institutions, including information infrastructure, as well as, the creation of a training and professional training system for managers and managers of such public organizations.

Of course, reforming the penal system is a fairly long, multi-stage process. As rightly noted, its time frame can be more or less specifically defined in the current difficult socio-economic conditions only for periods of stabilization and urgent priority measures, that is, to create a reliable legal and resource base ensuring the full implementation of all this system of functions[20].

In particular, in our view, in the future the following draft laws should be drafted and submitted to the country’s parliament in order to implement the provisions of the proposed Concept: "On Amendments and Additions to the Criminal Code, the Code of Criminal Procedure and the Criminal Executive Code of the Republic of Uzbekistan and other legislative acts of the Republic of Uzbekistan "(on a significant change in the penal policy of the state)," On the order of service in institutions and bodies of the penal system," "On institutions and bodies of criminal justice" and a number of others.

During the same time, a system of training specialists for a new generation should also be created, not only through the existing educational institutions, but also through the deployment of a special profile training base - a network of training centers, secondary and higher educational institutions, training staff of penitentiary bodies and institutions.

Undoubtedly, stabilization of the penal system is impossible with a large number of convicts and people in custody. During the Soviet period, there was a constant increase in the number of contingent, while the possibilities for the normal placement of convicts in institutions were exhausted completely, and the investigative isolators were overcrowded.

Unfortunately, the modern penal system of Uzbekistan is not far from the old system. Numerous amnesties were carried out during the years of independence, and the system received only a very brief respite, the problem should be solved radically through a radical change in the punitive policy that substantially reduces the number of convicts and those arrested.

The implementation of such measures is connected with the need to change the sense of justice of the population, law enforcement and judicial personnel, so as to shift the emphasis from the punitive policy towards preventive politics. This task is of a national scale, and it is necessary to solve it together, only the possibilities of a penal-executive system in this direction are very limited.

In general, the concept of reforming the penal system of the Republic of Uzbekistan includes the implementation of a number of the following major events:

1) adjustment of punitive policy, further humanization of criminal, criminal procedural and penal enforcement legislation, broadening the grounds for the application of criminal penalties and preventive measures, alternative to imprisonment or detention;

2) delineation of competencies in the management and provision of vital functions of the institutions of the penal system between the republican and regional bodies, as well as identifying areas for cooperation with other law enforcement agencies;

3) creation of conditions and order of execution of punishments, providing social and legal protection for convicts, suspects and accused in committing crimes, ensuring their constitutional rights to personal security, protection of health and property, education;

4) the change in the structure of institutions for the execution of punishment, the transition for serving sentences in one institution of various categories of convicts with their separate content, depending on the nature and degree of public danger of the crimes committed, the recurrence of crimes with a profound differentiation of the conditions for serving sentences;
5) reforming the industrial sector of the penal system on the basis of a special targeted program, and taking into account the creation of penal institutions in institutions and bodies in place of educational and production complexes, an expanded system of educational and research institutions, the development of the editorial and publishing base;

6) training of personnel of a new formation capable of adequately perceiving the requirements of international standards in the sphere of treatment of convicts, the behavior of law enforcement officials, professionally trained and willing to work in this field of activity. In the development of this provision, the Program of educational work with convicts in the conditions of reforming the penal system should be developed, which allows to implement the above requirements fully;

7) provision of the necessary conditions for introducing the experience (including foreign) of penitentiary activity and the requirements of international standards in the field of execution of criminal penalties and treatment of convicts to the practice of the penal enforcement system, the wide involvement of the public and its associations, the media in criminal activities executive system.

These measures should ultimately ensure the full implementation of the preventive function and the further humanization of the conditions and order of serving the sentence, the exclusion of unnecessary elements of its militarization, the more active involvement of convicted persons in civil society, the development and adoption of necessary legal base, resource support aimed at normalizing the placement of convicts and persons in custody, reducing their numbers, and ultimately on adjustments of criminal policy.

Thus, at the present stage, it is recognized throughout the world that the convicted person should be in the center of the penitentiary system as a person, as a citizen, as a member of society, who due to objective circumstances caused by society, committed an offense. The change in the political and state institutions of society must entail a redistribution of power both among the links of the state mechanism and within these links and, of course, the redistribution of powers between the state and society.

In our opinion, society must assume some functions that previously belonged exclusively to the state. This also applies fully to the penitentiary system. Proceeding from this, it seems necessary to decentralize the penitentiary system, dispersing it at two levels: republican and local.

The penitentiary system should also allow the creation and operation of **private penitentiary institutions** (in the case of many developed countries, including the United States and Great Britain)[21].

By the way, private prisons also exist in the Netherlands[22], France[23], Belgium[24] and other European countries[25]. Thus, in England and Wales of 137 prisons 7 are run by private companies[26], and in some states of Australia almost half of the convicts are held in private prisons[27]. In 2004, in Israel, the Law "On Prisons" was amended, creating opportunities for the organization of private prisons[28].

In many countries, private companies provide assistance to support the activities of penitentiary institutions. At the same time, states usually conclude long-term contracts with private companies[29].

With regard to the involvement of the private sector in the penal system, the foreign states have been divided into the following groups:

1) countries with wide involvement of the private sector in the penal system (USA, Sweden, UK, France, Australia, South Africa);
2) countries where private sector involvement in the penal system is considered (South Korea, Latvia, Czech Republic, Hungary, Israel);
3) countries where private sector participation in the penal system is discussed (Russia, Belarus, Kazakhstan, Kyrgyzstan);
4) countries where the private sector does not interfere with the penal system (except for the above, the CIS countries, including Uzbekistan, etc.).

Such innovation should entail the revision of regulatory and legal material and the creation of new regulatory and legal acts, including those regulating the organization and functioning of private penitentiary institutions. In addition, the penitentiary system of the modern state should have the most diverse types of educational institutions for juvenile convicts, which is confirmed by international prison experience.

At the same time, I believe that at the initial stage it is advisable to organize separate colony-settlements or educational colonies or a special unit for the execution of criminal penalties under the Ministry of Internal Affairs’ GUIN with the involvement of the private sector.

In addition, the necessary prerequisites must be created for the full protection of the rights of convicts, creating the necessary conditions for their correctional rehabilitation, with the broad involvement of public associations, human rights organizations and the media during that process. As an
urgent task, it is essential to create the necessary prerequisites for the staff of the penitentiary system, to develop understanding and the need to introduce international standards for the treatment of convicted persons in daily practice, and to ensure the full realization of guarantees of their rights and social security.

This task is extremely difficult from the point of view of implementation, since it is directly related to the citizens' sense of justice and, first of all, by understanding the purpose of punishment in the form of imprisonment. The fact is that, in Uzbekistan imprisonment is traditionally regarded as causing deprivation and suffering to the convict mainly through prison attributes: solitary confinement, the presence of public places (parash, toilet, and washbasin) in cells, prison clothes, shaving heads, reduced diet and other.

At the same time, international standards recommend keeping convicts in separate cells and not applying such restrictions to them, which in their totality are treated as a form of torture. Therefore, it will take quite a long time not only to create the necessary material conditions for the normal placement of convicts, but also to form an appropriate level of legal consciousness among the general population.

References:
14. Resisting the new punitiveness? penal policy in Denmark, Finland and Norway. Michael Kevin Warner, BA, M.Sc. (Econ), M.EdThis thesis is submitted to University College Dublin for the Degree of PhD in the College of Human Sciences. - P.144.
15. Resisting the new punitiveness? Penal policy in Denmark, Finland and Norway. Michael Kevin Warner, BA, M.Sc. (Econ), M.EdThis thesis is submitted to University College Dublin for the Degree of PhD in the College of Human Sciences. - P.145.