

THE LEGAL STATUS OF INMATES IN THE REPUBLIC OF UZBEKISTAN

Salomov Maksudkhon Sokhibkhon ugli

Teacher of Department “Criminal-procedural law” at
Tashkent State University of Law, Uzbekistan. 100047,
Tashkent, Saylgoh St., 35 Address: Republic of Uzbekistan,
Tashkent, Chilanzar 19, 1A/3

maqsudxon_0000@mail.ru

ID [orcid.org/ 0000-0003-3069-9572](https://orcid.org/0000-0003-3069-9572)

<http://dx.doi.org/10.26739/2181-9130-2017-5-5-7>

Abstract: This article is based on an analysis of the legal status of inmates and some legal controversies in Laws including provisions related to prisoners' rights and obligations in Uzbekistan, and proposes potential solutions to these controversial issues.

Keywords: legal status, institutions executing punishment, legitimate interests, imprisonment, settled colonies.

ПРАВОВОЙ СТАТУС ЗАКЛЮЧЕННЫХ В РЕСПУБЛИКЕ УЗБЕКИСТАН

Аннотация: В данной статье, на основании анализа правового статуса заключенных и некоторых правовых противоречий в законодательстве, в том числе положениях, касающихся прав и обязанностей заключенных в Узбекистане, предлагаются возможные решения этих спорных вопросов.

Ключевые слова: правовой статус, учреждения, исполняющие наказание, законные интересы, тюремное заключение, колонии -поселения.

ЎЗБЕКИСТОН РЕСПУБЛИКАСИДА МАҲКУМЛАРНИНГ ҲУҚУҚИЙ ҲОЛАТИ

Аннотация: Ушбу мақолада, маҳкумларнинг ҳуқуқий мақоми таҳлили ҳамда қонунчиликда, шу жумладан Ўзбекистонда маҳкумларнинг ҳуқуқ ва мажбуриятлари борасида бир қатор зиддиятлар мавжудлигига асосланган ҳолда, ушбу низоли масалаларни ҳал этишнинг тахминий ечимлари таклиф этилади.

Калит сўзлар: ҳуқуқий мақом, жазони ижро этиш муассасалари, қонуний манфаатлар, қамоқ жазоси, манзил колониялар.

Introduction. The ideology of punishment has significantly changed in recent years as a considerable number of scholars and humanitarians of our democratic world assert that the main purpose of punishing offenders should not be vengeance neither harming the convicted person as the payback of their wrongdoings, but rehabilitate them. This trend in the ideology of punishment requires revising the conditions and orders of the execution of imprisonment as well as the content of the legal status of prisoners.

Firstly, a brief explanation is to be given on what legal status is before starting a thorough discussion of the legal status of inmates. Legal status is the position held by someone or something with regard to law.^[1] It is a set of rights, obligations, powers or restrictions that a person or thing has which are encompassed in or declared by legislation. Accordingly, the legal status of inmates is a set of rights and obligations that convicts can use or must fulfill. The legal status of convicts is defined by several normative-legal acts such as the Constitution of the Republic of Uzbekistan, the Criminal Executive Code the Republic of Uzbekistan and The internal regulations of

№5 Special issues 2017

institutions executing punishment in the form of imprisonment.

According to the article 67 of “The internal regulations of institutions executing punishment in the form of imprisonment”, inmates, taking into account the exceptions and restrictions defined by the Criminal Executive Code of the Republic of Uzbekistan and other laws, have the rights and freedoms and fulfill the obligations as free citizens of the Republic of Uzbekistan do. Convicts who are foreign citizens or stateless persons may have the rights and freedoms and fulfill the obligations defined by international agreements that the Republic of Uzbekistan involved in. Although prisoners do not have full Constitutional rights, they are protected by the Constitution and it is strictly prohibited to use a cruel and unusual punishment.

The rights and duties of the convicted persons are defined according to the conditions and orders of serving a particular type of punishment. As stated by the article 69 of “The internal regulations of institutions executing punishment in the form of imprisonment”, inmates possess the following rights:

- to obtain information on the conditions and orders of serving their punishment, their rights and obligations as well;
- to make and submit an appeal in the form of applications, proposals and complains in their native language or another language to the administration of institutions executing punishment, other state bodies and public organizations;
- to receive answers for their applications, proposals and complains in the language that they used to write applications, proposals and complains. If it is impossible to answer in the language convicts used to write their appeals, the answer will be given in the official

№5 Special issues 2017

language and it is the duty of institutions executing punishment to provide inmates with the translation of the answer;

- to give explanations, exchange information by writing letters and to utilize translation services when it is needed;

- to use educational, artistic and other type of information materials;

- to take healthcare services and take medical treatments in ambulatories and polyclinics based on medical conclusion;

- to receive a social supply as well as pension according to the law related to pension and social supply.

As is seen, it is said that prisoners have the right to receive pension in accordance with the laws regulating social relation related to pension. The Law of the Republic of Uzbekistan “On State Pension Provision of Citizens” regulates these type of social relations. According to the article 62 of the Law, “If a pensioner is sentenced to imprisonment, the payment the convicted person’s designated pension will be suspended during the period of the punishment”.^[2] It means that inmates who reach the age of retirement serving their sentence in prison cannot receive any pension. Here a confusion is seen between the two normative-legal acts above mentioned: the former states that the convicts can receive pension while serving their punishment in prisons whereas the latter defines pensioners convicted to a sentence of imprisonment cannot get their pension during the period of penalty.

It is usually hard to reintegrate into society when prisoners are released because of difficulties to find a job and financial problems as well as psychological issues. Therefore, it seems to be thoughtful not to suspend the pension payment during the period of imprisonment so that aged offenders will have some money saved to lead a

№5 Special issues 2017

financially adequate life after being released that declines the risk of recommitting a crime because of financial problems. Hence, the article 62 of The Law “On State Pension Provision of Citizens” is proposed to abolish.

It is worth noting that having the right to appeal with applications, proposals and complains to the administration of institutions executing punishment, other state bodies and public organizations is one of the most important aspects among the rights of prisoners. By this, they can protect their rights, freedoms and legitimate interests with the help of state bodies or other organizations. The right to appeal of citizens including inmates is protected and provided by The Law of the Republic of Uzbekistan “On the Appeals of individuals and legal entities” along with the Administrative Responsibility Code of the Republic of Uzbekistan, the Criminal Code of the Republic of Uzbekistan and other normative-legal acts.

According to the Law of the Republic of Uzbekistan “On the Appeals of individuals and legal entities”, the period of time to answer received appeals is from 15 days to 2 months depending on the content of the appeal, and officials and organizations that do not provide individuals or legal entities with an adequate answer within the period defined by the law will be punished.

The right of inmates to appeal is guaranteed by several international normative-legal acts. One of these acts – “Standard Minimum Rules for the Treatment of Prisoners” adopted by the United Nations Congress says “Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.”^[3]

№5 Special issues 2017

To tell about the obligations and duties of inmates serving a penalty in the form of imprisonment in institutions executing punishment, firstly, they must observe the conditions and orders of the institutions and follow the legitimate orders given by the administration.

The orders of serving punishment are defined in the article 72 of “The internal regulations of institutions executing punishment in the form of imprisonment”. They are as follows:

- to preserve the property of institution executing punishment;
- to have conscientious attitude to work;
- to keep clean living and working places, wear the determined clothes (with the exception of the inmates serving their punishment in settled colonies), follow the regulations relating to preserve foods and things;
- to put on badges and labels on clothes;
- to clean the buildings and accommodations of institutions executing punishment and keep clean the area of the institutions;
- to preserve adequately the tools and equipment belonging to the institutions;
- to treat politely to the administration of the institutions and other inmates.

The obligations and duties as well as the conditions and orders seem not to be hard to follow or obey. However, there are a considerable number of convicts breaking the rules constantly in institutions executing punishment although they are punished for their misconduct.

There are, of course, prohibitions stated by law. The following acts are prohibited for inmates:

- to leave the territory of the institutions without the permission of the administration;

№5 Special issues 2017

- to stay or be in public residences or workplaces where inmates do not live or work in;
- to smoke in places out of the smoking areas;
- to organize and play games with an ill intend;
- to draw tattoos;
- to use slang words and make nicknames for others;
- to draw or write on the walls of the institutions and glue or stick pieces of books, magazines and pictures on the walls;
- to change sleeping place without the permission of the administration and hide sleeping places with a curtain or a piece of rag;
- to utilize tools or electricity not related to the need of production or work;
- to propagate religious extremist ideas and force others to follow them;
- to keep pets and do gardening activities with the exception of inmates being kept in settled colonies.^[4]

“There are thoughtful reasons to set such prohibitions in spite of the fact that some of them may seem not to be worth to define by a special normative-legal act.”^[5] For instance, giving some nicknames to other inmates is banned by law and it is because it might cause an argument or fight when convicts do not like or hate the nicknames given to them.

Inmates serving a penalty in the form of imprisonment in institutions executing punishment can also participate religious, civil and family relationships while serving their punishment in the institutions.

Inmates are allowed to have with them religious books in the library of the institutions and religious utensils that are unable to cut or stick. They can read religious literature and material during their free time and priests may be invited to meet inmates according to the

№5 Special issues 2017

convicts' request so that they can do pray or other activities relating to their religion.

Moreover, inmates are entitled to participate in civil-legal relationships on their own or with the help of their representatives. It should be stated that the meetings organized to fulfill their civil rights are not considered as the use the right of the number of yearly meetings defined by law.

Convicts are entitled to get married, divorce or take part in other family-legal relations while they are kept in institutions executing punishment. However, there might be some limitations in terms of participating in such relations. During the registration of marriage, the number of people invited must not be more than two. After registering the marriage, a long time meeting may be given to the inmate with the request of one of the parties have married. In this case, this meeting is not counted as one of the yearly meetings that convict may have according to the law. All expenses spent to register the marriage or other expenditures relating to the marriage are paid by the couples who have married.^[6]

Inmates serving a penalty in the form of imprisonment in institutions executing punishment can receive or send limitless quantity of letters and telegrams. Correspondences of convicts is the subject to censorship, with the exception of the correspondences of inmates serving a punishment in settled colonies as well as sent to Ombudsman. Handing letters to convicts and sending them to addressees is carried out by the administration of the institutions within three days from the day of receipt of the letters. Telegrams are delivered and sent to the addressees immediately.

Inmates can get writing materials and books in parcels, packages or bundles, or they can purchase them

№5 Special issues 2017

through stores and subscribe limitless number of magazines and journals.

Convicts are prohibited from receiving, acquiring, storing and distributing publications that promote war, inciting national and religious hatred, a cult of violence and cruelty, and having pornographic content.

A convict can keep ten books and journals with him/her at most. Literature exceeding the number of ten, with the consent of the convicted person, are deposited, transferred to the library or sent to his relatives and other persons.^[7]

According to the article 81 of the Criminal Executive Code of the Republic of Uzbekistan, prisoners are shown movies at least once a week and they have the right to watch TV shows, listen to radio broadcasts during free hours from work, except for the time reserved for sleep at night. However, convicts held in disciplinary centers are not allowed to watch movies and television shows.

Moreover, prisoners are entitled to have telephone conversations, which are conducted under the supervision of the administration of the institutions executing punishment and are paid from the convict's personal account.

The number of telephone conversations is determined by the type of regime of the institution executing punishment and the conditions of detention that convicts are held. According to the request of inmates, as well as in exceptional circumstances, an additional telephone conversation may be provided to them upon their arrival at the institution.

Inmates held in disciplinary centers might be permitted to have a telephone conversation only in exceptional circumstances. Telephone talks between inmates kept in the institutions executing punishment are prohibited.

№5 Special issues 2017

As is stated above, convicts serving penalty in the form of imprisonment in institution executing punishment are involved in work. Convicts are supplied at least one day of rest on a weekly basis and they do not work on holidays (non-working days).

Nonetheless, the annual leave is not granted to inmates, except for those serving their punishment in settled colonies. Convicts held in settled colonies possess the right to have an annual paid leave of 15 working days.^[8]

Meanwhile, prisoners cannot exercise some political rights while serving their punishment. It is described in the Constitution of the Republic of Uzbekistan either. "Citizens, who have been legally certified insane, as well as persons in prisons, may neither elect, nor be elected."^[9]

There are several countries that voting rights are provided to prisoners serving their penalty in prisons. For instance, all inmates can vote in Croatia, the Czech Republic, Denmark, Finland. Ireland, Latvia, Lithuania, Macedonia, Montenegro, Serbia, Spain, Sweden, Switzerland and Ukraine.^[10]

Depriving inmates of the right to vote is considered as normal in Uzbekistan and there has hardly been a debate on the matter that prisoners should be allowed to vote or not. It shows that the Uzbek people, even scholars in Uzbekistan, might think that the deprivation of prisoners' right to vote is a natural and acceptable process coming with a sentence of imprisonment. However, it is worth thinking on providing convicts, at least those who are serving their punishment in settled colonies, with the right to vote.

Conclusion. Based on the analysis above, the following brief conclusions could be stated:

1. The article 62 of the Law of the Republic of Uzbekistan "On State Pension Provision of Citizens" ("If a

№5 Special issues 2017

pensioner is sentenced to imprisonment, the payment the convicted person's designated pension will be suspended during the period of the punishment") is proposed to abolish. It would be thoughtful not to suspend the pension payment during the period of imprisonment so that aged offenders will have some money saved to lead a financially adequate life after being released that decreases the risk of recommitting a crime because of financial problems.

2. Prisoners do not possess the right to vote in Uzbekistan. Nevertheless, it is worth thinking on providing convicts, at least those who are serving their punishment in settled colonies, with the right to vote.

References:

1. Inc., US Legal, "Legal Status Law and Legal Definition | USLegal, Inc.". definitions.uslegal.com, <https://definitions.uslegal.com/1/legal-status/>, last visited on August 30, 2017.

2. The Law of the Republic of Uzbekistan "On State Pension Provision of citizens", article 62. September 3, 1993. http://lex.uz/pages/GetAct.aspx?lact_id=112314, last visited on September 12, 2017.

3. Standard Minimum Rules for the Treatment of Prisoners, article 36(3), the United Nations Congress, 1955. https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf

4. The internal regulations of institutions executing punishment in the form of imprisonment, article 74, December 29, 2012. http://lex.uz/pages/getpage.aspx?lact_id=2216121#2217053, last visited on September 16, 2017.

5. Criminal Executive Law, M.Z.Mukimova. Samarkand State University named after Alisher Navai. Samarkand - 2007, 186 p.

№5 Special issues 2017

6. The internal regulations of institutions executing punishment in the form of imprisonment, article 84, December 29, 2012. http://lex.uz/pages/getpage.aspx?lact_id=2216121#2217053, last visited on September 16, 2017.

7. The Criminal Executive Code of the Republic of Uzbekistan, article 80, Aril 25, 1997. http://lex.uz/pages/getpage.aspx?lact_id=163627, last visited on September 16, 2017.

8. The Criminal Executive Code of the Republic of Uzbekistan, article 91, Aril 25, 1997. http://lex.uz/pages/getpage.aspx?lact_id=163627, last visited on September 16, 2017.

9. The Criminal Executive Code of the Republic of Uzbekistan, article 91, Aril 25, 1997. http://lex.uz/pages/getpage.aspx?lact_id=163627, last visited on September 16, 2017.

10. Prisoner votes by European country, November 22, 2012 - bbc.com. <http://www.bbc.com/news/uk-20447504>, last visited on September 4, 2017.