

# Challenges to Use Alternative Jail Sentences to Promote Prevention of Crime

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*The issue of crime prevention has always been recognized one of the most pressing problems of human life, society and the state at the national, regional and international level.*

*There may arise a question "How do the penalties associated with isolation from society faces with the above principle?" for*

*a) despite the fact that the purpose of punishment is all possible adaptation of the person to life in a normal society, the punishment of imprisonment completely separates the individual from society;*

*b) despite the fact that the purpose of punishment is rehabilitation of criminal offenders, prevent the commission of these and others of new crimes, the punishment of imprisonment involves these people to new groups of criminals, which, ultimately, makes it possible to exchange experiences of crime;*

*c) despite the fact that the purpose of punishment is the adaptation of the perpetrators of crimes to life in socially useful activities, labor, the sentence of imprisonment dooms him to conditions very far from a free life, as a result, after release of a person raises a number of fairly complex problems of adaptation (for example, search for suitable employment, development of family, housing, to prevent the abuse of alcohol, etc.), in other words, it is a punishment implies passivity lifestyle former convict.*

*It is established that more than half, or rather 60-70% of the prisoners who are serving a sentence of imprisonment, were convicted again or were repeat offenders, i.e. persons who have previously been sentenced to criminal punishment.*

However, in 78.0% of the crimes provided for in the rules of the Criminal Code of the Republic of Uzbekistan provides a penalty of deprivation of liberty. Of these, 40.7% of the compositions, this punishment is provided as an alternative sanction. Also, 43.4% of the crimes defined by the Criminal Code of the use of punishment in the form of a fine as an alternative criminal penalties<sup>1</sup>. The

fact that almost 80% of crimes are punishable by imprisonment, has led to the fact that it is today in Uzbekistan most frequently used form of punishment.

Thus, today, forensic investigation and enforcement practice, the analysis of crime statistics, demonstrate that the effectiveness of crime prevention is low, should be fully developed to study the experience of foreign

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<sup>1</sup> For comparison, in the current Criminal Code punishable by deprivation of certain rights provided for in the - 13.6% of the crimes, correctional work - 41.3%,

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the limit on service - 3.3%, arrest - 24.4%, referral to a disciplinary unit - 2.9%, life imprisonment - 0.4% of the crimes.

countries and implemented in national law, in general, it can be noted that there is a need early development of the concept of penal policy of the Republic of Uzbekistan.

This situation shows that to date, repressive forms of punishment, in particular, penalties involving deprivation of liberty, are ineffective for the purposes of punishment, by reducing them and should be fully strengthened and ensure the implementation of the principles of justice and humanity of the criminal law. In other words, life itself refutes the opinions about the importance and role of high serious punishment, in particular, the penalties associated with isolation from the society of citizens in crime prevention.

In this regard, in our view, it is worth recalling the recording by Charles Dickens. He, in particular, wrote: "In the London area of the Old Bailey, which was carried out execution of criminals, each time go to a lot of thieves. For some it's just a show, but someone here attracts a purely "professional" interest and they dissolve in the human crowd." Charles Dickens notes that the penalty in front of the crowd - this show "cruel, useless, which only leads to even greater cruelty"<sup>2</sup>. So, in any case, the effectiveness of crime prevention, the fight against crime, does not depend on the severity and cruelty of the punishment, and on the extent to which a person who violates the law, is aware of the inevitability of punishment for their actions.

Given the above, it is necessary to introduce a system of criminal penalties of our country penalties, alternatives to imprisonment, to expand in practice the possibility of using alternative punishments that are not related to insulate the offender from society.

For punishment, alternatives to imprisonment are an important part of ensuring the rights of the individual in the process of liberalization of the criminal law, their use makes it possible to fix those without social exclusion, which in economic terms reduces the expenses of the state budget, and social - and prevents the negative impact on the conditions of detention of convicted in prison. In turn, the widespread adoption of national legislation in alternative forms of punishment is fully consistent with the universally recognized norms and principles of international law and serves to ensure complementarily of national and international criminal policy.

The law of foreign countries is actively used by criminal penalties, non-insulated face of society. The rationale given by many factors, including: the need to reduce the cost of maintaining prisoners in prisons; lower relapse rate compared to the punishment of imprisonment, there is no danger of criminalization of identity, loss of social skills, and so forth. Studies in the United States comparative studies have shown that the cost of maintenance costs per inmate in prison are closed - 180 dollars, in an open prison - \$ 120, pre-trial detention - 235 dollars, while probation - \$ 12<sup>3</sup>.

However, the liberalization of criminal penalties - it's incredibly thin and complicated process, so it requires to be approached very carefully and wisely. At the same time, be sure to notify reduction educational function of punishment, as well as the abandonment of specific social relations without criminal remedies. There are some factors that determine the value of a sentence of imprisonment, for this reason, the need to have this type of punishment is always conserved.

<sup>2</sup> Works of Charles Dickens. Volume 28 - P.44.

<sup>3</sup> Criminology: Per. Translated from English. / Ed. J.. F. Shelly. - St. Peter .:, 2003 - 234 p.

Certain categories of offenders, for example, persons who have committed particularly serious crimes, repeat offenders cannot remain at liberty, as they can continue to do evil and dangerous to humans.

In the first place, it should review the rules regarding the purpose of criminal punishment in terms of their compliance with the principles of criminal law, as well as sanctions for certain offenses in terms of their compliance with the objectives of criminal punishment. For, to be fundamentally wrong to recognize each offense a crime and seek criminal law measures to combat it. Since, in the fight against offenses such measures do not always produce the desired effect. In addition, you should think about the fact that in many cases, these issues can be resolved within the framework of other branches of law, such as administrative law, civil law. It should also be emphasized that this approach is, in fact, contrary to the objectives of the criminal law of our country and the objectives of criminal punishment.

The main objective of the Criminal Code is not the punishment of the crime, even the goal of criminal punishment, based on the meaning of the word - not to punish the offender. In the second part of Article 42 of the Criminal Code stipulates that the penalty is applied in order to correct, discourage further criminal activity, and the prevention of new crimes as convicts, and others.

Consequently, in the key areas of criminal law policy at the present stage it is possible to allocate a further reduction of repressive elements in the criminal law, their transformation into educational measures, reducing sentencing to imprisonment, as well as the liberalization of criminal liability on the basis of the principles of legality, the inevitability of punishment and justice. With the humanization of the criminal law, which

follows from the objective of socio-political and economic conditions of society and is one of the basic principles of development of the state, to ensure the principle of inevitability of punishment for crimes that threaten the internal and external security of society, the rule of law, the use of cruel punishments will inevitably decline. Our state is on the way of building a democratic state of law and free civil society in all spheres of state and public construction boldly carrying out reforms. In this regard, it should be noted that it is necessary to abandon the various repressive penal measures, increase the use of very effective in preventing crime economic sanctions, which are usually easy to reach the consciousness of the people, more accessible and positive in the application, use the institution of public oversight.

Secondly, it should be to develop standards established in international and regional instruments and have not found their reflection in the criminal legislation of Uzbekistan, and some rules to align with them. Thus, in the Resolution of the Council of 9 March 1976 "On the sentencing alternatives to imprisonment" is recommended for all States parties "to refrain from sentencing, custodial sentences in connection with their natural disadvantages, as well as respect for personal freedom, with confidence in the continuation of this process, without danger to the public, extensive use of fines, and the amount of the fine to ensure compliance with the material condition of the convicted person, in addition, to reach the destination concerns a fine. "

Third, to achieve the goals need to better understand and analyze the experience of foreign countries. This way could be introduced into domestic law the most effective mechanisms to bring to justice the person who committed the crime. It is necessary to compare the levels of

development of institutions of criminal law and the penal system of the Republic of Uzbekistan and foreign countries, to meet with the national peculiarities of law-making and law-enforcement systems, strengthen the adoption of penalties, alternatives to imprisonment. If you look at the experience of developed foreign countries, you can see that they have these types of penalties are applied more sentences of imprisonment. For example, in Japan, UK, USA, Australia, France, Switzerland, are often used:

1) an agreement or reconciliation; 2) a preventive measure in the form of collateral; 3) financial sanctions. Moreover, in developed countries in respect of persons has committed a crime punishable by imprisonment is rarely used<sup>4</sup>.

Fourth, it is necessary to analyze in depth the issue of implementation of the national legislation of the Republic of Uzbekistan in house arrest as an alternative to imprisonment. For house arrest today is the real alternative to punishment in the form of arrest, as it can quite successfully perform the main function of punishment - to protect the offender from the outside world. The value of house arrest is that it makes it possible to perform the task of imprisonment without the problems associated organization of execution of arrest. House arrest may require some financial costs (for the purchase of special equipment controlling the movement of the convicted person within their territory), however, this kind of punishment is justified by the following positive features: 1) protects the face from the harmful effects of penal institutions; 2) due to incomplete isolation from society faces, enables him after serving a sentence easier to adapt socially; 3) relieve the

State of the expenses of the convicts. For this reason, this type of alternative punishment is widely used in the United States and other developed countries.

As part of the organizational and legal measures: to improve the effectiveness of criminal penalties, to succeed in the re-education of criminals, as well as taking into account the positive experience of foreign countries, in our country, it is advisable to create special rehabilitation centers and homes, as well as the development of relevant government programs.

The introduction of new mechanisms for the application of penalties, alternative punishment of imprisonment requires major changes along with the criminal law policy in the criminal procedural policies and penal policy of the state. In particular, in the United States, some countries in Europe, Asia and Africa set up special bodies for the implementation of alternative sentences - probation officer. These bodies do not obey the police, enforcement of criminal penalties, with a number of countries the status of a social organization, performing in most of the alternative punishments got its name - probation on behalf of the organization that originated in the United States. In some states, the United States Probation Service is an independent body administering the alternative punishment. It is subject to the courts and local authorities<sup>5</sup>.

This study is a logical continuation of the research carried out in Uzbekistan, its ultimate goal is not only to study the characteristics of the problem in the Republic of Uzbekistan, but also the preparation of the concept of public policy to combat crime on the basis of its system, comparative analysis and study.

<sup>4</sup> Okyulov O. Essence of liberalization of criminal legislation // J. In the protection of the law. 2005, September. №09 (117). - P.36.

<sup>5</sup> Criminal Law of the bourgeois countries: Generalities. Collection of legislation / Ed. A.N.Ignatova, I.D.Kozochkina. - M. : UDN, 1990 - 107 p.