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Rights of Prisoners in the Republic of Kazakhstan: Legislation and Practice of its Implementation

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Abstract

The article examines the civil, socio-economic, and cultural rights and freedoms of persons sentenced to deprivation of liberty and held in places of detention. Based on the study of international standards for the treatment of prisoners, the experience of the penitentiary system of developed democratic countries, opinions of domestic and foreign scholars, national legislation, and its application in the institutions of the penal system of the Republic of Kazakhstan, gaps, norms contributing to corruption, and other shortcomings in legal regulation have been identified. Based on this, recommendations have been formulated for improving criminal-executive legislation, developing and adopting organizational and financial measures to address existing problems.

Keywords: prisoners, restrictions, convicted persons, rights, freedoms, penal system, institutions.

Introduction

The Constitution of Kazakhstan recognizes the individual, their life, and rights as the highest value of the state (Art.1), the belonging of human rights to everyone from birth, their absoluteness and inalienability, determining the nature in the content and application of laws and other normative legal acts (Art.12), enshrines the basic personal (civil), political, economic, social and cultural rights, freedoms and duties of the individual and citizen (Articles 13-38), the grounds and limits of their restriction (Art.39) [1]. In this regard, the issues of compliance with the rights of prisoners in the Republic of Kazakhstan (RK) - the fundamental rights and freedoms proclaimed by the Constitution, detained persons temporarily held in places providing isolation from society, as well as convicted individuals deprived of liberty, are of great relevance. The Republic has ratified a number of international and regional human rights documents, brought national legislation into line with them, and created necessary organizational and legal mechanisms to ensure the rights of such individuals. Public human rights organizations operate in the country, which monitor and control the observance of the rights of prisoners.

The aim of this article is to examine and analyze the legislation of Kazakhstan regarding the rights of detainees, individuals in custody, and convicted persons, to analyze the practice of its application, and to develop recommendations for its improvement. In investigating this issue,

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international human rights standards, including the rights of prisoners, and national legislation on these matters have been studied. Kazakhstan is a party to many international human rights treaties and recognizes the jurisdiction of relevant international bodies established to ensure and protect them. Among them are:

- General international documents establishing fundamental human rights and mechanisms for their international protection (Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, and others);
- International documents providing protection for individual rights or specific categories of persons (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol: International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, and others);
- International documents aimed at protecting the rights of prisoners (Minimum Standard Rules for the Treatment of Prisoners; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Basic Principles for the Treatment of Prisoners; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), and others).

National legislation on the rights of prisoners is based on norms of international law and provisions of the Constitution of the Republic of Kazakhstan dated August 30, 1995, which enshrines the fundamental rights and freedoms of individuals. It includes provisions of the Criminal Procedure Code of Kazakhstan (CPC) dated July 4, 2014, the Criminal Executive Code (CEC) dated July 5, 2014, the Code of Kazakhstan "On Administrative Offenses" (CoAO) dated July 5, 2014, the Law of Kazakhstan dated March 30, 1999, "On the Procedure and Conditions of Detention of Persons in Special Institutions, Special Premises Providing Temporary Isolation from Society," as well as subordinate normative legal acts of the Ministry of Internal Affairs of Kazakhstan. The analysis of legislation was accompanied by a review of the practice of its implementation based on reports from Kazakhstani human rights organizations. For the purpose of comparative analysis, the practice of individual democratic countries in the field of punishment execution was also studied. The importance of the study lies in the fact that, despite the negative experiences of the past, the Republic of Kazakhstan strives to embark on the path of democracy, respecting human rights as the highest value of the state. Compliance with the rights of prisoners, creating conditions for their correction and socialization, is an integral part of this process, an indicator of the level of civilization development of the country, the formation of a rule-of-law state, including for the purpose of reducing the prison population.

Literature Review

During the research, the works of Kazakhstani scholars on the specified issues were studied: T.K. Akimzhanova, G. Kuanalieva, R.E. A.B. Skakov, Jansarayeva, M.S. Kurmangali, E. Zhovtis, and others [2-5]. These authors examined some civil, political, economic, social, and cultural rights and freedoms of persons deprived of liberty, as well as the practice of their implementation in Kazakhstan. They provided an overview of the legal regime of prisoners in foreign countries and international standards for their treatment, and made their own proposals for improving national criminal-executive legislation and organizational measures to improve the situation of convicts. Considerable attention has been paid to the study of issues related to the treatment of prisoners in correctional facilities in developed democratic countries, as well as in Russia itself, in the works

of Russian scholars N.A. Tyufyakov, I.A. Pushkareva, L.N. Odintsova, S.A. A.A. Men'shikh, and others [6-8]. It should be noted that the Republic of Kazakhstan and the Russian Federation emerged from the depths of one country - the Soviet Union, and have similar economic, political, and legal systems. Currently, both states are part of the Eurasian Economic Union, where not only a single economic and customs space is provided, but also the harmonization of national legislation takes place. In this regard, overcoming existing problems in the legal status of detainees, arrestees, and convicted individuals, inherited from the past, is largely carried out in the same direction. Therefore, studying mutual positive and negative experiences in this area, as well as other states that emerged in the post-Soviet space, will be useful in terms of preventing mistakes and choosing the most optimal ways to solve existing problems. These issues are the subject of scientific research by scholars from distant foreign countries. Among them, articles by S. Snacken, C. Devynck, K. Uzieblo, M. Jarldorn, K.F. O'Neil, M. Keating, M. Abrar, M. Oldman, focusing on the establishment of the basic rights and freedoms of prisoners in the norms of international treaties and the practice of their observance in national correctional institutions of individual states, as well as measures aimed at their integration into society [9-15]. The works of J. Ronen, L. Temme, D. Panaccio, F. Ierino, D. Goodman examine the rights of persons deprived of liberty in specific spheres of life, such as family life, freedom of speech and press, health protection, and others [16-18].

Research Methods

During the research, the author relied on the use of general and specific scientific methods of cognition. Thus, dialectical-materialistic and historical research methods allowed examining the problem from the perspective of the influence of political and socio-economic processes occurring in the Republic of Kazakhstan on the state of the rights and freedoms of prisoners, as well as the improvement of national legislation in connection with the accession to and ratification of key international human rights documents, including minimum standards for the treatment of prisoners.

The formal-logical method of scientific cognition, in conducting the research, made it possible to critically analyze the norms of Kazakhstani legislation on the rights of prisoners and the practice of its application, and based on this, formulate corresponding conclusions and recommendations.

The structural-functional method served as the foundation for revealing the content of legal norms from the standpoint of their goal-setting and direction, identifying and understanding existing gaps, contradictions, and other shortcomings.

The comparative-legal method involved a comparative analysis of international human rights documents, including those related to the rights of prisoners, legislation of individual foreign countries in this area, on the one hand, and legislation and law enforcement practices of the Republic of Kazakhstan in the considered sphere, on the other hand. This approach allowed studying advanced international experience, identifying problems existing in national legal regulation, and based on this, developing recommendations for their overcoming.

Results and Discussions

Typically, prisoners include individuals who are held in custody due to the commission of a crime or are incarcerated by court order. However, it is more accurate to understand

prisoners as all individuals whose freedom is temporarily or long-term restricted by placement in special facilities or institutions that isolate them from society. This includes detainees and those subject to administrative arrest for administrative offenses, temporarily detained and incarcerated individuals suspected of committing criminal offenses, as well as those sentenced to imprisonment by court order. Despite their legal status, which limits or deprives them of freedom, such individuals retain most of their constitutional rights and freedoms.

First and foremost are civil (personal) rights and freedoms (the right to judicial protection of their rights and freedoms, to receive qualified legal assistance including assistance of a lawyer, the principle of legal equality before the law and the court, personal integrity, privacy, the right to personal and family secrecy, freedom of conscience, movement, inviolability of domicile and property, etc.).

Political rights and freedoms are the sphere in which prisoners are most restricted, as most rights can only be exercised when one is free.

The realization of the socio-economic and cultural rights and freedoms of prisoners should be ensured to the fullest extent possible.

As early as 1955, the United Nations developed the Minimum Standards for the Treatment of Prisoners [19]. They establish requirements for the general management of institutions affecting all categories of prisoners, as well as specific rules regarding convicted persons. These standards cover the sanitary condition of prisoner facilities, personal hygiene, clothing and bedding, food, labor, education, and recreation, opportunities for physical exercise and sports, medical care, discipline and punishment, informing prisoners and filing complaints, contacts with the outside world, access to books, religion, and more.

The principles for the protection of all persons subjected to detention or imprisonment in any form were established in two UN documents adopted in 1988 (39 principles) [20] and 1990 (22 principles) [21].

The requirements of international standards and principles for the treatment of prisoners are reflected in the provisions of the Code of Administrative Offenses, the Code of Criminal Procedure, the Penal Code, the Law "On the procedure and conditions for the detention of persons in special institutions, special premises providing temporary isolation from society," and other laws. The implementation of many of these rights is simultaneously a guarantee of the protection of other rights of prisoners and is associated with their procedural status. However, the analysis of procedural rights is not within the scope of this article. Due to the impossibility of exercising certain rights due to the temporary isolation of such individuals from society, we will only discuss some of them.

Inviolability of Personality

This right implies the inadmissibility of physical and moral-psychological violence against a person, manifested in beating, torture, insult, humiliation of dignity, threats against him or his close ones.

Although national legislation prohibits torture and other cruel, inhuman, or degrading treatment or punishment, and Kazakhstan acceded to the Convention against Torture in 1998 and ratified its Optional Protocol in 2008, the problem of torture in the country remains unresolved to this day.

This problem was particularly evident during the investigation of the tragic events of January 2022 when residents of Kazakhstan in many cities took to peaceful protests, which were turned into mass riots by destructive forces in the form of looting of shops, attacks on police stations, and military personnel. Hundreds of people, most of whom were peacefully protesting or inadvertently became victims of the weapons used against civilians, were arrested and subjected to torture. At least 6 deaths from torture are known.

The Kazakhstani International Bureau for Human Rights and Rule of Law reported that in 71% of cases surveyed, torture was found to have been applied to detainees. In 83% of cases, lawyers filed complaints of torture, which were investigated. However, only in 18% of cases were victims of torture recognized as such. In March 2023, the Coalition of Non-Governmental Organizations (NGOs) Against Torture in Kazakhstan, the International Partnership for Human Rights, and the World Organization against Torture prepared a joint NGO report for the 76th session of the UN Committee against Torture on Kazakhstan. The report included numerous facts of violations of the Convention against Torture by law enforcement agencies of the country and provided recommendations aimed at preventing these violations.

In these recommendations, NGOs proposed urgent and effective measures to prevent and combat torture, including:

- bringing the concept of "torture" and the mechanism of their investigation in line with the UN Convention against Torture and the Istanbul Protocol;
- considering the issue of transferring the penal system from the jurisdiction of the Ministry of Internal Affairs of Kazakhstan to an independent structure;
- ensuring the conduct of investigations by an independent body, such as the Special Prosecutors' Office, independent of suspected police officers;
- ensuring uninterrupted mandatory video recording, with guaranteed preservation of data on the processes of actual detention and delivery of persons, etc.

These and other measures to prevent torture proposed by experts require careful study to combat this phenomenon. Being the basis for the recommendations of the UN Committee against Torture, they should be considered by Kazakhstan not formally but as mandatory.

Right to Communication and Correspondence, Receipt of Packages and Parcels, and Use of Funds implies the possibility for inmates to correspond via letters, have telephone conversations, and visits with relatives, close ones, and lawyers, receive packages with essential items, and use funds to purchase them.

Inmates are entitled to receive and send letters without limitation on their number, funded by the balance on their special accounts, and make telephone calls for up to 15 minutes under appropriate supervision.

While the number of visits and parcels is practically unlimited in pre-trial detention centers (IVS) and investigative isolators (SIZO), in institutions where convicts are serving sentences, this right is restricted depending on the type of institution (minimum, medium, maximum, extraordinary, full, and mixed security) and the conditions of the sentence (regular, eased, privileged, strict, or under arrest). However, privileged conditions of sentence serving are allowed only in medium and maximum-security facilities.

For example, the right to have visits in minimum-security institutions varies from once per quarter (for short-term sentences) or once every 6 months (for long-term sentences) to once a

week. In medium-security facilities, the number of short-term visits, under privileged conditions, may not be limited at all, but minimally, there should be no fewer than 6, and the number of long-term visits can reach 6. In other institutions, the number of visits is even lower: from 2 short-term visits to no limitation on them, from no long-term visits to 4 visits.

This is significantly less compared to a similar right in democratic countries. For instance, in penal institutions in England and Wales, regardless of their category, inmates have the right to a minimum of 2 short-term visits every 4 weeks or longer visits by permission.

The European Court of Human Rights considers the right to visits with relatives in the context of the right to family life, and limiting their number violates the right to family life.

The right to receive packages, parcels, and mail is allowed from 12 (12 packages/transfers + 12 parcels) to once a year (1 package + 1 parcel).

As we can see, the right to communicate with relatives, receive assistance in the form of products and goods from them, and purchase necessities from stores located within the institution is limited and depends on the conditions of the sentence. Moreover, the transition from regular to eased and privileged conditions is based on the receipt of so-called "positive behavior points," while the transition from privileged, eased, and regular conditions to strict conditions depends on "negative behavior points" of the convict. These points can be the basis for changing the regime of serving the sentence.

The degree of behavior of the convict is determined by the decision of the head of the institution based on materials characterizing their behavior (compliance with internal rules, attitude toward work and education, participation in educational activities, etc.). Depending on the presence of rewards and penalties, convicts are awarded the first, second, third positive, or negative behavior degree.

However, it is fair to say that "the degree of correction of the convict is an evaluative concept that cannot be rigidly defined and regulated."

In the Kazakhstani penitentiary system, such an approach creates the most favorable conditions for abuse of authority and corruption by the administration of institutions. Measures of reward and punishment for convicts are not always objective and depend largely on the subjective sympathies and antipathies of the institution's staff, instructions from higher-ranking officials, blatant bribery by relatives of convicts. Facts of creating favorable conditions for VIP convicts (convicted high-ranking government officials, major entrepreneurs, etc.) are not secret.

In addition to such risks, it is worth noting the following. Excessive restrictions on the number of visits, especially in stricter conditions of detention, contribute to the disruption of familial and other social ties of convicts but do not affect their correction and rehabilitation. Undoubtedly, due to the large number of inmates, some limitations may be necessary, but they should not be excessive and overly harsh. In our opinion, all convicts, regardless of the type of institution, should have the right to meet with their relatives for short visits at least once a month, and the minimum number of long-term visits should be no less than 6 times a year. Such an approach would have only a positive effect: families would not be destroyed, and children would have the opportunity to see their fathers and mothers.

Furthermore, in the age of the Internet and mobile communication, the possibility of making calls is legislatively limited to only regular telephone communication (by payphone) and sending

letters by mail. However, it is no secret that inmates in prisons and colonies use cell phones, which, despite the ban, are smuggled into the institutions by the staff themselves for a fee. The corrupt element is evident there.

Therefore, we believe that inmates could be allowed to use mobile communication, at least once a day in the presence of a staff member, but their phone should be stored in a special locked room, and the balance could be replenished by the inmate themselves or their relatives.

Another way for inmates to communicate with their loved ones is through Skype or Zoom applications on the internet, using computers available in institutions. This type of communication is already practiced in Norwegian prisons and could be permitted in Kazakhstan as well.

Internet technologies are also used for correspondence. For example, in the Federal Penitentiary Service of Russia, it is possible to send an electronic letter to a person in pre-trial detention or prison, which is delivered to them in printed form, and they can provide a written response, which is then scanned and sent back to the sender. This method is much more mobile than regular mail and guarantees no loss of correspondence. Naturally, all messages are subject to censorship by the institution. We believe that this experience could be implemented in Kazakhstan.

Restrictions on parcels and parcels depending on the type of institution and conditions of the sentence are also unacceptable. Although budget funds are allocated for the material support of convicts and detainees, their food is very meager. These funds are often embezzled. Inmates often don't have enough to eat. Purchases of food in prison stores are limited in assortment, and prices there are significantly higher than the average prices in stores in the settlement where the institution is located. Funds for purchases are limited to a certain number of monthly calculation indicators (MCI). In Kazakhstan, as of 2024, the MCI is set at 3692 tenge (approximately \$8). Inmates can spend funds from 1 to 12 MCIs per month (maximum 44304 tenge or \$96), although spending earned funds from labor is not restricted. However, earnings are used to pay off damages, and inmates rarely receive wages above the minimum. The purchased products go into the common pot for residents of the same cell, and many of them receive little or no help from relatives or do not have jobs.

Therefore, parcels, parcels, and transfers are the only way for additional nutrition. Inmates do not have the opportunity to order a menu of their choice or buy quality products at affordable prices in prison stores, as in Western countries. In this regard, relatives and friends should not be deprived of the opportunity to support their loved ones in pre-trial detention centers, prisons, and places of detention, and restrictions on their number should not be established. This will be a barrier against corruption in institutions.

The imposed restrictions should be reasonable. In the American judicial system, the position has emerged that the volume of inmates' constitutional rights should be balanced in terms of ensuring safety, order, and discipline in prison institutions and not contradict the goals of the correctional system.

Freedom of movement and residence. Although convicts lose this freedom, they retain a certain degree of movement within the territory of the institution or, with the administration's permission, within the territory adjacent to the institution if necessary for the nature of their work, training, purchasing essential items, visiting baths, or hair salons. These freedoms apply to inmates serving sentences in minimum-security institutions.

Inmates serving sentences under lenient conditions may even live with their families within the settlement where the institution is located. They are required to register at the institution four times a month and remain at their place of residence from 21:00 to 07:00.

Free movement within the institution's territory also extends to inmates serving sentences in medium and maximum-security institutions. In lenient conditions, they are allowed, by decision of the institution's chief, to live and move outside the guarded perimeter but within the territory adjacent to the institution, under round-the-clock control and supervision. This norm creates direct conditions for corruption and, in our opinion, should be abolished. In medium and maximum-security institutions, individuals convicted of serious and especially serious crimes are serving sentences. The right to live with family outside the institution negates the punishment of imprisonment itself. It hardly differs from freedom restriction.

Individuals serving sentences in high-security and maximum-security institutions have the right only to daily walks. The duration varies within 1 hour (under strict conditions), 1.5 hours (under normal conditions), 2 hours (under lenient conditions).

This is an excessively harsh approach, although such institutions house individuals with multiple convictions, convicted of serious crimes and sentenced to lengthy imprisonment. Perhaps they should not have free movement throughout the institution's territory all day long, but the time allocated for walks and sports should be increased to at least 4 hours per day. Regardless of their crimes, they are still human beings and should have the opportunity to spend more time outdoors.

The right to health protection and access to qualified medical care is enshrined in healthcare legislation, yet most of the rights, despite formal access to free medical care guaranteed by the state, cannot be utilized by Kazakhstani prisoners. The reasons for this are various, including the lack of necessary medicines and other means of assistance, insufficient technical equipment of prison hospitals with modern medical equipment, and a low level of qualification of medical personnel working in prison medical facilities. For a long time, this was due to the fact that the medical service was part of the Committee of Criminal Executive System (CCES) of the Ministry of Internal Affairs of the Republic of Kazakhstan. It was only in 2023 that it was transferred to the Ministry of Health, which will allow convicts to have broader access to modern methods of examination and treatment and eradicate the concealment of possible illegal actions.

At the same time, the activities of CCES institutions are opaque and heavily corrupt. Before the transfer of the medical service to the Ministry of Health, the departure of detainees and convicts for treatment in civilian medical organizations was accompanied by excessive bureaucratic delays, entirely dependent on the permission of the institution's chief. Therefore, there is concern that the rights of prisoners to access qualified medical care will continue to be restricted in cases where they need to leave the pre-trial detention center or colony.

However, the right to health protection, as one of the fundamental human rights in democratic countries, is recognized even concerning prisoners. For example, the High Court of Gujarat (India) recommended prison authorities to provide proper psychiatric and physical care to prisoners suffering from any diseases.

Currently, there is a list of diseases that prevent a person from being in CCES institutions. Unfortunately, there are many cases when seriously ill people are kept in pre-trial detention centers during the investigation or continue to serve sentences in colonies.

For example, in January 2022, after the well-known events, many individuals who suffered gunshot wounds and required special medical care were placed in pre-trial detention centers.

In this regard, legislative, organizational, and financial measures are necessary to prevent violations of prisoners' rights to qualified medical care.

The right to work: Although the Constitution of Kazakhstan does not directly mention this right, it guarantees freedom of work and prohibits forced labor. However, in essence, the right to work is implied. The Criminal Executive Code of the Republic of Kazakhstan contains articles that establish the rights of convicts to safe working conditions, rest, vacation, payment for work, as well as measures taken by the administration of institutions to create jobs to attract capable convicts to paid work, and to provide them with technical and vocational education (Articles 10, 119-121).

Article 104 of the Criminal Executive Code stipulates the obligation of convicts to "work in places and jobs determined by the institution's administration," which may be construed as forced labor and contradicts the constitutional norm prohibiting it. The same applies to the obligation to "carry out work to improve the institution's facilities and living conditions." This is also forced labor. Even if these provisions are to be retained, guarantees of its voluntariness and payment for such work must be ensured.

Convicts serving sentences in minimum-security institutions, in the absence of opportunities for employment by the institution's administration, have the right to work in other organizations within the territory where it is located, based on contracts between the institution's administration and the employer (Article 143 of the Criminal Executive Code of the Republic of Kazakhstan).

As of 2023, out of 34.8 thousand prisoners, only 12.2 thousand are employed, which is slightly more than one-third. This is very little, considering that many convicts have unpaid damages. Complete repayment of damages is one of the conditions for early conditional release. They cannot support their families, being the sole breadwinners.

For comparison, the experience of penitentiary institutions in some Western European countries can be cited as an example. In all European countries (except France), convict labor is mandatory, is an evaluative criterion for determining rehabilitation, and is taken into account when transferring to institutions with a lighter regime. Various incentives are applied to stimulate labor activity: additional leave, bonuses, counting workdays towards the sentence, and so on.

In Norwegian prisons, labor is mandatory for prisoners, except for those attending school or training courses. They can work in the laundry, kitchen, cleaning common areas, as carpenters, electricians, librarians, IT managers, financial consultants, lawyers, psychiatrists, and priests. Each inmate receives a daily allowance of 74 crowns for one working day, and for particularly important work – 104 crowns. Moreover, payments are made even to those prisoners who do not work for one reason or another.

In German prisons, salaries for working inmates or stipends for those undergoing training depend on qualifications, ranging from 8 to 15 euros per day plus overtime pay for work on weekends.

In France, work for prisoners is chosen based on their physical and mental abilities and family status, but they are allowed to perform independent work based on labor agreements.

Currently, prisoners work for state enterprises of the criminal executive system and 318 business entities. This is insufficient considering the economic potential of the country. Entrepreneurs are reluctant to enter this labor market, mainly due to corruption risks. Usually, they have to pay entrance fees, share profits with the top officials of these institutions, or include their relatives in the list of enterprise founders.

In this regard, it is necessary to develop organizational and legal mechanisms that incentivize the management of prison institutions and entrepreneurs themselves to create jobs in places of detention, for example, by introducing tax incentives and taking systemic measures to combat corruption.

Kazakhstani scientists have proposed other measures to stimulate production in places of incarceration (placement of state orders in institutions of the criminal executive system, preferential financing of production, creating necessary conditions for the independent employment of convicts).

Correctional institutions in Kazakhstan continue to uphold the negative traditions of the Soviet Gulag system. Although measures have been taken in recent years to improve the material and living conditions of prisoners, problems persist with providing adequate nutrition, heating during cold weather, hot water supply, medical care, and other conditions of their confinement.

In this regard, it can be agreed that the provisions of the Criminal Executive Code of the Republic of Kazakhstan, which establish the obligations of convicts to visit the cafeteria and undergo medical examinations, should be outlined as guarantees of the rights of convicts to adequate nutrition and medical care.

In addition to corruption risks, legislative and organizational measures have been created for abusing powers, whereby measures of reward (such as providing additional short-term visits, allowing additional spending of money up to 1 times the minimum wage to purchase goods on holidays, etc.) and punitive measures (such as a disciplinary fine of up to 2 times the minimum wage, placement in a disciplinary isolation unit for up to 15 days) become a "carrot" and "stick" for managing the behavior of convicts, encouraging them to cooperate with the administration (including by informing on other inmates) or punishing individuals who disagree with its illegal actions. The imposition of such disciplinary measures not only worsens the conditions of the convicts' confinement but also becomes an obstacle to early conditional release or the replacement of imprisonment with a softer form of punishment.

It is fair to note that the assessment of behavior is based on the subjective perception of staff in the institutions of the criminal executive system, with no guarantees against abuse, embezzlement, or corruption, which makes the reward and punishment system ineffective.

It is evident that greater emphasis in the work of rehabilitating convicts should be placed not on punitive aspects that restrict their rights but on creating conditions for the socialization of convicts in correctional institutions. This includes not only their employment and access to education but also improving conditions for leisure activities.

For example, inmates in some Norwegian prisons with strict regimes can raise pets, cook food, ski, play tennis, engage in sports, take music lessons, record their musical compositions in the prison's recording studio, watch selected television programs, and visit the library.

The penitentiary system in the United States offers various recreational programs and uses of free time, including activities related to decorative and applied arts and crafts, photography,

team sports (softball, basketball, soccer, and volleyball), musical programs, individual physical fitness and weight reduction programs.

The Kazakhstani system of criminal punishment, being punitive in nature, has also adopted the traditions of the repressive system of the USSR. The establishment of prisoners' rights in legislation in accordance with international standards largely has a formal nature. According to R.E. Djansaraeva, the full implementation of international norms from a humanistic criminal law system into a punitive one is impossible due to significant differences in values, concepts, and principles of their construction. Moreover, the nature of the criminal law system is directly related to the issues of the political regime of the state.

In this regard, education is of paramount importance. The right to education is a fundamental constitutional right enjoyed by all prisoners in places of detention. The Criminal Executive Code of the Republic of Kazakhstan provides for the possibility for convicts to receive technical and vocational education, primary, basic secondary, and general secondary education (mandatory for persons under 30 years old, and older than 30 years old and convicts with disabilities - by choice).

Although the Criminal Executive Code does not establish the obligation of the administration of institutions to create conditions for convicts to obtain higher and postgraduate education, this does not deprive them of the opportunity to receive such education. The desire to obtain education is taken into account in assessing their behavior. However, convicts can receive such education only on a fee-paying basis and subject to the conclusion of relevant contracts between universities and institutions of the criminal executive system. Such an opportunity is available only to those individuals whose relatives can pay for such training. At the same time, among them, there are always talented people capable of studying well. Students among convicts are also encountered, but existing legislation does not regulate these issues, and in practice, convict students are expelled from the university, and those willing to receive such education on a grant or fee-paying basis cannot do so. Therefore, it is desirable to regulate these issues not only in the Criminal Executive Code of the Republic of Kazakhstan but also in the Law "On Education" and to allow convicts to participate in competitions for state grants for at least some technical and natural science specialties through distance learning.

Conclusion

The conducted research allows us to draw the following conclusions. In the Republic of Kazakhstan, the legal status of prisoners is determined by administrative, criminal procedural, and criminal executive legislation. At the same time, they retain basic civil, socio-economic, cultural, and some political rights and freedoms enshrined in the Constitution. However, the practice of detaining prisoners in correctional institutions indicates violations of their rights by the administration of these institutions, and there are certain deficiencies in the legislation that infringe upon the rights of these individuals and create direct conditions for corruption. Based on this, the following recommendations can be made:

1. An independent investigation of the events of January 2022 should be conducted, and recommendations of international organizations and non-governmental organizations of Kazakhstan regarding the improvement of national legislation against torture should be implemented.
2. To socialize convicts, expand their ties with relatives, strengthen their psychological motivation for exemplary behavior, improve their nutrition and living conditions, and reduce the level of corruption among institution staff:

- Increase the number of visits in all institutions of the criminal executive system, regardless of the type, establishing a minimum of at least 1 visit per month.
 - Allow the use of mobile communication once a day in the presence of an institution staff member in a special room with the phone locked, provide the opportunity to use video communication through Skype or Zoom applications on institution computers.
 - Use an electronic mail service for messages from relatives to inmates and for feedback on the server of the criminal executive system institutions.
 - Do not impose strict restrictions on parcels, transfers, and parcels for inmates.
3. To implement the rights of convicts to freedom of movement and sports:
 - Exclude the provision in the Criminal Executive Code allowing convicts serving sentences in favorable conditions in medium and maximum-security institutions to reside and move outside the guarded perimeter but within the boundaries of the territory adjacent to the institution, as it creates conditions for corruption.
 - Increase the right to daily walks for persons serving sentences in institutions of extraordinary and full security to a minimum of 4 hours, regardless of the conditions of detention.
 4. To ensure full access of prisoners to qualified medical care, including the ability to leave the institution based on a doctor's recommendation, without the mandatory decision of the institution's head.
 5. To provide for wider employment opportunities for convicts, develop organizational and legal mechanisms that encourage the management of prison institutions and entrepreneurs to create jobs in places of detention by introducing tax incentives, creating conditions for self-employment of convicts, and placing state orders for products manufactured at such enterprises. Exclude provisions from the Criminal Executive Code allowing for forced labor.
 6. Review the system of assessing the behavior of convicts, applying rewards and penalties, awarding positive and negative degrees of behavior, with a focus on eliminating the subjective approach of the administration of criminal executive institutions, reducing the level of corruption, and abuse of authority.
 7. To increase the level of education among prisoners, regulate the possibility of obtaining higher and postgraduate education on a fee-paying basis, as well as grant convicts the right to participate in competitions for state grants for some technical and natural science specialties, by making relevant amendments to the Criminal Executive Code of the Republic of Kazakhstan and the Law "On Education".

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