



## THE LEGAL ESSENCE OF THE PENALTY OF RESTRICTION OF LIBERTY AND ITS APPLICATION

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### ABSTRACT

*This article analyzes the system of punishment in the form of restriction of liberty applied in the Republic of Uzbekistan. The article compares the international experience of punishment in the form of restriction of liberty in such countries as Britain and Germany, and also discusses the features of this punishment within the framework of the Criminal Code and the Criminal Executive Code of Uzbekistan, the procedure for its application, and the conditions for convicted persons. The role of punishment in the form of restriction of liberty in ensuring the security of society, its application based on the principles of reintegration of the individual into society and an individual approach is indicated.*

At different stages of human history, the commission of crimes has been assessed as a situation that poses a certain danger to the life of society. Therefore, in order to maintain order and peace, society has been applying punitive measures against persons who have committed crimes. Through this experiment, people sought to prevent other citizens from committing similar actions.

Today, in almost all countries of the world, the system of punishment applied to persons who have committed crimes is being improved. The content and goals of this system are also being developed on the basis of the principles of humanism and justice. In particular, one of the most important tasks in the application of punitive measures is considered to be the correction of the criminal, the prevention of his further commission of a crime, and his reintegration into society.

In the Republic of Uzbekistan, based on the liberalization of the criminal-legal system, large-scale reforms are being carried out to gradually transition from strict types of punishment to more effective punitive measures based on the principles of humanism. In particular, the punishment of restriction of liberty, established in the Criminal Code of the Republic of Uzbekistan, occupies an important place in the modern system of criminal law.

The punishment of restriction of liberty, as a new type of punishment in relation to criminal legislation, was introduced into the Criminal Code of the Republic of Uzbekistan on August 10, 2015, by Law No. 3PY-389[1]. This type of punishment implies the introduction of certain restrictions on a person who has committed a crime, without completely isolating them from society. This institution was developed as an alternative to imprisonment and is widely used in a number of developed countries of the world as an effective punishment based on the principles of humanism.

For example, in Great Britain, the punishment of restriction of liberty is applied in various forms. The most common form is the "community order," which provides for the imposition of

specific restrictions on a person who has committed a crime and compels them to engage in socially useful activity. The individual should participate in special training or engage in socially useful work. In Great Britain, this system is significant because criminals benefit society and serve their social integration. Such a measure of punishment is determined individually depending on the severity of the crime, which creates a balance in ensuring the principles of justice [2].

In Germany, there is also a punishment of restriction of liberty, but in this country, this type of punishment is usually enriched with mechanisms of "freedom under medical supervision" and "restoration of social adaptation." Strict conditions are imposed on persons who have committed crimes, allowing them to realize responsibility for their actions and reintegrate into society. The German system is preemptively oriented towards the social adaptation and rehabilitation of the criminal, in which mitigation of punishment and an educational approach occupy an important place [3].

Punishment in the form of restriction of liberty is usually provided for persons who have committed crimes of relatively low public danger, i.e., less serious offenses. Although this form of punishment restricts the criminal's freedom of action, it does not completely isolate him from society. Therefore, a person can maintain contact with their family and continue working. For example, Article 124 of the Criminal Code of the Republic of Uzbekistan (substitution of a child) provides for punishment in the form of restriction of liberty for a term of up to one year, and Article 134 (desecration of a grave) - from three to five years.

In accordance with Article 45 of the Criminal Code, the punishment of restriction of liberty is determined by the court in the form of a complete prohibition on the guilty party from leaving their place of residence for certain reasons or restriction on leaving it at certain times of the day. Here, residential premises are understood as apartments, houses, or other buildings and premises intended for living[4].

The term of this punishment is set for adults from one month to five years, and for minors from six months to two years. This norm serves to ensure an individual approach to the determination of punishment, taking into account the age, level of mental and physical development of the individual. The application of lighter punishments to minors stems from their psychological and educational characteristics.

The following additional restrictions may also be imposed on persons sentenced by the court to restriction of liberty:

- not to visit certain places;
- not to participate in mass events and other gatherings;
- prohibition of engaging in certain types of activities;
- not to possess or store certain items;
- not to drive vehicles;
- not to change the place of residence, study or work and not to leave the relevant territory without the permission of the supervisory authority;
- not to be in contact with certain persons;
- not to use means of communication, including the Internet;
- non-consumption of alcoholic beverages [5].

In addition to the above restrictions, the court may impose additional obligations on the person who committed the crime. For example, measures can be established to help the person recover, such as compensation for material and moral damage caused, employment or continuing education [6, 333]. All this is aimed at ensuring an appropriate response to the crime and the effective execution of punishment.

If a person sentenced to restriction of liberty, during the term of punishment, realizes his deeds, firmly embarks on the path of correction, and fully compensates for the material or

moral damage caused, the court may cancel part or all of the established restrictions. This has a positive impact on the social adaptation of criminals.

In the opposite case, that is, if the convicted person intentionally violates the conditions of restriction of liberty or fails to fulfill the obligations imposed by the court, the court has the right to replace this punishment with another, more severe type of punishment. Of course, the period of evasion is not included in the term of punishment.

In accordance with the Criminal Executive Code of the Republic of Uzbekistan, the concept of "intentional evasion of punishment" is understood as leaving the place of residence without valid reasons, being absent from home at the appointed time, as well as at least two violations of the restrictions established by the court [7].

According to Article 44 (1) of the Criminal Executive Code, control over the execution of punishment in the form of restriction of liberty is carried out by the probation service or another authorized body determined by the court. This body regularly monitors compliance with the established restrictions by the convicted person [8].

This type of punishment performs a dual function in the fight against crime: firstly, it serves as a preventive measure; secondly, it prevents excessive punishment. For example, applying restriction of freedom instead of imprisonment to a person who has committed a crime for the first time or inflicted minor bodily harm yields a number of positive results.

At the same time, this type of punishment is not applied to certain categories of persons. Including:

- military personnel;
- foreign citizens;
- Persons without permanent residence in the territory of Uzbekistan [9, 455].

Taking into account the legal status of these persons, other, more effective types of punishment are applied to them.

In conclusion, it should be noted that punishment in the form of restriction of liberty is one of the most important institutions in the modern criminal law system of Uzbekistan, based on the principles of humanism, justice, and social reintegration. Through this punishment, the convicted person is not completely isolated from society, but has the opportunity to be under supervision and engaged in useful activities.

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