



## PREVENTION OF RECIDIVISM ON THE EXAMPLES OF FOREIGN EXPERIENCE

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### ABSTRACT

*The article discusses various approaches to the prevention of recidivism on the example of foreign practice.*

**KEYWORDS:** *prevention, recidivism, foreign practice, restorative justice, delinquency.*

### INTRODUCTION

Over the past three years, Uzbekistan has been carrying out a targeted fight against offenses, in particular, crime and has provided legal support for the reform of the judicial and legal system in the country [1]. At the same time, special attention is paid to ensuring the prevention of offenses based on strict legality, human rights and freedoms.

A large amount of work on crime prevention in the country is assigned to the internal Affairs bodies, based on their tasks and functions [2]. The Internal Affairs bodies are facing new challenges in combating modern threats caused by the growing power of international terrorism, religious extremism, illegal human trafficking and the spread of ideas alien to our people among young people in a timely manner [3].

In this regard, today the Ministry of Internal Affairs of the Republic of Uzbekistan is faced with the task of searching for new means and methods of fighting crime. The large number of committed crimes and administrative offenses makes us look at this problem from the perspective of existing positive foreign experience, which is based largely on cooperation with interested public and religious organizations [4]. At the same time, it should be noted that in our country, too, the active public and specialized non-profit organizations have been paying more and more attention to issues of public order protection and socialization of offenders. However, due to the lack of experience in this area, promising technologies and methods of interaction with state structures, in particular Internal Affairs

agencies, the results of such activities do not allow us to speak about a serious positive impact on the state of protection of the individual, society and the state. In turn, the interested state structures do not have sufficient practice in managing relations with public organizations of law enforcement orientation, or use their potential insufficiently effectively, which is ultimately reflected in the statistical indicators of growth of certain types and categories of law violations, including indicators of the state of recidivism.

### ANALYSIS

At the same time, in many foreign countries, there is a practice of applying alternative mechanisms of legal influence to criminal proceedings on persons who have committed offenses in order to preserve their social qualities and prevent the influence of the criminal environment in institutions for the execution of criminal penalties [5]. We are talking about a legal and social institution that, unlike many developed foreign countries, is still unused in the current legal system of Uzbekistan, namely, restorative justice.

We should immediately emphasize that such an institution has emerged primarily as a response to new challenges and threats to the world around us. Practice shows that in a certain period, any developed society is forced to resist the ever-increasing flow of crime. There is always a time when the police are criticized for their low level of crime detection; the courts are swamped with cases, which leads to delays in the administration of justice; prisons are overcrowded, and because punishment has little



impact, the rate of repeat violations is high. Of course, under such circumstances, public confidence in the system decreases.

One way or another, when faced with similar problems, some foreign countries (Great Britain, the United States, Germany, Hungary, Poland, etc.) turned to the origins of statehood, when many local indigenous communities already had a justice system. The purpose of such justice systems was to restore peace, as well as justice for the injured party (victim). This is the essence of restorative justice, when a systematic response to a crime is carried out, which ensures that the harm caused by criminal behavior is restored, and creates empathy for the victim.

It should be noted that restorative justice is considered as a social program that is implemented for minor crimes independently (those that in Uzbekistan would be administrative offenses), and for serious crimes in parallel with criminal proceedings and during the period of serving a sentence. Participants in restorative justice programs are usually first-time offenders, situational offenders, and those whose actions do not involve physical or mental harm to health or personal violence. The participation of offenders in such programs is carried out exclusively on a voluntary basis, which of course, provides motivation for correction, a desire to atone for their guilt before the victim and society. The subjects of such programs are mainly public organizations, both independently and jointly with penitentiary institutions and post-penitentiary supervision services, depending on each specific case and the identity of the offender.

Restorative justice is based on three basic principles:

1. Restore the rights of those who suffered.
2. The subjects of this justice are all participants in legal proceedings, that is, victims, criminals and society.
3. Partnerships are being formed between government agencies and public institutions (the public can participate more in the formation of social skills in the country's citizens).

Since restorative justice acts largely as an alternative approach to the criminal, there are fundamental differences between it and the criminal justice system regarding the methods of influence and the main approaches to its implementation.

Thus, the main prerequisite for criminal proceedings is the following: the crime violates the law. Therefore, justice must maintain the rule of law and punish offenders. Punishment in this case acts as punishment, retribution. And accordingly, the method that is used in this case - the imprisonment of the criminal-acts as a means of intimidating others and

depriving them of the opportunity to commit further crimes (at least while the criminal is in prison). At the same time the criminal justice system is asked three questions:

1. Which law was violated?
2. Who has done it?
3. What kind of punishment they deserve?

In contrast to the above-mentioned system, the basic premise of restorative justice is that the crime causes damage (in all its manifestations, including moral harm), and therefore justice must compensate for the damage and require the offender to make amends. Even in this first statement, it is possible to trace a special humanism and social justice of this approach, since in addition to the impersonal concept of public interest the attention of the users of such a system is drawn to a specific individual or group of persons-victims of crime. The main difference in restorative justice is that the perpetrator must make amends to the victim (s), try to put himself in the victim's place, and begin to empathize with it. At the same time, only after redeeming the guilt, and obtaining forgiveness from the victim (in particular) the criminal can be returned to society again. In turn, restorative justice also draws attention to three issues that are directed in a completely different direction from criminal proceedings, namely:

1. Who was injured?
2. What are the needs for compensation for damage caused?
3. Who is responsible for meeting these needs?

Despite these differences between the two systems under consideration, they have the same goal-the implementation of justice, which is why criminals who choose an alternative path of correction must fully comply with all the conditions of such programs, and in case of any deviations from the established rules should be ready to apply the usual sanctions.

## METHODOLOGY

In our opinion, even now, with a sufficient number of long-term interested public and religious organizations, based on the existing foreign experience, it is possible to consider and test a new alternative structure of justice in the reality of our Republic.

To do this, the Foundation in this structure must be based on the principles that have already been mentioned above.

It seems that the implementation of this idea should be carried out in stages each of which should include the values that we, with the participation of public and religious organizations, can educate in convicts and that look schematically as follows.



### *The structure of restorative justice in Stages*

*Stage 1.* Desire to atone

*Stage 2.* Reintegration into society (material support, assistance in restoring social ties, spiritual mentoring, employment, etc.)

*Stage 3.* Maintaining communication

*Stage 4.* Inclusion in public life (peaceful existence, awareness of the interests of others, adoption of alternative approaches)

At the same time, the goal of restorative justice, in addition to protecting public order and security and preventing recidivism, should be to transform: people and relationships, the response to crime, and the repressive methods used.

As practice shows, in the United States, Great Britain, Germany, the Czech Republic and a number of other countries, programs for the re-socialization of former prisoners are usually developed at the initiative of religious organizations.

One of these programs, undoubtedly worthy of attention, is the program developed by the research center for public justice at Sheffield Hallam Patrick University under the working title "Fig Tree" [6].

This program involves the participation of former prisoners in the process of restorative justice, through which empathy is formed, that is, empathy for the victim. As a rule, the persons participating in the program are under the supervision of the appropriate rehabilitation center established on the basis of a religious organization during their imprisonment and after their release. The duration of the program is calculated depending on the length of the sentence served. Accordingly, the longer the sentence, the longer the rehabilitation period the person is subjected to. In the course of the program, the General attitude of the person to the committed crime, the propensity to repeat crimes, the degree of empathy for the victim, the propensity to justify the crime are studied and corrected, and possible problems of a psychological and social nature are identified. For example, in 2005, the Association of International Prison Chaplains in the United States and Great Britain conducted research on the impact of this program on former prisoners released from 42 different penitentiaries. Studies have shown that after three months of rehabilitation, significant changes in the propensity to recidivism were detected. The vector of these changes is aimed at improving indicators in terms of awareness of the impact on the victim of crime and the ability to refrain from committing crimes in the future. Within the framework of this program, such methods as conducting group trainings, attracting former prisoners to the fundamental values underlying religion, using a clear example of former prisoners leading a socially approved lifestyle, patronage from

representatives of religious organizations, etc. are widely used.

Returning to the reality of our Republic, it should be recognized that currently such programs are not officially implemented in the penal system, but they are at the stage of development with subsequent implementation in institutions for the execution of punishment. It should be noted that in principle, this function is entrusted to the Cabinet of Ministers of the Republic of Uzbekistan enshrined in article 2 of the Law of the Republic of Uzbekistan dated 14 May 2014 № ZRU-371 "About prevention of offences" (further – the law on the prevention." The law on prevention in the second Chapter defines the powers of bodies and institutions that carry out and participate in the prevention of offences [7].

Thus, the law on prevention assigns the following priority areas to the problem we are considering:

- to the Cabinet of Ministers of the Republic of Uzbekistan - the authority to ensure the development, approval and implementation of state programs for the prevention of offences ( article 7);
- local state authorities-the authority to develop, approve and implement territorial programs for the prevention of offences (article 8);
- for internal Affairs bodies-powers:

development, approval and implementation of crime prevention programs;  
measures for social rehabilitation and social adaptation;

- The Prosecutor's office has the following powers:

development, approval and implementation of crime prevention programs;

to coordinate the activities of bodies and institutions directly involved in crime prevention;

- appropriate powers to other bodies and institutions that carry out and participate in the prevention of offences [8].

However, they are based on the principles enshrined in this Law, although, in fairness, it should be said that very useful rules (somewhat similar to foreign ones) are also laid down in Chapter 4 (Special prevention) of this Law, which can be used in a combined order in the program considered, based on foreign experience.

## **CONCLUSION**

It should be noted that the scale of the work carried out by public and religious organizations is currently not sufficient for the needs of thousands of convicts who have lost social ties, relatives and friends, housing, work, and have no means of



livelihood. That is why, according to the author, the only way out of this situation could be to combine the efforts of all state and non-state organizations at their level dealing with this problem, taking into account the opinion of the population [9]. The first step towards such cooperation could be to discuss these issues within the framework of existing state commissions for the prevention of delinquency and the prevention of juvenile delinquency. It is bringing this issue to a high governmental level that would attract the attention of the scientific community and practitioners to the formation of theoretical, legal and the organizational basis for such activities throughout the country.

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9. *of bodies and institutions that carry out and participate in the prevention of offenses.*
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