

мера вознаграждения сенаторов и членов Палаты представителей не вступает в силу до следующих выборов в Палату представителей). Другие поправки касаются способа избрания Президента и сенаторов, преемственности власти в случае досрочного прекращения своих полномочий президентом, отдельных вопросов правосудия и т.д. Поправки, как и Конституция, во многом имеют прагматический характер. Поправки к конституциям штатов принимаются 2/3, 3/5 голосов, в полутора десятков штатов – простым большинством, но в последнем случае затем подлежат утверждению на референдуме.

Конституция США – первая писаная конституция, прогрессивный документ, который оказал влияние на конституции многих стран мира. Она закрепила образование суверенного федеративного государства, происшедшее в результате освободительной борьбы народа против британской короны, провозгласила принцип народного суверенитета, определила демократические принципы организации государственности (народное представительство, республиканская форма правления, федерализм, разделение властей и т. д.). Под влиянием Конституции США в мире стала распространяться доктрина конституционализма.

В Конституции США закреплены незыблемые принципы всего государства, которые являются основой общества на протяжении нескольких столетий, а недостатки Конституции США по большей степени восполняются конституциями отдельных штатов, федеральными законами и судебными прецедентами.

Первая в мире демократическая конституция и поныне почитается гражданами своей страны, видящими в ней высшую гарантию для общества, основанного на свободе. Более чем за двухсотлетний период своего существования Конституция США претерпела заметные изменения, но на каждом этапе своей истории возникало все больше споров, дискуссий и менее равнодушных людей к ее стабильности, краткости, демократичности.

#### **PENITENTIARY SYSTEM. PLACES OF INCARCERATION.**

**«ALL PERSONS DEPRIVED OF THEIR LIBERTY SHALL BE TREATED WITH HUMANITY AND WITH RESPECT FOR THE INHERENT DIGNITY OF THE HUMAN PERSON.»  
(ARTICLE 10(1) OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS).**

#### **М. О. Тетерева**

The concept of punishment – its definition – and its practical application and justification during the past half-century have shown a marked drift away from efforts to reform and rehabilitate offenders in favor of retribution and incarceration. Punishment in its very conception is now acknowledged to be an inherently retributive practice, whatever may be the further role of retribution as a (or the) justification or goal of punishment. A liberal

justification of punishment would proceed by showing that society needs the threat and the practice of punishment, because the goal of social order cannot be achieved otherwise and because it is unfair to expect victims of criminal aggression to bear the cost of their victimization. Constraints on the use of threatened punishments (such as due process of law) are of course necessary, given the ways in which authority and power can be abused. Such a justification involves both deontological as well as consequentialist considerations.

Philosophical reflection on punishment has helped cause, and is itself partially an effect of, developments in the understanding of punishment that have taken place outside the academy in the real world of political life. A generation ago sociologists, criminologists, and penologists became disenchanted with the rehabilitative effects (as measured by reductions in offender recidivism) of programs conducted in prisons aimed at this end. This disenchantment led to skepticism about the feasibility of the very aim of rehabilitation within the framework of existing penal philosophy. To these were added skepticism over the deterrent effects of punishment (whether special, aimed at the offender, or general, aimed at the public) and as an effective goal to pursue in punishment. That left, apparently, only two possible rational aims to pursue in the practice of punishment under law: Social defense through incarceration, and retributivism. Public policy advocates insisted that the best thing to do with convicted offenders was to imprison them, in the belief that the most economical way to reduce crime was to incapacitate known recidivists via incarceration, or even death. Whatever else may be true, this aim at least has been achieved on a breathtaking scale, as the enormous growth in the number of prisoners attests.

A prison is a place in which individuals are physically confined or interned and usually deprived of a range of personal freedoms. Prisons are conventionally institutions which form part of the criminal justice system of a country, such that imprisonment or incarceration is the legal penalty that may be imposed by the state for the commission of a crime.

A criminal suspect who has been charged with or is likely to be charged with a criminal offense may be held on remand in prison if he or she is denied, refused or unable to meet conditions of bail, or is unable to post bail. This may also occur where the court determines that the suspect is at risk of absconding prior to trial, or is otherwise a risk to society. A criminal defendant may also be held in prison while awaiting trial or a trial verdict. If found guilty, a defendant will be convicted and may receive a custodial sentence requiring imprisonment.

Prisons may also be used as a tool of political repression to detain political prisoners, prisoners of conscience and "enemies of the state", particularly by

authoritarian regimes. In times of war or conflict, prisoners of war may also be detained in prisons. A prison system is the organizational arrangement of the provision and operation of prisons, and depending on their nature, may invoke a corrections system.

A convicted defendant will typically receive a «custodial sentence» if found guilty of committing a serious criminal offense such as physical assault, rape, murder, and acts involving circumstances of aggravation (eg. use of a weapon, violence, children), or has reoffended. In some countries, the law may require that courts hand down a mandatory and sometimes lengthy custodial sentence whenever a crime involves property, drugs or other prohibited substances, or where the defendant has previously been convicted. Some jurisdictions may hold a suspect in prison on remand for varying periods of time.

The nature of prisons and of prison systems varies from country to country, although many systems typically segregate prisoners by sex, and by category of risk. Prisons are often rated by the degree of security, ranging from minimum security (used mainly for nonviolent offenders such as those guilty of fraud) through to maximum security and super-maximum or supermax (often used for those who have committed violent crimes or crimes while imprisoned).

The rights of criminals and suspects are regulated both at national and international levels. The basic international legal document that guarantees protection to individuals, who are under detention or to those who are incarcerated, is International Covenant on Civil and Political rights. There is a large number of other legal instruments regulating human rights in the administration of justice on the international plane:

- Standard Minimum Rules for the Treatment of Prisoners
- Basic Principles for the Treatment of Prisoners
- Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
- United Nations Rules for the Protection of Juveniles Deprived of the Liberty
- Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

- Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Safeguards guaranteeing protection of the rights of those facing the death penalty
- Code of Conduct for Law Enforcement Officials
- Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- Basic Principles on the Role of Lawyers
- Guidelines on the Role of Prosecutors
- United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)
- United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice («The Beijing Rules»)
- Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
- Basic Principles on the Independence of the Judiciary
- Model Treaty on the Transfer of Proceedings in Criminal Matters
- Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released
- Declaration on the Protection of All Persons from Enforced Disappearances
- Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions

The basic laws and principles of execution of justice in the Republic of Belarus are contained in the Constitution, Criminal Code, Criminal Procedural Code and Criminal Executive Code.

The criminal law of Belarus is based on principles of international law. Belarus criminal legislature has been influenced by the most modern principles of humanization of punishment for women. The Criminal Executive Code contains provisions that stipulate certain benefits and privileges for women only: the death penalty and life imprisonment cannot be handed down to women, other kinds of punishment for women are not in general as strict as for men. Article 60 of the Correctional Labour Code mentions improved living conditions for pregnant women, breast feeding mothers, and minors. This category of women inmates is entitled to additional food packages. Article 61 stipulates that, if necessary, children's homes can be organized in correctional

labour colonies. From the age of two, prisoners' children are sent to relatives or other guardians. In addition, Article 33 declares that a convicted woman with a conscientious attitude towards work, and who has abided by the requirements imposed by the prison regime, may be permitted, upon the grounded decree of the chief of the colony, to live outside the colony for the period she is freed from her job due to pregnancy and childbirth and until the child reaches the age of two. Labour conditions with regard to the duration of the workweek and holidays are the same for women and men. In accordance with Article 40, convicted mothers who are freed from work duties due to illness, pregnant women and breastfeeding mothers are provided with free food. As of 1 January 2000, the conditions for serving prison terms are regulated under the new Code on the Execution of Punishments. According to a new article, women will be allowed to visit children under the age of three in their home and communicate with the child in their free time after work without any restrictions and may even be allowed to live together with the child. Inmates will be able to decide whether to keep the child in the colony or put the child under the guardianship of relatives or an institution. Women whose children live in children's homes will be entitled to short-term (up to seven days) trips to meet with the child.

The Belarusian penitentiary system, which was inherited from the Soviet Union, is in urgent need of fundamental reforms. Prisons are overcrowded and pre-trial facilities twice exceed the designated capacities, they are marked by shortages of medicine and spread of diseases. Many women experiencing health problems must be given proper medication and psychotherapy.

Women in prison custody are a big concern of any society. We should work hard to promote their resettlement, personal development, education and training, create alternatives to custody. The best way to cut women's offending is to deal with its root causes.

## **ОСНОВНЫЕ ПУТИ СОВЕРШЕНСТВОВАНИЯ СИСТЕМЫ САНАТОРНО-КУРОРТНОГО ОБСЛУЖИВАНИЯ В БЕЛАРУСИ**

**А. Г. Траскевич**

Эффективное функционирование санаторно-курортных учреждений в Беларуси особенно актуально в условиях постчернобыльской катастрофы. При условии достаточного финансирования и эффективного менеджмента санаторно-курортные учреждения могут привлекать отечественных и иностранных туристов и приносить прибыль. Для совершенствования санаторно-курортного обслуживания в Беларуси необходимо:

- Комплексно использовать природные лечебные факторы: минеральные воды и лечебные грязи, ресурсы для организации