

# **REPUBLIC OF AZERBAIJAN**

On the rights of the manuscript

## **ABSTRACT**

of the dissertation for the degree of Doctor of Philosophy

### **PROTECTION OF THE RIGHTS OF WOMEN PRISONERS IN PLACES OF DEPRIVATION OF LIBERTY: INTERNATIONAL STANDARDS AND NATIONAL LEGISLATION**

Specialty: 5603.01 – “International law; human rights”

Field of science: Law

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**Baku – 2024**

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## GENERAL CHARACTERISTICS OF DISSERTATION

**Relevance of the research topic and degree of scientific elaboration of the theme.** The steady increase in the number of prisoners worldwide remains the most striking fact in the current debate in the international Penal sector. The data from the World Prison Brief also show that the population of World prisons is growing at a higher rate than the general population. Despite the fact that female prisoners make up a small part of the total prison population, there has also been a noticeable increase in women's incarceration in recent years. For example, in Azerbaijan in 2000 this number amounted to 272 people, while in the data for 2022 it is 589 people, which is 2.7% of the total population<sup>1</sup>.

The change in the percentage of male and female convicts reveals the shortcomings of almost all penitentiary systems in terms of meeting the specific needs of female convicts. Thus, international standards established by international organizations apply equally to all persons in custody. However, in practice, cases of discrimination against women are common, and these standards are not always applicable. Therefore, there is a need to change the practice of Management in penitentiary institutions, to improve the conditions of detention of women, to develop recommendations for taking into account their specific characteristics.

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<sup>1</sup> World Prison Brief data. <https://www.prisonstudies.org/country/azerbaijan>

detention of women, to develop recommendations for taking into account their specific characteristics.<sup>2</sup>

The discrepancy between the provisions of the criminal executive legislation and the practice of exercising the rights and legitimate interests of women sentenced to imprisonment creates serious difficulties in the correctional process of convicts, especially during social adaptation. This once again confirms the relevance of the research topic.

Legal and practical problems of detention of female prisoners in places of deprivation of liberty J. Greene, K. Pranis,<sup>3</sup> M. Levis, P. Carlen, A. Vorrall,<sup>4</sup> P. H. Kempen, M. Krabbe,<sup>5</sup> T. N. Volkova,<sup>6</sup> M. V. Minster,<sup>7</sup> T. F. Minyazev,<sup>8</sup> E. V. Strugova<sup>9</sup> was drawn into the center of attention in the scientific researches of scientists such as A. Taşdemir<sup>10</sup>, O. Taşkın<sup>11</sup>, S. Saruch<sup>12</sup> and other Turkish researchers

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<sup>2</sup> Ilaria Giacomini, Irina Protasova, Alessio Scandurra. The European Court of Human Rights and the protection of fundamental rights in prison. p. 3. <https://www.antigone.it/upload2/uploads/docs/ECHR%20and%20rights%20in%20prison.pdf>

<sup>3</sup> Hard Hit: The Growth in the Imprisonment of Women, 1977-2004 / Judith Greene, Kevin Pranis, Natasha A. Frost - New York, 2006. - 144 p.

<sup>4</sup> Pat, Carlen and Anne, Worrall. Analyzing of Women Imprisonment. - Devon, UK: Willian Publishing, - 2004. - 242 p.

<sup>5</sup> P. Hein van Kempen, M. Krabbe. Women in prison: a transnational perspective. – Intersentia: Cambridge, - 2017. - 918 p.

<sup>6</sup> Волкова Т.Н. Криминологические и уголовно-исполнительные проблемы женской преступности в современной России: / автореф. дис. ... д-ра юрид. наук / - М., - 1999. - 51 с.

<sup>7</sup> Минстер, М. В. Правовое положение женщин, осужденных к лишению свободы: / дис. ... канд. юрид. наук. 12.00.08 / - Иркутск, - 2009. - 222 с.

<sup>8</sup> Минязев, Т. Ф. Правовое положение осужденных. - М.: Права человека, 2000. - 212 с.

<sup>9</sup> Стругова, Е. В. Дифференциация и индивидуализация исполнения наказания в виде лишения свободы в отношении осужденных женщин: / автореф. дис. ... канд. юрид. наук / - Рязань, 1995. - 21 с.

<sup>10</sup> Küçüktaşdemir, Ö. Ceza hukukunda örselenmiş kadın sendromu // Başkent Üniversitesi Hukuk Fakültesi Dergisi, No. 1, - 2015. - s. 547-585.

<sup>11</sup> Taşkın, O. E.Kötü muameleye maruz kalmış kadın reaksiyonu: Meşru savunma mı, mazeret Nedeni mi // Ceza Hukuku Dergisi, 7/20, - 2012. - s. 43-58.

have analyzed the issues related to the legal status of convicted women from various aspects.

Many researchers, taking into account the specific needs of convicted women, preferred to interpret problems in a more sociological direction. In this regard, we would like to point out Kamal Tahir's book "Karılar Qogushu"<sup>13</sup>, in which the hierarchical structure among women prisoners in Malatya prison in the first half of the 1940s given in the book was drawn to the spotlight.

Most researchers who have noted the discrimination of women in ethnic and religious terms (e.g., G. Barish<sup>14</sup> and others), as a highlight, emphasized the exposure of women to a different attitude depending on the crimes committed, that is, the sanctions for which they were convicted, and linked the ways to solve the problem with the positive and negative obligations of states.

There are no studies on the rights of women prisoners in Azerbaijani legal literature. The existing works approached the problems of convicts in general, did not conduct an analysis of directions exclusively related to women. But from the works on human rights to the textbooks and teaching aids of A.I.Aliyev<sup>15</sup>, from the works devoted to T.I. Huseynov's doctoral dissertation<sup>16</sup>, to the book "Protection of women's Rights: International and national aspects"<sup>17</sup>, K.N.Salimov and M.S.Gafarov's research on the status of prisoners' rights in places of detention<sup>18</sup> was appealed.

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<sup>12</sup> Saruç, S.Kadın hükümlüler: Cezaevi yaşantısı ve tahliye sonrası gereksinimler / Doktora Tezi / - Hacettepe Üniversitesi Sosyal Bilimler Enstitüsü, Ankara, - 2013. - 345 s.

<sup>13</sup> Kemal, Tahir. Karılar Koğuşu. - İstanbul: İthaki yayınları, - 2019. - 368 s.

<sup>14</sup> Gaye, Barish. Female offenders' attitudes towards gender and violence and their violence experiences: Sincan Women's prison. - Ankara, - 2015. - 196 p.

<sup>15</sup> Əliyev Ə.İ. İnsan hüquqları. Dərslik. - Yenidən işlənmiş və əlavələr edilmiş ikinci nəşri. - Bakı: Nurlar, - 2019. - 352 s.; Əliyev Ə.İ. İnsan hüquqlarının beynəlxalq-hüquqi müdafiəsi. Dərslik. - Bakı, - 2009. - 490 s.

<sup>16</sup> Гусейнов, Т.И. Осуществление международно-правовых норм в области гражданских и политических прав и свобод человека в Азербайджанской Республике / дис. ... канд. юрид. наук / - Казань, 2000. - 201 с.

<sup>17</sup> Qadın hüquqlarının müdafiəsi: beynəlxalq və milli aspektlər. Dərs vəsaiti / Hicran Hüseynova, Əmir Əliyev, Pərvanə Bayramova, Əliməmməd Nuriyev, Elgün Səfərov, Aydın Səfixanlı, Qulamhüseyn Əlibəyli - Bakı, - 2018. - 187 s.

In the legal literature, the issue of the rights and responsibility of persons sentenced to crimes and deprivation of liberty has been repeatedly touched upon the studies of G.P.Baydakov, M.M.Galkin, M.P. Zhuravlyov, V.E.Kvashis, Y.F.Kvasha, P.Y.Koneger, A.I.Martsev, A.S. Mikhlin, A.E.Natashev, N.A. Struchkov and some other authors are devoted to this topic. However, the works of those scientists mainly touch upon issues related to all convicts and do not independently study the problem of the legal status of women sentenced to imprisonment as a separate category.

**Object and subject of research.** The object of the study is the problems associated with the application in national law of international standards for the protection of the rights and freedoms of convicted women in places of deprivation of Liberty, including organizational problems of ensuring the rights of convicted women.

The subject of the study is International and intra-state legal regulations and existing difficulties in protecting the rights and freedoms of convicted women in places of deprivation of Liberty.

**Goals and objectives of the study.** Since the topic of the dissertation research is related to the protection of the rights of women convicts, consideration of all problems in the course of research and analysis from the context of human rights has been identified as the main goal of the study. The ultimate goal is to investigate the practice of protecting and guaranteeing civil, political, social, economic and cultural rights and freedoms of convicted women, to classify problems and to present proposals and recommendations for their elimination.

In order to achieve the objectives of the study, the sequence of conducting the study was determined as follows: interpretation of international legal standards on the legal status of women in places of deprivation of Liberty in chronological order in the direction of protection of human rights; analysis of negative and positive obligations of states on the protection of the rights of women; revealing existing problems on implementation of international norms

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<sup>18</sup> K.N.Səlimov, M.S.Qafarov Azərbaycan Respublikasında həbs yerlərində saxlanılan şəxslərə və məhkumlara tibbi xidmət. Beynəlxalq standartlar və Milli qanunvericilik. - Bakı, - 2008. - 712 s.

on protection of individual rights of women prisoners in places of deprivation of liberty to national legislation and finding solutions; summarizing the results obtained in the case.

The following tasks were identified in the research work:

- study of factors contributing to the formation and development of international legal regulation on legal protection of women prisoners;

- analysis of international legal standards on the legal status of women in places of deprivation of Liberty based on the principles of protection of human rights;

- interpretation of negative and positive obligations of states for the protection of the rights of women prisoners based on the experience of IHR;

- conducting a comparative legal analysis of the experience of foreign states on the regulation of the legal status of women sentenced to imprisonment and identifying best practices;

- determination of the content of the legal status of women sentenced to imprisonment;

- conducting a classification of the rights and obligations of women sentenced to imprisonment;

- investigation of the impact of socio-demographic characteristics of convicted women on their legal status;

- Analysis of the practice of applying international norms on the legal status of women sentenced to imprisonment in the Republic of Azerbaijan;

- investigation of organizational problems for the protection of the rights of women prisoners in places of deprivation of liberty and identification of ways to solve them;

- Investigation of legal regulations on the provision of civil and political rights and freedoms of convicted women in places of deprivation of Liberty in the Republic of Azerbaijan;

- Revealing existing legal and practical problems on protection of socio-economic and cultural rights and freedoms of women convicted in places of deprivation of Liberty in the Republic of Azerbaijan and presenting proposals on their solution;

- analysis of best practices and development of recommendations on their application in the Republic of Azerbaijan in order to ensure the rights and freedoms of convicted women in places of deprivation of Liberty in accordance with international and national norms.

**Research methods.** During the study, general and special methods were used in a complex form. Thus, during the analysis of international standards, generalization of judicial practice and determination of advanced foreign experience, the comparative-legal analysis method was resorted to.

If issues related to the legal status of convicted women are examined only from a legal aspect, the result obtained may not be very successful. Problems should be interpreted through an integrated approach, in particular, the application of anthropological and sociological methods in a coherent form. This is because most cases of violation or restriction of rights faced by women in penitentiaries arise from social problems.

Elements of the legal status of convicted women were studied by the method of system-structural analysis.

A number of generalizations were carried out by statistical methods, analysis and synthesis, induction and deduction.

**The main provisions for the defense. The following new scientific provisions are presented for defense, expressing the scientific novelty of the research:**

1. Deprivation of liberty as a complex, contradictory and sensitive process, it includes many parameters that affect the physical, mental and social health of a convicted woman. Its implementation is influenced, on the one hand, by the state's policy of combating crime, and on the other, by priority obligations related to respect for fundamental human rights and freedoms. In this regard, the problems on the protection of the rights and freedoms of convicted women in places of deprivation of liberty should be analyzed in two groups: contradictions and shortcomings in the legislation; experimental problems.

2. In modern human rights theory, it is unreasonable to assert the existence of a different group of human rights, which applies only



to convicts. At the International and national levels, the legal foundations of the penal system and the penal policy should also be based on Human Rights Law. In this sense, even if they received prisoner status when they were arrested, prisoners should still be considered people and citizens. The legal status of convicts should not adequately take into account the difference between a “criminal” and an “honest person”, since the recognition and promotion of rights in prison is based on the rule of law and democracy. Thus, human rights indiscriminately include all individuals, including those whose freedom is restricted as a result of imprisonment. Therefore, female prisoners do not lose their rights because they are in prison. Based on the characteristic signs of their legal status, specific rights and freedoms and scope of duties have been determined.

3. It is necessary to conduct an analysis of international norms regarding the legal status of women sentenced to imprisonment. This allows us to reveal the compliance of Azerbaijani legislation with these norms and the problems of their application in practice. The norms enshrined in international documents on the legal status of persons sentenced to imprisonment should be taken into account when developing new legislative acts in this area. Both UN resolutions and documents of regional international organizations provide for control over the implementation of international legal norms in order to maintain a high moral and political level on an international scale. International standards for the protection of the rights and freedoms of convicted women should be based on the principles of humanism, freedom, equality, the Prohibition of equality and discrimination, and the dignity of the individual.

4. The rights and freedoms enshrined in the legislation of female convicts can be classified into three groups: rights and freedoms that apply to everyone declared in the constitutional order; Rights and freedoms arising from the situation of conviction; rights and freedoms intended exclusively for female convicts. The right to health included in the first group is considered one of the more violated rights of convicted women. In order to protect this right, it is advisable to amend the legislation on the implementation of medical treatment outside the penitentiary at the expense of the state for

convicted women suffering from a serious, fatal disease. The right to see, which in the national regulation is considered one of the second group rights, is limited due to additional transportation costs during the displacement of convicted women. In such cases, it is more correct to amend the relevant norms for ensuring the right of convicted women to meet in connection with the implementation of transport costs at the expense of the state. The right of pregnant women to receive special medical care during childbirth and the postpartum period, and women's rights to cohabitation with a child are included in the third group of rights.

5. Incarcerated women usually experience physical, sexual, economic and administrative problems in prisons. Women make up a vulnerable group in prisons by gender. They face unique challenges compared to their male counterparts. These problems include: high levels of mental health problems; domestic violence, sexual abuse and violence against women in prison; specific health needs that cannot be adequately met (prenatal care, postpartum care), etc. The rise in women's confinement rates reflects disturbing social trends: a criminal justice system that exploits poor and vulnerable people; a focus on law enforcement and punishment rather than drug abuse-related treatment; a discarded attitude towards individuals with serious mental illness; misogyny. All this confirms the need to be guided by a gender-based and comprehensive approach to protecting the rights and freedoms of convicted women.

6. Components of gender-sensitive prison management should include: taking positive measures to counter the discrimination they face due to the low number of female prisoners; adopting a gender-sensitive management style; recognizing the diverse needs of female prisoners, including prisoners of different cultures, and providing programs and services that meet these needs.

7. The ignorance of convicted women of the norms regarding freedom of information and expression leads to violations of the mentioned rights. Taking into account the formation of a new society, it is not such a successful regulation that convicted women are allowed to use writing aids, newspapers, magazines and books, which are reflected only on paper media. In order for them to promptly

familiarize themselves with the legal changes related to their rights and freedoms, legal regulations regarding their access to websites of state bodies should also be envisaged.

8. The conditions for the detention of convicted women should be formed taking into account individual circumstances of the criminal act committed by them. It is not sufficient regulation to distinguish only convicts who have committed crimes for the first time from previously convicted persons. Also, the level of guilt in a crime and individual circumstances of the case should be considered in a normative manner. For example, it is more correct to keep women who have committed crimes as a result of domestic violence together.

9. To resolve all issues related to the current period, it is necessary to unite the efforts of not only employees of correctional institutions, but also state social institutions and public organizations for joint coordinated actions. Joint efforts to prepare convicted women for emancipation should include the following directions: increasing the effectiveness of individual educational work with women, Social, Psychological and medical care; education and training. Regional enterprises with the Directorate of women's correctional institutions; employment centers that guarantee employment of the population after release; interaction with rehabilitation centers with a guarantee of household equipment for women released from places of deprivation of Liberty; interaction between the administration of correctional institutions and the heads of specific enterprises and organizations; cooperation with religious confessions, trusteeship organizations, local governments is important.

10. Although convicted women have distinctive features, there is one hope that unites them all: to wait for amnesty or pardon in order to be free. It is this moment that presupposes the constant conduct of stimulating measures in women's prisons. Given the inadequacy of physical and technological conditions, as well as the inefficiency of prison staff in their professional activities, a number of other various problems may arise, such as suicide, illegal trade and drug trafficking. In this regard, the training of personnel in many

countries is not enough to eliminate subcultures that already exist in penitentiary systems. It is a reality that risk and discipline factors in prisons result in power relations between prisoners and collaborators. Despite the difficulty of controlling bureaucratic and oppressive elements inherent in any social organization, the internal and external defense mechanisms of penitentiary systems are primarily aimed at their development. However, the management of such a work environment requires the effective verification of fully professional prison staff by the court and the public. In order to conduct inspections more effectively, it is necessary to organize monitoring groups and conduct regular monitoring.

11. The organization of work on preparing convicted women for freedom should consist of a number of interrelated stages, the peculiarity of which should consist in the totality of a complex of Correctional, social measures of psychological and medical influence aimed at forming a socially significant, active life position. This approach will make the Prevention of women's crimes more efficient, significantly reduce the level of repeated crimes. During the period of preparation for emancipation, the following are necessary: to acquaint convicted women with the progress of the implementation of economic, political and legal reforms; study the basics of legal knowledge; increase the level of general education and profession; restoration and strengthening of socially useful relations.

**Scientific novelty of the study.** There is no research work devoted to the protection of the rights and freedoms of convicted women in our republic. Current research, on the other hand, has analyzed the problems only from the aspect of criminal and criminal enforcement law. For the first time in the dissertation, the problems on the protection and protection of the rights and freedoms of convicted women were grouped and the ways to solve them were determined on these groups. In addition, the presentation of proposals on freedom of expression, internet access and information rights of convicted women, the development of recommendations on the formation of a control mechanism of monitoring groups are among the innovations of the dissertation work.

**Theoretical and practical significance of the study.** The theoretical significance of the study is expressed in the fact that here the scope of the rights of convicted women in places of deprivation of Liberty is determined.

The experimental significance of the study lies in the fact that the proposed additions and amendments to the legislation on the rights and freedoms of convicted women can contribute if applied in practice.

At the same time, the results of the study include the rights of women and children, individual human rights, the rights of individual groups, etc. it can also be widely used in teaching subjects.

**Approbation and application.** The innovations obtained as a result of the research and the proposed proposals are reflected in the scientific articles published in local and foreign scientific journals in different languages (Azerbaijani, English and Russian), as well as in the materials of international and local scientific-practical conferences.

**The name of the organization in which the dissertation work is performed.** The dissertation work was performed at the Department of Human rights and information law UNESCO of the Faculty of Law of Baku State University.

**The structure of the research work.** The dissertation work structurally consists of introduction, three chapters, conclusion, list of used literature and appendices.

## THE MAIN CONTENT OF THE DISSERTATION

**In the introductory part of the dissertation,** the relevance of the topic is substantiated, the degree of development of the research, its object and subject, goals and objectives, new scientific provisions submitted to the defense, the scientific novelty of the research, the theoretical and practical significance of the research are explained, the approbation of the results of the research and the structure of the

**The first chapter of the dissertation is called “Directions for applying international standards governing the legal status of women sentenced to imprisonment” and consists of two paragraphs.**

**The first paragraph entitled “International legal standards on the legal status of women in places of deprivation of Liberty”** consists of three half-paragraphs and is devoted to the directions of application of international standards regulating the legal status of women sentenced to imprisonment. Here, analyzing international legal standards on the legal status of women in places of deprivation of Liberty, the plaintiff studied such issues as the formation and development of international legal regulation on the legal protection of women prisoners, negative and positive obligations of states to protect the rights of women prisoners.

The current paragraph notes that many protection mechanisms for Human Rights, which regulate the legal status of convicts serving a sentence of deprivation of Liberty, are considered acceptable in most countries of the world and are guided by states that are parties to these agreements, have been developed at the international level and apply to persons sentenced to imprisonment. Among them, the Universal Declaration of Human Rights, the international pact on Civil and Political Rights, the international pact on economic, social and Cultural Rights, the Convention on the rights of the child and the Convention Against Torture and other cruel, inhuman or degrading treatment or punishment should be noted. However, none of these documents are devoted to the legal status of convicts or convicted women. So, although there are no specific international conventions, today there are a large number of international and regional documents aimed at

ensuring the rights of prisoners. These instruments can be divided into two categories: mandatory (“hard” law) standards and non-binding (“soft” law) standards.

International treaties specifically designed to protect women's rights appeal to the anti-discrimination dimension of human rights and women's rights. For example, the 1979 UN Convention on the elimination of all forms of discrimination against women (CEDAW) makes no reference to women in prison, but forms the basis for implementing positive measures to guarantee the full development of women. As for the UN soft legal standards on the rights of convicts, these are mainly the UN Minimum standard rules for the treatment of convicts, the basic principles for the treatment of convicts, the code of conduct of law enforcement officers, the UN Minimum standard rules for the administration of justice against minors (“Beijing rules”), the UN rules for the protection consists.

In order to carry out the analysis within the framework of the current paragraph, the protection mechanisms established for convicted women, the international system for the protection of rights, in particular, special provisions on pregnant women and women with children kept with them in isolation from society were reviewed, international legal standards on the legal status of women in places of deprivation of liberty.

Investigating the negative and positive obligations of the states to protect the rights of women convicts on the basis of IHR experience, the plaintiff reviewed the court's cases on women convicts with reference to articles 1950 of the European Convention 2, 3, 8 and 12. It states that the ECHs case law on positive obligations is still very limited under the influence of the dominant paradigm of essentially negative state obligations.

**The second paragraph, called “The practice of foreign states on regulating the legal status of women sentenced to imprisonment”,** is devoted to the legal regulations and judicial practice of various foreign states regarding women sentenced to

imprisonment. Usually women make up 2-9% of all prisoners in the country, but in some cases this figure may be higher.<sup>19</sup>

Studying the legal status of female prisoners and the experience of foreign states in the protection of their rights by the method of analysis and comparative analysis, the plaintiff says that the most important problem with female prisoners at the beginning of the twentieth century was caused by the presence of a male-based prison system. This system did not allow female prisoners to participate in events intended for the rehabilitation of both male and female prisoners.<sup>20</sup> Although later development in this area was observed, even now, in modern prison systems, such as British or American, female prisoners are subjected to coercion, violence and harassment due to their femininity and vulnerability. Therefore, the main task of modern states should be to protect women prisoners from such violence and protect their rights and freedoms.

An analysis of the experience of foreign states in general allows us to conclude that improving the legal protection of female convicts in places of deprivation of liberty cannot be possible only through an analysis of legal regulations. Because they are kept indoors, it is possible to obtain a successful result through the investigation and study of what happens in that environment. Here, in particular, it should be noted the conduct of surveys and experiments among female prisoners. There are successful experiments related to such surveys and experiments.

**The second chapter of the dissertation “The legal status of women sentenced to imprisonment” consists of two paragraphs.**

**The first paragraph “Content of the legal status of convicted women”** covers the study of the rights, duties, responsibilities and prohibitions included in the content of the legal status of convicted women. Here, the rights and freedoms enshrined in the legislation of female convicts are classified in three groups: rights and freedoms that apply to everyone declared in the

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<sup>19</sup> World Female Imprisonment List. International Centre for Prison Studies. [www.prisonstudies.org](http://www.prisonstudies.org)

<sup>20</sup> Pat, Carlen and Anne, Worrall. Analyzing of Women Imprisonment. - Devon, UK: Willian Publishing, - 2004. - p. 9.



constitutional order; Rights and freedoms arising from the situation of conviction; rights and freedoms intended exclusively for female convicts.

The first group of rights and freedoms can be classified both as provided for by the legislation on the execution of punishments, and directly with reference to the relevant norms of the Constitution. For example, rights such as equality and survival are directly declared in the Constitution for everyone. Some rights are reflected in specific sectoral laws, based on the fact that the rights provided for in the constitutional order also apply to convicts. Thus, many rights enshrined in Article 10 of the Code of execution of punishments of the Republic of Azerbaijan are based on constitutional norms.

And the second group of rights and Freedoms was determined exclusively for convicts depending on their legal status, and this also applies to female convicts. This group of Rights is of a special nature, since they are inherent exclusively to persons sentenced to imprisonment and are only an integral element of their legal status. For example, the right to engage in physical education and sports, to express one's opinion on decisions made about oneself in connection with the execution and serving of punishment, or to appeal them, etc.

The third group of rights and freedoms was determined based on the fact that convicted women are purely women. For example, convicted women have the right to meet with their children without restrictions in orphanages organized for the placement of their children under the age of 3 at their leisure. Even the legislation allows such women to cohabit with a child (Article 92 of the code for the execution of punishments).

In addition to social functions related to the socially necessary behavior of persons sentenced to imprisonment, the duties of persons of this category are of significant legal importance.

The legal status of convicted women also includes the issue of their responsibility. From this context, the application of incentive measures and disciplinary sanctions should be noted as structural components. The system of incentive measures and disciplinary sanctions allows you to react in time to changes in the behavior of the

convict, directs him to comply with the procedure for serving the sentence and the rules of conduct.

**The second paragraph, which is called "The influence of the socio-demographic characteristics of convicted women on their legal status",** states that convicted women are often characterized by complex vulnerable features: their role in crime often leads to a shortening of prison terms; their lives are significantly determined by their children, etc. So, in the criminal justice system, women have different unmet needs. In this regard, citing the report of Baroness Corston (2007), commissioned by the Ministry of the Interior on women with special weaknesses in the criminal justice system, the plaintiff expressed her attitude to the "different, radically different, visibly controlled, strategic, proportional, holistic, women-centered, integrated approach" reflected in Corston's report.

Linking the study of the issue of marital status with the permanent residence of women before being convicted, the plaintiff believes that the fact that convicted women have permanent residence is very important for women to re-socialize after serving their sentence. Because the presence of a permanent place of residence allows them to timely solve household problems that necessarily arise during the period of their preparation for freedom, when there is no place of residence and the loss of socially useful contacts.

The data obtained in the course of the study make it possible to develop recommendations on the more efficient use of Correctional means by convicts, to put forward proposals on changing the legislation governing the execution and serving of sentences for deprivation of Liberty in women's correctional institutions.

**The third chapter of the dissertation is called "Current problems in defense of individual rights of women convicts in places of deprivation of liberty: implementation of international norms into national legislation" and consists of three paragraphs.**

**The first paragraph is entitled "Practice of applying international norms on the legal status of women sentenced to imprisonment in the Republic of Azerbaijan" and covers the**

application of international legal norms on the legal status of women sentenced to imprisonment in national practice. It is noted in this paragraph that in order to eliminate existing problems on the application of international norms on the legal status of women sentenced to imprisonment in the Republic of Azerbaijan, it is necessary to implement a complex of additional measures at the following levels: legislative and other normative support of human rights, application of international standards for the treatment of; ensuring human rights and international standards for the treatment of convicts in the practice of specific correctional institutions; increasing the effectiveness of the system of monitoring the observance of the rights and freedoms of persons sentenced to imprisonment.

The plaintiff, who highlighted the issue of Mother's rights as one of the main problems of women's correctional institutions in Azerbaijan, believes that Article 92 of the Code of execution of sentences regulates the organization of orphanages for the placement of children of convicted women under the age of three in penitentiary institutions, which is based on international legal grounds. However, the implementation of the said norm in practice requires investments of funds to create these conditions. Studies show the feasibility of such cohabitation. First, the child can be given more attention during the day. Secondly, the mother, who is constantly next to the child, gets used to him more, learns to take care of him, acquires skills that will be useful to him after his release, and, finally, simply becomes attached to the baby.

The current paragraph states that special attention should be paid to the organization of high-quality gender-oriented assistance in order to achieve the effectiveness of the process of execution of punishment in the type of deprivation of liberty for women with children. In particular, it is necessary to conduct consultations with interested state and non-state organizations in order to increase the number of mothers and children's rooms in correctional institutions and prisons, to transition to cohabitation of mothers with children, to improve the conditions of detention of mothers taking into account

the age of children, to develop programs for improving the conditions.

**The second paragraph is called "Organizational problems for the protection of the rights of women convicts in places of deprivation of liberty"**, where organizational problems for the protection of the rights of women convicts are listed and proposals and recommendations are presented for their prevention. The conditions of detention and the treatment of prisoners must comply with the instructions issued at the national and international level regarding various aspects of the daily life of prisoners. Prisoners are sentenced to imprisonment, but they must be provided with decent living conditions. To this end, organizational problems were interpreted by the plaintiff in two directions: the treatment of female prisoners and the conditions of the penitentiary.

Based on the analysis of the existing legislation on the execution of punishments in terms of distribution between correctional institutions and within them, it is concluded that the current classification of persons sentenced to imprisonment in the legislation is not perfect enough. So, in order to ensure the implementation of all directions of state policy in the field of prescribing and executing punishments in the type of deprivation of liberty, it is necessary to carry out a more accurate division of the categories sentenced to punishment in the type of deprivation of Liberty. In this regard, it was considered appropriate to include in part 112 of Article 2 of the Code of execution of punishments amendments of the following content: "persons convicted of crimes committed by negligence, crimes committed intentionally, crimes not causing great public danger and less serious crimes should be kept separately from women convicted for the first time for serious crimes." Such a classification of convicted women will be more consistent with the principles of differentiation and individualization of the appointment and execution of punishment, will make it possible to organize the process of correctional labor, taking into account the personality of the perpetrators. At the same time, individualization of the execution of sentences in the type of deprivation of Liberty will have a more effective effect on the

personality of convicted young women, both in terms of Correction and Prevention of committing new crimes in the postpenitentiary period.

**The third paragraph entitled "The practice of realization and protection of fundamental rights and freedoms of convicted women in places of deprivation of liberty in the Republic of Azerbaijan: current problems and ways to eliminate them"** consists of two half-paragraphs and is devoted to the problems of protection of civil, political, socio-economic and cultural rights of convicted women.

The dissertation notes that in order to be successful in strengthening mental health, it is necessary to develop measures to protect health, combine the efforts of health authorities, Penitentiary institutions, and effectively support former convicts after their release. Convicted women remain members of society, therefore, employees of the penitentiary must work with them and their family members to implement the appropriate programs and provide psychological assistance at the initial stage of serving the sentence. Encouraging people sentenced to imprisonment to return to normal life and assisting them in this should be considered the main task of correctional institutions, such as those that think about the future and care for a person.

The process of preparing for the release of women from places of deprivation of liberty and the subsequent arrangement of their lives begins in a correctional institution and continues after their release. The main tasks of the first stage of socialization of convicts are to eliminate or minimize negative situations caused by a person's isolation from society and prepare him for a free, law-abiding life, and the second is to contribute to social adaptation.

Cases of continuous violation of the rights and legitimate interests of women held in penitentiary institutions indicate the need for constant development, improvement and strengthening of legal guarantees for their implementation and protection, one of the main types of which is control measures of institutions and bodies carrying out punishment. The author believes that it is important to further improve the monitoring work in order to protect the rights and

freedoms of convicted women. It is also necessary to have psychologists and educators in the monitoring groups, and the organization of such monitoring should be carried out regularly.

**In the conclusion part of the dissertation,** the results obtained as a result of the research are defined in 15 paragraphs:

1. Behavioral violations detected in closed institutions are determined by gender, that is, women react differently to the environment and the situation in correctional institutions than men. The legal support of women sentenced to punishment in the type of deprivation of Liberty, the implementation of their rights and legitimate interests should be developed and ensured taking into account their psychophysiological characteristics. It is necessary that all norms affecting the legal status of convicted women in one way or another are combined in a separate chapter of the Code of execution of punishments of the Republic of Azerbaijan and in the internal charters of correctional institutions.

2. The problem of protecting the health of women detained in penitentiary institutions is urgent and requires an urgent solution. A comparative analysis of the norms of penitentiary legislation and the results of the study show that the right to protect the health of convicted women is not always realized for a number of reasons: there is a lack of medical equipment, medicines and specialists suitable for the necessary use. In addition, the national legislation enshrines the right of convicts to apply to a paid medical institution (article 93.6 of the CIM). So, this service is required to be paid either by the convict or by his relatives. We believe that an exception to such a norm must necessarily be provided: the provision of paid medical care to a convicted woman with an incurable or serious illness is not right from a human rights point of view. The examples we have brought from the practice of the IHR during the study (Gulay Çetin case against Turkey) also confirm this once again. Therefore, it is advisable in the legislation to establish the implementation of medical care at the expense of the state as an exception for such cases.

3. Based on an analysis of the international standards governing the status of women sentenced to imprisonment and the

practice of their implementation, it can be concluded that international norms as a whole are aimed at protecting women with minor children. Although in fact our subject is convicted women, we consider that such differentiation is not correct from the aspect of the right to equality. The granting of many benefits to parental women continues in national law, and the role of the father in such arrangements is not taken into account at all. In our opinion, this should not at all refer to such a justification as the fact that it follows from the norms regarding the care of the child. On the basis of many examples and practical examples given by us in the course of the study, we can say that the norms in this direction in both international and domestic law should be improved, and men should not be completely excluded, although women are preferred in relations arising from purely parent-child relations.

4. In the legislation on the execution of sentences of our republic, the concept of the legal status of convicts is used. But in essence, it contains rights, duties and prohibitions, such as legal status. It's just that, taking into account the fact that convicts have a special legal status, they have rights and freedoms, duties that both all citizens have, and arising from their purely state.

5. Today, the form of interaction between the Directorate of the penitentiary and the convicted woman, society and persons released from places of deprivation of Liberty is of fundamental importance, since the most humane and educated law is powerless when discriminating between a convicted woman and society. In order to improve the conditions of detention for prisoners of this category in the national practice on the execution of sentences, programs for conducting trainings, seminars, consultations for Social Service Employees and personnel working in the penitentiary system should be developed, retraining of employees sent to work in correctional institutions for convicted women should be provided according to the relevant programs. In addition, taking into account international standards and repeated calls of the UN to member countries, the special psychophysiological characteristics and needs of convicted women, as well as the interests of their children, should

be taken into account in order to eliminate gender inequality in the process of executing sentences for deprivation of Liberty.

6. According to the state of Health, in order to ensure personal safety, it is acceptable to send convicts to a penitentiary located in another area to serve their sentence. (AR JIM 65.1.article). Such changes make it possible for convicts to be sent hundreds of kilometers from their homes to serve sentences, which undoubtedly violates their right to contact their families, adapt to penitentiary institutions, and subsequently re-socialize upon release. This circumstance not only negatively affects the processes of adaptation of women in correctional institutions, correction of convicted women for the entire period of deprivation of liberty, but also limits the possibility of using the right to both short and long-term meetings due to the lack of social contacts with close relatives and children. The inability of relatives of convicted women to provide transportation costs for the trip can be explained as the main reason for the violation of the right to an appointment. Unfortunately, during the investigation, it was not possible to obtain accurate statistics on placement in a penal house near the place of residence. In our opinion, the payment of transportation costs at the expense of the state should be established in order to ensure the right to meet during such displacements provided for by the national regulation.

7. We believe that there are many flaws in the approach of legislation regarding the right of convicted women to information. The arrangements seem to have a one-sided character. Although the information rights of convicts are declared, the provisions on the duty of the administration of the penitentiary to provide information are not provided for. Given their confinement indoors, the fact that convicted women are often unaware of many of their rights results in them not exercising that right. Therefore, part of the educational work with convicts should be to educate them about their rights and freedoms. This should be regulated both normatively and applied in practice.

8. One of the more commonly used Rights for modern society is freedom of expression. The legislation on the execution of sentences of our republic restricts this freedom of convicts when they



are transferred to disciplinary detention centers. Because telephone conversations, watching Motion Pictures and television programs are prohibited (article 126 of the CIM). In our opinion, such an approach is not correct and does not correspond to the purpose of the disciplinary measure. At the same time, the shackles imposed on the prisoner violate his freedom of expression. It is more expedient to exclude such strict norms from the legislation.

9. When analyzing internet accessibility during the study of national norms, no norms were found in the legislation regarding the use of internet information resources by convicts. Of course, this serves to prevent convicts from transmitting information outside the penitentiary or, conversely, preventing the process from taking place. However, given that convicted women have the right to meet, videogrush, telephone conversations, such reasoning may be wrong. In our opinion, it would be better if convicted women were provided with access to the internet Information Resources of state bodies. On the one hand, this will help them more easily access information about their rights and freedoms. On the other hand, it will contribute to the educational work of convicted women. Of course, connection to various social networks is excluded here.

10. Azerbaijani legislation requires women convicted for the first time to be kept separate from women who have previously served a sentence of imprisonment. In our opinion, the placement of convicted women in penitentiary institutions should not be carried out only by this criterion. So, the databases contain all the circumstances of the crime committed by women during the classification, in particular, the guilty acts of the victim, the commission of the act as a reaction to violence, etc. particular attention should be paid to such points as: Also, when placing female convicts, special attention should be paid to their level of guilt in a crime. It is not right to place a woman who has been a victim of violence and eventually killed a man in the same room as a woman who killed her husband in order to acquire his property. European Prison Rules also establish that only prisoners who are suitable for communicating with each other should share their place of residence. It should be noted that the lack of such differentiation causes

difficulties in collecting statistical indicators. Therefore, the grounds mentioned in the national legislation should be included in the conditions of separate detention.

11. One of the main problems with the conditions of detention of convicted women is the problem of overcrowding. Although legal regulations determine the number in accordance with international norms, in fact, the situation in women's prisons is not at all encouraging. This creates many problems in terms of ensuring the rights and freedoms of convicted women. Overcrowding complicates prison infrastructure, hinders Correctional Services, leads to the spread of infectious diseases, and leads to numerous problems for prison management, including more cases of indiscipline and violence and the diversion of prison staff to day-to-day tasks such as food distribution, security, and protection. The Ombudsman's annual reports also repeatedly highlight the mentioned problem. We believe that the construction of new women's penitentiaries should be accelerated to solve the problem of overcrowding.

**The following scientific works were published by the author in connection with dissertation research:**

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The defence will be held on \_\_\_\_\_2024 at \_\_\_\_\_ at the meeting of the Dissertation council FD 2.44 of Supreme Attestation Commission the President of the Republic of Azerbaijan operating at Baku State University.

Address: Baku city, Academic Zahid Khalilov street, 23. Postal Code: AZ 1148, I building, auditorium 608.

The dissertation can be found in the library of Baku State University.

Electronic versions of dissertation and its abstract are available on the official website of the Baku State University

Abstract was sent to the required addresses on \_\_\_\_\_2024.

Signed for print: 05.04.2024

Paper format: A5

Volume: 41171

Number of hard copies: 100