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LIBERALIZATION OF THE INSTITUTE OF PAROL RELEASE

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Abstract. This article examines the rationale for modernizing the institution of parole. It argues for the need to reconsider absolute prohibitions and overly broad restrictions that hinder the realization of parole's corrective and stimulating potential. The authors view this institution as an element of a progressive penal system focused on the resocialization of convicts, reducing the risk of recidivism, and the rational use of public resources.
Key words. criminal law, parole, execution of punishment, resocialization, humanization, probation, public safety, life imprisonment, judicial discretion, criminal policy.

The current reality, emerging within the context of implementing the "Uzbekistan–2030" Strategy, necessitates a fundamental re-evaluation and reconsideration of the essence of "conditional early release from serving a sentence"—a mechanism that serves as a central element of the progressive system for the execution of penalties under the General Part of criminal legislation.
The reform of this legal institution must now focus, conceptually, on eliminating the repressive tendencies that have effectively neutralized its incentive-based potential. These tendencies have taken shape during the process of unsystematic legislative changes enacted in recent years. A critical audit of the normative amendments continuously introduced into the current criminal legislation of the Republic of Uzbekistan reveals two specific issues. Firstly, there is a persistent tendency to impose—in a manner that is both radical and doctrinally unjustified—stricter conditions for the application of a probationary period to individuals convicted of serious or particularly serious aggressive offenses. Secondly, it has been observed that the right to conditional early release has been entirely blocked for certain specific offenses defined in the Special Part of the Criminal Code, with the list of such offenses being expanded in a systematic and unjustified manner. Throughout the period that the Criminal Code (adopted in 1994) has been in effect, various restrictions—based on the category of the offender—have effectively excluded certain groups from the state's benevolent leniency: highly dangerous recidivists, those serving life sentences or long-term prison terms, organizers and participants of organized groups or criminal associations, and individuals who committed a new intentional crime while still serving a portion of a previous sentence. These prohibitions have transformed what should be an incentive within the justice system into a mechanism that ensures the continued, permanent isolation of the offender. Such punitive isolationism stands in fundamental contradiction to the strategic direction of liberalizing and humanizing criminal policy; it signals that legislation has reached a dead end—fostering a

sense of "preventive pessimism"—and necessitates a systematic, comprehensive modernization of the legal framework.

The core doctrinal approach to contemporary codification must entail an uncompromising and complete abandonment of any absolute statutory prohibitions or arbitrary, case-specific restrictions regarding the mechanism for conditional early release. The foundation of modern criminal policy should be built upon a conceptual triad rooted in scientific and practical evidence. It should be noted that the call to remove blanket barriers from the "General Part" of the criminal code does not imply an automatic or unmonitored equalization of legal consequences for individuals deemed "dangerous." The primary task facing the codifier is to develop differentiated and maximally stringent substantive and temporal conditions for individuals who have committed highly dangerous acts—including those sentenced to life imprisonment or long-term deprivation of liberty. However, the final determination regarding the safety and resocialization of the individual in each specific case must remain a lawful prerogative within the scope of the court's discretionary authority. Expanding on this point, it should be emphasized that granting judicial discretion in relation to highly dangerous offenders does not equate to leniency in the application of the law; on the contrary, it imposes an obligation on the justice system to subject the convicted individual to an intensive, in-depth assessment—encompassing both probationary and psychosocial dimensions. To balance humanitarian principles with the objective of fully ensuring national security and general prevention, it is necessary to introduce a highly rigorous, restrictive chronological filter and a system of prohibitions within the General Part; these should serve as a mandatory substantive prerequisite for initiating plea-bargained judicial proceedings. As an example for national legislation and a key doctrinal innovation, it is proposed to establish a mandatory rule: the consideration of conditional early release for individuals sentenced to life imprisonment shall be permissible only after they have effectively served at least twenty-five years in isolation from society. In this context, the court's discretionary powers come fully into play; the judiciary is not bound solely by the fact that twenty-five years have elapsed. Even if materials from penitentiary oversight or an independent psychological assessment indicate the slightest sign of a latent threat posed by the individual to others, the court retains the authority to deny conditional early release.

Conversely, it should be noted that applying a rigid twenty-five-year threshold for conditional release to individuals serving fixed-term sentences is methodologically unsound. Since their actual period of isolation is objectively shorter than this duration, such a threshold effectively nullifies its own deterrent capacity. To prevent this systemic contradiction, it is necessary to rely on the innovative model of the penal system proposed in the source cited below. In this model, long-term deprivation of liberty is distinguished as an independent, autonomous type of punishment [See: Yakubov A.S., Azimov Sh.O. *The Criminal-Legal Complex of Legal Branches for Combating Crime*. Vol. V, Book Two: "Modeling Criminal Law: From Theory to Practice. Criminal-Legal Measures of Coercion." – Tashkent, 2026]. It would be appropriate to replace the existing, disjointed set of absolute historical prohibitions—previously scattered throughout the General Part—regarding conditional early release from punishment, with a universal "incentive coefficient." For individuals sentenced to long-term imprisonment—including highly dangerous recidivists, organizers or participants in organized groups or criminal associations, and those who have committed crimes posing a severe threat to the foundations of the state (such as acts of terrorism, assaults on the constitutional order, or large-scale drug trafficking)—a requirement must be applied that at least five-sixths (5/6) of the court-imposed sentence be served. This same five-sixths (5/6) threshold should also apply to "professional recidivists"—individuals who, having previously

benefited from early conditional release or a commutation of their sentence, brazenly commit a new intentional crime during the unserved portion of their prior sentence.

Replacing an absolute prohibition [on early release] with a flexible yet strictly preventive scale of mandatory minimum portions served fully aligns with national interests, as it guarantees that every citizen retains a "right to hope." However, the practical application of this mechanism remains strictly constrained by judicial discretion and substantial time-based requirements.

Secondly, the strategic and fundamental vector for the doctrinal modernization of the institution of conditional early release lies in the psychological and socio-humanistic essence of providing preventive incentives to individuals serving sentences in isolation from society. The science of criminal law and penitentiary psychology rely on an immutable axiom: the legal prospect of early release serves as the primary, unique, and most powerful internal impetus for the resocialization of an offender. This factor holds critical, existential significance in the execution of sentences for those serving long-term imprisonment, and especially for those sentenced to life imprisonment. Human psychology is structured in such a way that, within a penal institution, an individual requires an emotional and chronological point of reference—a "window of hope" that opens a legal pathway for a return to civilian life—to sustain law-abiding, exemplary behavior, as well as the volitional motivation to engage in work and study. Conversely, the further this prospect is pushed away—whether through legal restrictions or an outright statutory ban—the more rapidly and irreversibly the core of a convict's motivation erodes. The artificial imposition of absolute chronological barriers, or the application of a blanket veto to entire categories of inmates, plunges the individual into a state of "legal hopelessness" and "preventive pessimism." A convict deprived of the legal possibility of conditional early release loses their internal, law-abiding "censor"; their moral rehabilitation—in an anthropological sense—ceases, replaced by latent aggression, psychological "burnout," intense rage, hostility, and the petrification of their legal consciousness.

An increase in the number of "hopeless" convicts within the penitentiary system inevitably destabilizes the operational environment, turning such individuals into a constant source of danger for both staff and fellow inmates—for a person stripped of all hope has nothing left to lose in the eyes of the law. In developing the incentive-based mechanisms of modern legislation, criminal policy must be grounded in a fundamentally new, humanistic paradigm. According to this view, individuals who violate criminal law remain citizens of their country; their legal deviation does not sever their constitutional bond with their homeland. This implies that in every instance of an individual's descent into criminal behavior, there exists—objectively—a certain share of responsibility attributable to the state, whether in the socio-economic, preventive, or educational spheres. A criminal act serves as a latent indicator of a breakdown in the functioning of state and societal institutions—manifesting as a failure to timely address issues such as marginalization, legal nihilism, family dysfunction, educational shortcomings, or economic inequality. Consequently, the state lacks the moral justification to abandon the rehabilitation of its citizens entirely and definitively by closing off access to incentive-based legal procedures. Replacing repressive prohibitions with a strictly graduated—yet fundamentally attainable—scale of incentive-based coefficients would fully restore the balance of social justice. For long-term prison sentences, this scale would apply after five-sixths (5/6) of the term has been served, while for life imprisonment, it would incorporate a twenty-five-year threshold. The state acknowledges the right of an individual who has strayed to atone for their guilt through positive post-offense conduct; by preserving their motivation to live, the state transforms the administration of justice—via conditional early release—into a sophisticated, humane, and effectively preventive mechanism.

Thirdly, the final and most pragmatic doctrinal vector for modernizing the institution of conditional early release involves auditing the economic consequences for the national budget that arise from the excessive application of criminal-law coercive measures.

The state's penal activities cannot evolve in isolation from the broader financial and economic environment of society. The steady growth in the number of "hopeless" inmates within correctional institutions serves as an example of a destructive and economically unjustifiable penal policy—one that effectively blocks legal avenues for conditional early release. Maintaining individuals in places of deprivation of liberty is funded exclusively by the state budget, incurring enormous costs for security, food, clothing, utilities, and specialized medical care. In a situation where the rehabilitative potential of punishment has effectively vanished, keeping citizens in isolation for extended periods inflicts direct and unwarranted harm upon national well-being.

The economic pragmatism of modern criminal policy necessitates a fundamental reassessment of this outdated paradigm, shifting the evaluation of penal effectiveness toward the rational use of state resources. Artificially depriving convicts of the right to seek a compromise—one that serves as an incentive—inflicts a twofold economic loss on the state budget. On one hand, the treasury incurs direct costs from the continuous enforcement of incarceration; on the other, the legitimate economy is deprived of potential labor and human capital. An individual who has been successfully resocialized and reintegrated into society—under strict probationary supervision—is transformed from a passive consumer of state subsidies into an active, productive participant in the market who pays taxes and provides financial support for their family, thereby reducing the social burden borne by the state.

Eliminating blanket legislative prohibitions—and replacing them with a rigorous, yet surmountable, scale of criteria, combined with judicial discretion—would enable the penitentiary system to release individuals who no longer pose a threat to society. In this way, it will be possible to effectively direct billions of budget allocations to modernize probation bodies, introduce high-tech electronic monitoring systems, and finance social programs related to early crime prevention. Integrating the factor of economic pragmatism in this way transforms the institution of parole from an abstract act of compassion into a balanced, transparent, financially sound technology of public administration.

Justification of the complete dismantling of absolute normative prohibitions and casuistic restrictions in the mechanism of conditional release before the term of punishment requires a comprehensive analysis of its compliance with modern international legal standards and the experience of foreign codification.

Global criminal policy in the 21st century approaches the progressive penal system not through the lens of punitive impact, but from the perspective of the offender's resocialization. A key doctrinal reference point in this regard is the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the provisions of which serve as a supreme, universal imperative for national legislators.

In the context of modernizing the legal norm under analysis, Rules 26 and 107 of the Nelson Mandela Rules hold particular methodological significance. Rule 26 mandates that the penitentiary system must strive to minimize the destructive consequences of isolation from society, ensuring that the convicted individual maintains and strengthens ties with the outside world, their family, and legitimate social institutions. Furthermore, Rule 107 stipulates that, from the very beginning of the sentence, the administration of penal institutions—in collaboration with state probation authorities—must develop a forward-looking plan for the prisoner's reintegration into civilian life. International standards clearly indicate that conditional release is an essential legal mechanism

designed to ensure a smooth and safe transition from life within a prison regime to a law-abiding life in the community. The creation of a category of "hopeless" prisoners—those entirely deprived of the right to conditional release before the completion of their full sentence—is fundamentally and irreconcilably at odds with the philosophy underlying the Nelson Mandela Rules; it effectively negates the very purpose of rehabilitation and denies an individual the right to social reintegration.

A comparative legal analysis of the experience of developed nations confirms that progressive legal systems are consistently moving away from rigid, indefinite prohibitions, replacing them with flexible, discretionary mechanisms subject to judicial oversight. Following radical reforms in the late 20th century, the U.S. federal criminal legal system (U.S. Code) largely moved away from the classic concept of "parole" in favor of a mechanism known as "supervised release"—a system that integrates judicial sentencing with a dynamic scale of probationary oversight. At the same time, despite its traditional emphasis on punitive rigor, American legal doctrine has retained a specific "compassionate release" provision for individuals serving long or even multiple life sentences. This mechanism allows for judicial review based on a thorough assessment of an individual's potential for social reintegration, age, and health status—effectively setting aside the "preventive pessimism" (the assumption that an offender will inevitably reoffend) that often dictates sentencing.

A more distinctly humane and pragmatic approach is evident in the criminal law of the Federal Republic of Germany (*Strafgesetzbuch* – StGB). Under Section 57a of the German Criminal Code, individuals sentenced to life imprisonment (*lebenslange Freiheitsstrafe*) are not relegated to the status of citizens who have been permanently cast aside. German law explicitly stipulates that, after fifteen years of actual incarceration, a court is required to consider the possibility of suspending the remainder of the sentence on a probationary basis. An absolute prerequisite for this is a determination that the gravity of the offense no longer necessitates continued imprisonment and that the individual has demonstrated they no longer pose a danger to society.

Similarly, the criminal policy of the Kingdom of the Netherlands—traditionally recognized as an exemplar of penitentiary pragmatism—is entirely oriented toward the principles of resocialization. The Dutch model of conditional early release (*voorwaardelijke invrijheidstelling*) is based on an automatic judicial review of the possibility of releasing an individual once they have served two-thirds (2/3) of their imposed sentence. In principle, the law does not contain a list of offenses that would preclude this pathway. Furthermore, following a ruling by the European Court of Human Rights, the Netherlands has introduced a mandatory mechanism for reviewing the sentences of prisoners serving life terms after they have completed twenty-five years of incarceration. This aligns perfectly with the twenty-five-year threshold proposed in our "General Part."

In the United Kingdom (specifically in England and Wales), a sophisticated system of "release on licence" operates under the Criminal Justice Act. This is a distinctively English legal mechanism that entails both supervision and the obligation to adhere to the specific conditions set forth in the release licence. For individuals serving indeterminate sentences, cases are referred to a Parole Board for review. Rather than focusing on the vague concept of "impeccable conduct," the Board evaluates the extent to which the risk of recidivism has diminished, replacing periods of incarceration with flexible, probation-based restrictions.

From both a theoretical and practical standpoint, the experience of other post-Soviet states—which have grappled with similar challenges in overcoming the legacy of Soviet-era repression—in regulating the institution of early conditional release (parole) is of particular interest.

Article 79 of the Criminal Code of the Russian Federation establishes a structured, yet fundamentally open-ended, scale of incentives. Russian lawmakers have defined specific

thresholds—ranging from one-third (1/3) to one-half (1/2) and two-thirds (2/3) of a sentence—that must be served, depending on the severity of the offense. For highly dangerous crimes, such as those involving drug trafficking or terrorist activities, the threshold is set at three-quarters (3/4) of the sentence. At the same time, Article 79 of the Criminal Code of the Russian Federation preserves the right to conditional early release even for those sentenced to life imprisonment, establishing a twenty-five-year threshold of actual time served under conditions of strict isolation. This aligns perfectly with the approaches we are proposing.

The criminal legislation of the Republic of Kazakhstan (Article 72 of the Criminal Code of the Republic of Kazakhstan) has similarly moved away from an absolute ban on conditional early release, structuring the system around rigorous—yet attainable—chronological milestones. The Kazakhstani model provides detailed regulation for the probationary supervision of individuals granted conditional early release, transforming the probationary period into a dynamic system of obligations monitored by specialized state inspection agencies.

Thus, comparative legal analysis convincingly proves that world legal practice unanimously rejects the concept of absolute prohibitions on conditional release. Replacing repressive taboos (prohibitions) with extremely strict deterrent incentive coefficients (such as 5/6 of the established term and a twenty-five-year limit for life imprisonment) under the exclusive control of the discrete powers of the court will return the General Part to the path of world legal development and guarantee the inviolable protection of the constitutional rights of citizens and the national security of the Republic of Uzbekistan.

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