

Strokes of Criminal Policy in Central Asian Countries: From Soviet Legacy to Modern Standards. Can Eastern Mentality Be Overcome?

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Abstract:

This article explores the evolution of criminal policy in the Central Asian states since their independence from the Soviet Union. It highlights the divergence in legal development paths, shaped by historical, cultural, political, and socio-economic factors unique to each country. The analysis examines the preservation of Soviet legal frameworks in the early stages, the varying degrees of repressive policies, and the eventual shifts towards modernization under the influence of domestic and international pressures. Particular attention is paid to the interplay between traditional "Eastern mentality" and contemporary legal standards. The author discusses notable reforms and persisting challenges in the criminal justice systems of Uzbekistan, Kazakhstan, Kyrgyzstan, Turkmenistan, and Tajikistan, emphasizing the balance these nations must strike between progress and tradition.

Keywords: Criminal policy, Central Asia, legal reform, Eastern mentality, modernization, Soviet legacy, legal systems, human rights, justice system transformation, socio-political influences.

Introduction

The dissolution of the Soviet Union marked a turning point for the nations of Central Asia, compelling them to embark on the complex journey of state-building and legal reform. Once unified under a common Soviet legal framework, these newly independent states faced the dual challenge of establishing national legal identities while addressing the lingering influence of their shared past. Criminal policy, a vital pillar of state governance, emerged as a critical area of reform in the pursuit of sovereignty, stability, and modernization.

This article delves into the evolution of criminal policy across five Central Asian countries—Uzbekistan, Kazakhstan, Kyrgyzstan, Turkmenistan, and Tajikistan—since gaining independence. While these nations share a common historical backdrop and geographical proximity, their political systems, cultural values, and socio-economic realities have led to diverse trajectories in the development and implementation of criminal policy.

The early post-Soviet period saw the retention of Soviet-era criminal codes, characterized by repressive practices and a focus on state security. Over time, each country sought to adapt its legal frameworks to reflect its unique priorities and challenges. From Uzbekistan's gradual reforms to Kazakhstan's ambitious legal experiments, Kyrgyzstan's struggles with political instability, Turkmenistan's insular approach, and Tajikistan's recovery from civil war, the region presents a multifaceted picture of legal transformation.

This study aims to analyze the key factors shaping criminal policy in Central Asia, exploring the extent to which these nations have succeeded in modernizing their legal systems while addressing the tension between preserving traditional values and meeting contemporary international standards. It also seeks to shed light on the broader implications of these reforms for governance, human rights, and societal development in the region.

Central Asia is traditionally perceived as a single, homogeneous region. However, despite shared political regime characteristics, significant differences between the countries exist; relations among them have not always been friendly, and their foreign policy orientations vary significantly.

It is evident that each state in the region has developed in its own unique way, following distinct models with individual international aspirations. Paradoxically, this divergence became possible only after losing the Soviet identity that once unified the Central Asian republics. The nation-building process has driven these republics apart.

Over the years, many legal institutions related to criminal policy in these states have undergone significant transformations. At first glance, criminal policy in these republics appeared to follow the Soviet Union's path. However, a deeper analysis reveals unique constitutional formulas and diverse development trajectories in criminal policy and its institutions.

In each case, the formation and development of criminal policy elements were influenced not only by common factors but also by specific ones that led to their subsequent transformation in the context of the new independent states.

Initial Challenges in Independent Legislation Creation

Upon achieving national independence, the CIS countries, including Uzbekistan and other Central Asian nations, faced the challenge of creating new legal frameworks. At the start, the region's conditions were largely uniform:

1. **Preservation of Codified Acts:** Until new codes were adopted, the old criminal, criminal procedure, and penal codes remained in force. These retained the Soviet focus on combating crime, rooted in class struggle and politically motivated suppression of perceived "enemies."
2. **Repressive Tendencies in Criminal Policy:** The initial tasks of building modern criminal policies were secondary. The inherited repressive policies created contradictory public attitudes: fear and distrust towards law enforcement coexisted with beliefs that harsher penalties were necessary to combat crime.
3. **Retention of Soviet Normative Systems:** Countries maintained much of the Soviet system in terms of norm creation and legal drafting, leading to early criminal codes that closely resembled Soviet prototypes [1-5].

Diverging Paths of Criminal Policy

Over time, criminal policies in the region began to diverge significantly. Criminal policy, being a continuation of state policy, mirrored the political landscapes:

- **Uzbekistan:** Bureaucratic apparatus and an over-empowered law enforcement system created stability but hindered legal innovation.
- **Kyrgyzstan:** Reliance on foreign aid made criminal policy unstable and politically contingent.
- **Tajikistan:** Civil unrest and clan-based regionalism created additional challenges.
- **Kazakhstan:** Economic resources facilitated more significant reforms.

Country-Specific Analysis

Uzbekistan: Uzbekistan pursued an evolutionary path of reform, emphasizing gradual changes and rejecting "shock therapy" models. Despite adopting codified legislation early in its independence (Criminal Code in 1994, Criminal Procedure Code in 1994, Penal Code in 1997), these retained Soviet roots. Substantial shifts began in 2017, emphasizing societal needs and introducing groundbreaking initiatives, such as the abolition of the notorious Jaslyk prison.

Kazakhstan: Early criminal codes (1997) were progressive yet maintained Soviet legal structures. Reforms accelerated post-2014, introducing modern concepts like Miranda rights, simplified investigations, and greater use of bail.

Kyrgyzstan: Democratic aspirations in the 1990s led to a series of setbacks due to political instability. The second wave of reforms (2017) introduced modern laws, including amnesty frameworks. However, persistent challenges, such as widespread corruption and "prisonization" of society, hinder progress.

Turkmenistan: A closed political system delayed the adoption of independent codes until the late 1990s and early 2000s. Despite integrating modern norms, the country's isolation and authoritarianism question their practical implementation.

Tajikistan: The aftermath of a civil war delayed legal reforms. The criminal policy, heavily influenced by foreign experts, introduced progressive elements, such as inmates' rights to appeal to international bodies. However, resource constraints and ongoing instability remain barriers.

Key Takeaways on Regional Criminal Policy

1. **Complex Evolution:** Central Asian states have navigated between the remnants of Soviet policies and the need for modernization, often shaped by political and societal pressures.
2. **Balancing Traditions and Progress:** While secular values are proclaimed, Islamic and traditional norms continue to influence criminal policy.
3. **Authoritarian Stability:** Strong criminal policies are maintained to counter extremism, often at the expense of human rights improvements.
4. **Diverse Models:** The region's heterogeneity prevents a one-size-fits-all approach, with each country's policy reflecting its unique historical, cultural, and political context.

Conclusion

Central Asia stands at the crossroads of civilizations, blending Eastern and Western values. The region's future hinges on its ability to synthesize liberalism and human rights with its historical and cultural heritage. This synthesis will determine the prospects for state development and legal policies in each country.

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