

## Eureka Journal of Humanities and Social Research (EJHSR)

ISSN 2760-4934 (Online) Volume 2, Issue 4, April 2026



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<https://eurekaoa.com/index.php/4>

## THE SOCIOLOGY OF PUNISHMENT AS A NEW DIRECTION IN STATE CRIMINAL POLICY

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### Abstract

This article explores the sociology of punishment as a transformative direction in modern state criminal policy. Moving beyond traditional penological paradigms, it analyzes punishment as a complex social institution shaped by historical, economic, and cultural forces, synthesizing theories from Durkheim, Marx, Foucault, Elias, and Garland. Based on international experiences and humanistic reforms in New Uzbekistan, the study highlights the ineffectiveness of mass incarceration and advocates for the decriminalization of minor offenses, the use of alternative sanctions, and the resocialization of offenders.

**Keywords:** Sociology of punishment, state criminal policy, social control, humanization, resocialization, culture of control, mass incarceration, criminal misdemeanor.

### JAZO SOTSILOGIYASI DAVLAT JINOIY SIYOSATINING YANGI YO'NALISHI SIFATIDA

Kayumova Farzona Xayrulla qizi,

Toshkent davlat yuridik universitetining "Jinoyat qonunchiligini qo'llash  
nazariyasi va amaliyoti" mutaxassisligi magistranti.

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### СОЦИОЛОГИЯ НАКАЗАНИЯ КАК НОВОЕ НАПРАВЛЕНИЕ ГОСУДАРСТВЕННОЙ УГОЛОВНОЙ ПОЛИТИКИ

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#### Annotatsiya

Ushbu maqola jazo sotsiologiyasini zamonaviy davlat jinoiy siyosatining o'zgartiruvchi yo'nalishi sifatida o'rganadi. An'anaviy penologik yondashuvlardan chetga chiqib, jazo – tarixiy, iqtisodiy va madaniy omillar ta'sirida shakllanadigan murakkab ijtimoiy institut ekanligini Dyurkgeym, Marks, Fuko, Elias va Garland nazariyalari asosida tahlil qiladi. Xalqaro tajriba va Yangi O'zbekistondagi insonparvar islohotlarga tayangan holda, tadqiqot ommaviy qamoqqa olishning samarasizligini ko'rsatib, uncha og'ir bo'lmagan jinoyatlarni dekriminallashtirish, muqobil sanksiyalarni qo'llash va huquqbuzarlarni resotsializatsiya qilishni taklif etadi.

#### Аннотация:

В статье социология наказания рассматривается как преобразующее направление современной государственной уголовной политики. Выходя за рамки традиционной пенологии, автор анализирует наказание как сложный социальный институт, формируемый историческими, экономическими и культурными силами, опираясь на теории Дюркгейма, Маркса, Фуко, Элиаса и Гарленда. На основе международного опыта и гуманистических реформ в Новом Узбекистане исследование подчеркивает неэффективность массового лишения свободы и выступает за декриминализацию мелких преступлений, применение альтернативных санкций и ресоциализацию правонарушителей.

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**Kalit so'zlar:** Jazo sotsiologiyasi, davlat jinoiy siyosati, ijtimoiy nazorat, insonparvarlashtirish, resotsializatsiya, nazorat madaniyati, ommaviy qamoqqa olish, jinoiy qilmish.

**Ключевые слова:** Социология наказания, государственная уголовная политика, социальный контроль, гуманизация, ресоциализация, культура контроля, массовое лишение свободы, уголовный проступок.

### Introduction

The standard frameworks through which contemporary society comprehends, debates, and administers criminal punishment have historically been delineated by two distinct discursive traditions: the penological and the philosophical.<sup>1</sup> The penological paradigm treats punishment almost exclusively as a technical mechanism for crime control, focusing predominantly on efficacy, the reduction of recidivism rates, and the logistical management of individual criminals within correctional institutions. Within this instrumental framework, the prevailing question is a pragmatic "What works?", accompanied by statistical analyses of specific sanctions. Conversely, the philosophy of punishment—rooted deeply in Enlightenment thought—frames penal sanctions primarily as moral and ethical dilemmas. This tradition interrogates the justifications for state coercion, debating whether punishment should be anchored in Kantian retributivism, Benthamite utility, or the denunciation of moral transgressions, persistently asking "What is just?" rather than "What is effective?"<sup>2</sup>

While both the penological and philosophical traditions offer indispensable insights, they present fundamentally limited and largely one-dimensional accounts of actual penal practice. To view penal measures solely as technical instruments of crime control obscures the profound structural and social

<sup>1</sup> Foucault, M. (1977). *Discipline and Punish: The Birth of the Prison*. Garland, D. (1991). "Sociological Perspectives on Punishment." *Crime and Justice*, Vol. 14. Garland, D. (2001).

<sup>2</sup> *Punishment and Social Structure*. Elias, N. (1978). *The Civilizing Process*. Voronin, V. N. (2022).

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determinants that shape them, the cultural conventions they embody, and the wide-ranging socio-political effects they generate far beyond the immediate offender population. An instrumental technology rationally attuned exclusively to the goal of crime control might reasonably be expected to succeed; yet, historical and contemporary penological research consistently reveals systemic failures, such as stubbornly high recidivism rates. Furthermore, the philosophical approach, heavily reliant on idealized notions of the state-individual contract and classical civil liberties, often fails to critically evaluate the systemic aggregative problems of modern penal systems, such as the appropriate size of the prison population, the minutiae of carceral regimes, or the broader symbolic impact of punishment on social solidarity. Consequently, a third, more expansive and critical framework has emerged over recent decades: the sociology of punishment. This perspective conceptualizes punishment not merely as a utilitarian tool or a moral abstraction, but as an intricately layered social institution. It investigates how specific penal measures come into existence, the latent social functions they perform, their intersections with economic and political structures, and their role in the cultural reproduction of society. By repositioning punishment within a broader social matrix, the sociological perspective offers a transformative new direction for state criminal policy, advocating for approaches that are empirically grounded, socially contextualized, and acutely aware of the unintended consequences of state coercion, thereby serving as a vital bridge between abstract jurisprudence and the gritty realities of social order.

To fully grasp the multidimensional nature of punishment and its implications for modern state criminal policy, it is imperative to traverse the foundational sociological theories that have mapped this complex terrain. Émile Durkheim, a seminal figure in this domain, conceptualized punishment primarily as a profound moral process designed to preserve the shared values and normative conventions—the *conscience collective*—upon which social life and solidarity

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depend.<sup>3</sup> In the Durkheimian framework, crime provokes collective moral outrage, and punishment serves as a passionate, ritualistic reaction that channels this emotional energy to reaffirm the strength of the moral order. Rather than a sterile, utilitarian instrument of behavioral regulation, punishment is an expressive institution directed largely at the audience of impassioned onlookers, reassuring them that societal conventions remain robust and that authority is secure. While modern critics have rightly noted that Durkheim's assumption of a homogenous moral consensus overlooks the ways in which penal systems often enforce the values of dominant elites rather than universal norms, his emphasis on the profound emotive, communicative, and semiotic dimensions of punishment remains indispensable for understanding why penal policy frequently operates as a metaphor for political strength rather than a rational crime-control measure.

Diverging sharply from Durkheim's focus on moral solidarity, Marxist and political economy perspectives reposition punishment as an apparatus of class rule, ideological domination, and economic regulation. The seminal work of George Rusche and Otto Kirchheimer, *Punishment and Social Structure*, posits that the evolution of penal methods is inextricably linked to the labor market and the prevailing modes of production.<sup>4</sup> When labor is scarce, penal institutions preserve and exploit convict labor; when labor is abundant, the state resorts to reckless, exclusionary punitive measures such as capital and corporal punishment. Furthermore, the Marxist framework introduces the critical principle of "less eligibility," which dictates that the conditions of penal confinement must be systematically worse than the lowest standard of living among the free proletariat. This principle serves to coerce the working class into the labor market and sets strict, systemic limits on the humanization and rehabilitative potential of

<sup>3</sup> "Sociology of Criminal Law: Methods of Studying Public Opinion and their Interpretation in Criminal Law Research." Courier of Kutafin Moscow State Law University. Titaev, K. D. (2020).

<sup>4</sup> The Culture of Control: Crime and Social Order in Contemporary Society. Rusche, G., & Kirchheimer, O. (1939).

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penal regimes. Scholars like E.B. Pashukanis have extended this analysis into the ideological realm, arguing that the modern prison and the concept of proportional sentencing are direct homologues of capitalist commodity exchange. In this view, the offender "pays a debt" through measured units of time, transforming crime into an involuntarily concluded contract and making the penal system an ideological apparatus that reproduces the mental and cultural categories necessary for capitalist domination.

In contrast to the macro-economic focus of the Marxists, Michel Foucault's groundbreaking work, *Discipline and Punish*, delves into the internal micro-mechanics of penal power, charting the historical transition from the spectacular, violent public tortures of the sovereign to the meticulous, hidden disciplining of the modern penitentiary. For Foucault, the cessation of public executions was not primarily a triumph of Enlightenment humanitarianism, but rather a strategic refinement in the economy of power. The unpredictable and politically costly spectacles of the scaffold—which often generated public sympathy for the condemned and sparked riots—were replaced by a new "technology" of discipline that sought to forge "docile bodies" capable of functioning obediently in the industrial age. The modern prison, epitomized by Bentham's Panopticon, operates on principles of continuous surveillance, normalization, and individualized treatment, intricately intertwining the exercise of power with the accumulation of scientific knowledge in fields like criminology, psychology, and psychiatry.<sup>5</sup> Crucially, Foucault argues that the ostensible "failure" of the prison to eradicate crime is, in fact, a covert political success; by producing a marginalized, highly visible, and manageable class of recidivist "delinquents," the penal system divides the working class and justifies the continuous expansion of police surveillance across the entire social body.

Adding a crucial cultural and psychic dimension to this discourse, Norbert Elias's theory of the "civilizing process" elucidates how shifting societal sensibilities

<sup>5</sup> Norm and practice in criminal policy: gaps and imbalances. Institute for the Rule of Law. Kabulov, R.

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dictate the acceptable boundaries of penal violence over time. As modern Western societies developed heightened thresholds of delicacy, shame, and repugnance toward raw physical suffering and open aggression, overtly brutal punishments like public flogging, stoning, and gruesome executions became culturally intolerable. This resulted in the profound "privatization" of punishment. Just as distasteful bodily functions and the slaughtering of animals were moved behind closed doors, the infliction of penal suffering was relocated "behind the scenes" into enclosed institutions like prisons. Elias's framework helps explain why modern sensibilities permit the profound psychological, emotional, and social torment of long-term incarceration—or the sanitized, medicalized administration of lethal injection—precisely because these forms of violence are discreet, disguised, and removed from the public gaze, thereby preserving the self-image of a "civilized" society while still satisfying punitive urges.

More recently, David Garland's *The Culture of Control* synthesizes these diverse theoretical strands to analyze the radical transformation of criminal policy in late-modern societies, particularly the United States and the United Kingdom, from the 1970s onward. Following the collapse of the "rehabilitative ideal" and penal welfarism—catalyzed largely by the infamous "nothing works" doctrine popularized by Robert Martinson regarding prison reform programs—state criminal policy shifted dramatically toward punitiveness, expressive justice, and mass incarceration.<sup>6</sup> Garland identifies a distinct "punitive turn" characterized by twelve key features, including the politicization of crime, the re-emergence of retributive and "primitive" sanctions, a permanent state of crisis consciousness, the transformation of criminological thought toward rational choice theories, and the ascendance of the victim as the central, emotive figure in penal rhetoric. In response to the high crime rates and social anxieties of late modernity,

<sup>6</sup> "Correlation of assessing the severity of punishment and the level of crime in different countries." Utkin, V.A. (2018).

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governments have bifurcated their approach: deploying highly punitive, expressive state strategies (like "three strikes" laws and mandatory minimums) to satisfy populist demands for retribution, while simultaneously adopting adaptive, preventive strategies that "responsibilize" private citizens, local communities, and commercial actors to manage the risks of everyday crime.

To transition from these profound theoretical frameworks to practical, actionable policy formulation, the methodological approaches employed in the sociology of punishment must be rigorously defined and systematically applied. Understanding the sociology of punishment demands a robust, multidimensional analytical framework that steadfastly refuses to reduce the penal complex to a single causal principle, whether it be simplistic "moral outrage," deterministic "economics," or purely instrumental "crime control". Instead, a rigorous sociological methodology acknowledges the plurality of causes, meanings, and effects inherent in penal institutions, actively combining macro-sociological evaluations of legislative policy trends with micro-sociological analyses of institutional dynamics and individual behaviors. Criminal policy cannot be fully understood or reformed without analyzing the social mechanisms of punishment implementation on the population as a whole, thereby necessitating empirical research that reflects objective realities rather than abstract legal dogmatism.

One critical methodological vector involves the empirical study of public opinion and its complex, often volatile relationship with criminal justice. Traditional, reactionary criminal policy frequently operates on the assumption that heightened punitive measures and draconian sentencing are a direct, democratic response to overwhelming public demand. However, specialized sociological methodologies—such as those developed by V.N. Voronin in Russia, alongside international scholars like Julian Roberts, Karen Gelb, and Sergio Herzog—reveal that public attitudes toward punishment are highly nuanced, frequently distorted by media sensationalism, and largely characterized by profound misinformation. Comprehensive surveys and factorial polling consistently

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demonstrate that the general public drastically overestimates crime rates and the prevalence of violent offenses, while simultaneously underestimating the harshness of the sentences actually handed down by the courts. When respondents are presented with abstract questions about justice or sentencing, they tend to recall extreme, atypical cases amplified by the media, leading to a generalized, emotionally charged perception that judicial punishments are far too lenient. Yet, when methodological tools utilize detailed vignettes that provide specific contextual facts about the offender and present a wide array of alternative sentencing options, public punitiveness significantly decreases, revealing a latent capacity for rational moderation. Therefore, the methodology of the sociology of criminal law strongly emphasizes the critical distinction between raw, uninformed public emotion and informed, deliberative public judgment, arguing that only the latter should legitimately influence the trajectory of state criminal policy.

Furthermore, empirical sociological research incorporates sophisticated stratification analysis to uncover how socioeconomic disparities, educational backgrounds, and income levels directly affect the conventionality, perception, and legitimacy of criminal punishment. Researchers employ structural-functional approaches, deep qualitative interviewing, and quantitative statistical analysis to demonstrate that the perception of penal justice is highly stratified and deeply unequal across different social demographics. Discriminatory practices and systemic biases within the criminal justice system frequently result in a disproportionate penal burden falling upon marginalized, unemployed, and socially vulnerable populations—those who lack the financial assets to secure elite legal representation or the social capital to be deemed "good risks" for diversionary programs. This systemic bias severely undermines the legitimacy of the legal system in the eyes of these communities. Methodologies must also encompass comparative criminological statistics to empirically test the widely assumed correlation between punishment severity and crime reduction. For

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instance, comparative indices evaluating crime rates alongside the strictness of penal sanctions across different federal republics (such as Germany, the Russian Federation, and the United States) reveal counterintuitive results: regions with the most severe, unforgiving punitive frameworks (e.g., the US) often exhibit higher crime indices and societal instability than those with milder, more rehabilitative penal cultures (e.g., Germany). This stark reality necessitates a deep socio-cultural analysis of national mentality, historical trust in law enforcement, and latent crime dynamics to fully contextualize penal efficacy.

The application of this comprehensive sociological methodology exposes deep fissures, structural imbalances, and systemic dysfunctions within contemporary criminal policies globally. A primary analytical finding across multiple jurisdictions is the pervasive "crisis of punishment," a concept articulated forcefully by sociologists and criminologists like Thomas Mathiesen and Nils Christie. This crisis is defined primarily by the manifest inability of traditional, highly repressive social control measures—chiefly imprisonment—to effectively curtail deviant behavior, deter future criminality, or reduce the persistently high rates of recidivism. Empirical data consistently demonstrates that the application of negative, punitive sanctions often leads only to a temporary, superficial cessation of unwanted behavior, while the long-term psychological degradation and social isolation caused by extended incarceration (particularly terms exceeding 5-6 years) produce irreversible personality changes, severe stigmatization, and the solidification of entrenched criminal identities. For instance, robust statistical analyses highlight that over half of identified offenders in many systems are recidivists, proving undeniably that prior exposure to the harsh realities of the penal system frequently fails to exert any specific deterrent effect. In fact, the blind expansion of the prison population yields rapidly diminishing returns; extensive studies by organizations such as the Vera Institute of Justice indicate that a massive 10% increase in incarceration reduces crime by merely 2-4%, a marginal and fleeting benefit that comes at an exorbitant,

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unsustainable financial and social cost. Thus, the utilitarian justifications for harsh punishments—deterrence, incapacitation, and reform—are empirically undermined and intellectually bankrupt in the face of the criminological realities of the modern carceral state.

These systemic failures can be further elucidated and reconceptualized through the theory of social exchange, as analyzed by scholars such as O.N. Bibik. Criminal punishment inherently functions as a specific, institutionalized instance of social exchange, wherein the state exacts a coercive "payment" from the offender in response to the social harm inflicted upon the community. Historically, the proportions and currencies of this exchange have evolved dramatically—from the absolute, literal equivalence of the primitive *lex talionis* (an eye for an eye, blood for blood) to diverse, symbolic equivalencies such as monetary fines, forced labor, or the temporal deprivation of liberty. Because the rules, symbols, and currencies of this exchange are organic components of human culture, they are inherently malleable and subject to evolutionary redefinition. Society is not fundamentally or biologically bound to utilize the most repressive, violent, or exclusionary sanctions to achieve this necessary exchange. The realization of this cultural relativity empowers state policy to consciously and humanely alter the proportions of penal exchange, steering away from draconian retribution toward restorative justice, financial restitution, and community-based rehabilitation, thereby radically economizing the state's use of coercion without dismantling the fundamental concept of legal accountability.

The trajectory of criminal policy, however, diverges significantly depending on the specific national socio-political and cultural context. In jurisdictions like the United States and the United Kingdom, the late 20th and early 21st centuries witnessed a sharp, heavily politicized punitive turn. Driven by populist "law and order" rhetoric and reactionary legislation such as "three strikes" laws, these states embraced mass incarceration and prioritized the exclusionary isolation of offenders over their resocialization. This model, deeply embedded in Garland's

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"culture of control," relies heavily on expressive retributive justice and actuarial risk management, resulting in immense social and financial costs, the severe entrenchment of racial and social inequalities, and a permanent, media-fueled state of crisis consciousness. In stark contrast to this hyper-punitive approach, the contemporary transformation of criminal policy in "New Uzbekistan" illustrates a deliberate, top-down integration of sociological insights aimed directly at the humanization, liberalization, and rationalization of the penal system.<sup>7</sup> Guided by the strategic visions and decrees of President Shavkat Mirziyoyev (such as the Development Strategy of New Uzbekistan 2022-2026 and the "Uzbekistan-2030" Strategy), the state has decisively prioritized the protection of fundamental human rights, the strengthening of legal protections, and the systematic reduction of punitive, retaliatory elements.

A central, quantifiable criterion of this sweeping judicial reform is the targeted reduction of the application of imprisonment from 30% down to 20%, reflecting a profound philosophical shift away from incarceration as the default penal response. This macro-sociological restructuring includes the complete constitutional abolition of the death penalty, the significant expansion of the institution of reconciliation (allowing offenders and victims to resolve conflicts outside the formal, destructive penal apparatus, applicable now to dozens of offenses), and the wide-scale implementation of non-custodial alternative sanctions. Furthermore, the Uzbek penal model heavily emphasizes the vital importance of resocialization and post-penal social adaptation; correctional facilities now incorporate innovative "Usta-shogird" (Master-Apprentice) schools and vocational centers to provide tangible trade skills, while a "preliminary package of socio-material assistance" is structurally granted to released individuals to facilitate their immediate reintegration into the labor

<sup>7</sup> Problems of the theory of criminal punishments. Tomsk State University. Rahimov, I.M., Alikperov, Kh.D. (2023).

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market and civil society.<sup>8</sup> By systematically opening penitentiary institutions to transparent oversight by the Ombudsman, international human rights organizations, and the media, and by formally implementing the UN's "Nelson Mandela Rules" into national legislation, Uzbekistan exemplifies a progressive criminal policy that utilizes the sociology of punishment to dismantle the closed, purely repressive carceral model in favor of a reintegrative, humane, and socially sustainable framework.

In synthesizing the vast theoretical paradigms, historical trajectories, and empirical realities of the sociology of punishment, it becomes unequivocally clear that state criminal policy globally must undergo profound structural recalibrations to remain legitimate, effective, and humane in the 21st century. The prevailing reliance on hyper-criminalization, excessive penal repression, and the overuse of incarceration has demonstrated a catastrophic inability to eradicate crime. Instead, it has generated vast socio-economic burdens, exacerbated the alienation and marginalization of vulnerable populations, shattered family structures, and frequently corrupted the fundamental principles of justice. To navigate the complex, transnational, and technological challenges of the modern era, the state must adopt a holistic, socially grounded criminal policy that transcends populist, reflexive punitiveness and is anchored firmly in empirical criminological and sociological data.

Foremost among the strategic recommendations for the future is the robust implementation of a comprehensive "new penalization" strategy. This strategy does not imply an increase in repression, but rather the systematic, logical ordering of sanctions and the aggressive decriminalization of minor offenses and acts that pose no significant threat to public safety, reclassifying them as administrative infractions or private civil disputes. Simultaneously, the introduction of a formal, legally distinct category of "criminal misdemeanors" is

<sup>8</sup> "Criminal punishment through the prism of social exchange theory." Baizakova, R.B., et al. "The effectiveness of punishment and alternative measures of influence."

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highly advised. By establishing a specific tier of offenses that carry strictly non-custodial sanctions and do not result in the crippling, lifelong stigma of a formal criminal record (which currently bars individuals from vast sectors of employment and civic life), the state can exact necessary accountability while preserving the offender's capacity for rapid, unimpeded social reintegration.<sup>9</sup> Furthermore, criminal policy must aggressively expand the repertoire of alternative, non-custodial measures, such as multiple-rate monetary fines tied to income, mandatory community service, restorative mediation, and the widespread, well-funded establishment of professional probation services. Finally, recognizing that penal institutions and laws are deeply embedded in the societal fabric, the state must actively foster an informed, rational public discourse regarding crime and punishment, utilizing rigorous sociological data to dismantle sensationalized fears and punitive populism. By prioritizing humanization, the strict economy of repression, and evidence-based resocialization over mere retribution, state criminal policy can transcend its historical role as a blunt instrument of violence, evolving instead into a sophisticated mechanism of genuine social healing, conflict resolution, and sustainable public order.

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