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## **Risk Management and Prospects for the Transition of Penitentiary System: The Case of Kazakhstan**

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**Abstract:**

*The purpose of this work is to assess the potential for implementing methods of project risk management in the practice of planning a reform to Kazakhstan's penitentiary system.*

*The paper examines some of the international standards for the treatment of inmates within correctional facilities, some of the best practices in reforming the penitentiary system, and some of the key characteristics of the current stage in reforming Kazakhstan's penitentiary system.*

*To collect the study's primary data, the author employed an expert survey. The survey featured 17 heads of various departments in correctional facilities within Kazakhstan's penitentiary system.*

*The findings from the author's study indicate that today Kazakhstan has all the material preconditions and conditions required to transition to a new stage in reforming its penitentiary system based on the implementation of methods of project risk management.*

**Keywords:** *penitentiary system, effectiveness of reform, project risk management, risk monitoring, integral indicators of risk.*

**JEL Classification:** *M10, K10, K40.*

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## 1. Introduction

The penitentiary system is a public institution that oversees the fulfillment of criminal punishments imposed on citizens in accordance with the law (as well as measures of pretrial procedural restraint) – both related and unrelated to imprisonment. Changes taking place around the world and in the Republic of Kazakhstan are gradually reducing the effectiveness of the nation's penitentiary system, prompting the need to reform it.

Currently, the operation of the nation's penitentiary system is characterized by discrepancies between existing methods for assessing the effectiveness of management of the system and the transition to new governance approaches employed by the republic's executive authorities. A key focus is on getting public authorities to achieve greater results at least financial cost to the state (Barber *et al.*, 2007; Krismiyarsi, 2017). A top priority today is the issue of focusing on a set of promising reform projects that would help ensure not just a change in the development but significant boosts in the social and economic effectiveness of the nation's penitentiary system.

In developing and implementing their penitentiary reforms, most nations around the world are guided by various principles and employ various techniques. One may get an impression that the decisive role is played by national traditions and cultural characteristics inherent to countries. Researchers of post-penitentiary recidivism across the globe have noted that a) recidivism levels are usually quite high; b) recidivism is “resistant”, i.e. there are no universally recognized recipes for reducing it sharply; c) imprisonment does not prevent one from committing crimes again (Heard, 2016). The findings from comparing data on post-penitentiary recidivism in various countries indicate that imprisonment does not work as a means of reforming an offender and that giving up the wide use of imprisonment does not generate spikes in the crime rate (Deady, 2014; Yuhelson 2017). Preventing repeat crimes requires implementing special activities on integrating ex-offenders into society, as the integration and resocialization of those once sentenced to imprisonment is quite a hard objective to achieve (McGuckin, 2017).

Miceli (2009) has identified a set of aspects that are crucial to the success of offender rehabilitation programs, which are outlined below. Offenders ought to be worked with both during the period of their imprisonment through to their release and during their first years of living outside the correctional facility. The greatest success has been recorded on long-term programs that have ensured support for the offender prior to and after their release.

These programs ought to be focused on certain target groups. To achieve the desired results, there is a need to take a different approach toward groups of offenders with different problems – drug addicts, illiterate individuals, individuals with mental disorders, women, etc. There ought to be a focus on resolving specific issues that

offenders are often faced with, like illiteracy, having no high-school diploma, drug addiction, having hard time getting employed, etc. A balance ought to be maintained between keeping an offender (or an ex-offender) under surveillance and providing them with support and counsel in prison. Researchers have noted the low effectiveness of programs that are based exclusively on keeping an ex-offender under surveillance and control, including through electronic monitoring of their actions and movements.

Offenders ought to be supplied with information about the outside world, including the operation of institutions which they will have to deal with when at large. There ought to be a focus on the well-thought-out coordination of work by government and nongovernmental organizations engaged in social rehabilitation programs. This implies the creation of relevant formalized procedures and institutions for interaction, like agreements, joint committees, etc. There ought to be a focus on engaging in the implementation of these programs' municipal employees and social workers from the community in which the offender will live when at large (e.g., the community of the district where the offender may be provided with housing).

In developing these programs, there ought to be a focus on considering a local context (statewide, regional, etc.). Resocialization programs ought to incorporate procedures for assessing the degree to which they are successful, including based on exploring recidivism levels among the program participants in comparison with the results from earlier years and indicators in control groups. This kind of analysis, which may require the participation of sociologist researchers, is a formula for being able to consistently enhance these programs and ensure, in this respect, greater accountability to society.

## **2. Characteristics of the current stage in reforming Kazakhstan's penitentiary system**

In the 1990s, Kazakhstan's penitentiary system was distinguished by a pronounced punitive/repressive tendency, with a focus on punishment in the form of imprisonment. Kazakhstan was among the "world leaders" in the Prison Index, behind just the US and Russia (World Prison Brief, n.d.). Year after year, the nation witnessed increases in expenditure on inmate maintenance, with post-penitentiary recidivism levels remaining high, resocialization levels remaining low, and latent crime levels growing in a consistent manner.

A testimony to the scale of concealment of certain categories of crime is, for instance, the fact that stiffening of requirements for the credibility of legal statistics led to a sharp increase in thefts, robberies, and cases of disorderly conduct: in contrast with the period 2010–2012, characterized by an average of 130,000 cases registered per year, in 2013 the figure was now 2.75 times that – as many as 360,000 cases. During the above period, the number of inmates in custodial facilities within Kazakhstan's penitentiary system (and, accordingly, its maximum capacity) was

around 100,000 inmates. If all those 360,000 registered crimes had been cleared, the nation's penitentiary facilities could have been unable to accommodate all convicted individuals. Thus, Kazakhstan found itself in need of reforms to its penitentiary system.

In 2014 came into effect the new versions of the nation's Criminal Code, Criminal Procedure Code, and Correctional Code. The government decriminalized a whole array of constituent elements of a crime, expanded the sphere of application of punishments not related to imprisonment, and on certain constituent elements reduced maximum terms of imprisonment. One of the novelties introduced by the Criminal Code was the term 'misdemeanor offense' (over 150 clauses). Committing a misdemeanor offense may result in detention in a lockup for a period of 30 to 90 days. Radical changes were made to the legal regulation of early release on parole. The government adopted a set of measures to expand the institutions of conciliation, restraint and punishment not related to detention and imprisonment, conditional early release from prison, and replacing a punishment with a softer one. The Correctional Code, in turn, introduced for the first time the institution of probation and the use of individual electronic means of control.

Consequently, the number of inmates in custodial facilities within Kazakhstan's penitentiary system dropped from 100,000 to 40,000. This significant reduction and a major change in key characteristics (95% of all inmates serving sentences for serious, particularly serious, and recurrent crimes; 40% having two or more convictions; 71% sentenced to a term of over 5 years) signaled the need for adopting whole new approaches to planning a new stage in the reforms. Reforms to the penitentiary system are viewed as a collection of several government social projects:

- a) those with critical dependence on economic risks;
  - construction and/or extensive repair of penitentiary infrastructure facilities;
  - modernizing existing penitentiary infrastructure to enable jail inmates to receive vocational training and engage in productive work.
- b) those with critical dependence on social and institutional risks:
  - boosting the level of workforce support for the penitentiary system;
  - enhancing the system of execution of punishments not related to imprisonment.

### **3. Methods**

The purpose of this work is to assess the potential for implementing methods of project risk management in the practice of planning a reform to Kazakhstan's penitentiary system. The paper examines some of the international standards for the treatment of inmates within correctional facilities, some of the best practices in reforming the penitentiary system, and some of the key characteristics of the current stage in reforming Kazakhstan's penitentiary system. To collect the study's primary data, the author employed an expert survey. The survey featured 17 heads of various departments in correctional facilities within Kazakhstan's penitentiary system. For

familiarization purposes, each survey participant was provided with a scenario containing six discussion topics (the roster of answer variants was adjusted during the interview) and some stimulus material – literature reviews compiled by the author. The interviews were comprised of open-ended questions. They were semi-structured and were conducted over the phone.

In processing the information obtained, the author used qualitative methods of analysis – mainly because now Kazakhstan does not have enough specialists around reforming the penitentiary system to be able to ensure statistically significant survey results. In using qualitative methods of analysis, the number of respondents may be low, and no statistical data analysis is normally conducted (Saunders, Lewis, & Thornhill, 2009); the qualitative approach cannot and does not have to produce statistically significant results; on account of their structure, findings from qualitative studies lend themselves more easily to interpretation (explanation of cause-and-effect relationships) than those from quantitative studies (Blumberg *et al.*, 2011; Cristea and Thalassinou, 2016; Chursin *et al.*, 2018).

#### **4. Results**

The development of proper approaches, methods, and techniques for assessing the effectiveness of projects around public administration remains the object of debate among scholars. The scholarly community has yet to produce a sound methodology for assessing the effectiveness of public projects, with specialists lacking consensus on indicators of the effectiveness of the penitentiary system. Many specialists are convinced that quite a reliable criterion for assessing the effectiveness of the penitentiary system is the number and gravity of crimes committed by individuals released from a correctional facility.

It is also known that whether ex-offenders will commit repeat crimes largely depends not only on the penitentiary system but also on social/economic conditions and several other external factors, including latent crime. The actual level of crime is always higher than the figures known to the criminal justice system. Latent crime is what remains after subtracting the recorded crime rate from the true crime rate – unreported, unaccounted, and unidentified crimes. Latent crime indicators depend on both people's sense of legal consciousness and dominant stereotypes about law-abiding conduct in society *and* the efficiency of public authorities, not just the penitentiary system. These indicators are established by researchers only by way of evaluation, using various indirect indicators obtained via sociological, statistical, and analytical methodologies.

Other researchers advocate against the use of post-penitentiary recidivism levels as the only criterion for assessing the effectiveness of the penitentiary system. To perform a comparative assessment of the penitentiary system, one could compute a set of integral indicators based on the resources expended on the system's operation; indicators of post-penitentiary and penitentiary recidivism; the degree of public

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approval of the system; the degree to which inmates are treated in a wrongful manner.

Regarding the distribution of respondent answers to the question ‘Which indicator should be employed to assess the effectiveness of reforms to the penitentiary system?’, most respondents opted for ‘post-penitentiary recidivism as adjusted for latent crime’ (13 individuals), while a little fewer respondents acknowledged the advisability of using ‘results from assessing project risks’, an approach proposed by Kairbekov (2017) (9 individuals).

During the discussion of this issue, all the respondents agreed that in practice one should regard as high-risk situations such as prison breaks, disrupting the operation of a facility, inmate attacks on jail staff, and some others.

Despite the respondents’ clear willingness to speak of the practice of assessing risks in institutions within Kazakhstan’s penitentiary system, the author, however, also insisted on discussing the obstacles to implement methods of risk management in the practice of managing institutions within the nation’s penitentiary system.

In addition to the perfectly expected response ‘Not sure’, the most common answer was that the penitentiary system lent itself to methods of risk management quite poorly (9 individuals).

Within the theory of public administration, a key criterion for the effectiveness of the system of public administration is maximizing the degree to which the social needs of citizens are met, while rational use is made of the resources at hand. With that said, the public service is, to most scholars, a recipient of technology and methods for managing business organizations. The programmatic/target-oriented approach has gained a firm foothold in practical activity by Kazakh public authorities. An example of this is the Program for the Development of the Correctional System in the Republic of Kazakhstan for the Period 2012–2015, which was developed by specialists in alignment with the rules of the programmatic/target-oriented approach. The program featured a wide range of specific objectives and clearly formulated indicators for fulfilling them.

Yet, for the time being, existing scholarly approaches, methods, and techniques for assessing the effectiveness of projects around public administration can hardly be subsumed under a universally accepted theory with validated methods and remain merely the object of lively debate among scholars, with there being a lack of universally accepted methods for assessing the social effectiveness of public projects.

Specialists at Kazakhstan’s law-enforcement agencies are clearly not happy with the existing situation concerning the evaluation of the effectiveness of government programs. An evident testimony to this is the adoption of the State Program for

Modernizing the Law Enforcement System Further through to 2020, which is currently in the first stage of its implementation, with a focus on taking a whole new approach to assessing the system's effectiveness. A key criterion under the program is not multiple target indicators but the level of trust on the part of the population, an indicator that can be determined based on the findings from independent sociological surveys. This approach is already being employed on a regular basis in certain countries which differ in mentality, culture, and level of social/economic development, like Germany, Poland, Japan, Hong Kong, and Singapore.

Most of the respondents have poor knowledge of traditional stages in the analysis of the degree of susceptibility of projects to a change in risk factors within the theory of risk management. The extreme labor-intensiveness of procedures for assessing the degree of susceptibility of projects related to reforming the penitentiary system to a change in risk factors clearly appears to scare them away. Many are of the view that most of those difficulties have long persisted amid the development of information/computer technology.

## **5. Conclusion**

The findings from the author's survey of heads of various departments in correctional facilities within Kazakhstan's penitentiary system indicate that, in assessing the degree of effectiveness of reforms to the penitentiary system, along with 'post-penitentiary recidivism as adjusted for latent crime', the respondents are prepared to employ the metric 'results from assessing project risks'. Many have a negative perception of existing practices employed in institutions within the penitentiary system in Kazakhstan to assess risks and obstacles to the implementation of methods of risk management in management practice.

Many others are convinced of the possibility to employ methods of project risk management to enhance the process of reforming Kazakhstan's penitentiary system. Some have poor knowledge of most procedures for assessing the degree of susceptibility of projects to a change in risk factors and most principles underlying the transition to an enhanced system of reforming the penitentiary system based on methods of project risk management.

Overall, at present Kazakhstan has all the material preconditions and conditions required to transition to a new stage in reforming its penitentiary system based on the implementation of methods of project risk management.

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