

POSITIVE ASPECTS OF THE APPLICATION OF THE PRINCIPLE OF HUMANITY IN PENALTY POLICY

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Аннотация. Жазо масаласи замонамизнинг энг долзарб масалаларидан бири бўлиб, давлатнинг демократик ривожланишининг муҳим мезони бўлиб хизмат қилмоқда. Сўнгги йилларда Ўзбекистон жамияти учун жиноятчилик муаммоси алоҳида аҳамиятга эга бўлиб, бу давлатдан инсонпарварлик тамойилларини яратишга, шахс эркинлиги, шаъни ва қадр-қимматини таъминлаш ва ҳимоя қилишга қаратилган қонунларни қайта кўриб чиқишни талаб қилмоқда. Ўзбекистон Республикаси Президентининг 2018-йил 14-майдаги ПҚ-3723-сон қарори билан “Ўзбекистон Республикасининг жиноят ва жиноят-процессуал қонунчилигини такомиллаштириш концепцияси” қабул қилинди. Мазкур концепцияга кўра, жазолар тизими ва уларни тайинлаш механизмларини қайта кўриб чиқиш, жазонинг эскирган шакллари ва замон талабларига жавоб бермайдиган турларини бартараф этиш асосий вазифа ҳисобланади. Жазо назарияларининг энг инсонпарвар жиҳатларини ўрганиш, таклифлар ишлаб чиқиш, шунингдек, жиноятни содир этган шахснинг розилиги билан жазони ошкор қилиш муаммосини жамоатчиликка маълум қилиш бўйича жиноий қонунчиликни такомиллаштириш, тўғридан-тўғри жазо вазифаси сифатида (профилактика назарияси) замонавий шароитда катта аҳамиятга эга.

Abstract. The issue of punishment is one of the most pressing issues of our time and serves as an important criterion for the democratic development of the state. In recent years, the problem of crime is of particular importance for the society of Uzbekistan, which requires the state to revise the laws aimed at creating humane principles, ensuring and protecting the freedom, honor and dignity of the individual. By the Resolution of the President of the Republic of Uzbekistan No.PP-3723 dated May 14, 2018, the “Concept for Improving the Criminal and Criminal Procedure Legislation of the Republic of Uzbekistan” was adopted. According to this concept, the main task is to revise the system of penalties and mechanisms for their appointment, to eliminate outdated forms and types of punishments that do not meet modern requirements. The study of the most humane aspects of punishment theories, the development of proposals, as well as the improvement of criminal legislation on reforming the problem of disclosing punishment to the general public with the consent of the person who committed a crime, as a function of direct punishment (prevention theory) is important in today's conditions.

Аннотация. Вопрос наказания является одним из самых актуальных вопросов современности и служит важным критерием демократического развития государства. В последние годы проблема преступности приобретает особое значение для общества Узбекистана, что требует от государства пересмотра законов, направленных на создание гуманных начал, обеспечение и защиту свободы, чести и достоинства личности.

Постановлением Президента Республики Узбекистан №ПП-3723 от 14 мая 2018 года принята «Концепция совершенствования уголовного и уголовно-процессуального законодательства Республики Узбекистан». Согласно данной концепции основной задачей является пересмотр системы наказаний и механизмов их назначения, устранение устаревших форм и видов наказаний, не отвечающих современным требованиям.

Изучение наиболее гуманных аспектов теорий наказания, разработка предложений, а также совершенствование уголовного законодательства по реформированию проблемы раскрытия наказания для всеобщего сведения с согласия лица, совершившего преступление, как функции прямого наказания (теория предупреждения) имеет важное значение в современных условиях.

Keywords: *Crime; Punishment; Principle of humanity; State; Person; Public control.*

Introduction

Today, the history of development of many countries, including Uzbekistan, is closely linked with the development and improvement of the institution of individual rights and freedoms.

Humanism is a direction of values that actively influences the level of development of social relations. This principle determines the level of interaction of the state with individuals by creating favorable conditions for the full development of man and society in general. The stages of development of the Republic of Uzbekistan are characterized by the constant improvement of the system of humanity and justice, ensuring and protecting the rights and freedoms of man and citizen [1]

The main document on the legal guarantee of human and civil rights in our country is the Constitution of Uzbekistan.

Article 13 of our Constitution stipulates that democracy in the Republic of Uzbekistan is based on universal principles, according to which a person, his life, freedom, honor, dignity and other inalienable rights are the highest value. It should be noted that in the previous constitutions of the totalitarian regime in our country, it was stated that the interests of the state, not the individual, are of the highest value.

Uzbekistan has chosen a humane path of renewal and development in the field of domestic and foreign policy.

Our country has become a member of universal international organizations, as well as leading regional international organizations and actively participates in their activities. The UN and its specialized agencies play a key role in this. In addition, the Republic of Uzbekistan has acceded to almost all major international human rights instruments.

As a result of accession to these documents, the Law of the Republic of Uzbekistan “On Amendments and Addenda to the Law of the Republic of Uzbekistan“ On the Authorized Person of the Oliy Majlis for Human Rights (Ombudsman) ”was adopted on 27 August 2004. Several activities have been identified to prevent torture and other cruel, inhuman or degrading treatment or punishment. The Ombudsman's mandate includes a number of activities to prevent torture and other cruel, inhuman or degrading treatment or punishment [2].

The most basic principles in the field of human rights protection have been formed in the policy of Uzbekistan. Examples include the priority of national interests in the protection of human rights; dynamic, systematic and step-by-step implementation of democratic reforms; commitment to the principles of democracy and human rights recognized by its international obligations; development of international cooperation in guaranteeing the human rights of our citizens based on national interests, etc.

Uzbekistan has a well-established system of human rights legislation, including laws on personal, political, economic, social and cultural rights. In the field of criminal law, a step-by-step policy on the creation and implementation of humanitarian norms is being implemented. In particular, it is noteworthy that the Criminal Code of the Republic of

Uzbekistan, adopted in 1994, guarantees human rights and freedoms and is still being amended with humanitarian norms.

Article 7 of the Criminal Code is called the principle of humanity, and according to this article, punishment and other legal measures are not intended to inflict physical suffering or humiliation of human dignity. A person who has committed a crime shall be punished morally and shall be subject to the punishment necessary or sufficient to prevent the commission of a new crime or other legal measures. Severe penalties may be imposed only if the intended purpose of the punishment cannot be achieved by applying lighter measures provided for in the relevant articles of the Special Part of this Code.

Also, several articles of the Criminal Code are imbued with the spirit of humanity, as an example:

-In Article 13, a law that repeals the criminality of the act, mitigates the punishment or otherwise improves the condition of the person has retroactive effect, that is, it applies to persons who have committed a relevant criminal offense before the entry into force of this law, including those who are serving or have already served their sentences, if they are

still convicted. A law that criminalizes an act, increases the penalty, or otherwise worsens the condition of the individual is not retroactive [3];

-Article 55 provides for a list of mitigating circumstances, and in imposing a sentence, the court may consider other circumstances not provided for in this article as mitigating, Chapter XII defines the types of exemption from liability, Article 64 provides for exemption from liability for a crime in connection with the expiration of the term of imprisonment, Article 65 provides for exemption from liability for an action or loss of social danger, Article 66 provides for actual remorse for an act. exemption from criminal liability due to conciliation, exemption from criminal liability due to reconciliation under article 661, exemption from liability due to illness under article 67, exemption from liability under the amnesty law under article 68;

- Chapter XIII defines the types of exemption from punishment, Article 69 provides for exemption from punishment in connection with the expiration of the term of punishment, Article 70 provides for exemption from punishment in connection with the loss of social danger, Article 71 provides for the release of a convicted person on the grounds

that he has practically repented of his actions, Article 72 provides for a suspended sentence, Article 73 provides for parole, Article 74 provides for a lighter penalty, Article 75 Exemption from punishment due to illness or incapacity for work, Article 76 Exemption from

punishment on the basis of an amnesty act or pardon, it is also worth noting the norms in Article 79, such as the removal of a conviction.

In connection with the implementation of the norms that reflect this principle of humanity, the guarantee of the rights and freedoms of citizens is yielding positive results. In particular, according to the statistics of the Supreme Court, if we analyze the last three years, the number of people released from liability due to conciliation in 2018 - 9,486, in 2019 - 7,329, in 2020 - 8,266.

The number of people released on parole in 2018 was 30,171, in 2019 - 26,436, and in 2020 - 21,970.

The number of people whose sentences were commuted in 2018 was 9,785, in 2019 - 8,028, and in 2020 - 6,959.

In this regard, the policy of the President of the Republic of Uzbekistan Sh. Mirziyoyev in the field of criminal law to implement the principles of humanity and guarantee the rights and freedoms of citizens is noteworthy [4].

As a result of these reforms, the independence of the judiciary has been ensured in recent years, guarantees of human rights and freedoms have been strengthened, and charges against thousands of citizens have been dropped.

As an example, if we look at the statistics of persons acquitted by the courts, in 2017 - 263 people, in 2018 - 867 people, in 2019 - 859 people, in 2020 - 781 people, in the 1st quarter of 2021 - 186 people were acquitted.

It is also emphasized in many legal literatures that true humanity and true justice can only be manifested in the protection of the public interest through punishment, and this worldview is correct in my view.

In particular, the views of the utilitarian nature of the theory of punishment on the general part of prevention (the general function of crime prevention) on "disclosure of public activity on the commission of a crime to the general public without participation in criminal proceedings" do not meet today's requirements.

However, the process of informing the public about punishment or other legal measures is expressed in Article 32 of the Criminal Code of the former USSR of 21.05.1959 in the form of a separate punishment, i.e. "public punishment" and this type of punishment. It should be noted that it was canceled.

As a continuation of humanitarian reforms, paragraph 14 of the Decree of the President of the Republic of Uzbekistan dated June 16, 2021 "On additional measures to ensure the transparency of government agencies and organizations, as well as the effective implementation of public control"- with the consent of the parties in cases of violations of the rights and freedoms of citizens and public order, in the field of public health, ecology, environmental protection and nature management, including the professional activities of civil servants, as well as civil cases related to individual family disputes court hearings (except for closed court hearings) - together with the interested government agencies and organizations from December 1, 2021 to ensure the live broadcast of TV channels, as well as the Internet.

It should be noted that with the consent of the parties, a new procedure for the disclosure of relevant information was established, as one of the revolutionary changes in the ongoing reforms to implement the principle of humanity [5, 6].

Conclusion

In conclusion, we must emphasize that in democratizing society, we must take into account the uniqueness of our people, who lived under oppression during the totalitarian regime, who are just trying to regain their former socio-economic power, tolerance and national thinking, it must consist of ensuring a humane relationship, whether criminal or victim.

My suggestion is that the prevention of crime should be achieved through the promotion of the actions provided for in criminal law and the penalties that can be imposed on them, rather than using the identity of the perpetrator for general prevention purposes.

The principle of humanity in criminal law may not include other private or internal principles of law. The principle of humanity should include other sub-principles, such as ensuring human security and saving means of punishment.

In the process of applying punishments, it is necessary to find a reasonable ratio of them, without denying both the punishment and the educational effect.

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