

A Code of Misdemeanour should be Adopted

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ABSTRACT---This article sets out the main directions of Uzbekistan's criminal policy, the gradual reduction of punitive elements and their transformation into the educational, broader implementation of the principle of economy of criminal repression.

This article considers the experience of foreign countries in implementing the Code of Criminal Offences, as well as the necessity and importance of this institution.

Keywords: code, criminal offense, humanism, liberalization.

I. INTRODUCTION

The reform of the criminal legislation of the Republic of Uzbekistan as one of the problems that has appeared today on the agenda, in connection with the chosen course of building a democratic, law-based, secular State and civil society to market relations with a socially oriented economy, the recognition of the priority rights and freedoms of the individual universally recognized by the international community, today requires the implementation of such a criminal law reform of the legislation on crimes and penalties in accordance with the Constitution of Uzbekistan, the legislation

President of the Republic of Uzbekistan Sh.M.Mirziyoyev drew attention to the fact that "...the creation of an effective system of criminal and criminal procedure legislation is one of the priority tasks of the state to ensure law and order, reliable protection of human rights and freedoms, interests of society and the state, peace and security".

Fundamental to this issue is the fact that the head of our state identified among the systemic problems and deficiencies in this area "...the disproportionate sanctions for certain types of crimes to the nature and degree of public danger of the acts, including the insufficient and ineffective use of alternative punishments, incentive standards and social impact measures".

Today, the main directions of Uzbekistan's criminal policy are the gradual reduction of punitive elements and their transformation into educational, broader implementation of the principle of economy of criminal repression, which should be manifested in the steady narrowing of the circle of criminal acts and the mitigation of criminal responsibility on the basis of legality, inevitability and justice. The humanization of criminal legislation, combined with the inevitability of trust and the application of harsh measures for acts constituting external and internal threats to security and the rule of law, is conditioned by objective socio-political and economic conditions and is naturally derived from the fundamental principles of the development of our statehood.

It seems correct and necessary, taking into account the modern criminal policy pursued by the President on further liberalization and humanization of the criminal legislation and in connection with the adoption of the Resolution of the President of the Republic of Uzbekistan "On measures to radically improve the system of criminal and criminal procedure law" of May 14, 2018 to introduce the concept of criminal offense into the criminal legislation of the Republic of Uzbekistan, specifically, on the basis of the Criminal Code to create a Code of Misdemeanor. The President noted that "Creating an effective system of criminal and criminal procedure legislation is one of the priority tasks of the state to ensure law and order, reliable protection of human rights and freedoms, the interests of society and the state, peace and security. In the resolution itself, President Mirziyoyev noted very correctly "the disproportionate sanctions for certain types of crimes to the nature and degree of public danger of acts, including the insufficient and inefficient use of alternative models of punishment, incentive norms and measures of public impact.

In many countries of the world (USA, Germany, France, Italy, Switzerland, etc.), the institution of criminal offense is used for a long time. In most countries of the world criminal codes differentiate criminal offences into two or three categories, and the most minor crimes are often defined as criminal offences (Austria, Belgium, England, the Netherlands, Spain, Italy, Latvia, Lithuania, the United States, Switzerland, Germany, France, Kazakhstan, etc.)

For example, in the United States, at the federal level, crimes that are punishable by imprisonment for one year or less are referred to as misdemeanors in many states, while others that are subject to stricter penalties than misdemeanors are referred to as felonies.

Some crimes are called wobbler crimes: some states recognize them as both misdemeanors and felonies.

Misdemeanor cases are dealt with much faster.

In Germany, crimes are different from misdemeanors on one ground - sanctions for specific actions. For misconduct, less than a year's imprisonment or fines, a year's imprisonment, and more than a year's imprisonment for crimes are imposed. In Switzerland and Austria, up to three years imprisonment is imposed for misconduct.

In the post-Soviet space, Kazakhstan and Ukraine introduced the Code of Criminal Offences.

To date, the issue of establishing liability for criminal offenses under criminal law remains topical for Uzbekistan. In our view, this is a criminal offence, which in terms of its public danger is between administrative offences and crimes. The peculiarity of a criminal offense is the

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insignificantly high level of public risk, which also means a special regime of responsibility for committing a criminal offense.

The humane approach to any person, including a misguided person who has broken the law, is consistent with the mentality of the Uzbek people and its national traditions. Kindness, mercy, mutual tolerance and respect, compassion for others, other high qualities are the cultural values of our people. In this connection, further improvement of the legislation on crimes and punishments should, in particular, be expressed in the full embodiment of the principles of justice and humanism in its norms and the judicial and investigative practice. Humanism in respect of transgressions, first of all, is embodied in the rules of economy of repression and individualization of punishment, and this economy should be carried out at each historical stage of development of the society, taking into account the existing conditions for this purpose. In this connection, it is necessary to note that in recent years Uzbekistan has experienced a significant decline in the level of crime, which is currently the lowest among the countries of the post-Soviet space. All this makes it possible to raise the question of further liberalization and humanization of the criminal legislation of the Republic of Uzbekistan.

The introduction of the Code of Misdemeanours will significantly relieve the courts of their workload and enable them to focus more carefully on the study and consideration of serious and particularly serious crimes.

The need to introduce the institution of criminal misconduct is primarily due to the fact that the Criminal Code classifies intentional crimes not constituting a major public danger as crimes for which the law prescribes a penalty of deprivation of liberty for not more than three years and crimes committed out of negligence for which the law prescribes a penalty of deprivation of liberty for not more than five years.

ANALAYTICAL RESULTS & DISCUSSIONS

In the penal system of the Criminal Code, other types of punishment not involving deprivation of liberty may also be imposed on persons guilty of crimes: fines, deprivation of an absolute right, compulsory community service, correctional labour, restriction of service and restriction of liberty.

The Criminal Code currently contains 141 offences that do not pose a significant danger of liability, which, in addition to deprivation of liberty for up to three years, include non-custodial penalties, fines, deprivation of a particular right, compulsory community service, restrictions on service and restrictions on freedom.

At the same time, the Criminal Code contains 102 offences for which deprivation of liberty is not provided for as a punishment, a category of offences which, in terms of their degree of social danger, is considerably lower than offences which do not pose a great danger to society.

The Criminal Code contains 48 offences for which administrative liability is incurred for the first time and the repeated commission of which entails criminal liability. In this connection, we propose that the concept of criminal misconduct be set out in criminal legislation in the following wording:

"A criminal offence (unless the title of the Criminal Code is changed) is the socially dangerous act committed, which is prohibited by the Code under threat of any of the envisaged penalties, except deprivation of liberty.

A criminal offense is an action (inaction) formally containing recognition of the structure of a crime provided by the present Code; however, by virtue of its insignificance (less degree of public danger), it is not such".

The purpose of implementation of the Code of Criminal Offences is:

- 1) implementation of the state policy of liberalization and humanization of criminal responsibility;
- 2) Decriminalization of a number of acts that are recognized as crimes;
- 3) Restrictions on the use of custodial sentences;
- 4) a significant reduction in the number of people with a criminal record.

A criminal offense will be characterized by four characteristics: social danger, illegality, guilt and punishment.

The criminal offense will differ from the crime:

- 1) the degree of public danger;
- 2) No penalty in the form of imprisonment shall be imposed for committing criminal offences;
- 3) the guilty person will not have a criminal record.

The proposed structure of the Code of Misdemeanours of the Republic of Uzbekistan:

The general part will contain legal norms describing the principles of application and objectives of the Code of Misdemeanours, the concept of misdemeanour, the stages of its commission, complicity in it, the system (list) of judicial penalties for its commission, the resolution of issues of exemption from liability and from punishment for misdemeanours, etc.

A particular part will provide for a systematic description of the exhaustive list of offences and sanctions for their commission.

3. The procedural part will contain a description of the special procedure for investigating and adjudicating cases of misconduct. At the same time, the legal procedure in cases of misconduct will not be burdened with the restrictions inherent in the consideration of cases of crimes.

With the introduction of the category of "misdemeanour", the following changes should be made:

- The criminal and criminal procedure legislation should be left with a set of acts that are now recognized as less (partially) serious, grave and especially grave crimes;

- The legislation on administrative responsibility should retain the set of actions, expressed in violation of mainly normative prescriptions of state authorities, for the commission of which such types of administrative penalties are applied as administrative fine, confiscation of the instrument or object of administrative offense, deprivation of a special right, administrative expulsion of a foreign citizen;

- The legislation on criminal offenses and the procedural legislation developed for it should be followed by the torts currently referred to the criminal legislation in the form of crimes of small and medium gravity, for which

imprisonment is not provided as the primary type of punishment, as well as misdemeanors, for which the punishment in the form of administrative suspension of activities and fines in the amounts applied today in the criminal legislation as the main type of punishment is provided.

CONCLUSION

Ultimately, the introduction of the Code of Misdemeanours significantly relieves the courts, allowing them to focus more closely on the study and consideration of serious and particularly serious crimes.

It is proposed to recognize the legal consequence of the proceedings in cases of misdemeanours as a corresponding act of the court, which, however, will not correspond to the concept of "sentence", which is used in criminal proceedings, neither in sense nor in essence and in results. Thus, a clear delineation of responsibility for crimes, administrative offences and misdemeanours will be carried out, which will lead to a significant humanization of existing legislation, decriminalization of a number of acts, reduction of the number of persons prosecuted, reduction of the risk of their criminal socialization, etc.

At the same time, the creation of this normative act will result in the approximation of national legislation to international legal standards and a more apparent distinction between administrative and criminal responsibility.

It is crucial and necessary in the course of the current reform of criminal legislation to abandon the current name of the Code - the "Criminal Code," because:

1) There are many unfounded versions of the etymological origin of the term "criminal," none of which is universally accepted;

2) Moreover, the condition is not adequately reflected in the State language;

3) It does not reflect the essence of this branch of law.

Based on the stated above, we believe that the most appropriate title is the Code of Offences and Penalties.

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