

The Impact of the Improvement of the Criteria for the Classification of Crimes on the Criminal Law

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Abstract:

This article analyses the norms of classification of crimes in foreign countries, views on the classification of crimes, and the criteria affecting the classification of crimes in addition to developed proposals on the improvement of the norms on the classification of crimes.

Keywords: classification of crimes, social danger, penal, form of guilt.

Even in foreign countries, the issue of recognizing crimes is important not only in the norms of criminal law, but also in the fight against crime[1].

Classification of crimes (University of Minnesota)[2], classification of crimes (Walden University)[3]; The issues of classification of crimes are highlighted in studies on topics such as damage caused by crime in Cambridge (The University of Cambridge)[4].

The study of the above sources shows that the rules on the classification of crimes are also important in the fight against crime for statistical purposes.

In addition, the study and comparative analysis of the criminal legislation of foreign countries is important for the improvement of criminal legislation and the development of theoretical and practical proposals.

The comparative legal analysis of the norms of the classification of crimes in foreign countries is important for the improvement of the norms of the criminal law and the study of the criteria for the classification of crimes. The analysis of the norms for the classification of crimes allows to determine the similar and different aspects of these norms in foreign countries. Below, when we analyzed the norms of the Central Asian countries and foreign countries such as Russia, Belarus,

Ukraine, Georgia, Azerbaijan, Armenia, Moldova, Latvia, Lithuania, Estonia on the classification of crimes, the following similar and different aspects were identified.

The following conclusions were based on the analysis of the norms of the Central Asian countries and foreign countries such as Russia, Belarus, Ukraine, Georgia, Azerbaijan, Armenia, Moldova, Latvia, Lithuania, and Estonia.

First, in the classification of crimes, it is envisaged that the punishment of deprivation of liberty will be determined based on the maximum term.

Secondly, in the Criminal Codes of Russia, Georgia, Ukraine, Moldova, Azerbaijan, Latvia, Estonia, serious crimes are committed in the form of negligence. In the Criminal Codes of the Republics of Kazakhstan, Tajikistan, Turkmenistan, Armenia, and Belarus, serious and extremely serious crimes are committed only in the form of intent. The Criminal Code of Lithuania stipulates that crimes are committed intentionally and due to carelessness, and categories of crimes are divided only according to the intentional nature of the crime.

Thirdly, the criminal codes of Estonia and Ukraine are distinguished by the fact that crimes are classified according to the amount and duration of the punishment, and the form of guilt is not taken into account.

Fourthly, the criminal codes of Ukraine, Kazakhstan, Latvia, and Lithuania define the division of criminal offenses into misdemeanors (prostupok) and crimes.

Fifth, in the Criminal Codes of Moldova and Latvia, the degree of damage is also taken as a criterion for the classification of crimes.

Sixth, in the criminal codes of Ukraine, Azerbaijan, Kyrgyzstan, and Belarus, the provisions on the classification of crimes also used non-custodial punishments.

Seventh, in the Criminal Codes of the Republics of Russia, Armenia, Azerbaijan, Belarus, Kazakhstan, and Tajikistan, crimes are classified according to their nature and level of social danger.

Eighth, the provision on the classification of crimes in the Criminal Code of Ukraine provides for fines for all classifications of crimes.

The study of scientific research on the issues of classification of crimes is important in the development of scientific and theoretical proposals in this direction.

The above examples show that there are a number of legal problems in the classification of crimes, and it is important to study the scientific and theoretical views of scientists in this regard. In the works of M. Rustamboev, R. Kabulov, M. Usmonaliev, H. Ochilov, E. Turgunboev, D. Kamalova, the scientific and theoretical aspects of the classification of crimes are partially covered. In his doctoral research, U. Khalikulov[5] focused on issues such as the criteria for the classification of crimes, the importance of the classification of crimes. Scientists of the CIS countries such as A. Yu. Grevtseva[6], N. G. Kadnikov[7], N. N. Marshakova[8], O. A. Mikhal[9], T. V. Tsaturyan[10], as well as the opinions of scholars such as Mac Donald[11], Tony Ward, Russell Durrant, and Louise Dixon[12], regarding the classification of crimes are noteworthy.

M.M. Dayshutov: "the limit of the model sanction for a certain type of crime should be the final limit for the sanction of the specific crime structure. This, in turn, makes the construction of classification norms in the legislation much simpler"[13]. In our opinion, the scientist noted here that the amount of the sanction in the classification of the crime in the general part of the Criminal Code should be within this range when it is also determined for a specific crime. For example, if a not serious crime is committed intentionally and punishable by imprisonment of more than three

years but not more than five years, the sanction limit for a specific crime should be within this range. If the amount of the punishment exceeds this limit, then the norm of the rule on the classification of crimes is violated. For example, when the punishment of imprisonment from two to five years for a certain crime is set in the sanction, it seems that it deviates from the certain limit. That is, a minimum period of three years is envisaged in this example. In our opinion, we believe that it is appropriate to have the maximum limit of the sanction established for the crime, and the minimum amount should be included in the classification of different crimes. For example, if part 3 of Article 266 of the Criminal Code provides for imprisonment for up to 10 years, this crime is not a serious crime, and the range of the punishment includes the amount that can be imposed for crimes of low social risk. That is, for the legislator, the clear determination of the minimum and maximum limits of the punishment can lead to aggravation of the punishment when determining the amount of the sanction similar to the above. For example, in the above case, for part 3 of Article 266 of the Criminal Code, a sentence of imprisonment from 5 to 10 years may be indicated in the sanction. In this regard, we do not agree with M.M. Dayshutov's opinion that "the limit of the model sanction for a specific type of crime should be the final limit for the sanction of the specific crime". That is, setting the minimum and maximum limits of the sanction within each crime classification causes the sanctions of the crimes defined in the Special Part of the Criminal Code to be aggravated. Therefore, adapting the sanctions specified in the Special Part to Article 15 of the Criminal Code of the Republic of Uzbekistan may cause increase in the punishment for crimes. Therefore, we would like to note that it is possible to unify the norms of the general part and the special part by improving the current Article 15 of the Criminal Code of the Republic of Uzbekistan.

The analysis of the criteria for the classification of crimes is important in the analysis of the legal problems of the criteria for the classification of crimes. In particular, the following opinions of scientists regarding the form of guilt as a criterion affecting the social danger of crimes and crime classification are noteworthy. In particular, O.A. Mikhal considers it unreasonable to include the form of guilt as a sign of recognition of crimes[14]. M.P. Redin also notes that "a specific crime committed with the form of a crime is not considered a criterion for the classification of crimes. [15]" Taking into account the nature of the crime, the degree of social danger of these crimes is different. But if we pay attention to the current rules of classification of crimes, we can see the influence of the form of guilt on the classification of crimes, in addition to the amount and term of punishment. For example, ten years of imprisonment is imposed for a crime committed due to negligence, but according to the classification rule, this crime is considered a less serious crime. This, in turn, requires a new approach to the issue of classification of crimes committed by negligence. G.L. Kriger[16], I.M. Tyajkova's[17] opinion regarding the introduction of a separate category of crimes, including crimes committed through carelessness, into the category of low-risk crimes. T.V. Tsaturyan[18] also notes that "crimes behind carelessness should be classified independently according to the nature and degree of social danger, that is, in the context of the development of differentiation of criminal liability, it will allow maximum consideration of the social danger of the crime and the nature of the influence of the form of guilt in imposing punishment." We also support the above points, and we believe that it is inappropriate to divide the categories of crimes committed by negligence into the same categories as crimes committed intentionally. That is, crimes committed on the back of carelessness are not divided into categories according to the degree of severity. Perhaps forms of recklessness are taken into account when imposing punishment.

As a result of the experience of foreign countries and scientific research, we consider it appropriate to make the following changes to the criminal law related to the classification of crimes.

First, to give the following definition on the concept of classification of crimes:

The concept of classification of crimes is to divide into categories based on the objective and subjective characteristics of the crime, depending on the amount and duration of the punishment specified in the sanction of the crime.

Crimes are divided into the following categories according to the form of guilt:

Crimes are divided into the following categories based on severity.

Crimes of the first category are committed intentionally and are not punishable by imprisonment or are punishable by up to 3 years in prison.

Crimes of the second category are committed intentionally and are punishable by up to 5 years in prison or, as an alternative, by imprisonment.

Class third category are crimes that are committed intentionally and are punishable by up to 10 years in prison or, as an alternative, no prison sentence.

Crimes of the fourth category, committed intentionally, punishable by imprisonment for more than 10 years.

The maximum term of imprisonment for crimes committed due to negligence may not exceed ten years.

The degree of severity of the classification of crimes is determined based on the maximum punishment that can be imposed by law for the incomplete crime committed in the Special Part Article.

Also, the inclusion of a separate article in the Criminal Code, which lists the classification of all crimes, is also important in keeping statistics related to the classification of crimes. (For example, a separate list of four categories of intentional crimes and a separate list of reckless crimes).

In addition, in a number of articles of the current Criminal Code, for example, Article 50 "commits a crime of low social risk, a crime caused by carelessness, and those who commit a crime that is not serious on purpose", Article 85 "commits a crime of low social risk, a crime caused by carelessness sentences such as "committed" or "intentionally not very serious" are used, that is, we can see that even though the lawmaker has separated the crimes caused by carelessness into the above two classifications separately. Also, in Article 50 of the Criminal Code, the phrase "intentionally committed a serious crime" is used. In practice, serious crimes are committed only with intent. In other words, we can see that the above norms also separate the form of guilt when the legislator gives the classification of crimes. This, in turn, shows the expediency of introducing the above changes into the legislation regarding the classification of crimes according to the form of guilt. For example, in Article 64 of the Criminal Code, the form of guilt is not taken into account in terms of prosecution. In our opinion, the terms of prosecution for crimes committed as a result of carelessness should be set less than for crimes committed intentionally. In addition, Article 69 of the Criminal Code does not take into account the nature of the crime, and only the term of the punishment is noted. In our opinion, it is expedient to introduce a change in terms of release from punishment due to the expiration of the period of execution of the sentence, which will be reduced by half when sentenced to deprivation of liberty only for crimes committed as a result of carelessness. It is appropriate to amend the fact that the completion of the conviction in Article 78 of the Criminal Code is based on the classification of the crime and the form of the crime, and that a person who has served a sentence for a crime committed due to carelessness is considered unconvicted.

In our opinion, the inclusion of the above provisions on the classification of crimes is also important in ensuring the principle of justice.

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