



## Research Article

### SOME ISSUES OF CLASSIFICATION OF CRIMES

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**Khurshid Karimov**

PhD in Law, Associate Professor, Academy of the General Prosecutor's Office Head of the Department, Uzbekistan

#### ABSTRACT

This article highlights the issues of the classification of crimes based on the degree of public danger, significance of the level of crimes and term of punishment as well as the role of the type of guilt. In addition, the author sheds some light on the alternative types of punishment with regard to the classification of crimes and developed proposals for improving norms on the classification of crimes.

#### KEYWORDS

Type of guilt, term of punishment, classification of crimes, level of punishment, alternative types of punishment, sanction.

#### INTRODUCTION

If we analyze the classification of crimes<sup>1</sup>, the articles of the Special Part of the Criminal Code of the Republic of Uzbekistan consist of 274 articles and 621 elements

of crimes, which constitutes 62 elements of especially serious crimes, 115 elements of serious crimes, 156 elements of less serious crimes, 288 elements of crimes

<sup>1</sup> <https://lex.uz/docs/111453>

with insignificant social danger. It should be noted that these figures are subject to change, and changes in criminal law, such as criminalization or decriminalization, penalization or depenalization, or changes in the amount or duration of criminal sanctions, will affect the numbers related to crime classification.

For example, U. Usmonaliev<sup>2</sup> notes that “there are more than 135 articles with the norm that the relevant part of the articles or specific articles are considered crimes with insignificant social danger”. According to N. Rakhimjonova “Currently, there are 587 criminal elements in the Special Part of the Criminal Code, and 259 of them are crimes with insignificant social danger”<sup>3</sup>.

When determining the term of punishment under the Special Part of the Criminal Code, it appears that the provisions of Article 15 of the Criminal Code were not taken into account. For example, especially serious crimes include crimes committed intentionally and punishable by imprisonment for more than ten years or life imprisonment. It is classified that in the Special Part of the Criminal Code there are 62 elements of especially serious crimes. *Furthermore, the minimum sentence for some of the most serious crimes is less than ten years.* Part 4 of Article 135 of the Criminal Code, for example, provides for the punishment of deprivation of liberty from eight to twelve years, part 2 of Article 154 from seven to twelve years, part 4 of Article 169 from eight to fifteen years, part 2 of Article 175 from eight to twelve years, Article 178, part 3 of eight to twelve years, Article 186-1, parts 3-4 of seven to twelve years, Article 255-1, part 2 of eight to fifteen years. *The provisions of Article 15 of the Criminal Code, in our*

*opinion, were not followed in determining the above sanctions. When determining the sanction for especially serious crimes, we believe that the minimum amount of punishment should be more than ten years.*

It should be noted that the sanction of the Special Part of the Criminal Code for very serious crimes provides for the punishment of deprivation of liberty only, whereas part 3 of article 155 and part 2 of article 97 of the Criminal Code provide for life imprisonment as an alternative to deprivation of liberty.

The Special Part of the Criminal Code contains 115 serious crimes. Serious crimes, according to Article 15 of the Criminal Code, are committed intentionally and are punishable by imprisonment for a term of more than five years but no more than ten years. Although some serious crimes have a minimum sentence of less than five years, imprisonment from three to seven years is provided for under the sanctions of part 1 of Article 103, part 1 of Articles 118-119, part 3 of Article 186, part 2 of Article 186-2, part 2 of Article 283, which are the serious crimes. Part 1 of Article 278 of the Criminal Code provides for up to seven years of imprisonment.

*The provisions of Article 15 of the Criminal Code, in our opinion, were not followed in the above sanctions. In our opinion, when determining the sanction for serious crimes, the minimum amount of punishment should be more than five years.*

According to the Special part of the Criminal Code and their section, 156 crimes are less serious crimes, in the sanction of less serious crimes committed through recklessness provided for imprisonment for up to fifteen years. Part 3 of Article 263 of the Criminal Code,

<sup>2</sup> M. Usmonaliev. Contemporary problems of criminal law. Guide. T-2006 p. 28.

<sup>3</sup> N. Rahimjonova Classification of crimes in the criminal legislation of the Republic of Uzbekistan. Odillik mezonlari // No. 6. 2021 p 36.



for example, prescribes a penalty of imprisonment ranging from ten to fifteen years. Furthermore, Article 15 of the Criminal Code states that crimes punishable by imprisonment for more than three years but not more than five years when committed intentionally. Here in the content of the article it is understood that the minimum amount of punishment is more than three years. But similar to the analysis of especially serious and serious crimes above, it can be seen that even less serious crimes have sanctions with a minimum sentence of less than three years. For example, part 1 of Article 103-1 provides for restriction of liberty from two to five years or deprivation of liberty for up to five years, part 3 of Article 114 provides for correctional work from two to three years or restriction of liberty for two to five years or imprisonment for up to five years. This, in turn, necessitates the mutual coordination of the provisions of Article 15 of the Criminal Code and the sanctions of the Special Part of the Criminal Code. *That is, in our opinion, just as Article 15 of the Criminal Code does not specify the minimum amount of imprisonment for crimes with insignificant social danger, it is suggested that this Article does not specify the minimum amount of punishment for less serious crimes and serious crimes.*

It should be noted that when determining the number of crimes according to the level of social danger, the classification of crimes may change according to the level of social danger, taking into account that certain crimes are caused by both intent and carelessness. That is, the form of guilt increases the severity of the crime. For instance, the violation of the rules of production or use of narcotic drugs, their analogues or psychotropic substances (Article 275 of the Criminal Code) can be committed intentionally or recklessly and

the maximum penalty is up to five years of imprisonment for this crime. Depending on the nature of this crime, this crime can be classified as a less serious crime or crime with insignificant social danger.

According to an examination of the articles in the Special Part of the Criminal Code, 288 crimes are crimes with insignificant social danger. When only non-custodial punishments are available as an alternative punishment for a crime, such crimes are classified as crime with insignificant social danger. For example, a fine of twenty-five to fifty times the base calculation amount or deprivation of certain rights for up to five years or compulsory community service for up to three hundred and sixty hours or correctional work for up to three years is prescribed for the crime under part 1 of Article 133 of the Criminal Code.

M.Usmonaliev notes that “there is a question as to which category of crimes should be included the crimes that are punishable with non-custodial punishments”. He proposes Article 15, part 2 of the Criminal Code to be stated in the following wording, “*crimes with insignificant social danger include crimes to which the law provides for lighter punishments than deprivation of liberty, as well as crimes committed intentionally and punishable by deprivation of liberty for a term of not more than three years, and crimes committed under carelessness and punishable by deprivation of liberty for a term of not more than five years*”<sup>4</sup>. We agree with the opinions of M. Usmonaliev. According to the degree of danger, it is logical that crimes for which only non-custodial punishments are provided by the law should be classified as crimes with insignificant social danger. Taking into account that in the classification of crimes, the sanction of the special part includes only punishments that are not related to deprivation of

<sup>4</sup> M. Usmonaliev. Contemporary problems of criminal law. Guide. T-2006 p. 26.



liberty, specifying the norm that as an alternative form of punishment crimes that carry only non-custodial sentences are also included in the category of crimes with insignificant social danger, helps to further clarify the classification of crimes for which only non-custodial punishments are provided as an alternative punishment. In our opinion, part 2 of Article 15 of the Criminal Code should be amended in the following wording: *“Intentional crimes punishable under law by imprisonment up to three years, crimes committed unintentionally and punishable under law by imprisonment up to five years, as well as crimes to which non-custodial penalty is prescribed shall be classified as crimes with insignificant social danger”*.

When it comes to the sanctions related to the amount of punishment in the classification of crimes, fine as a penalty is provided for 296 types of crimes. Fines are provided for the sanctions of crimes with insignificant social danger, less serious and serious crimes, and the severity of the crimes is not taken into account when determining the amount of the fine. Part 2 of Article 192-6 of the Criminal Code, for example, includes the classification of crimes with insignificant social danger, and a fine of three hundred to six hundred times the amount of the basic calculated value is prescribed, whereas part 1 of Article 210 - for a less serious crime, a fine of up to one hundred times the amount of the basic calculated value is prescribed, part 2 of Article 244 stipulates a fine of three hundred to four hundred times the basic calculated value for a serious crime. In our opinion, the determination of sanctions of the Criminal Code based on the degree of severity of crimes is also important in ensuring the proportionality of alternative punishments. Furthermore, part 2 of Article 54 of the Criminal Code states that when

imposing a punishment, the court must consider the nature of the crime as well as the level of social danger. We believe that it is appropriate to base the types of punishments, particularly fines, on the classification of crimes in the formation of Criminal Code sanctions.

At this point, Professor R. Kabulov's comments are noteworthy. The system of sanctions was ‘broken’<sup>5</sup> as a result of several discussions at various levels during the preparation of the draft of the new criminal code in 1993-1994, as well as several times as a result of amendments and additions to the current Criminal Law. According to Professor R.Kabulov, the lack of strict rules determining the types of punishment based on crime classification has resulted in a mutual disproportion in determining the sanctions of the Special Part of the Criminal Code. Correctional work, for example, is defined as an alternative punishment in the sanction of serious crimes. In our opinion, the determination of the sanctions of the Special Part of the Criminal Code is also important in ensuring the proportionality of alternative punishments.

In conclusion, the amount and duration of punishment in the classification of crimes allows us to make the following proposals:

firstly, coordination of the provisions of Article 15 of the Criminal Code in determining the amount and terms of punishment in the Special Part of the Criminal Code;

secondly, elements of the crime committed intentionally and elements of the crime committed recklessly should be separated;

<sup>5</sup> Kabulov R. "The main directions of development of modern criminal legislation of the Republic of Uzbekistan." // Collection of materials of the international scientific and

practical conference on the prospects of improving the criminal law of the Republic of Uzbekistan (March 11, 2020) - T.: TSUL, 2020. p. 28

thirdly, all types of punishment in the penal system should be determined based on the classification of the crime;

fourthly, the amount of fines in the sanctions of the Special Part of the Criminal Code should be determined based on the classification of crimes.

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