

## **The Principle of Proportionality in Punishment for a Crime**

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**Abstract.** *This article examines the problems of preventing economic crimes, in particular, crimes committed without the use of force, i.e., robbery, embezzlement or embezzlement, fraud, theft, and the administration of justice on them.*

**Key words:** *judicial-legal, international politics, democratic society, criminal legislation, expenses.*

Along with the reforms carried out in all spheres after the independence of the Republic of Uzbekistan, there is a need for further improvement of the judicial and legal sphere in accordance with modern requirements. Because our independent Uzbekistan, steadfastly following its chosen path, is becoming known to the world in all spheres, demonstrating its worthiness to take its place among the leading countries, and its prestige in international politics is growing.

Without ensuring the rule of law, it is impossible to strengthen the state independence of Uzbekistan and build a democratic society. In the first years of the transition period in our republic, the situation with crime was quite complex. A sharp increase in the commission of serious crimes, encroachments on the foundations of the economy, the life and health of citizens, and the activation of organized criminal groups were observed. Taking into account such conditions. Thanks to the wise policy of the President of our country, the growth of crime was prevented.

As a result of this wise policy, the criminal situation in our republic has improved over time, and criminal legislation is being improved day by day. At the initiative of the President of our country, decrees on the liberalization of punishments, amnesty are published annually, mercy is shown to a large number of offenders, pardoning them, mitigating punishments, especially imprisonment, and in some cases not applying them, instead limiting it to a property fine, and implementing many other humanitarian principles is becoming a common practice.

At the same time, when imposing punishment for crimes related to theft of property, it has always been relevant to prescribe punishment based on the principles of objectivity, justice, and humanism. However, ensuring the objectivity of sentences issued by the courts in our republic remains a problematic issue even today. Because even in the context of the liberalization of criminal legislation, there are cases of unfair, disproportionate sentences, rulings, and decrees issued by some courts. One of the reasons for this issue is that criminal acts committed by investigative bodies and courts do not follow the guiding instructions specified in the resolutions of the Plenum of the Supreme Court of the Republic of Uzbekistan, and the purpose of the committed criminal act or inaction is not taken into account objectively in all aspects. In this situation, it is evident that courts and investigative bodies are making a number of shortcomings in resolving the fundamental issues outlined in the general provisions of the Criminal Code. Therefore, courts still make mistakes in determining sentences, and there is a tendency to impose imprisonment sentences on many defendants without fully complying with the principles of humanity and justice. In many cases, other types of punishments specified in the law remain undiscussed.

Ultimately, during the generalization of criminal cases by the Supreme Court of the Republic of Uzbekistan and higher courts, unjust and disproportionate sentences are revealed, and the fairness of sentences imposed by convicts is ensured.

Let's look at some examples. Minors B. and T. were accused by the court of breaking the lock of someone's garage and taking their belongings worth 41,000 soums, and another apartment worth 44,000 soums. One was sentenced to five years, the other to two years of imprisonment. In connection with this situation, the Supreme Court filed a supervisory protest against the verdict and, taking into account extreme remorse for the crime committed, it was replaced with a suspended sentence.

In the criminal case, J. worked as the head of the Department of Public Education, T. as the chief accountant, and S. as the treasurer, who for two years were accused of receiving money from the cash register, spending on guests, and embezzling large sums of funds, and were sentenced to long terms of imprisonment by the relevant court. This case was reviewed by the Supreme Court under supervisory review, the verdict was changed, the sentence was reduced, and the prescribed punishments were replaced with probation. In this case, it was established that the convicts were sentenced without a full study of their identity and without proper assessment of mitigating and aggravating circumstances.

In our opinion, when imposing punishment for a committed criminal act, it is necessary to strictly adhere to the requirements of the Criminal Procedure Code of the Republic of Uzbekistan, the guiding instructions contained in the resolutions of the Plenum of the Supreme Court, to give a serious assessment of the committed criminal act or omission when qualifying crimes, and to thoroughly study mitigating and aggravating circumstances based on evidence. A verdict is considered just, primarily when the punishment for the criminal act is determined accordingly.

Only then will the sentence be understandable to citizens, and the imposed punishment will yield the desired positive result in the moral correction of the individual and the prevention of new crimes.

The unconditional observance of the requirements of the law in the application of criminal penalties is one of the most important tasks of justice, and only the application of just punishment serves as a guarantee for the development of democratic human rights institutions.

In recent times, others have been making up a large portion of property theft crimes. Especially after the application of exemption from criminal liability in connection with reconciliation for part 1 of Article 167 (common type of embezzlement or misappropriation), part 1 of Article 168 (common type of fraud), part 1 of Article 169 (common type of theft), the study of the practice of imposing punishment for these crimes remains one of the urgent tasks. Although the simple types of crimes of robbery without the use of force (Articles 166, 167, 169 of the Criminal Code) are similar in terms of the corpus delicti, they can differ from each other depending on the method of committing the crime (objective side), the amount of property plundered, the age of the subject of the crime, and the degree of social danger. The difference between them is that in robbery, the property of others is openly seized, while in theft, the property of others is secretly plundered. In the crime of embezzlement and misappropriation, the person entrusted to the guilty party, who is materially responsible for this property, appropriates it or gives it away and misappropriates it. In fraud, the perpetrator robs the victim by deceiving or abusing their trust. A characteristic feature of fraud is that the deceived victim hands over the property to the criminal with their own hands. The quantitative difference between the plundered property is determined by the value of the property, calculated in sums. Among the simplest types of theft of another's property, the most socially dangerous is theft. Therefore, if the amount of property plundered through robbery reaches a significant amount, it is considered a crime specified in Part 1 of Article 166. According to the section on the legal meaning of terms of the Criminal Code, an amount from 30 to 100 times the minimum monthly wage is considered a significant amount, and if the amount of property plundered through robbery is less than 30 times the minimum monthly wage, the crime of simple robbery is considered committed. In order for a simple type of theft to be considered committed, it is necessary that property in a significantly smaller amount has been plundered. In cases of embezzlement or misappropriation and fraud, theft of property up to a large amount is considered a simple type of crime. An amount from 100 to 300 times the minimum wage

is considered a large amount. Due to the higher degree of social danger of robbery and theft in the system of crimes of robbery without the use of force, in the case of theft of property in a significantly smaller amount, a large amount is defined as simple robbery in cases of embezzlement and misappropriation, as well as in cases of robbery by fraud.

The subjects of robbery and theft are persons who have reached the age of fourteen at the time of the commission of the crime, while the subjects of embezzlement or misappropriation and fraud are persons who have reached the age of sixteen at the time of the commission of the crime. Regarding the subject of Article 167 of the Criminal Code, it should also be noted that if the crime under paragraph "g" of part 2 of this article is committed through abuse of official position, the subject of this crime may be eighteen years old. Because, according to Article 17 of the current Criminal Code, only persons who have reached the age of eighteen at the time of committing a crime can be subjects of official crimes. Based on this, to consider that a simple type of crime of embezzlement of another's property without the use of force has been committed, the following characteristics must be present: a) the subject has committed the crime of embezzlement for the first time; b) the amount of embezzled property must be less than the property of a significant amount for the crime of robbery and theft, and less than the property of a large amount for the crimes of embezzlement and misappropriation, as well as fraud; c) the crime must be recognized as committed by only one person. Naturally, the question arises: what does the above have to do with these norms? In our opinion, the determination of the type and amount of punishment based on the analyzed articles depends on the above-mentioned circumstances.

Since the ultimate goal of the reforms being carried out in Uzbekistan, the liberalization of the judicial and legal system, is the creation of a legal state, a free civil society, in which human rights and interests are fully ensured, the implementation of the tasks for this purpose will be hindered to a certain extent by crime, including economic crimes. Moreover, in the context of the global financial and economic crisis, the prevention of corruption and economic crimes in our country remains one of the most important tasks.

The change in the social structure, the establishment of new forms of ownership and economic relations led to serious changes in the economy. As a result of the formation of dependency attitudes among members of society in the conditions of economic relations during the period of the former Union, the failure of most of our people to develop the skills to live in extreme situations and under the conditions of renewed economic relations, the population's insufficient readiness for the new management of the economy in the first decade of Uzbekistan's independence led to the spread of illegal economic behavior. Serious shortcomings in the field of professional retraining of personnel implementing the new economic policy, the impossibility of promptly resolving the issue of accelerated establishment of a new system of economic management, led to the development of criminal behavior in the personality of some citizens.

Since the escalation of economic crimes is observed when favorable conditions arise for this, their elimination is also primarily related to changing those conditions and resolving contradictions in society's economic, social, and other spheres in accordance with general economic laws. In addition to the above, in such cases, it is also very important to assign punishment taking into account the personal characteristics of the persons who committed the crime. Therefore, when imposing a sentence, the courts must fully comply with the requirements of Article 42 of the Criminal Code of the Republic of Uzbekistan and ensure the achievement of the purpose of the punishment. This is also one of the main factors in eliminating the conditions and causes of crime.

## **References:**

1. Мингбоев У. Суд фуқаролар ҳимоячиси. Ўзбекистон Республикаси Олий суди. Тошкент, 2001 йил.
2. Ўзбекистон Республикаси Олий суди пленуми тўплами. 1991-2000 йиллар. Нукус, "Билим", 2000 йил.

3. Имомов Р. Ўзбекистон Республикасида давлат ва ҳуқуқ органлари ҳамда қонунчиликнинг айрим турлари тўғрисида маълумотлар тўплами. Андижон, 2004 йил.
4. Имомов Р. Жиноят қонунчилигига инсонпарварлик ва одиллик тамойиллари. Андижон, 2004 йил.
5. Дубинин Н.П., Карпец И.И., Кудрявцев В.Н. Генетика, поведение, ответственность. М.: Изд-во Политической литературы, 1998. –С.8
6. Курс уголовного права. Том II. –М.: Зертало-М, 2002. –С.99
7. Усмоналиев М. Жиноят ҳуқуқи. Умумий қисм. –Тошкент: Янги аср авлоди, 2005. –Б.447