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## THEORETICAL FOUNDATIONS OF SENTENCING FOR MULTIPLE OFFENSES

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**Israilov Dilshod Shavkatovich**

Deputy Director of the Higher School of Judges under the Supreme Council of Judges of the Republic of Uzbekistan, Doctor of Philosophy in Law, Associate Professor, Uzbekistan

### ABSTRACT

This article analyzes issues related to the theoretical foundations of sentencing for multiple offenses. The article also examines the unique aspects of sentencing, including the application of principles that exist simultaneously in various areas of law. Specifically, the article highlights the application of general legal principles (legality, equality before the law), criminal law principles (justice, humanism, democracy, culpability, etc.), as well as special principles of criminal procedural law (administration of justice exclusively by the court, implementation of justice based on equality of citizens before the law and the court, respect for the honor and dignity of individuals, etc.) in the sentencing process.

### KEYWORDS

Multiple, punishment, liability, crime, sentencing, judicial law, committed act, criterion, state coercive measure, legal assessment.

### INTRODUCTION

It should be noted that judicial and legal reforms are the most significant and important among the reforms being implemented to ensure human rights in our country. In this process, the amendments made to the Constitution and criminal law of the Republic of Uzbekistan in the criminal law sphere, the liberalization

of criminal penalties, and the implementation of laws with consideration for human dignity and interests serve as clear evidence.

The punishment imposed on a person who has committed a crime is one of the main forms of

implementing criminal liability. When imposing punishment on an individual, the court provides a legal assessment of their actions by qualifying them under the relevant article of criminal law, and evaluates the actions taken by law enforcement agencies to expose this act.

For this very reason, the institution of sentencing holds great importance in criminal law theory. Sentencing is considered one of the institutions of criminal law, and the significance of this institution lies in the fact that courts typically assign the most appropriate type and amount of punishment established by criminal law for the commission of a specific crime.

The peculiarity of sentencing is that it adheres to principles that exist simultaneously in several areas of law. Specifically, in sentencing, principles of general law (legality, equality of all before the law), criminal law (justice, humanism, democracy, responsibility for guilt, etc.), and special criminal procedural law (justice is carried out only by the court, justice is administered on the basis of equality of citizens before the law and the court, respect for the honor and dignity of the individual, and others) are applied.

When analyzing the criterion of "sentencing" in criminal law, it is appropriate to focus on the fact that the term "punishment" forms its core essence. An analysis of current legislation reveals that the concept of "punishment" is approached in various ways. Numerous theoretical perspectives on the concept of punishment have been presented by both national and foreign legal scholars. Moreover, the current Criminal Code also provides a definition for the concept of punishment. Specifically, according to Article 42 of the Criminal Code, punishment is a coercive measure applied by a court verdict on behalf of the state against a person found guilty of committing a crime, which consists of depriving or restricting the convicted

person of certain rights and freedoms as provided for by law.

In this context, G. Botirov argued as early as 2006 that the concept of "punishment" was inappropriately used in the current criminal law, and in his opinion, using the concept of "criminal law measures" instead of "punishment" would be logically correct, as he concluded that the term "punishment" is an integral part of criminal law measures.

Another national legal scholar, M. Nazarov, after analyzing the theoretical views of other scholars on punishment, defines this concept as a coercive measure based on the principles of the Criminal Code. This measure is applied on behalf of the state to a person found guilty of committing a crime according to a court verdict. It deprives and limits the convicted person of certain rights and freedoms established by law, without aiming at physical torture or humiliating human dignity. The purpose of this measure is to stop the criminal's unlawful activity and prevent the commission of new crimes by both the convicted person and others.

Analyzing these views of legal scholars, it is worth emphasizing that we fully agree with the approach that punishment can only be imposed by the court. Indeed, Article 54 of the current Criminal Code clearly stipulates that punishment for committing a crime, as outlined in the Special Part of the Criminal Code, is exclusively imposed by the court. In the works of other national scholars, we may encounter different approaches to defining the concept of sentencing.

For example, some scholars point out that the concept of sentencing refers to the application of punishment (coercive measure) provided for in the sanction of the Article of the Special Part of the Criminal Code against

a person found guilty of committing a crime in accordance with the procedure established by law.

Regarding the concept of sentencing, lawyer R.A. Ragimov defines it as the final stage of criminal proceedings in the court of first instance, during which a person is recognized as guilty, the criminal composition of their act is qualified in accordance with criminal law, and, if necessary, primary and additional punitive measures are imposed on this person .

At the same time, E.V. Blagov concludes that it is advisable to define the concept of sentencing as follows: sentencing refers to the process in which it is advisable to impose punishment based on the relevant circumstances and formalize its amount and form in the form of a decision .

As we have seen, there is no consensus among domestic and foreign legal scholars regarding the concept of punishment.

In turn, to define the concept of punishment, it is advisable to analyze the main characteristics inherent in it.

Criminal punishment is a state coercive measure

Criminal punishment is imposed only by the court.

Punishment is imposed only in relation to a person found guilty of committing a crime. Deprivation of special rights and freedoms shall be specified only in criminal law.

On behalf of the state, it is carried out by its bodies.

The basis for the imposition of punishment is the commission of a criminal act. Punishment is expressed in the restriction of a person from certain rights and freedoms for a certain period of time.

Causes a state of conviction.

Despite the fact that there has been constant debate among scientists and practitioners about the criminal punishment imposed on individuals accused of committing crimes, various opinions have been expressed, and numerous studies have been conducted, two important aspects should always be given importance, namely why to punish and how to punish. What is the exact amount of punishment that is necessary and sufficient to correct and prevent the commission of a new crime?

After gaining independence, Uzbekistan adopted a program for the phased implementation of the transition to a market economy, the establishment of a legal democratic state, and the transition from a strong state to a strong civil society. In the first decade of Uzbekistan's independence, due to the sharp focus on combating crime, courts tended to apply more severe punishments. In connection with Uzbekistan's significant progress in the implementation of reforms, a program of liberalization and deepening the process of reforms in the political, economic and spiritual spheres of our society was adopted in June 2000. In accordance with the program, the issue of liberalization of the judicial system was discussed, and criminal punishments were liberalized. The sanctions for a number of serious crimes have been changed and transferred from the category of very serious crimes to the category of serious crimes, from the category of serious crimes to the category of less serious crimes, from the category of less serious crimes to the category of socially less dangerous crimes. Furthermore, the institutions of exemption from criminal liability have been expanded, and in connection with their reconciliation, the institution of exemption from criminal liability has been introduced, and several articles have introduced norms that do not

apply the punishment of imprisonment in the event of compensation for material damage.

The most important function inherent only in criminal law is the function of warning with punishment, protecting public relations, and applying punishment to individuals who have committed crimes.

I believe that punishment is a measure to prevent crime to a certain extent through warnings, to prevent the convicted person from committing a new crime. Turning to the part of sentencing for multiple crimes, it is known that the commission of multiple crimes by one person has existed at any time in human history and is characterized by its high social risk. The basis for imposing punishment for multiple crimes is the commission by one person of two or more crimes. Based on this, first and foremost, within the framework of our research, we need to consider the concept of several crimes, their types, and characteristics. This requires a detailed analysis of Chapter VIII of the Criminal Code of our country on the commission of several crimes. It should be noted that a number of domestic and foreign scholars have studied the cases of several crimes and put forward specific views and opinions.

Punishment for committing multiple crimes (Article 59 of the Criminal Code) refers to the form of committing multiple crimes - a combination of crimes.

The rules for assigning punishment for a set of crimes provided for by the Criminal Code are applied in the following cases: (Article 59 of the Criminal Code) when the act is qualified by various articles of the criminal law;

when the act is qualified by several parts of one article of the Special Part of the Criminal Code, provided that these parts provide for liability for various crimes;

when a person has committed several acts, one of which is committed as a completed crime, and others are committed in preparation, assassination or participation in a crime;

after the verdict of the case, the convicted person is found guilty of another crime before the verdict of the first case;

when a guilty verdict is announced against a person in the case and the person commits another crime without the entry of this verdict into legal force.

The imposition of punishment for a combination of crimes is when the court, in accordance with the rules provided for in Article 54 of the Criminal Code, assigns a separate punishment for each crime, then sets a final punishment by replacing the lighter punishment with a heavier one, or by fully or partially adding the sentences. That is, the court assigns a separate punishment for each of the crimes committed, then definitively assigns one type of punishment by fully or partially adding these types of punishment (according to the provisions of Article 61 of the Criminal Code) or replacing the lighter type of punishment with the heavier.

The addition of punishments refers to the transformation of different types of punishments into the same type of punishment and the addition of their terms. In this case, when the types of punishment are added, the rules of Article 61 of the Criminal Code must be strictly adhered to.

In other words, according to the provisions of Article 61 of the Criminal Code, the punishment of correctional labor, restriction of service, restriction of freedom and transfer to the disciplinary unit, compulsory community service are not combined with each other, but these types of punishment can only be added to the punishment of imprisonment.



Compensation for punishments refers to the imposition of punishment in a sufficient amount for other crimes, without changing the term of the heaviest of the various types of punishment imposed for committed crimes.

This rule can only be implemented when the crimes committed constitute crimes of minor and less serious social danger, depending on the degree of their social danger, or when a sentence of life imprisonment or long-term imprisonment is imposed for one of the crimes committed.

In addition to the main punishment imposed for a set of crimes, the court may also add additional punishments imposed for certain crimes. Here:

If additional punishments imposed for individual crimes are of the same type, the court, within the maximum period established for this additional type of punishment, will definitely impose a punishment by replacing their lighter with a heavier one or by the rule of their complete or partial addition.

In other words, the punishment of deprivation of a certain right is imposed as an additional punishment for several crimes, and when they are combined, the term of punishment as a combination of crimes should not exceed three years.

In this case, the penalty of deprivation of a certain right is applied to the term of the main punishment (deprivation of liberty, transfer to a disciplinary unit), which is definitely imposed for a set of crimes, and the term appointed by the court.

If the additional punishment for crimes is different, they are executed separately.

If, after the verdict in the case, the convicted person is found guilty of another crime committed before the

verdict in the same case, the punishment is imposed in the order of the totality of crimes. In this case, the term of punishment imposed by the court for a set of crimes shall be added to the unexpired part of the punishment imposed by the first sentence, and the term of the final punishment shall not be less than the term of the punishment imposed by the first sentence. In this case, the term of punishment served by the person is also applied to the term of punishment definitively imposed for both crimes (for example: the person was sentenced to 5 years of imprisonment for the crime of theft committed, and it was also found that after serving 3 years of this sentence, he committed a robbery before committing the crime of theft.

In this case, the court also imposes a sentence of imprisonment for 5 years for the crime of robbery, and based on the provisions of Article 59 of the Criminal Code, by partial addition of the punishments, the person is definitively sentenced to 7 years of imprisonment. In this case, the person is considered to have served 3 years of this sentence and only has to serve the remaining 4 years).

If the crimes constituting a set of crimes constitute crimes provided for in different parts of one article of the Special Part of the Criminal Code, the rules for imposing punishment provided for in Article 59 of the Criminal Code shall not apply when imposing punishment for these crimes. Sentencing in this case the guilty person is held liable under the most severe part of the article of the Special Part of the Criminal Code, the actions of which are qualified, and is assigned within the time limits provided for by one of the types of punishment provided for by the sanction of that part (Article 33 of the Criminal Code).

When imposing a sentence as a combination of crimes, the maximum term of imprisonment cannot exceed twenty years.

There are concepts of "several crimes" and "several crimes" in criminal law, and let's focus on them. Because the object of study of the dissertation research is directly related to these concepts.

The current Criminal Code does not provide clear direct definitions of these concepts, and although these concepts appear to have the same meaning as each other, they are independent concepts. Because, if we focus on the legal meaning of the concept of "several crimes," it is a narrow concept in relation to the concept of "several" crimes, and if the commission of a number of crimes encompasses repeated crimes, a combination of crimes and recidivist crimes, according to the content of Article 59 of the Criminal Code, "committing by a person two or more crimes provided for in various articles of the Special Part of the Criminal Code, without convicting a person for any of them" is recognized as the commission of several crimes. Because repeat offenses encompass crimes provided for by different articles, punishment is imposed for multiple offenses.

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