

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI  
HUZURIDAGI ILMIY DARAJALAR BERUVCHI**  
**DSc.07/13.05.2020.Yu.22.03. RAQAMLI ILMIY KENGASH**

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI**

**ROZIMOVA QUNDUZ YULDASHEVNA**

**JINOYAT UCHUN JAZO TAYINLASHNING NAZARIY VA AMALIY  
JIHATLARI**

12.00.08 – Jinoyat huquqi. Kriminologiya. Jinoyat-ijroiya huquqi

**yuridik fanlar doktori (Doctor of Science) dissertatsiyasi  
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## KIRISH (fan doktori (DSc) dissertatsiyasining annotasiyasi)

**Dissertatsiya mavzusining dolzarbligi va zarurati.** Dunyoda jinoyatlarning oldini olish, jinoyat sodir etgan shaxslarga jazo tayinlash, mahkumning axloqini tuzatish uning jinoiy faoliyatini davom ettirishga to'sqinlik qilish, jazodan ko'zlangan maqsadlarga erishish dolzarb ahamiyat kasb etmoqda. Jinoyat uchun jazo tayinlashda "maqsad - vosita – natija" asosiy qoida hisoblanadi. Sud hokimiyatining ustuvor vazifalaridan biri bo'lgan jazo tayinlash, uning samaradorligini chuqur o'rganish zarurati mavjud. Chunki, 2020-yilda dunyo miqyosida har 100 ming kishidan 57 nafariga jinoiy jazo tayinlangan bo'lsa, 2023-yilda ushbu ko'rsatkich 2020-yilga nisbatan 13 foizga oshgan<sup>1</sup>.

Barcha davlatlarda ham jazo tayinlash ko'rsatkichlari yuqoriligicha qolmoqda. 2023-yilda jinoyat sodir etgan shaxslarga nisbatan jazo tayinlash har 100 ming kishiga nisbatan Venesuelada 82 ta, Janubiy Afrikada – 75 ta, Birlashgan Qirollikda – 81 ta, Birlashgan arab amirligida – 14 ta<sup>2</sup>, Rossiyada – 39 tani tashkil etib, so'nggi uch yilda O'zbekistonda jinoyat sodir etgan shaxslarga jazo tayinlash ko'rsatkichi 31 taga etgan<sup>3</sup>. BMT ma'lumotlariga ko'ra, ilgari jinoyat sodir qilgan shaxslar tomonidan takroran jinoyat sodir etishining asosiy sabablaridan biri jazo tayinlashdagi kamchiliklar bilan bevosita bog'liqdir. Yuqoridagi ma'lumotlar jazo tayinlash masalalarini tadqiq etishning dolzarb ekanligidan dalolat beradi.

Jahonda jazo tayinlashga oid qonunlarining to'g'ri qo'llanilishiga oid davlat siyosati, jinoyat qonunchiligini takomillashtirish, sodir etilgan jinoyatlar uchun adolatli jazo tayinlash masalalarini tadqiq etishga alohida e'tibor berilmoqda. Jumladan, jazoni individuallashtirish qoidalari, jazolarni qo'shishga doir qonun normalarini takomillashtirish va milliy qonunchilikka xorijiy davlatlarning ijobiy tajribasini, xalqaro standartlarning implementatsiyasini kuchaytirish, qayta jinoyat sodir etilishining oldini olish choralarning samaradorligini oshirish, qonunni qo'llash amaliyotini yaxshilash yo'nalishlarini o'rganish muhim ahamiyat kasb etadi.

Respublikamizda ham birinchi instansiyada ko'rilayotgan jinoyat ishlari va jazo tayinlanayotgan shaxslar sonining tahlili ularning yildan-yilga o'sib borayotganligini ko'rsatmoqda. Xususan, 2021-yil birinchi instansiya sudlarida JKning 57–60-moddalari qo'llanilib, 27 880 nafar shaxsga nisbatan 21 295 ta jinoyat ishlari ko'rilgan va jazo tayinlangan bo'lsa, 2022-yilga kelib bu ko'rsatkich sezilarli darajada o'sgan va birinchi instansiya sudlari tomonidan JKning 57–60-moddalari qo'llanilib, 34 497 nafar (2021-yilga nisbatan +6 617 yoki 24 foiz) shaxsga nisbatan 26 730 ta (2021-yilga nisbatan +5 435 yoki 26 foiz) jinoyat ishi ko'rib chiqilgan va jazo tayinlangan. Bundan tashqari, 2021–2022-yillarda apellyatsiya instansiyasida o'zgartirilgan yoki bekor qilingan birinchi instansiya sudlari hukmlarining soni ham yildan yilga oshmoqda. Masalan, 2021-yilda JKning 57–60-moddalari qo'llanilgan 1 153 nafar shaxsga nisbatan 854 ta jinoyat ishi bo'yicha birinchi instansiya sudlarining hukmlari apellyatsiya instansiyasida, 2022-yilga kelib, 1 438 nafar (2021-yilga nisbatan +285 yoki 25 foiz) shaxsga nisbatan 1 078 ta (2021-yilga nisbatan +224 yoki 26 foiz) jinoyat ishi apellyatsiya instansiyasida o'zgartirilgan. E'tiborlisi,

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<sup>1</sup> [https://www.numbeo.com/crime/region\\_](https://www.numbeo.com/crime/region_)

<sup>2</sup> [https://www.numbeo.com/crime/rankings\\_by\\_country.jsp](https://www.numbeo.com/crime/rankings_by_country.jsp)

<sup>3</sup> [https://www.numbeo.com/crime/country\\_result](https://www.numbeo.com/crime/country_result).

apellyatsiya instansiyasida bekor qilingan jinoyat ishlari sonida ham o'sish tendensiyasi kuzatilmoqda. Xususan, 2021-yilda 221 nafar shaxsga nisbatan, 174 ta jinoyat ishi bo'yicha birinchi instansiya sudlarining 57–60-moddalari qo'llanilib, jazo tayinlangan hukmlari apellyatsiya instansiyasida bekor qilingan bo'lsa, 2022-yilga kelib, 296 nafar shaxsga nisbatan 227 ta jinoyat ishi aynan apellyatsiya instansiyasida bekor qilingan. O'z navbatida birinchi instansiya sudlari tomonidan ko'rib, apellyatsiya instansiyasida o'zgartirilgan ishlar soni ham o'sgan. 2021-yilda JKning 57–60-moddalari qo'llanilgan birinchi instansiya sudlarida ko'rib, jazo tayinlangan 21 295 ta jinoyat ishining 854 tasi apellyatsiya instansiyasida o'zgartirilgan bo'lsa, 2022-yilga kelib birinchi instansiya sudida jazo tayinlangan 26 730 ta jinoyat ishidan 1 078 tasi apellyatsiya instansiyasida o'zgartirilgan<sup>4</sup>. Birinchi instansiya sudlarida ko'rib chiqilayotgan jinoyat ishlari va jazo tayinlanayotgan shaxslar sonining o'sishi, apellyatsiya instansiyasida o'zgartirilayotgan yoki bekor qilinayotgan birinchi instansiya sudlarining hukmlari soni ham jinoyat qonunida jazo tayinlash bilan bog'liq qoidalarni qayta ko'rib chiqishni, ularni takomillashtirishni taqozo etmoqda.

Mamlakatimizda jinoyat qonunchiligini takomillashtirish va jinoyat sodir etgan shaxslarga nisbatan adolatli jazo tayinlash tizimini tubdan isloh qilishga alohida ahamiyat berilib, mazkur sohada muayyan ishlar amalga oshirilmoqda, xususan O'zbekiston Respublikasining yangi tahrirdagi Konstitutsiyasiga jazo tayinlashga oid qoidalarning kiritilganligi ham muhim ahamiyatga ega. Konstitutsiyaning 26-moddasida hech kim qiynoqqa solinishi, zo'rvonlikka, boshqa shafqatsiz, g'ayriinsoniy yoki inson qadr-qimmatini kamsituvchi muomalaga yoxud jazoga duchor etilishi mumkin emasligi, 30-moddasida hech kim rasmiy e'lon qilinmagan qonun asosida hukm qilinishi, jazoga tortilishi, mol-mulkidan yoki biron-bir huquqidan mahrum etilishi mumkin emasligi, hech kim ayni bir jinoyat uchun takroran hukm qilinishi mumkin emasligi haqidagi qoidalar mustahkamlandi<sup>5</sup>. Jinoyat kodeksida qo'llaniladigan atama va tushunchalarning mazmuniga aniq ta'rif berish, jinoiy jazolar tizimi va jazo tayinlash mexanizmlarini qaytadan ko'rib chiqish, tamom bo'lmagan jinoyat, jinoyatda ishtirokchilik va bir qancha jinoyat sodir etish institutlariga doir JK normalarini takomillashtirish, ulardagi ziddiyatlarni bartaraf etish, jazoni engillashtirish shartlari belgilangan normalarni kengaytirish, asosiy vazifa etib belgilandi<sup>6</sup>.

O'zbekiston Respublikasi Prezidentining "Huquqbuzarliklar profilaktikasi va jinoyatchilikka qarshi kurashish tizimini yanada takomillashtirish chora-tadbirlari to'g'risida"gi (2017), "O'zbekiston Respublikasini yanada rivojlantirish bo'yicha Harakatlar strategiyasi to'g'risida"gi (2017), "Jinoyat va jinoyat-prosessual qonunchiligi tizimini tubdan takomillashtirish chora-tadbirlari to'g'risida"gi qarori (2018), "O'zbekiston – 2030" strategiyasi to'g'risida"gi (2023), "Yangi tahrirdagi O'zbekiston Respublikasi Konstitutsiyasini amalga oshirish bo'yicha birinchi navbatdagi chora-tadbirlar to'g'risida"gi farmonlari va mavzuga oid boshqa qonun hujjatlarining ijrosini amalga oshirishga ushbu dissertatsiya tadqiqoti muayyan darajada xizmat qiladi.

### **Tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy**

<sup>4</sup> JK 57-60-moddalari qo'llanilgan ishlar bo'yicha ma'lumot.

<sup>5</sup> Yangi tahrirdagi O'zbekiston Respublikasi Konstitutsiyasi. <https://lex.uz/docs/6445145>

<sup>6</sup> <https://lex.uz/docs/3735818>

**ustuvor yo‘nalishlariga mosligi.** Mazkur tadqiqot respublika fan va texnologiyalar rivojlanishining I. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma’naviy-ma’rifiy rivojlantirishda innovasion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” ustuvor yo‘nalishiga muvofiq bajarilgan.

**Dissertatsiya mavzusi bo‘yicha xorijiy ilmiy tadqiqotlar sharhi**<sup>7</sup>. Jazo tayinlashga oid jinoyat qonunchiligini takomillashtirishga oid ilmiy-tadqiqotlar Rossiya davlat adliya universiteti (Rossiya), Case Western Reserve University School of Law (AQSh), M.V. Lomonosov nomidagi Moskva davlat universiteti (Rossiya), Ural davlat yuridik universiteti (Rossiya), Oksford huquq universiteti (Buyuk Britaniya) kabi xalqaro, ilmiy va ta’lim muassasalarida amalga oshirilmoqda.

Jazo tayinlashning nazariy va amaliy jihatlarini o‘rganishga oid tadqiqotlarda muayyan ilmiy natijalarga erishilgan. Jumladan, amalga oshirilgan ilmiy tadqiqotlar natijasida jazo tayinlash prinsiplari (Qozon davlat universiteti)<sup>8</sup>, jarima jazosini tayinlash qoidalari (Dostoevskiy nomidagi Omsk davlat universiteti)<sup>9</sup>, jazo tayinlash: engillashtiruvchi va og‘irlashtiruvchi holatlar (O.E. Kutafin nomidagi Moskva davlat yuridik universiteti)<sup>10</sup>, jazo tayinlashda individuallashtirish qoidalari (Qozon davlat universiteti)<sup>11</sup>, jazo tayinlash (University of Pennsylvania)<sup>12</sup>, jinoiy odil sudlov: jazo tayinlash siyosati va muammolari (Oksford huquq universiteti)<sup>13</sup> mavzulari bo‘yicha xulosalar shakllantirilgan va asoslantirilgan.

Jahonda jazo tayinlash bo‘yicha quyidagi ustuvor yo‘nalishlarda tadqiqotlar olib borilmoqda: ishtirokchilikda sodir etilgan jinoyat uchun jazo tayinlash; residiv jinoyat instituti; jazo tayinlashda engillashtiruvchi va og‘irlashtiruvchi holatlarni hisobga olish; jinoyatni sodir etganlik uchun qonunda nazarda tutilganidan ham engilroq jazo tayinlash; jinoiy jazo tayinlashning umumiy nazariy tamoyillari va amaliy muammolari, bir necha jinoyat va bir necha hukm yuzasidan jazo tayinlash va boshqalar.

**Muammoning o‘rganilganlik darajasi.** Mamlakatimizda jinoyat uchun jazo tayinlashning nazariy va amaliy jihatlarini kam o‘rganilgan. Uning ayrim jihatlariga Q.R. Abdurasulova, B.D. Axrorov, B.A. Axmedov, Sh.Yo. Abduqodirov, P. Bakunov, R.A. Zufarov, R. Kabulov, M.X. Rustamboev, F. Toxirov, M. Usmonaliev, M.X. Jiyanov, M.A. Nazarov, M. Qodirov, M.Z. Muqumova, U.Sh. Xoliqulov, Sh.U. Umidullaev, X. Karimov, D. Kamalova va boshqalarning ilmiy ishlarida e’tibor berilgan.

Jinoyat uchun jazo tayinlashning nazariy va amaliy jihatlarini xorijiy olimlar: Z.Z. Nurulloeva, G.Z. Anashkin, M.I. Bajanov, E. Borisov, Ye. Blagov, D. Dyadkin, V.K. Duyunov, V.D. Solovev, O.A. Sadovnikova, S.G. Spivak, N.N. Krupskaya, F.A. Ruchkin, K.N. Mixaylov, T.V. Gubaev, N. V.Kuznesov, V.P. Malkov, M.N.

<sup>7</sup> <https://www.unodc.org/>; <https://www.dissercat.com/>; <https://thedaily.case.edu/>; <https://zakon.ru/blog/>; <https://xn--c1azic8c.xn--p1ai/>

<sup>8</sup> <https://cyberleninka.ru/article>

<sup>9</sup> <https://omamvd.ru/diss/>

<sup>10</sup> <https://www.dissercat.com/content/naznachenie-nakazaniya-obyazatelnye-smagchenie-i-usilenie/read>

<sup>11</sup> <https://lawtheses.com/individualizatsiya-nakazaniya-pri-ego-naznachenii-sudom-po-rossiyskomu-ugolovnomu-pravu>

<sup>12</sup> Criminal Attempts at Common Law. Edwin R. Keedy Professor of Law Emeritus, University of Pennsylvania // University of Pennsylvania Law Review. Vol.102.

<sup>13</sup> <https://www.aic.gov.au>

Stanovskiy, I.S. Tishkevich, Yu.N. Yushkov, Yu.S. Letnikov, J. Robert, A.Ashort, A.S. Bugrinenko, I.N. Samlina, S.G. Arapidi, A.I. Kochkarev, M.Monaxova, L.J. Xarris, K.Binding, A.Hoche, B.Gert, M.P. Mostert, J.Pradel, J.Rachels<sup>14</sup> va boshqalarning tadqiqotlarida o‘rganilgan. Ushbu ilmiy ishlarda jinoyat uchun jazo tayinlashning ayrim jihatlarini o‘rganilgan bo‘lib, jinoyat uchun jazo tayinlashning nazariy va amaliy masalalari kompleks tarzda dissertatsiya darajasida tadqiq etilmagan.

**Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta’lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog‘liqligi.** Tadqiqot ishi Toshkent davlat yuridik universiteti ilmiy-tadqiqot ishlari rejasining “Huquqbuzarliklarning oldini olish va profilaktika qilishning innovasion usul va vositalari” mavzusidagi fundamental loyihasi (2020–2022 y.y.) doirasida bajarilgan.

**Tadqiqotning maqsadi** jinoyat uchun jazo tayinlashning nazariy va amaliy masalalarini kompleks o‘rganish asosida aniqlangan muammolarning echimini berish, JK tegishli normalarini takomillashtirishga, jazo tayinlash amaliyotini yaxshilashga oid taklif va tavsiyalar ishlab chiqishdan iboratdir.

**Tadqiqotning vazifalari:**

jazo tayinlash umumiy asoslarini nazariy va amaliy tahlil qilish;

jinoyat qonunchiligidagi jazo tayinlash asoslariga oid normalari rivojlanishi tarixining o‘ziga xos xususiyatlarini o‘rganish;

yengilroq jazo tayinlashning nazariy va amaliy jihatlarini tadqiq etish;

aybdor o‘z qilmishiga amalda pushaymon bo‘lganida va aybiga iqrorlik to‘g‘risida kelishuv tuzilgan jinoyatlar bo‘yicha jazo tayinlashning nazariy va amaliy masalalarini tahlil etish;

tamom bo‘lmagan va ishtirokchilikda sodir etilgan jinoyatlar uchun jazo tayinlashning nazariy va amaliy jihatlarini tadqiq etish;

bir necha jinoyat sodir etganlik uchun jazo tayinlashga oid jinoyat qonuni normalari va ularni qo‘llashning nazariy va amaliy jihatlarini o‘rganish;

takroran jinoyat uchun jazo tayinlash masalalarini o‘rganish;

jinoyatlar majmui uchun jazo tayinlash masalalarini tahlil etish;

residiv jinoyat uchun jazo tayinlashga oid masalalarni tadqiq etish;

bir necha hukm yuzasidan jazo tayinlashga oid jinoyat qonuni normalari va ularni qo‘llashning nazariy va amaliy jihatlarini o‘rganish;

jazo tayinlashga oid ayrim xorijiy davlatlar qonunchiligining o‘ziga xos hususiyatlarini tahlil etish;

jazo tayinlashga oid milliy jinoyat qonunchiligi normalarini takomillashtirish bo‘yicha takliflar ishlab chiqish;

**Tadqiqotning obyektini** jinoyat uchun jazo tayinlash bilan bog‘liq jinoyat-huquqiy munosabatlar tizimi hisoblanadi.

**Tadqiqotning predmeti** jinoyat uchun jazo tayinlash bilan bog‘liq munosabatlarni tartibga soluvchi normativ-huquqiy hujjatlar, qonunni qo‘llash amaliyoti, ayrim xorijiy mamlakatlar jinoyat qonunchiligi va amaliyoti, jinoyat huquqi fanida mavjud bo‘lgan konseptual yondashuvlar, ilmiy-nazariy qarashlardan iboratdir.

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<sup>14</sup> Ushbu olimlar asarlari foydalanilgan adabiyotlar ro‘yxatida keltirilgan.

**Tadqiqotning usullari.** Tadqiqot olib borishda tarixiy, tizimli-tuzilmaviy, qiyosiy-huquqiy, mantiqiy, aniq sotsiologik, ilmiy manbalarni kompleks tadqiq etish, statistik ma'lumotlar tahlili kabi usullar qo'llanilgan.

**Tadqiqotning ilmiy yangiligi** quyidagilardan iborat:

aybga iqrorlik to'g'risida kelishuv tuzilgan jinoyatlar bo'yicha jazo tayinlanganda jazoning muddati yoki miqdori Jinoyat kodeksi Maxsus qismi tegishli moddasi (qismi) da nazarda tutilgan eng ko'p jazoning yarmidan oshmasligi kerakligi asoslangan;

JK 50-moddasining oltinchi qismiga muvofiq ayollarga, shuningdek 60 yoshdan oshgan erkaklarga nisbatan ozodlikdan mahrum qilish tariqasidagi jazo muddati, shu jumladan, jinoyatlar majmui va bir necha hukm yuzasidan tayinlangan jazo Jinoyat kodeksi Maxsus qismining tegishli moddasi (moddasi qismi) sanksiyasida nazarda tutilgan ozodlikdan mahrum qilish jazosi eng ko'p muddatining uchdan ikki qismidan ortiq bo'lishi mumkin emasligi, ayollarga, shuningdek 60 yoshdan oshgan erkaklarga nisbatan Jinoyat kodeksi Maxsus qismining tegishli moddasi (moddasi qismi) nazarda tutilgan ozodlikdan mahrum qilish jazosi muddatidan ham kamroq yoki engilroq jazo JK 57-moddasi qo'llanilgan holda tayinlanishi kerakligi asoslangan;

har xil turdagi asosiy jazolarni qo'shganda ozodlikni cheklashning bir kuni axloq tuzatish ishlarining yoki xizmat bo'yicha cheklashning uch kuniga to'g'ri kelishi asoslangan;

jarima tariqasidagi jazoni almashtirish tartibida (JK 44-moddasi uchinchi qismi) – hukm chiqarish paytida amalda bo'lgan bazaviy hisoblash miqdoridan kelib chiqqan holda, uch yildan ko'p bo'lmagan muddatga tayinlanishi asoslangan;

voyaga etmaganlarga nisbatan jazo tayinlanayotganda JK 82–86-moddalari talablariga rioya qilinadi, bunda JK 57-moddasini qo'llash talab etilmaydi. Sudlanuvchiga u aybdor deb topilgan JK Maxsus qismining moddasida nazarda tutilmagan boshqa engilroq turdagi jazolarning tayinlanish hollari bundan mustasno ekanligi asoslangan;

jinoyatga tayyorgarlik ko'rganlik hamda jinoyat sodir etishga suiqasd qilganlik uchun jazoning muddati yoki miqdori Jinoyat kodeksi Maxsus qismining tegishli moddasida nazarda tutilgan eng ko'p jazoning to'rt dan uch qismidan oshmasligi kerakligi to'g'risidagi qoida: tinchlik va xavfsizlikka qarshi tamom bo'lmagan jinoyatlar uchun, shuningdek: o'n sakkiz yoshga to'lmagan jabrlanuvchining nomusiga tegish yoki unga nisbatan zo'rlik ishlatib, jinsiy ehtiyojni g'ayritabiiy usulda qondirish; o'n olti yoshga to'lmagan shaxs bilan jinsiy aloqa qilish yoki jinsiy ehtiyojini g'ayritabiiy usulda qondirish; voyaga etmagan shaxs tavsiflangan yoki tasvirlangan pornografik mahsulotni tarqatish, reklama qilish, namoyish etish maqsadida O'zbekiston Respublikasi hududiga olib kirish, shuningdek, uni tayyorlash, tarqatish, reklama qilish, namoyish etish yoxud voyaga etmagan shaxsni pornografik xususiyatga ega harakatlarning ijrochisi sifatida jalb etish bilan; voyaga etmagan shaxsni jalb etgan holda qo'shmachilik qilish, fohishaxonalarni tashkil etish yoki saqlash bilan bog'liq bo'lgan jinoyatlar uchun qo'llanilmasligi kerakligi asoslangan.

**Tadqiqotning amaliy natijalari** quyidagilardan iborat:

– “jazo tayinlash”, “tamom bo'lmagan jinoyat uchun jazo tayinlash”, “bir necha hukm yuzasidan jazo tayinlash”, “jazo tayinlashning ob'ekti”, “jazo tayinlash algoritmi” tushunchalariga mualliflik ta'rifi berilgan;

– jazo tayinlashning umumiy asoslariga oid amaldagi jinoyat qonunchiligi, O'zbekiston Respublikasi Oliy sudi Plenumining qarorlari tahlil qilinib, qonun

normalari turlicha talqin qilinishining oldini olish maqsadida JK 56-moddasi va JK Maxsus qismining tegishli moddalaridan og'irlashtiruvchi holat sifatida ko'rsatilgan takroran, xavfli residivist va o'ta xavfli residivist degan bandlarni chiqarish hamda JK 34-moddasida o'ta xavfli residivist tomonidan JK Maxsus qismi moddasida nazarda tutilgan jinoyat sodir etilsa, unga nisbatan ushbu moddaning eng og'ir qismida ko'rsatilgan jazoni belgilash taklifi ilgari surilgan va asoslantirilgan;

– qonunni qo'llash amaliyoti, sudyalarda o'rtasida o'tkazilgan ijtimoiy so'rov natijalari, ayrim xorijiy davlatlar jinoyat qonuni normalarining tahlili asosida aybdor o'z qilmishiga amalda pushaymon bo'lganida jazo tayinlashni nazarda tutuvchi amaldagi JK 57<sup>1</sup>-moddasini kodeksdan chiqarish taklifi ilgari surilgan;

– aybga iqrorlik to'g'risidagi kelishuvni tuzishda qonunni qo'llash amaliyotini, jazo tayinlashga oid jinoyat qonunini normalarini takomillashtirish bo'yicha takliflar ishlab chiqilgan;

– qonunni qo'llash amaliyoti, ayrim xorijiy davlatlar jinoyat qonuni normalarining tahlili asosida odillik va javobgarlikning muqarrarligi prinsiplariga muvofiq amaldagi JKdan takroran jinoyat sodir etish institutini chiqarish, bunday toifadagi jinoyatlarga jinoyatlar majmui sifatida jazo tayinlash taklifi asoslab berilgan.

**Tadqiqot natijalarining ishonchliligi.** Tadqiqot davomida olingan nazariy-ilmiy xulosalar xalqaro ilmiy bazalar (<https://www.scholar.google.com>, <https://www.sciencedirect.com>, <https://elibrary.ru>) hamda boshqa rasmiy manbalardagi ishonchli ma'lumotlar asosida shakllantirilgan. Toshkent davlat yuridik universiteti tomonidan 2023-yil 10-aprelda O'zbekiston Respublikasi Oliy sudiga yuborilgan 7/1380-19-01-son xatga asosan 100 dan ortiq huquqni muhofaza qiluvchi organ xodimlari o'rtasida o'tkazilgan anketa so'rovi natijalari va 1 000 dan ortiq sud hukmlari tahlil qilingan.

**Tadqiqot natijalarining ilmiy va amaliy ahamiyati.** Tadqiqot natijalarining ilmiy ahamiyati undagi ilmiy-nazariy xulosalar, amaliy taklif va tavsiyalardan kelgusida ilmiy faoliyatda, amaldagi jinoyat qonunchiligini takomillashtirishda, tegishli normativ-huquqiy hujjatlar loyihalarini tayyorlashda, sud-tergov organlari faoliyatida, shuningdek jinoyat huquqi, jinoyatlar uchun jazo tayinlash, huquqbuzarliklar profilaktikasi kabi fanlarni ilmiy-nazariy jihatdan yanada boyitishga xizmat qiladi. Tadqiqot natijalaridan kelgusida tadqiqotlar olib borishda foydalanish mumkin.

Tadqiqot natijalarining amaliy ahamiyati qonun ijodkorligi faoliyatida, xususan, normativ-huquqiy hujjatlar tayyorlash hamda ularga o'zgartirish va qo'shimchalar kiritish jarayonida, jinoyat qonunchiligi normalarini qo'llash amaliyotini takomillashtirishda hamda oliy yuridik ta'lim muassasalarida jinoyat huquqi fanini o'qitishga xizmat qiladi.

**Tadqiqot natijalarining joriy qilinishi.** Jinoyat uchun jazo tayinlashning nazariy va amaliy jihatlarini tadqiq etish natijalari asosida:

aybga iqrorlik to'g'risida kelishuv tuzilgan jinoyatlar bo'yicha jazo tayinlash, ya'ni aybga iqrorlik to'g'risida kelishuv tuzilgan jinoyatlar bo'yicha tayinlanadigan jazoning muddati yoki miqdori Jinoyat Kodeks Maxsus qismining tegishli moddasi (qismi) da nazarda tutilgan eng ko'p jazoning yarmidan oshmasligi kerakligi to'g'risidagi taklif O'zbekiston Respublikasining 2021-yil 18-fevraldagi O'RQ-675-sonli "O'zbekiston Respublikasining Jinoyat va Jinoyat protsessual kodekslariga o'zgartirish va qo'shimchalar kiritish to'g'risida"gi Qonunining 1-moddasida, Jinoyat kodeksining 57<sup>2</sup>-moddasida o'z aksini topgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasining 2022-yil 8-apreldagi 04/2-10-3735-son ma'lumotnomasi). Mazkur taklif ishni sudga qadar

yuritishning soddalashtirilgan shakli bo'lib, fuqarolarning ortiqcha ovoragarchiliklariga chek qo'yish, ish samaradorligini oshirish, inson huquqlari, erkinliklari va qonuniy manfaatlarini himoyasining yaxshilanishiga xizmat qilgan;

JK 50-moddasining oltinchi qismiga muvofiq ayollarga, shuningdek 60 yoshdan oshgan erkaklarga nisbatan ozodlikdan mahrum qilish tariqasidagi jazo muddati, shu jumladan, jinoyatlar majmui va bir necha hukm yuzasidan jazo tayinlanayotgan hollarda ham, Jinoyat kodeksi Maxsus qismining tegishli moddasi (moddasi qismi) sanksiyasida nazarda tutilgan ozodlikdan mahrum qilish jazosi eng ko'p muddatining uchdan ikki qismidan ortiq bo'lishi mumkin emas. Ayollarga, shuningdek 60 yoshdan oshgan erkaklarga nisbatan Jinoyat kodeksi Maxsus qismining tegishli moddasi (moddasi qismi) nazarda tutilgan ozodlikdan mahrum qilish jazosi muddatidan ham kamroq yoki boshqa engilroq jazo JK 57-moddasi qo'llanilgan holda tayinlanadi, degan taklif O'zbekiston Respublikasi Oliy sud Plenumining 2006-yil 3-fevraldagi 1-sonli qarorining 28-bandida o'z aksini topgan (O'zbekiston Respublikasi Oliy sudining 2023-yil 07-noyabrdagi 08/877-23-son ma'lumotnomasi). Mazkur taklif inson huquqlari, erkinliklari va qonuniy manfaatlarini himoyasining yaxshilanishiga xizmat qilgan;

har xil turdagi asosiy jazolarni qo'shganda ozodlikni cheklashning bir kuni axloq tuzatish ishlarining yoki xizmat bo'yicha cheklashning uch kuniga to'g'ri keladi, degan taklif O'zbekiston Respublikasi Oliy sudi Plenumining 2022-yil 14-maydagi 9-sonli qarori bilan O'zbekiston Respublikasi Oliy sudi Plenumining 2006-yil 3-fevraldagi 1-sonli Sudlar tomonidan jinoyat uchun jazo tayinlash amaliyoti to'g'risidagi qarorining 51-bandida o'z aksini topgan. O'zbekiston Respublikasi Oliy sudining 2023-yil 07-noyabrdagi 08/877-23-son ma'lumotnomasi). Mazkur taklif inson huquqlari, erkinliklari va qonuniy manfaatlarini himoyasining yaxshilanishiga xizmat qilgan;

jarima tariqasidagi jazoni almashtirish (JK 44-moddasi uchinchi qismi) – hukm chiqarish paytida amalda bo'lgan bazaviy hisoblash miqdoridan kelib chiqqan holda, uch yildan ko'p bo'lmagan muddatga tayinlanadi, degan taklif O'zbekiston Respublikasi Oliy sudi Plenumining 2022-yil 14-maydagi 9-sonli qarori bilan O'zbekiston Respublikasi Oliy sudi Plenumining 2006-yil 3-fevraldagi 1-sonli Sudlar tomonidan jinoyat uchun jazo tayinlash amaliyoti to'g'risidagi qarorining 27-bandi birinchi xatboshisining uchinchi kichik xatboshisida o'z aksini topgan. O'zbekiston Respublikasi Oliy sudining 2023-yil 07-noyabrdagi 08/877-23-son ma'lumotnomasi). Mazkur taklif inson huquqlari, erkinliklari va qonuniy manfaatlarini muhofazasi kuchaytirilishiga xizmat qilgan;

voyaga etmaganlarga nisbatan jazo tayinlayotganda JK 82 – 86-moddalari talablariga rioya qilinadi, bunda JK 57-moddasini qo'llash talab etilmaydi. Sudlanuvchiga u aybdor deb topilgan JK Maxsus qismi tegishli moddasida nazarda tutilmagan boshqa engilroq turdagi jazolarning tayinlanish hollari bundan mustasnodir, degan taklif O'zbekiston Respublikasi Oliy sudi Plenumining 2022-yil 14-maydagi 9-sonli qarori bilan O'zbekiston Respublikasi Oliy sudi Plenumining 2000-yil 15-sentyabrdagi 21-sonli "Voyaga etmaganlarning jinoyatlari haqidagi ishlar bo'yicha sud amaliyoti to'g'risida"gi qarorining 10-bandi uchinchi xatboshisida o'z aksini topgan. O'zbekiston Respublikasi Oliy sudining 2023-yil 07-noyabrdagi 08/877-23-son ma'lumotnomasi). Mazkur taklif inson huquqlari, erkinliklari va qonuniy manfaatlarini himoyasining kuchaytirilishiga xizmat qilgan;

jinoyatga tayyorgarlik ko'rganlik hamda jinoyat sodir etishga suiqasd qilganlik uchun jazoning muddati yoki miqdori Jinoyat Kodeksi Maxsus qismining tegishli moddasida nazarda tutilgan eng ko'p jazoning to'rt dan uch qismidan oshmasligi kerakligi to'g'risidagi qoida: tinchlik va xavfsizlikka qarshi tamom bo'lmagan

jinoyatlar uchun, shuningdek quyidagilar bilan: o'n sakkiz yoshga to'lmagan jabrlanuvchining nomusiga tegish yoki unga nisbatan zo'rlik ishlatib, jinsiy ehtiyojni g'ayritabiiy usulda qondirish; o'n olti yoshga to'lmagan shaxs bilan jinsiy aloqa qilish yoki jinsiy ehtiyojini g'ayritabiiy usulda qondirish; voyaga etmagan shaxs tavsiflangan yoki tasvirlangan pornografik mahsulotni tarqatish, reklama qilish, namoyish etish maqsadida O'zbekiston Respublikasi hududiga olib kirish, xuddi shuningdek uni tayyorlash, tarqatish, reklama qilish, namoyish etish yoxud voyaga etmagan shaxsni pornografik xususiyatga ega harakatlarning ijrochisi sifatida jalb etish bilan; voyaga etmagan shaxsni jalb etgan holda qo'shmachilik qilish, fohishaxonalarni tashkil etish yoki saqlash bilan bog'liq bo'lgan jinoyatlar uchun qo'llanilmasligi to'g'risidagi taklif O'zbekiston Respublikasining 2023-yil 11-apreldagi O'RQ-829-sonli Qonunida o'z aksini topgan (O'zbekiston Respublikasi Bosh prokuraturasining 2023-yil 25-aprel 27/2-120-23-son ma'lumotnomasi). Mazkur taklif voyaga etmaganlar huquqlari, erkinliklari va qonuniy manfaatlarini himoya qilinishida ko'proq insonparvarlik prinsipini amalda namoyon bo'lishiga xizmat qilgan.

**Tadqiqot natijalarining aprotasiyasi.** Mazkur tadqiqot natijalari 9 ta ilmiy anjuman, jumladan, 2 ta xalqaro, 7 ta respublika ilmiy-amaliy anjumanlarda muhokamadan o'tkazilgan.

**Tadqiqot natijalarining e'lon qilinganligi.** Dissertatsiya mavzusi bo'yicha jami 26 ta ilmiy ish, jumladan, 2 ta monografiya, 24 ta ilmiy maqola (6 tasi xorijiy nashrlarda) chop etilgan.

**Dissertatsiyaning tuzilishi va hajmi.** Dissertatsiya kirish, to'rtta bob, xulosa, foydalanilgan adabiyotlar ro'yxati va ilovadan iborat. Dissertatsiyaning hajmi 256 betni tashkil etadi.

## DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish qismida** tadqiqot mavzusining dolzarbligi va zarurati, uning respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga mosligi, mavzu bo'yicha xorijiy ilmiy-tadqiqotlar sharhi, muammoning o'rganilganlik darajasi, mavzuning dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari bilan bog'liqligi, uning maqsad va vazifalari, ob'ekti va predmeti, usullari, ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, ilmiy va amaliy ahamiyati, joriy qilinishi, aprotasiyasi, natijalarning e'lon qilinganligi, dissertatsiyaning hajmi va tuzilishi haqida ma'lumotlar keltirilgan.

Dissertatsiyaning birinchi bobi "**Jazo tayinlashning umumiy asoslari**" deb nomlanib, jazo tayinlash umumiy asoslarining nazariy va amaliy tahlili, jinoyat qonunchiligidagi jazo tayinlash asoslariga oid normalari rivojlanishi tarixining o'ziga xos xususiyatlarining tahliliga bag'ishlangan.

Jinoyat qonunchiligida, jazo tayinlash umumiy asoslari nazariy va amaliy tahlili qilingan, jazo tayinlash asoslariga oid normalarining rivojlanishi tarixi o'rganilib, jazo tayinlash asoslariga oid normalarning rivojlanishiga oid manbalar davrlarga ajratilgan holda tahlil qilindi va har bir davrning o'ziga xos xususiyatlari ochib berilgan.

Ishda amaldagi jinoyat qonunchiligida jazo tayinlashning o'ziga xos belgilarini ikkita guruhga: jazo tayinlashning umumiy va maxsus asoslariga ajratib,

tahlil qilish lozim degan fikr ilgari surilgan.

Muallif tomonidan jazo tayinlash, tamom bo‘lmagan jinoyat uchun jazo tayinlash institutlarining ta’rifi ishlab chiqilgan.

jazo tayinlash – sud tomonidan aybdor deb topilgan shaxsga nisbatan qo‘llaniladigan muayyan jazoni mutanosiblik prinsipiga asoslangan holda, jinoyat qonunida nazarda tutilgan jazoning maqsadiga erishish uchun etarli holda tanlashni, jazoning miqdori va muddatlari bo‘yicha ko‘rsatma berish bilan bog‘liq masalalarni tartibga soluvchi jinoyat huquqi instituti.

“tamom bo‘lmagan jinoyat uchun jazo tayinlash” jinoyat tarkibi belgilari mavjud bo‘lgan, ijtimoiy xavfli xatti-harakatlarni to‘liq bajarmaganlik yoki jinoiy oqibatlarni keltirib chiqarmaganlik (tayyorgarlik ko‘rish yoki jinoyatga suiqasd qilish bosqichlarida) uchun sud tomonidan jazo chorasini qo‘llanilishidir.

Jinoyat qonunchiligining jazo tayinlash asoslariga oid normalarini tarixiy-qiyosiy tahlil qilish asosida ular quyidagi bosqichlarga ajratilgan:

1. Qadimgi davr (Avesto, Xammurapi, Yaso qonunlari).
2. Shariat normalari amal qilgan davr. VIII-XIX asrning 50-yillari (Qur’oni karim, Xidoya, Temur tuzuklari).
3. Chor Rossiyasi mustamlakachiligi davri (XIX asrning 50-yillari va XX asrning 20-yillari).
4. Sobiq ittifoq (1922-yildan 1995-yil 1-aprelgacha)davri.
5. Mustaqillik davri (1995-yil 1-apreldan hozirga qadar).

**1.Qadimgi davr** (Avesto, Xammurapi, Yaso qonunlari). Avestoda asosan jinoyat sodir qilgan barcha insonlarga bir xil jazo nazarda tutilgan, ayrim jazolarni muqobil jazo bilan almashtirish mumkinligi belgilangan va insonni ulug‘lash g‘oyasi ustuvor bo‘lgan. Turk hoqonligida jazolar shafqatsiz bo‘lganligi, xususan og‘ir jinoyatlar uchun butun urug‘, uncha og‘ir bo‘lmagan jinoyatlari uchun esa, jinoyatchining o‘zi qatl etilganligi, qabila, urug‘ yoki jamoaning javobgarligi mavjud bo‘lganligi, jazo qo‘llashda asosiy e’tibor etkazilgan zararni qoplatishga qaratilganligi bilan ajralib turgan. Mo‘g‘ullar hukmronligi davrida amalda bo‘lgan Yaso qonunlarida jinoyatlar uchun shafqatsiz jazolar tayinlangan. Yaso qonunlarida jazo tayinlash ijtimoiy va milliy tengsizlikka asoslangan. Ya’ni, bir begunoh mo‘g‘ulning o‘limi uchun xun bahosi 40 bolish (tanga) kumush miqdorni tashkil etsa, bu miqdor xitoylik o‘limi uchun bir eshakning bahosiga teng bo‘lgan. Yaso qonunlari bo‘yicha jazo tayinlashdagi yana bir o‘ziga xos jihat qayta sodir etilgan jinoyat uchun shaxsga og‘irroq jazo qo‘llanilgan.

**2. Shariat normalari amal qilgan davr.** VIII-XX asrning 20-yillari (Qur’oni karim, Xidoya, Temur tuzuklari). Islom huquqining asosiy manbasi Qur’oni karimda ayb shaklidan kelib chiqib, xun to‘lash, ta’zir jazosi, ikki oy muntazam ro‘za tutish yoki 60 kishini to‘yg‘azish jazolari nazarda tutilgan. Jazo tayinlashning umumiy asoslari sifatida alohida muayyan holatlar ko‘rsatib o‘tilmasada, jinoyatlarni tasniflash orqali tayinlanadigan jazolarga aniqlik kiritilgan. Shariat normalari zamonaviy jinoyat huquqiga o‘xshash jinoyat tarkibidan tashkil topgan va adolatli jazo tayinlashda jinoyat predmeti ham alohida ahamiyat kasb etgan. Jazo tayinlashda qilmishning og‘irligi va aybdorning shaxsiga qarab, ta’zir chorasi sifatida jamoatchilik izzasi, qozi yoki hukmdorning ogohlantirishi, tartibga chaqiruvchi suhbat va boshqa ta’sir choralari qo‘llanilishi mumkinligi ko‘rsatilgan. Islom

huquqida shaxsning huquqlariga tajovuz qiluvchi g'ayriqonuniy harakatlarni sodir qilganlik uchun jazo tayinlashda engillashtiruvchi holat qo'llanilmagan. Ta'qiqlangan, lekin jazolashga loyiq emas, deb topilgan harakatlar uchun tayinlanadigan jazolar doirasi keng, turli xil va egiluvchan ekanligi bilan ajralib turgan. Shariatda qotil jabrlanuvchi yoki uning qarindoshlaridan, agar ular o'zlarining qonli qasos olish huquqlaridan voz kechsalar, kompensasiya tariqasida ashyo yoki pul berib o'z jonini sotib olishi mumkin bo'lgan. Islom huquqida bevosita jazo tayinlashning umumiy asoslari keltirib o'tilmagan bo'lsada, shariatga muvofiq sodir etilgan jinoyatning holatidan kelib chiqib, jazo chorasini engillashtirish yoki og'irlashtirish amaliyoti mavjud bo'lgan va uni qo'llash bevosita qonuni qo'llovchining ixtiyoriga havola etilgan. «Temur tuzuklari»da mamlakatda jinoyat sodir qilganlarga nisbatan qo'llaniladigan jazo har tomonlama puxta ishlab chiqilganligi, xususan, jazo tayinlashda shoshma-shosharlikka yo'l qo'yilmasligi, dastlab jazo tayinlash bilan bog'liq masalalarda sodir etilgan jinoyat uchun faqat bitta jazo tayinlanishiga alohida urg'u berilgan. Ushbu davrda faqat islom huquqiga muvofiq, qattiqqo'llik bilan, ammo adolatga tayanib jazo tayinlangan. Ehtiyotsizlik orqasida sodir qilingan jinoyatlar uchun birinchi marotaba kechirish, ogohlantirish choralari qo'llanilgan.

**3. Chor Rossiyasi mustamlakachiligi davrida** qozilik sudlarining jazo tayinlashdagi imkoniyatlari cheklanishi ayrim shariat nizomlarining qayta ko'rib chiqilishiga sabab bo'lgan. Masalan, tiriklayin erga ko'mish, toshbo'ron qilish, qo'l yoki oyoqlarni chopib tashlash, minoradan uloqtirish, quloq va burunni kesish, ko'zlarni o'yish kabi o'ta shafqatsiz jazolar bekor qilingan.

**4. Sobiq ittifoq davri.** O'zbekiston SSRning 1926-yilgi JKda jazo tayinlashning umumiy asoslari bo'yicha alohida modda nazarda tutilmagan, lekin ilk bor jazoni og'irlashtiruvchi va engillashtiruvchi holatlar berilgan. Mazkur kodeksdan farqli ravishda 1959-yilgi O'zbekiston SSR JKda ilk marotaba jazo tayinlashning umumiy asoslari nazarda tutilgan va davlatga qarshi jinoyatlarning shaxsga qarshi jinoyatlarga nisbatan ijtimoiy xavflilik darajasi yuqori hisoblanib, davlatga qarshi jinoyatlar uchun og'irroq jazo belgilangan.

**5. Mustaqillik davri.** 1994-yilgi O'zbekiston Respublikasi JKda jazo tayinlashning umumiy asoslari aniq belgilanib, ilk marotaba jazoni engillashtiruvchi holatlarga ustuvor ravishda e'tibor qaratilib, og'irlashtiruvchi holatlardan oldin bayon etilib, inson mafaati davlat mafaatidan ustun qo'yilgan.

Dissertatsiyaning ikkinchi bobi "**Ayrim holatlarda jazo tayinlashga oid jinoyat qonuni normalarining nazariy va amaliy masalalari**" deb nomlanib, unda engilroq jazo tayinlashning nazariy va amaliy jihatlari, aybdor o'z qilmishiga amalda pushaymon bo'lganida va aybga iqrorlik to'g'risida kelishuv tuzilganda jazo tayinlash, tamom bo'lmagan va ishtirokchilikda sodir etilgan jinoyatlar uchun jazo tayinlashning nazariy va amaliy jihatlari tahlil qilingan.

Dissertant tomonidan jazo tayinlash obyekti, jazo tayinlash algoritmi tushunchalarining ta'rifi ishlab chiqilgan.

Jazo tayinlash algoritmiga quyidagicha ta'rif berilgan: "Jazo tayinlash algoritmi – sudlar tomonidan jinoyat sodir qilgan shaxsga nisbatan uzil-kesil jazo tayinlash maqsadida jinoyat qonuniga muvofiq amalga oshirilishi lozim bo'lgan

harakatlarning qat'iy ketma-ketligi”.

Ishda engilroq jazo tayinlash masalalarini tadqiq qilgan olimlarning asarlarini o'rganish natijasida JK 57-moddasida engilroq jazo faqat ikkita huquqiy asos, ya'ni sodir etilgan jinoyatning ijtimoiy xavflilik darajasini jiddiy kamaytiruvchi holatlar mavjud bo'lganida va alohida hollarda qo'llanilishi mumkin, degan xulosaga kelingan.

JK 57<sup>1</sup>-moddasi, aybdor o'z qilmishiga amalda pushaymon bo'lganida jazo tayinlash va JK 57-moddasi engilroq jazo tayinlash mantiqan bir-birini takrorlayotganligi, aksariyat xorijiy davlatlar jinoyat qonunchiligida aynan aybdor o'z qilmishiga amalda pushaymon bo'lganda jazo tayinlashga oid alohida norma yo'qligi, ushbu norma sud tomonidan JK 57-moddasi qo'llanishini cheklab qo'yayotganligi sababli ushbu normani JKdan chiqarish lozimligi asoslantirilgan.

Aybgga iqrorlik to'g'risida kelishuv tuzilgan jinoyatlar bo'yicha jazo tayinlashda jazolarni qo'shish qoidalari o'rganildi va bunday holatda JK 57-moddasini qo'llash masalasi ham muhokama etilishi lozimligi asoslantirildi.

Ishda tamom bo'lmagan jinoyat uchun jazo tayinlash tushunchasiga mualliflik ta'rifi ishlab chiqildi, ya'ni, tamom bo'lmagan jinoyat uchun jazo tayinlash jinoyat tarkibi belgilari mavjud bo'lgan, ijtimoiy xavfli harakatlarni to'liq bajarmaganlik yoki jinoiy oqibatlar ro'y bermagan (tayyorgarlik ko'rish yoki jinoyatga suiqasd qilish bosqichlarida) qilmish uchun sud tomonidan jazo chorasini qo'llanilishidir.

Dissertant mazkur bobda jazoni engillashtiruvchi holatlar ro'yxatini kengaytirib berilishini taklif qilgan, jumladan:

jabrlanuvchi (fuqaroviy da'vogar) ning da'vosi yo'qligi;

jinoyat sodir etilganidan so'ng jabrlanuvchiga tibbiy yoki boshqa tarzda yordam ko'rsatish;

aybdorning qaramog'ida voyaga etmagan farzandi mavjudligini ham jazoni engillashtiruvchi holatlar.

Dissertatsiyaning uchinchi bobi **“Bir necha jinoyat va bir necha hukm yuzasidan jazo tayinlashning nazariy va amaliy hususiyatlari”** deb nomlanib, u bir necha jinoyat sodir etganlik uchun jazo tayinlashga oid, takroran, jinoyatlar majmui, residiv jinoyat uchun, bir necha hukm yuzasidan jazo tayinlashga oid jinoyat qonuni normalari va ularni qo'llashning nazariy va amaliy jihatlariga bag'ishlangan.

Muallif mazkur bobda bir necha jinoyat va bir necha hukm yuzasidan jazo tayinlashdagi vaqt chegarasini aniqlab, hukm chiqarilguncha va hukm chiqarilgandan keyin sodir etilgan jinoyatlar uchun JKning qaysi moddasi bilan jazo tayinlash kerakligi masalasi bo'yicha JK 59-moddasi birinchi qismida shaxs ikki yoki undan ortiq jinoyatni sodir etgan bo'lib, ulardan birortasi uchun ham hukm qonuniy kuchga kirib, sudlangan bo'lmasa, sud ushbu Kodeksning 54-moddasida nazarda tutilgan qoidalarga muvofiq har qaysi qilmish uchun jazo tayinlab, so'ngra to'la yoki qisman qo'shish yo'li bilan uzil-kesil jazo tayinlaydi, degan xulosaga kelgan. Shu bilan birga amaldagi JKda bir necha jinoyat va bir necha hukm yuzasidan faqat ozodlikdan mahrum qilish jazosini boshqa jazolar bilan qo'shib hisoblash nazarda tutilgan. Aslida ushbu holatda barcha asosiy jazolarni qo'shish qoidasi nazarda tutilishi lozimligini asoslantirib, JK 61-moddasiga bir necha jinoyat va bir necha hukm yuzasidan jazolar qo'shilganda: a) ozodlikdan mahrum qilishning bir kuni jarimaning ½ qismi(bxm), ozodlikni cheklashning ikki kuniga, intizomiy qismga jo'natishning

bir kuniga, axloq tuzatish ishlarining yoki xizmat bo'yicha cheklashning uch kuniga; majburiy jamoat ishlarining ikki soatiga; b) ozodlikni cheklashning bir kuni jarimaning 1/3 qismi(bxm), axloq tuzatish ishlarining yoki xizmat bo'yicha cheklashning uch kuniga; majburiy jamoat ishlarining ikki soatiga; v) axloq tuzatish ishlarining bir kuni jarimaning 1/4 qismi(bxm), majburiy jamoat ishlarining bir yarim soatiga; g) majburiy jamoat ishlarining ikki soati jarimaning 1/5 qismi (bxm) ga to'g'ri keladi, degan taklifini asoslagan.

Dissertant bir nechta jinoyat uchun jazo tayinlash masalalariga oid olimlarning fikrlarini o'rganish asosida JKdan takroran jinoyat sodir etish institutini chiqarish va echim sifatida jinoyatlar majmui sifatida jazo tayinlash va JKning 59-moddasiga o'zgartish va qo'shimchalar kiritish bo'yicha takliflari orqali o'zining qarashini asoslantirgan. Ushbu institutni bekor qilish uchun asos sifatida quyidagilar ko'rsatilgan: 1) JK Maxsus qismining 77 ta moddasida takroranlik belgisi; shulardan, 12 ta moddada faqat takroranlik, 57 ta moddaning bitta qismida takroran va xavfli residiv jinoyatni og'irlashtiruvchi belgi, 4 ta moddada takroran, xavfli residiv va o'ta xavfli residivist kvalifikatsiyaviy belgi sifatida bitta qismda keltirilganligi jinoyat qonunchiligida ushbu institut uchun yagona qoidaning mavjud emasligini ko'rsatadi; 2) tamom bo'lgan va tamom bo'lmagan jinoyatlarda jazo tayinlash masalasida O'zbekiston Respublikasi JK va Oliy Sudi Plenumi qarorlarida yondashuvning bir xil emasligi; 3) shaxsning ikkinchi marotaba ijtimoiy xavfli jinoyat sodir etganligi uchun o'z-o'zidan og'ir jazo tayinlanayotganligi, ya'ni jazoning ayb va shaxsning ijtimoiy xavflilik darajasiga (odillik prinsipiga) mos emasligi; 4) o'rganilgan 1000 dan ortiq sud hukmlarining uchdan bir qismida javobgarlikning muqarrarligi prinsipiga rioya qilinmaganligi; 5) sudyalar va huquqni muhofaza qiluvchi organlar xodimlari o'rtasida o'tkazilgan ijtimoiy so'rov natijalariga ko'ra, 82 foiz ishtirokchi mazkur institutdan voz kechish lozimligini qo'llab quvvatlagan.

Tadqiqotchi tomonidan takroran jinoyat sodir etgan shaxsga adolatli, mutanosib jazo tayinlash uchun umumiy qoida sifatida jinoyatlar majmui bo'yicha jazo tayinlash lozimligi asoslantirilgan.

Statistik ma'lumotlarga ko'ra, 2014-yilda 12345 nafar, 2021-yilda 14 056, 2022-yilda 13096 ta ish bo'yicha 16959 nafar shaxsga nisbatan JK 57-moddasi qo'llanilgan. 2021-yilda JKning 57<sup>2</sup>-moddasi bo'yicha 110 ta shaxsga jazo tayinlangan bo'lsa, 2022-yilda 123 ta ish bo'yicha 150 ta shaxsga tegishli modda bo'yicha jazo tayinlangan. 2018-yilda JKning 60-moddasi tartibida jazo tayinlangan shaxslar soni 3 350 tani tashkil etgan bo'lsa, 2021-yilga kelib 4275 ta shaxsga ushbu modda qo'llanilib, jazo tayinlangan. 2022-yilda esa JKning 60-moddasi tartibida 4974 ta ish bo'yicha 5298 shaxsga nisbatan jazo tayinlanganligi<sup>15</sup> ham shaxs tomonidan qayta jinoyat sodir etish holatlari kamaymayotganligini ko'rsatadi.

Muallif olimlarning residiv jinoyat uchun jazo tayinlash masalasiga oid fikrlarini ikkita guruhga: 1) faqat qasddan sodir etiladigan jinoyatlar uchun jazo tayinlash; 2) residiv jinoyat tarkibiga ehtiyotsizlik orqasida sodir etilgan jinoyat ham kirishini asoslagan olimlarning fikrlariga ajratgan. Shuningdek, JK 56-moddasi va JK Maxsus qismi moddalari bandlaridan xavfli residiv va o'ta xavfli residivist tomonidan degan jumlalar chiqarilib, barcha jinoyatlar uchun umumiy qoida sifatida

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<sup>15</sup> Oliy sudning 2022-yil 10-oktyabrdagi 07/14-12515-325 sonli javob xati

JK 34-moddasiga o'ta xavfli residivist tomonidan JK Maxsus qismi moddasida nazarda tutilgan jinoyat sodir etilsa, unga nisbatan ushbu moddaning eng og'ir qismida ko'rsatilgan jazo belgilanishiga oid qoida kiritilishi lozimligi asoslangan.

Mazkur bobda ikki yoki undan ortiq shaxsning oldindan til biriktirib, jinoyat sodir etilishida ishtirok qilishi murakkab ishtirokchilik, deb topilishi va JK Maxsus qismi tegishli moddasi "bir guruh shaxslar tomonidan oldindan til biriktirgan holda" degan bandi bilan jazo tayinlanishi lozimligi isbotlangan. Shuningdek, ikki yoki undan ortiq shaxsning birgalikda jinoiy faoliyat olib borish uchun bir necha marotaba jinoyat sodir etganligi uyushgan guruh deb topilib, JK Maxsus qismining og'irlashtiruvchi "uyushgan guruh a'zosi tomonidan" bandi bilan kvalifikatsiya qilinishi lozimligi isbotlangan.

Ushbu bobda residiv jinoyat va uning uchun jazo tayinlash bo'yicha qator davlatlar (Rossiya, Qozog'iston, Ukraina, Belarus Respublikasi, Germaniya, Fransiya, Yaponiya, Koreya, Ispaniya, Norvegiya, Fransiya, Shvesiya MDHga a'zo va hk)ning jinoyat qonunchiligi tahlil qilingan va quyidagilar aniqlangan.

Ushbu guruhga mansub davlatlar jinoyat qonunda bevosita residiv jinoyat tushunchasi yoritib berilmagan, jumladan, Shvesiya jinoyat qonunida residiv jinoyat tushunchasi nazarda tutilmagan. Bunda residiv jinoyatlar bilan bog'liq masalalar qasd turidan qat'iy nazar sudlangan shaxslar tomonidan sodir etilgan jinoyat sifatida belgilangan<sup>16</sup>.

Yuqorida nomi keltirilgan davlatlar jinoyat qonunida residiv jinoyatga ta'sir ko'rsatuvchi sudlanganlik holatining qancha muddat saqlanishi borasida turlicha yondashuvlar mavjud, Finlyandiya, Norvegiya, Shvesiya JKda sudlanganlikning muddati maksimal darajada qisqartirilgan bo'lib, hatto uncha og'ir bo'lmagan jinoyatlar uchun ham sudlanganlik muddati amal qilmaydi va ushbu toifadagi jinoyatlarning takroran sodir qilinishi jinoyatlar residivi hisoblanmaydi<sup>17</sup>. Fransiya, Germaniya va Italiyada sudlanganlik muddati uzoqroq davrni tashkil etib, nisbatan og'ir bo'lgan jinoyatlar uchun ushbu muddat bir necha yillarni tashkil etadi<sup>18</sup>.

Fransiya, Yaponiya va Koreya JKda jinoyatlarning og'irligi darajasiga ko'ra residiv jinoyat turlarga bo'linmaydi, faqat hukm chiqarishda hisobga olinadi.

Ishda bir necha hukm yuzasidan jazo tayinlashning quyidagicha ta'rifi ishlab chiqilgan:

*bir necha hukm yuzasidan jazo tayinlash* hukm qonuniy kuchga kiringach shaxs sodir qilgan jinoyati uchun tayinlangan jazo muddatini to'liq o'tamasdan turib, shuningdek jazoni o'tashdan muddatidan ilgari shartli ravishda ozod qilinib, jazoning o'talmagan qismi mobaynida, amnistiya akti yoki afv etish asosida jazodan muddatidan ilgari shartli ravishda ozod qilish yoxud jazoni engilrog'i bilan almashtirish qo'llanilgan shaxs jazoning o'talmay qolgan qismi mobaynida faqat qasddan yangi jinoyat sodir etsa, shuningdek, shartli jazo tayinlangan shaxs sinov muddati davomida, jazosi engilroq jazo bilan almashtirilgan shaxs jazoning o'talmagan qismi mobaynida ayb shaklidan qat'iy nazar yangi jinoyat sodir qilganligi uchun sud tomonidan jazo chorasining qo'llanilishi.

Dissertatsiyaning to'rtinchi bobi "**Jazo tayinlashga oid ayrim xorijiy**

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<sup>16</sup><http://www.sweden>

<sup>17</sup><https://www.wipo.int>

<sup>18</sup>Ushbu olimlar asarlari foydalanilgan adabiyotlar ro'yxatida keltirilgan.

**davlatlar qonunchiligining tahlili va milliy jinoyat qonuni normalarini takomillashtirish**” deb nomlanib, jazo tayinlashga oid ayrim xorijiy davlatlar qonunchiligining o‘ziga xos jihatlari va jazo tayinlashga oid milliy jinoyat qonunchiligi normalarini takomillashtirishga bag‘ishlangan.

Dissertatsiyada xorijiy davlatlar qonunchiligida jazo tayinlashda hisobga olinadigan holatlarni tushunish doktrinal va amaliy tajribadan kelib chiqishi ko‘rsatilgan. Tadqiqotchining fikricha, jinoyat tarkiblarini ijtimoiy xavflilik darajasiga ko‘ra, shaxsga tayinlanadigan jazoni engillashtiradigan yoki og‘irlashtiradigan holatlarga qarab guruhlarga bo‘lish masalasiga xalqaro tajribada turli yondashuvlar mavjudligi ko‘rsatilgan.

MDH davlatlari JKda jazoni engillashtiruvchi holatlar doirasi keng, ya’ni jabrlanuvchi bilan yarashish (Ozarbayjon), jinoyat sodir etilganidan so‘ng jabrlanuvchiga tibbiy yoki boshqa tarzda yordam ko‘rsatish, jinoyat natijasida etkazilgan mulkiy va ma’naviy zararni ixtiyoriy qoplash (Armaniston, Belarus Respublikasi, Rossiya, Tojikiston, Ukraina, Turkmaniston), jazoni emas, balki javobgarlikni engillashtiruvchi xolatlarda (Turkmaniston), aybdor qaramog‘ida 14 yoshgacha bo‘lgan bolalarning mavjudligi (Armaniston, Belarus Respublikasi, Ozarbayjon, Rossiya, Tojikiston, Qozog‘iston), oilasining ko‘p bolali ekanligi (Turkmaniston) jazo tayinlashda engillashtiruvchi holat, deb topiladi.

Muallif tomonidan aybga iqrorlik to‘g‘risidagi kelishuv instituti va aybga iqrorlik to‘g‘risida kelishuv tuzilgan jinoyatlar bo‘yicha jazo tayinlash (Rossiya, Qirg‘iziston va AQSh) da JK 57-moddasini ham qo‘llash lozimligi, shuningdek ishda tamom bo‘lmagan jinoyatlar uchun uzoq muddatli ozodlikdan mahrum qilish jazosi tayinlanmasligi lozimligi haqidagi fikr ilgari surilgan.

Rossiya, Belarus Respublikasi, Qozog‘iston, Moldova, Ozarbayjon, Qirg‘iziston, Turkmaniston, Tojikiston, Gruziya JK da ishtirokchilikda sodir etilgan jinoyatlar uchun jazo tayinlash bilan bog‘liq masalalar alohida moddada mavjudligidan kelib chiqib, mazkur qoidani milliy jinoyat qonunchiligimizning 58-moddasida aks ettirish taklif etilgan.

Jinoyatlar majmui bo‘yicha har bir sodir etilgan jinoyat uchun alohida jazo tayinlanishida, jinoyatlar majmui uncha og‘ir bo‘lmagan yoki o‘rtacha og‘ir jinoyatlardan yoki og‘ir yoxud o‘ta og‘ir jinoyat sodir etishga suiqasd qilishdan tashkil topgan bo‘lsa, yakuniy jazo uncha og‘ir bo‘lmagan jazoni og‘irroq jazo bilan qoplash yoxud tayinlangan jazolarni qisman yoki to‘liq qo‘shish orqali (Rossiya, Qozog‘iston, Ozarbayjon, Moldova, Litva) tayinlanishi belgilangan. JKdagi bunday yondashuv qonunni qo‘llash amaliyotida jinoyatlar majmui bo‘yicha jazo tayinlashda yo‘l qo‘yilishi mumkin bo‘lgan sud xatolarining oldini olishga xizmat qiladi. Jinoyatlar majmui bo‘yicha yakuniy jazo engilroq jazoni og‘irroq jazo bilan, har bir jinoyat uchun teng jazolar tayinlanganda esa bitta jazo boshqasi bilan to‘liq qoplash orqali tayinlanadi (Gruziya). Mazkur jinoyatlar majmui uchun jazo tayinlashda faqat to‘la yoki qisman qo‘shish qoidasi (uzoq muddatli va umrbod ozodlikdan mahrum qilish jazosi bundan mustasno) amal qilishi lozimligi asoslantirildi.

Jinoyatlar majmui va bir necha hukmlar bo‘yicha jazolarni qisman yoki to‘liq qo‘shganda ozodlikdan mahrum qilishning bir kuni ozodlikni cheklashning ikki kuniga, majburiy jamoat ishlarning sakkiz soatiga (Rossiya, Tojikiston), jinoyatlar

majmui va hukmlar majmui bo'yicha jazolarni qo'shishda ozodlikdan mahrum qilishning bir kuni ozodlikni cheklashning ikki kuniga, jamoat ishlarining yigirma to'rt soatiga (Belarus Respublikasi) to'g'ri kelishi belgilangan.

Yaponiyada residiv jinoyatlar uchun jazo tayinlashga oid normalar bevosita jinoyat qonunida emas, balki jinoyat ijroiya qonunida belgilangan. Ayrim davlatlar JKda residiv jinoyat tushunchasi nazarda tutilmay, residiv jinoyatlar bilan bog'liq masalalar sudlangan shaxslar tomonidan sodir etilgan jinoyat sifatida belgilangan (Shvesiya, Finlyandiya, Norvegiya)<sup>19</sup>.

O'rganilgan aksariyat davlatlar, ya'ni Belarus Respublikasi<sup>20</sup>, Latviya<sup>21</sup>, Litva<sup>22</sup>, Estoniya<sup>23</sup>, Ozarbayjon<sup>24</sup> JKda residiv jinoyatlarga xos bo'lgan asosiy xususiyatlar sifatida: residiv jinoyatlar tushunchasi jinoyat huquqiga mansub institut hisoblanishi, residiv jinoyatlar o'z ichiga jinoyatlarning takrorlanishini, ilgari sodir etilgan jinoyat uchun jinoyat-huquqiy oqibatlar saqlanishi, residiv jinoyat uchun shaxs tomonidan yangi jinoyat sodir etilishiga yo'l qo'ymaslik maqsadida og'irroq jazo tayinlanishida namoyon bo'ladi.

Fransiya<sup>25</sup>, Yaponiya<sup>26</sup> va Koreya<sup>27</sup> JKda jinoyatlarning og'irligi darajasiga ko'ra residiv jinoyat turlarga bo'linmay, faqat jazo tayinlashda hisobga olinadi.

Bir necha hukm bo'yicha yangidan sodir etilgan jinoyat uchun tayinlanayotgan yakuniy jazo miqdori sudning avvalgi hukmida tayinlangan jazoning o'talmagan qismidan ko'p bo'lishi kerakligi qat'iy belgilangan (Rossiya, Ozarbayjon, Armaniston, Belarus Respublikasi, Qozog'iston, Moldova, Turkmaniston).

Moldava<sup>28</sup> JKda jazo tayinlashda jazoni individuallashtirish qoidasi qo'llaniladi, unga ko'ra jinoyat sodir etganlikda aybdor, deb topilgan shaxsga Kodeksning Maxsus qismida nazarda tutilgan chegaralar doirasida va Umumiy qism qoidalariga muvofiq adolatli jazo tayinlanadi. Jinoyat sodir etganlik uchun nazarda tutilgan muqobil jazolardan qattiqroq jazo, agar ko'rsatilganlardan engilroq jazo jazoning maqsadiga erishishni ta'minlamasa, tayinlanishi mumkin. Ozodlikdan mahrum qilish jazosi qo'llanilganida uning sababi sud tomonidan asoslanishi kerak.

XXR jinoyat qonunchiligida asosiy jazo sifatida siyosiy huquqlardan mahrum qilish ham nazarda tutilgan, ya'ni aybdor saylash va saylanish huquqlari; jamoat oldida so'zlash, nashr etish, yig'ilishlarda qatnashish, sayohat qilish, huquq erkinligini namoyish etish; davlat organlarida lavozimni egallash; davlat kompaniyalari, korxonalari, tashkilotlari, rahbarlik lavozimlarini egallash huquqlaridan mahrum etiladi. Siyosiy huquqlardan mahrum qilish muddati, 1 yildan 5 yilgacha belgilangan<sup>29</sup>.

Ukraina JKga ko'ra, agar shaxs ozodlikdan mahrum qilish yoki ozodlikni cheklash tarzidagi jazoni namunali xulq-atvori va mehnatga vijdonan munosabatida

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<sup>19</sup> <http://www.sweden>

<sup>20</sup> <https://pravo.by/document>

<sup>21</sup> <https://www.wipo.int/wipolex/ru>

<sup>22</sup> <https://studylib.ru/doc>

<sup>23</sup> <https://constitutions.ru>

<sup>24</sup> <https://online.zakon.kz>

<sup>25</sup> <https://constitutions.ru>

<sup>26</sup> <https://constitutions>

<sup>27</sup> <https://vseokoree.com>

<sup>28</sup> <https://lege.md/ru>

<sup>29</sup> <http://ru.china-embassy.gov.cn>

bo‘lib o‘tab bo‘lganidan keyin sud ushbu belgilangan muddatlar tugaguniga qadar sudlanganlikni bekor qilishi mumkinligi nazarda tutilgan, lekin Moldova, Belorusiya JKga ko‘ra, tayinlangan jazoni o‘talganidan keyin sud ushbu belgilangan muddatlar tugaguniga qadar ham sudlanganlikni bekor qilishi mumkin. Muallif barcha tayinlangan asosiy jazolar uchun sudlanganlikni olib tashlash qoidasining qo‘llanilishi, shaxs sodir etgan keyingi jinoyati uchun og‘irroq jazo tayinlanishining oldini oladi, degan fikrni ilgari surgan<sup>30</sup>.

Bundan tashqari, voyaga etmaganlarga nisbatan sodir qilinayotgan jinsiy erkinlikka qarshi jinoyatlarning oldini olish va ularga qarshi kurashish borasida olimlar tomonidan bildirilgan nazariy qarashlar, huquqni qo‘llash amaliyoti materiallari va xorijiy davlatlar qonunchiligi tahlilidan kelib chiqib, voyaga etmaganlarga nisbatan sodir etilgan jinsiy zo‘ravonlikning ijtimoiy ahamiyatini inobatga olib, jinoyat qonunchiligiga ushbu toifadagi jinoyatlarni sodir qilgan shaxs (pedofil) larga nisbatan kimyoviy kastratsiya jazosini kiritish taklif etildi.

Dissertant mazkur bobda ozodlikni cheklash va ozodlikdan mahrum qilish jazolarining voyaga etmaganlarga nisbatan eng kam muddati voyaga etganlarga nisbatan ko‘p ekanligini ko‘rsatib, ushbu jazolarning eng kam muddati 1 oy etib belgilanishi kerakligi odillik prinsipiga mos bo‘lishini asoslab bergan.

## XULOSA

“Jinoyat uchun jazo tayinlashning nazariy va amaliy jihatlari” mavzusidagi dissertatsiya bo‘yicha olib borilgan tadqiqot natijasida quyidagi nazariy va ilmiy-amaliy ahamiyatga ega bo‘lgan xulosalarga kelindi:

### **I. Ilmiy-nazariy xulosalar:**

1. Jazo tayinlash institutining tarixiy rivojlanish jarayonlari quyidagi davrlarga ajratilgan:

- a) qadimgi davr (Avesto, Xammurapi, Yaso qonunlari);
- b) shariat normalari amal qilgan davr. VIII-XIX asrning 50-yillari (Qur‘oni Karim, Hidoya, Temur tuzuklari);
- d) chor Rossiyasi mustamlakachiligi davri(XIX asrning 50-yillari va XX asrning 20-yillari);
- e) sobiq ittifoq davri(1922 – 1995-y);
- f) mustaqillik davri (1995-yildan hozirga qadar).

2. Jazo tayinlashga quyidagicha mualliflik ta‘rifi berildi:

jazo tayinlash – sud tomonidan aybdor deb topilgan shaxsga nisbatan qo‘llaniladigan muayyan jazoni mutanosiblik prinsipiga asoslangan holda, jinoyat qonunida nazarda tutilgan jazoning maqsadiga erishish uchun etarli holda tanlashni, jazoning miqdori va muddatlari bo‘yicha ko‘rsatma berish bilan bog‘liq masalalarni tartibga soluvchi jinoyat huquqi instituti.

3. Hukm qonuniy kuchga kiringach shaxs sodir qilgan jinoyati uchun tayinlangan jazo muddatini to‘liq o‘tamasdan turib, shuningdek jazoni o‘tashdan muddatidan ilgari shartli ravishda ozod qilinib, jazoning o‘talmagan qismi mobaynida, amnistiya akti yoki afv etish asosida jazodan muddatidan ilgari shartli

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<sup>30</sup> <https://online.zakon.kz>

ravishda ozod qilish yoxud jazoni engilrog'i bilan almashtirish qo'llanilgan shaxs jazoning o'talmay qolgan qismi mobaynida faqat qasddan yangi jinoyat sodir etsa, shuningdek, shartli jazo tayinlangan shaxs sinov muddati davomida, jazosi engilroq jazo bilan almashtirilgan shaxs jazoning o'talmagan qismi mobaynida ayb shaklidan qat'iy nazar yangi jinoyat sodir qilganligi uchun sud tomonidan jazo chorasining qo'llanilishi bir necha hukm yuzasidan jazo tayinlash, deb topiladi.

4. Tamom bo'lmagan jinoyat uchun jazo tayinlash jinoyat tarkibi belgilari mavjud bo'lgan, ijtimoiy xavfli harakatlarni to'liq bajarmaganlik yoki jinoiy oqibatlar ro'y bermagan (tayyorgarlik ko'rish yoki jinoyatga suiqasd qilish bosqichlarida) qilmish uchun sud tomonidan jazo chorasini qo'llanilishidir.

5. Jazo tayinlashning obykti sud tomonidan jinoyat sodir qilishda aybdor deb topilgan shaxsning huquqiy maqomi (holati) elementlari (jinoyat qonuni bilan jazo qo'llash imkoniyatini nazarda tutuvchi huquqlar, majburiyatlar va qonuniy manfaatlar) hisoblanadi.

6. Jazo tayinlash algoritmiga quyidagicha ta'rif berildi:

“Jazo tayinlash algoritmi – sudlar tomonidan jinoyat sodir qilgan shaxsga nisbatan uzil-kesil jazo tayinlash maqsadida jinoyat qonuniga muvofiq amalga oshirilishi lozim bo'lgan harakatlarning qat'iy ketma-ketligi”.

7. Sudlar jazo tayinlashda quyidagi jazo tayinlash algoritmiga rioya qilishi:

1) Jinoyat kodeksidagi qonuniylik, fuqarolarning qonun oldida tengligi, demokratizm, insonparvarlik, odillik, ayb uchun javobgarlik, javobgarlikning muqarrarligi, shuningdek mutanosiblik prinsiplariga muvofiq tayinlanishi rejalashtirilayotgan jazo chorasini ko'rib chiqishi;

2) jinoyat ishi bo'yicha JK 65, 66, 70, 71-moddalariga muvofiq javobgarlikdan yoki jazodan ozod qilish masalasini muhokama qilishi;

3) jinoyatning ijtimoiy xavflilik xususiyati, ya'ni tajovuz ob'ekti(hayot va sog'liq, mulk, jamoat xavfsizligi va h.k.), aybning shakli, jinoiy qilmishning qonunda qaysi toifaga kiritilganligini o'rganishi;

4) jinoyatning ijtimoiy xavflilik darajasi, ya'ni jinoiy niyatning amalga oshirilganligi darajasi, jinoyat sodir etish bosqichini, jinoyatning sodir etilish usuli, zarar miqdori yoki kelib chiqqan oqibatlarining og'irligi, sudlanuvchining jinoyat sodir etishdagi ishtiroki;

5) aybdorning shaxsini tavsiflovchi ob'ektiv(aybdorning yoshi, jinsi, homiladorlik holati) va ijtimoiy omillar (ilgari sudlanganligi, oiladagi, jamiyatdagi xulq-atvori, mashg'uloti, davlat yoki ijtimoiy mavqei va h.k. lar)ni tahlil qilish;

6) aybdorning axloqini jamiyatdan ajratmagan holda tuzatish mumkin bo'lgan holatlar mavjudligini o'rganishi;

7) aybdorga nisbatan ozodlikdan mahrum qilish bilan bog'liq bo'lmagan jazolar tayinlash uchun qonunda mavjud barcha imkoniyatlarni, shu jumladan modda yoki moddalar sanksiyalarida alternativ jazolar mavjudligini, hukmda ozodlikdan mahrum qilish bilan bog'liq jazoni qo'llash zarurligi to'g'risidagi masalani tahlil qilishi;

8) jazoni engillashtiruvchi va og'irlashtiruvchi holatlarni o'rganish;

9) sodir etgan jinoyati uchun nazarda tutilganidan engilroq jazo tayinlash uchun asoslar mavjud yoki mavjud emasligini o'rganishi;

10) voyaga etmaganlarga nisbatan jazo tayinlashda JK 81–90-moddalarida

belgilangan xususiyatlar mavjud yoki mavjud emasligini ko'rib chiqishi va inobatga olishi;

11) jinoyat ishini apellyatsiya va kassatsiya tartibida ko'rishda jazo tayinlashning umumiy asoslariga rioya qilinganligi, tayinlangan jazo jinoyatning og'irligi va mahkumning shaxsiga mutanosibligini tekshirishi lozim.

8. Jinoiy jazo tayinlovchi sub'ekt-sudning xususiyatlari:

sud jinoyat sodir qilganlik uchun jazo tayinlaydigan yagona vakolatli organ hisoblanadi;

jazo tayinlovchi sub'ektning jazo tayinlash sohasidagi tegishli vakolatlari va majburiyatlari qonun hujjatlarida mustahkamlanadi;

jazo tayinlovchi organning to'laqonli faoliyat yuritishi uchun tashkiliy, ijtimoiy, moddiy va boshqa zarur choralarning davlat tomonidan ta'minlanishi kafolatlanadi.

9. Jinoyat kodeksiga quyidagi g'oyalarni o'z ichiga olgan yangi mutanosiblik prinsipining qo'llanilishi:

a) qonunlar insonlarga ortiqcha majburiyat yuklamay, aksincha ular hayotini barqarorlashtirish, bir maromda davom etishini ta'minlashi;

b) qonunchilikda bir insonning huquq va erkinliklarini himoya qilishda boshqa shaxsga bajarishi qiyin yoki ilojisiz bo'lgan majburiyatlar yuklanishining oldini olish maqsadga muvofiqdir.

10. Ayrim xorijiy davlatlar (Rossiya, Ozarbayjon va Qozog'iston Respublikalari) jinoyat qonunchiligi tahlili asosida O'zbekiston Respublikasi JKning 72-moddasidagi shartli hukm qilishni jazo tayinlashning bitta turi ekanligini hisobga olib, mazkur normani jazo tayinlashning umumiy asoslariga o'tkazish taklif etildi.

11. Voyaga etmaganlarning jinsiy daxlsizligiga tajovuz qilgan shaxslar (jinsiy erkinlikka qarshi qaratilgan jinoyatlarni sodir etgan pedofillar)ga nisbatan kimyoviy kastratsiya jazosini kiritish maqsadga muvofiq. (Qozog'iston, Ukraina, Germaniya, Norvegiya, Shvesiya, Daniya, Isroil, Janubiy Koreya, Fransiya, AQShda mazkur jazo mavjud. Xitoy, Lotin Amerikasi davlatlari, Saudiya Arabistoni va Eronda o'ldiriladi). Statistika ma'lumotlari O'zbekistonda pedofiliya bilan bog'liq jinoyatlar yildan yilga o'sayotganini ko'rsatadi. 2022-yilning o'zida 16 yoshga to'lmagan shaxs bilan jinsiy aloqa qilishda aybli deb topilganlar soni 238 nafarni tashkil qilgan bo'lsa, 2023-yilning dastlabki olti oyida shunday ishlar uchun 257 shaxsga jazo tayinlangan.

12. Jazo tayinlashda jazolarni individuallashtirishning quyidagi mezonlari:

a) har qanday jinoyat uchun jazo tayinlashda qo'llaniladigan umumiy mezonlar (jinoyatning xususiyati va ijtimoiy xavflilik darajasini, qilmishning sababini, etkazilgan zararning xususiyati va miqdorini, aybdorning shaxsini hamda jazoni engillashtiruvchi va og'irlashtiruvchi holatlar);

b) ayrim jinoyatlar uchun tayinlanadigan jazoning o'ziga xos xususiyatlarini aks ettiruvchi maxsus mezonlar (jinoyatda ishtirokchilik darajasi, tugallanganligi bilan bog'liq mezonlar);

d) sudlar tomonidan alohida jazo turlarini tayinlashda hisobga olinadigan qo'shimcha mezonlar (ozodlikni cheklash jazosining harbiy xizmatchilar, chet el fuqarolari, shuningdek O'zbekiston Respublikasida doimiy yashash joyiga ega bo'lmagan shaxslarga nisbatan tayinlanmasligi, ijtimoiy xavfi katta bo'lmagan jinoyat

sodir etganlik, ehtiyotsizlik oqibatida jinoyat sodir etganlik va qasddan uncha og'ir bo'lmagan jinoyat sodir etganlik uchun ozodlikdan mahrum etish tariqasidagi jazoning homilador ayollarga va uch yoshga to'lmagan bolalari bor ayollarga nisbatan, shuningdek qonunchilikka muvofiq yoshga doir pensiyaga chiqish huquqiga ega bo'lgan shaxslarga nisbatan tayinlanmasligi) asoslangan;

13. Jazo tayinlashga ta'sir ko'rsatadigan jinoyat qonunchiligidagi sudlarga o'z ixtiyoriga ko'ra jazo qo'llash imkoniyatini beradigan ayrim normalar qat'iy belgilanishi lozim. Jumladan, JK 34-moddasi 4-qismidagi "sudning hukmi bilan shaxs o'ta xavfli residivist deb topilishi mumkin", 5-qismidagi "shaxsni o'ta xavfli residivist deb topish to'g'risidagi masala hal qilinayotgan vaqtda uning boshqa davlatlar sudlarining hukmlari bo'yicha sudlanganligi ham hisobga olinishi mumkin" degan jummalarni "qo'llaydi", "deb topadi", "hisobga oladi" jummalariga o'zgartirish maqsadga muvofiq.

14. Sud JK 57-moddasini qo'llashni lozim deb topmasa, uni hukmda asoslantirishi lozim.

15. Nazariy qoida sifatida ayrim holatlar bo'yicha:

- a) barcha holatlarni inobatga olgan holda, ketma-ketlik asosida yoki
- b) imtiyozlarning eng engilini qo'llash orqali jazo tayinlash usuli ishlab chiqildi.

## **II. Jinoyat qonunchiligini takomillashtirish bo'yicha takliflar:**

1. JK 32-moddasidagi takroran jinoyat sodir etish qoidasini JK Umumiy va Maxsus qism moddalaridan chiqarish lozimligi asoslantirildi.

2. JKning 33-moddasi quyidagi tahrirda bayon etilsin:

### **33-modda. Jinoyatlar majmui**

Ushbu Kodeks Maxsus qismida nazarda tutilgan, javobgarlikka tortiladigan ikki yoki bir necha jinoiy qilmishni sodir etish, agarda ulardan birortasi uchun ham shaxsga nisbatan chiqarilgan hukm qonuniy kuchga kirmagan bo'lsa, jinoyatlar majmui deb topiladi.

**Umumiy qasd bilan qamrab olingan va yagona maqsadga yo'naltirilgan bir jinoyat tarkibini tashkil qiluvchi bir-biriga o'xshash bir nechta jinoiy qilmishlardan iborat bo'lgan (davomli) jinoyat jinoyatlar majmui deb topilmaydi.**

**Vazifalarini uzoq vaqt mobaynida bajarmaslikdan iborat bo'lgan, bir jinoyatning uzluksiz tarkibini tashkil qilgan (uzoqqa cho'zilgan) jinoyat jinoyatlar majmui deb topilmaydi.**

**Ushbu Kodeks Maxsus qismining ikki yoki undan ortiq moddalarida nazarda tutilgan bir necha jinoyat tarkibi mavjud bo'lgan bitta qilmishni sodir etish, agar ushbu normalarning biri bilan to'liq qamrab olinmagan bo'lsa, jinoyatlar majmui deb topiladi.**

Agar shaxs sodir etgan bitta qilmishda ushbu Kodeks Maxsus qismi ayni bir moddasining turli qismlarida nazarda tutilgan jinoyatlarning alomatlarini mavjud bo'lsa, u moddaning og'irroq jazo belgilangan qismi bo'yicha **jazo tayinlanadi.**

3. JKning 34-moddasi quyidagi tahrirda bayon etilsin:

### **34-modda. Residiv jinoyat**

**2-qism. Chiqarilmoqda.** JK 56-moddasidan va JK Maxsus qism

moddalaridan “residivist”, “xavfli residivist” va “o‘ta xavfli residivist” jumllarini chiqarish lozimligi asoslantirildi.

**4-qism. Shaxs faqat sud hukmi bilan o‘ta xavfli residivist deb topiladi.**

**8-qism. O‘ta xavfli residivist tomonidan JK Maxsus qismi moddasida nazarda tutilgan jinoyat sodir etilsa, unga nisbatan ushbu moddaning eng og‘ir qismida ko‘rsatilgan jazo belgilanishi lozim.**

4. JKning 46-moddasi uchinchi qismi quyidagi tahrirda bayon etilsin:

**46-modda. Axloq tuzatish ishlari**

**3-qism. Axloq tuzatish ishlari pensiya yoshiga etganlarga, 16 yoshga to‘lmagan shaxslarga, mehnatga qobiliyatsizlarga, homilador ayollarga, uch yoshga to‘lmagan bolalari bor ayollarga va harbiy xizmatchilarga nisbatan qo‘llanilmaydi.**

5. Jinoyat kodeksining 55-moddasiga quyidagi qo‘shimcha bandlarni kiritish taklif etildi:

**55-modda. Jazoni engillashtiruvchi holatlar**

Quyidagi holatlar jazoni engillashtiruvchi holatlar deb topiladi:

**jabrlanuvchi (fuqaroviy da‘vogar) ning da‘vosi yo‘qligi;**

**jinoyat sodir etilganidan so‘ng jabrlanuvchiga tibbiy yoki boshqa tarzda yordam ko‘rsatish;**

**aybdorning qaramog‘ida voyaga etmagan farzandi mavjudligi.**

6. JK 57-moddasini 4-qism bilan to‘ldirish taklif etildi:

**4-qism. Mazkur norma qoidasi voyaga etmaganlarning jinsiy daxlsizligiga qarshi jinoyatni sodir etgan shaxslarga nisbatan tatbiq etilmaydi(bunday jinoyat voyaga etmagan shaxs tomonidan o‘n to‘rt yoshdan o‘n sakkiz yoshgacha bo‘lgan voyaga etmaganga nisbatan sodir etilganligi bundan mustasno).**

7. JK 57<sup>1</sup>-moddasi JKdan chiqarilishi asoslantirildi.

8. JK 57<sup>2</sup>-moddasi quyidagi tahrirda bayon etilsin:

**57<sup>2</sup>-modda. Aybga iqrorlik to‘g‘risida kelishuv tuzilgan jinoyatlar bo‘yicha jazo tayinlash.**

**2-qism. Sud jazo tayinlashda ushbu Kodeks 57-moddasini qo‘llash masalasini ham muhokama qilishi lozim.**

9. JK 58-moddasining uchinchi qismi quyidagi tahrirda bayon etilsin:

**“58-modda. Tamom bo‘lmagan jinoyatlar uchun jazo tayinlash**

**5-qism. Tamom bo‘lmagan jinoyatlar uchun uzoq muddatli va umrbod ozodlikdan mahrum qilish jazosi tayinlanishi mumkin emas”.**

10. JK 58<sup>1</sup>-moddasi quyidagi tahrirda bayon etilsin:

**“58<sup>1</sup>-modda. Ishtirokchilikda sodir etilgan jinoyatlar uchun jazo tayinlash**

**Ishtirokchilikda sodir etilgan jinoyat uchun jazo tayinlashda sud har bir aybdorning jinoyatda ishtirok etganlik xususiyati va darajasini hisobga oladi. Har qaysi ishtirokchining shaxsiga tegishli bo‘lgan engillashtiruvchi va og‘irlashtiruvchi holatlar sud tomonidan faqat shu ishtirokchining o‘ziga jazo tayinlashda hisobga olinadi.**

**Ikki yoki undan ortiq shaxsning oldindan til biriktirib, jinoyat sodir etilishida ishtirok qilishi murakkab ishtirokchilik deb topilib, JK Maxsus qismi**

tegishli moddasining“ bir guruh shaxslar tomonidan oldindan til birlashtirilgan holda” degan bandi bilan jazo tayinlanishi lozim. Shuningdek, ikki yoki undan ortiq shaxsning birgalikda jinoiy faoliyat olib borish uchun ikki va undan ortiq marotaba jinoyat sodir etganligi uyushgan guruh tomonidan sodir etilgan deb topilib, JK Maxsus qismining og‘irlashtiruvchi “uyushgan guruh a‘zosi tomonidan” degan bandida nazarda tutilgan norma bilan jazo tayinlanadi.

11. JK 59-moddasi quyidagi tahrirda bayon etilsin:

**59-modda. Bir necha jinoyat sodir etganlik uchun jazo tayinlash**

**1-qism.** Ikki yoki undan ortiq jinoyatni sodir etgan shaxs, ulardan birortasi uchun ham hukm qonuniy kuchga kirib, sudlangan bo‘lmasa, sud ushbu Kodeksning 54-moddasida nazarda tutilgan qoidalarga muvofiq har qaysi qilmish uchun jazo tayinlab, so‘ngra ularni to‘la yoki qisman qo‘shish yo‘li bilan uzil-kesil jazo tayinlaydi. Bunda jinoyatlar majmuini faqat ijtimoiy xavfi katta bo‘lmagan jinoyatlar va uncha og‘ir bo‘lmagan jinoyatlar tashkil etsa, uzil-kesil tayinlangan jazo ushbu Kodeksning Umumiy qismida nazarda tutilgan jazo turining maksimal miqdor va muddatining yarmidan, agar jinoyatlar majmuini tashkil etuvchi jinoyatlardan bittasi og‘ir yoki o‘ta og‘ir jinoyat bo‘lsa, uzil-kesil tayinlangan jazo ushbu Kodeksning umumiy qismida nazarda tutilgan jazo turining maksimal miqdor va muddatidan oshmasligi kerak.

**8-qism:** Agar ish bo‘yicha hukm chiqarilganidan keyin mahkumning ana shu ish bo‘yicha chiqarilgan hukmga qadar sodir etilgan yana boshqa jinoyatda aybli ekanligi aniqlansa ham jazo o‘sha tartibda tayinlanadi. Bunday holda jinoyatlar majmui bo‘yicha sud tomonidan tayinlangan jazo muddatiga birinchi hukm yuzasidan belgilangan jazo to‘la yoki qisman qo‘shilib, uzil-kesil tayinlangan jazo muddati birinchi hukm yuzasidan tayinlangan jazoni o‘tash belgilangan kundan hisoblanadi.

**9-qism.** Shaxs sodir qilgan jinoyati uchun JK 72-moddasi qo‘llanilib jazo shartli tayinlangan bo‘lsa, sud hukmi chiqqunga qadar boshqa jinoyati aniqlangan taqdirda ushbu jinoyati sanksiyasida faqat ozodlikdan mahrum qilish jazosi tayinlanishi ko‘zda tutilganligini inobatga olib, sudlanuvchiga ozodlikdan mahrum qilish jazosini tayinlasa va shartli hukm qilish yuzasidan sinov muddatini tugash vaqtiga yaqin qolgan bo‘lsa, shartli hukm bekor bo‘lib, yangi jazoni ijro etish muddati birinchi sinov muddati boshlangan vaqtdan hisoblanadi.

**10-qism.** Bir necha jinoyat yuzasidan jazoning maksimal muddati yigirma yildan oshmasligi kerak(uzoq muddatli ozodlikdan mahrum qilish yoki umrbod ozodlikdan mahrum qilish jazosi tayinlangan hollar bundan mustasno).

12. JK 60-moddasi quyidagi tahrirda bayon etilsin:

**60-modda. Bir necha hukm yuzasidan jazo tayinlash**

**1-qism.** Agar mahkum hukm chiqarilib qonuniy kuchga kirgandan keyin jazoni to‘la o‘tamay turib, yangi jinoyat sodir etsa, sud yangi hukm bo‘yicha tayinlangan jazo muddatiga ilgarigi hukm yuzasidan o‘talmay qolgan jazo muddatini to‘la yoki qisman qo‘shadi.

**5-qism.** Bir necha hukmlar yuzasidan axloq tuzatish ishlariga yoki xizmat bo‘yicha cheklashga hukm qilinib, ish haqi yoki pul ta‘minotidan ushlab qolishning har xil miqdori belgilangan hollarda bu jazolarning faqat muddatlari qo‘shiladi.

Shunga ko'ra, bunday hollarda uzil-kesil axloq tuzatish ishlari jazosi tayinlanganida, ish haqi yoki pul ta'minotidan ushlab qolishning eng ko'p bo'lgan miqdori belgilanishi lozim. Bir necha jinoyat sodir etganlik uchun JK 59-moddasi tartibida jazo tayinlashda ham shu qoidalarga amal qilinishi lozim.

7-qism. Bir necha hukmlar yuzasidan uzil-kesil tayinlanadigan jazo miqdori oldingi hukm bo'yicha jazoning o'talmagan qismidan kam bo'lishi mumkin emas.

13. JK 61-moddasi birinchi qismi quyidagi tahrirda bayon etilsin:

**61-modda. Jazolarni qo'shishning hisoblash qoidalari**

**Bir necha jinoyat va bir necha hukm yuzasidan jazolar qo'shilganda:**

a) ozodlikdan mahrum qilishning bir kuni jarimaning  $\frac{1}{2}$  qismi(bxm), ozodlikni cheklashning ikki kuniga, intizomiy qismga jo'natishning bir kuniga, axloq tuzatish ishlarining yoki xizmat bo'yicha cheklashning uch kuniga; majburiy jamoat ishlarining ikki soatiga;

b) ozodlikni cheklashning bir kuni jarimaning  $\frac{1}{3}$  qismi(bxm), axloq tuzatish ishlarining yoki xizmat bo'yicha cheklashning uch kuniga; majburiy jamoat ishlarining ikki soatiga;

v) axloq tuzatish ishlarining bir kuni jarimaning  $\frac{1}{4}$  qismi(bxm), majburiy jamoat ishlarining bir yarim soatiga;

g) majburiy jamoat ishlarining ikki soati jarimaning  $\frac{1}{5}$  qismi (bxm) ga to'g'ri keladi.

Muayyan huquqdan mahrum qilish tariqasidagi jazo ozodlikdan mahrum qilish, intizomiy qismga jo'natish, ozodlikni cheklash, xizmat bo'yicha cheklash, axloq tuzatish ishlari, majburiy jamoat ishlari, **jarima** jazosi bilan qo'shilganida har qaysisi alohida ijro etiladi.

14. JK 62-moddasi quyidagi tahrirda bayon etilsin:

**62-modda. Ushlab turish, qamoqqa olish yoki uy qamog'i vaqtini hisobga olish qoidalari**

**1-qism.** Sud jazo tayinlash chog'ida ushlab turishning, qamoqqa olishning yoki uy qamog'ining har bir kunini:

a) ozodlikni cheklashning **ikki kuniga;**

b) intizomiy qismga jo'natishning, ozodlikdan mahrum qilishning bir kuniga;

v) axloq tuzatish ishlarining yoki xizmat bo'yicha cheklashning uch kuniga;

g) majburiy jamoat ishlarining to'rt soatiga tenglashtirib hisoblaydi.

15. JK 74-moddasi 4-qismi quyidagi tahrirda bayon etilsin:

**74-modda. Jazoni engilrog'i bilan almashtirish**

**4-qism.** Ozodlikdan mahrum qilish yoki ozodlikni cheklash tariqasidagi jazoning o'talmagan qismi axloq tuzatish ishlari bilan almashtirilganda axloq tuzatish ishlari ozodlikdan mahrum qilish yoki ozodlikni cheklash jazosining o'talmagan qismi muddatiga tayinlanadi. **Almashtirilgan jazo muddati JK 46-moddasida belgilangan muddatdan ortiq bo'lishi mumkin. Mazkur qoida JK 59-moddasi 8-qismi yoki JK 60-moddasi asosida jazo tayinlanganda ham amal qiladi.**

16. JK 79-moddasi quyidagi tahrirda bayon etish taklif etilsin:

**79-modda. Sudlanganlikning olib tashlanishi**

Shaxs **tayinlangan** jazoni o‘tab bo‘lganidan keyin unga nisbatan ma‘muriy jazo yoki intizomiy ta’sir choralari qo‘llanilmagan bo‘lsa, jamoat birlashmasi, fuqarolarning o‘zini-o‘zi boshqarish organi, jamoa yoki jazoni o‘tab chiqqan shaxsning o‘zi bergan iltimosnomasiga ko‘ra sud ushbu Kodeksning 78-moddasida nazarda tutilgan muddatlarning kamida yarmi o‘tganidan keyin uning sudlanganligini olib tashlashi mumkin.

17. JK 83-moddasi quyidagi tahrirda bayon etilsin:

**83-modda. Axloq tuzatish ishlari**

**1-qism.** Axloq tuzatish ishlari faqat mehnatga layoqatli **16 yoshdan oshganlarga** nisbatan o‘z ish joyida o‘tash, aybdor hech qaerda ishlamasa, ushbu jazo ijrosini nazorat qiluvchi organlar belgilab beradigan o‘zi yashaydigan hududdagi boshqa joylarda o‘tash tariqasida bir oydan bir yilgacha muddatga tayinlanadi.

18. JK 84<sup>1</sup>-moddasi quyidagi tahrirda bayon etilsin:

**84<sup>1</sup>-modda. Ozodlikni cheklash**

Ozodlikni cheklash voyaga etmagan mahkumlarga nisbatan asosiy jazo chorasi sifatida **bir** oydan ikki yilgacha muddatga tayinlanadi.

19. JK 85-moddasi quyidagi tahrirda bayon etilsin:

**85-modda. Ozodlikdan mahrum qilish**

**1-qism.** Voyaga etmaganlarga nisbatan ozodlikdan mahrum qilish jazosi **bir** oydan o‘n yilgacha muddatga tayinlanadi, ushbu Kodeks 86-moddasining ikkinchi, uchinchi va to‘rtinchi qismlarida nazarda tutilgan hollar bundan mustasno.

### **III. Sud-tergov organlari amaliyotini takomillashtirishga qaratilgan takliflar:**

**1. O‘zbekiston Respublikasi Vazirlar Mahkamasining 2018-yil 8-maydagi 346-sonli qarori bilan tasdiqlangan “Majburiy jamoat ishlari tariqasidagi jazoning ijrosini tashkil etish tartibi haqida”gi Nizomning 15-bandi** quyidagi tahrirda bayon etilsin:

**15-bandi** ikkinchi jumlasini. Voyaga etmagan tomonidan o‘taladigan majburiy jamoat ishlari vaqti dam olish kunlari va mahkum o‘qishda yoxud asosiy ishda band bo‘lmagan kunlari **ikki** soatdan, ish kunlari, o‘quv mashg‘ulotlari o‘tkaziladigan kunlari esa – ikki soatdan, biroq haftasiga uch kundan oshmasligi lozim.

**2. O‘zbekiston Respublikasi Oliy sudi Plenumining 2007 yil 14 noyabrdagi 15-sonli “Umrbod ozodlikdan mahrum qilish tariqasidagi jazoni qo‘llashning ayrim masalalari to‘g‘risida”gi qarori 2-bandi** quyidagi tahrirda bayon etilsin:

Sudlarga tushuntirilsinki, JK 50-moddasi uchinchi qismida nazarda tutilgan yigirma yildan ortiq, biroq yigirma besh yildan ko‘p bo‘lmagan muddatga tayinlanadigan uzoq muddatli ozodlikdan mahrum qilish jazosi ozodlikdan mahrum qilish jazosining bir ko‘rinishi bo‘lib, u faqat javobgarlikni og‘irlashtiradigan holatlarda qasddan odam o‘ldirish va odam o‘lishiga yoki boshqa og‘ir oqibatlar kelib chiqishiga sabab bo‘lgan terrorizm sodir etgan shaxslarga nisbatan tayinlanishi mumkin. Uzoq muddatli ozodlikdan mahrum qilish jazosi sud tomonidan ushbu jinoyatlarga nisbatan qonunda umrbod ozodlikdan mahrum qilish tariqasidagi jazo tayinlanishi istisno etilgan (masalan, *tugallanmagan jinoyat* uchun (ushbu jumla chiqarilmoqda), shuningdek ish holatlariga ko‘ra sud aybdorga nisbatan

uzoq muddatli ozodlikdan mahrum qilish jazosi yoki o‘n besh yildan yigirma yil muddatgacha ozodlikdan mahrum qilish jazosi tayinlanishi maqsadga muvofiq emasligi haqidagi xulosaga kelgan hollarda tayinlanishi mumkin.

**3. O‘zbekiston Respublikasi Oliy sudi Plenumining 2006-yil 3-fevraldagi 1-sonli “Sudlar tomonidan jinoyat uchun jazo tayinlash amaliyoti to‘g‘risida”gi qarorining Yangi tahrirdagi loyihasi ishlab chiqildi.**

**SCIENTIFIC COUNCIL AWARDING OF THE SCIENTIFIC  
DEGREES DSc.07/13.05.2020.Yu.22.03. AT TASHKENT STATE  
UNIVERSITY OF LAW**

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**TASHKENT STATE UNIVERSITY OF LAW**

**ROZIMOVA KUNDUZ YULDASHEVNA**

**THEORETICAL AND PRACTICAL ASPECTS OF  
PUNISHMENTS FOR CRIME**

12.00.08 – Criminal Law. Criminology. Criminal-executive law

**ABSTRACT**  
**of doctoral (DSc) dissertation on legal sciences**

**Tashkent city - 2024**

**The theme of doctoral dissertation (DSc) was registered at the Supreme Attestation Commission at the Ministry of Higher Education, Science and Innovations of the Republic of Uzbekistan under B2021.4.DSc/Yu185.**

The dissertation is prepared at Tashkent State University of Law.

The abstract of the dissertation is posted in three languages (Uzbek, Russian, and English (summary)) on the website of the Scientific Council ([www.tsul.uz](http://www.tsul.uz)) and the Information educational portal “ZiyoNET” ([www.ziyo.net](http://www.ziyo.net)).

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The defense of the dissertation will be held on February 09, 2024 at 14<sup>00</sup> at the Session of the Scientific Council DSc.07/13.05.2020.Yu.22.03 at the Tashkent State University of Law (Address: 100047, Amir Temur street, 35. Tashkent city. Phone: +99871 233-66-36; Fax: +99871 233-37-48; e-mail: [info@tsul.uz](mailto:info@tsul.uz)).

The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered under No 1234), (Address 100047, Amir Temur street, 35. Tashkent city. Phone: +99871 233-66-36).

The abstract of the dissertation was distributed on January 26, 2024.

(Registry protocol No.16 on January 26, 2024).

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## INTRODUCTION (abstract of doctoral dissertation (DSc))

**The actuality and relevance of the dissertation theme.** In the world, prevention of crimes, sentencing persons who have committed crimes, correction of morality of convicts, prevention of their continuation of criminal activity, and the achievement of the goals of punishment acquire actual importance. "Goals-means-outcome" is the main rule in sentencing for a crime. One of the priority tasks of the judiciary is the imposition of punishment, and there is a need for an in-depth study of its effectiveness. Because in 2020, 57 out of every 100 thousand people in the world were sentenced to criminal punishment, and in 2023, this figure increased by 13% compared to 2020<sup>31</sup>.

Sentencing rates remain high in all countries. In 2023, sentences for offenders will be 82 per 100,000 people in Venezuela, 75 in South Africa, 81 in the UK, 14<sup>32</sup> in the UAE, and 39 in Russia, and the rate of crime punishments in Uzbekistan in the last three years has increased by 31<sup>33</sup>. According to the UN, one of the main causes of recidivism by people who have previously committed a crime is directly related to sentencing deficiencies. The above data indicate the relevance of the study of sentencing issues.

Special attention is paid to the research of issues in state policy on the correct application of sentencing laws, the improvement of criminal legislation, as well as the issue of fair punishment for committed crimes worldwide. In particular, the rules of individualization of punishment, the improvement of legal norms on the addition of punishments and the positive experience of foreign countries to the national legislation, strengthening the implementation of international standards, increasing the effectiveness of measures to prevent re-offending, and researching directions for improving the practice of law enforcement are of great importance.

The criminal cases that are tried in the first instance in our republic and analyzing the number of convicted persons shows that it is growing every year. In particular, in 2021 alone, Articles 57-60 of the Criminal Code were applied by courts of first instance; 21,295 criminal cases against 27,880 people were tried and sentenced, and by 2022, this figure had increased significantly. In 2022, Articles 57-60 Criminal Code were applied by courts of first instance; 26,730 criminal cases (+5,435 or 26 foiz compared to 2021) were tried against 34,497 (+6,617 or 24 foiz compared to 2021), and punishment was imposed. In addition, the number of trial court sentences modified or reversed in the appellate court also increases year-to-year between 2021 and 2022. For example, in 2021, the sentences of the courts of first instance in 854 criminal cases against 1,153 persons using Articles 57-60 of the Criminal Code, by 2022 - 1,078 against 1,438 persons (+285 or 25 foiz compared to 2021.) (+224 or 26 foiz compared to 2021) criminal cases were changed on appeal. It is worth noting that the number of criminal cases overturned in the appellate court also tends to increase. In particular, in 2021, against 221 persons in 174 criminal cases, Articles 57-60 of the courts of first instance were applied, and the sentences

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<sup>31</sup> [https://www.numbeo.com/crime/region\\_rankings](https://www.numbeo.com/crime/region_rankings)

<sup>32</sup> <https://www.numbeo.com/crime/rankings>

<sup>33</sup> <https://www.numbeo.com/crime/country>

imposed by the courts were overturned in the court of appeal; by 2022, 227 criminal cases against 296 persons were overturned in the court of appeal. In turn, in recent years, the number of cases tried by the courts of first instance and reversed on appeal has been increasing. For example, in 2021, 854 of the 21,295 criminal cases tried in first instance courts with the application of Articles 57-60 of the Criminal Code and the punishment imposed, the sentences were changed in the appeal instance, and by 2022, 1,078 of the 26,730 criminal cases that were sentenced in the first instance court were changed in the first appeal instance<sup>34</sup>. The increase in the number of criminal cases and the number of persons being sentenced in first instance courts; the number of first instance court sentences changed or annulled on appeal; and also calls for a review of the provisions relating to sentencing in criminal law and their improvement.

In our country, particular importance is attached to the improvement of criminal legislation and the fundamental reform of the system of imposing just punishment on persons who have committed crimes, and some work is being carried out in this area. It is also significant that the new version of the Constitution, adopted by referendum on April 30, 2023, includes provisions on punishment. In particular, Article 26 of the Constitution states that no one may be subjected to torture, violence, or other cruel, inhuman, or degrading treatment or punishment; Article 30 of the Constitution states that no one may be convicted, punished, or deprived of property; that no one may be deprived of any rights; and that no one may be convicted of the same crime twice<sup>35</sup>. To provide a clear definition of the content of terms and concepts used in the Criminal Code, revise the system of criminal penalties and sentencing mechanisms, and improve the Criminal Code norms on uncompleted crimes, participation in crimes, and some institutions of committing crimes. To eliminate conflicts in them and to reduce the conditions of punishment and expansion was defined as the main task<sup>36</sup>.

The President of the Republic of Uzbekistan “On measures to further improve the system of crime prevention and combating” (2017), “On the strategy of action for the further development of the Republic of Uzbekistan” (2017), “Measures to fundamentally improve the system of crime and criminal procedural legislation, the implementation of decrees” (2018), “On the Strategy of Uzbekistan – 2030” (2023), “On the implementation of the new Constitution of the Republic of Uzbekistan” and other legal documents related to the subject, this dissertation research serves to a certain extent.

### **Correspondence of the research to the main priorities of the development science and technology of the republic.**

The dissertation is carried out within the framework of the priority direction of development of science and technology of the Republic I: “Formation of the system of innovative ideas in social, legal, economic, cultural, spiritual, and educational development of information society and democratic state and ways of their realization”.

### **Review of foreign scientific research on the theme of the dissertation.**

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<sup>34</sup> <https://lex.uz/docs/3735818>

<sup>35</sup> <https://lex.uz/docs/3735818>

<sup>36</sup> <https://lex.uz/docs/3735818>

Scientific research to improve criminal legislation on sentencing is carried out in international scientific and educational institutions, such as the Russian State University of Justice (Russia), Case Western Reserve University Law School (USA), Moscow State University named after Lomonosov (Russia), Ural State Law University (Russia), and Oxford Law University (UK).

Certain scientific results have been achieved in the study of the theoretical and practical aspects of sentencing. In particular, as a result of scientific research, conclusions on the topics: the principles of sentencing have been established (Kazan State University), the rules of fining (Omsk State University named after Dostoevsky), sentencing: mitigating and aggravating circumstances (Moscow State Law University named after O.E. Kutafin), the rules of individualization in sentencing (Kazan State University), sentencing (University of Pennsylvania), criminal justice: the policy and problems of sentencing (Oxford Law University) were formed and justified.

In the world, research is conducted on the following priority areas of sentencing: imposing punishment for crimes committed with participation; the institution of recidivism; taking into account mitigating and aggravating circumstances when imposing punishment; imposing a more lenient punishment for committing a crime than provided for by law; general theoretical foundations and practical problems of criminal sentencing; sentencing for several crimes and several convictions, etc.

**The degree to which the problem has been studied.**

In our country, the theoretical and practical aspects of sentencing for crimes are little studied. Some aspects of it are studied in the scientific research of K.R. Abdurasulova, B.D. Akhrarov, B.A. Akhmedov, Sh.Yo. Abdukadirov, P. Bakunov, R.A. Zufarov, R. Kabulov, M.H. Rustamboev, F. Tokhirov, M. Usmonaliev, M.H. Jiyanov, M.A. Nazarov, M. Kadirov, M.Z. Mukumova, U.Sh. Kholikulov, Sh.U. Umidullaev, H. Karimov, D. Kamalova and others.

Theoretical and practical issues of sentencing for crimes were studied in the research of foreign scientists: Z.Z. Nurulloeva, G.Z. Anashkin, M.I. Bajanov, E. Borisov, E. Blagov, D. Dyadkin, V.K. Duyunov, V.D. Soloviev, O.A. Sadovnikova, S.G. Spivak, N.N. Krupskaya, F.A. Ruchkin, K.N. Mikhailov, T.V. Gubaev, N.V. Kuznetsov, V.P. Malkov, M.N. Stanovsky, I.S. Tishkevich, Y.N. Yushkov, Y.S. Letnikov, J.Robert, A. Ashort, A.S. Bugrimenko, I.N. Samylina, S.G. Arapidi, A.I. Kochkarev, M. Monakhova, L.J. Harris, K. Binding, A. Khosh, B. Gerth, M.P. Mostert, J. Pradel, J. Rachels<sup>37</sup> and others. In these scientific works, some aspects of sentencing for crimes were studied, and theoretical and practical issues of sentencing for crimes were not comprehensively investigated at the dissertation degree.

**The relatedness of the research to the scientific research plans of the higher education institutions where the dissertation was carried out.** The research work was carried out within a fundamental project (2020–2022) of the research plan of the Tashkent State University of Law on the theme “Innovative methods and means of prevention and crime prevention”.

**The aim of the research** is to provide a solution to the identified problems

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<sup>37</sup> The works of these scientists are listed in the reference.

based on a comprehensive study of the theoretical and practical issues, the development of proposals and recommendations to improve an appropriate norms of the Criminal Code, and the improvement of sentencing.

**The tasks of the research:**

theoretical and practical analysis of the general principles of assigning punishments;

to study the peculiarities of the history of the development of norms on sentencing in criminal legislation;

to study theoretical and practical aspects of the application of a more lenient punishment;

to analyze theoretical and practical issues of sentencing for crimes in which the perpetrator really repents and plea bargaining is concluded;

to study theoretical and practical aspects of sentencing for uncompleted and accomplice offenses;

to study the norms of criminal law and theoretical and practical aspects of their application in sentencing for a number of crimes;

to study the issues of sentencing for repeated crimes;

to analyze the issues of sentencing for cumulative crimes;

to study the issues of sentencing of recidivists;

to study the norms of criminal law and theoretical and practical aspects of their application;

to analyze the peculiarities of the legislation of some foreign countries on sentencing;

to develop proposals to improve the norms of national criminal legislation on sentencing;

**The object of the research** is the system of criminal-legal relations related to punishment for a crime.

**The subject of the research** is normative legal documents regulating relations related to punishment for a crime, practice of applying the law, criminal legislation and practice of some foreign countries, conceptual approaches in the science of criminal law, and scientific and theoretical views.

**Research methods.** Methods such as historical, systematic-structural, comparative-legal, logical, specific-sociological, comprehensive study of scientific sources, and statistical analysis of data were used.

**The scientific novelty of the research is as follows:**

It is based on the fact that when sentencing for crimes for which a plea bargaining was concluded, the term or amount of the punishment shall not exceed half of the maximum punishment provided for in an appropriate Article (part) of the Special Part of the Criminal Code;

In accordance with part six of Article 50 of the Criminal Code for women, as well as for men over 60 ears of age, the term of imprisonment in the form of deprivation of liberty, including the punishment imposed on the combination of crimes and multiple convictions, cannot amount to more than two-thirds of the maximum term of imprisonment provided for because the sanction of the appropriate Article (part of Article) of the Special Part of the Criminal Code is based on the fact

that women and also men over the age of 60 years must be imposed a shorter or lighter sentence than the term for depriving liberty provided with application of Article 57 of the Criminal Code;

it is based on the fact that one day of restriction of liberty corresponds to three days of correctional labour or service restraint for different types of basic punishment;

in order to replace the punishment in the form of a fine (part three of Article 44 of the Criminal Code) – based on the amount of the basic calculation in force at the time of the sentence, the appointment is based on a term not exceeding three years;

When imposing punishment on juveniles, the requirements of Articles 82–86 of the Criminal Code must be observed, and Article 57 of the Criminal Code does not apply. It is based on the fact that the defendant has been found guilty of other lighter punishments not provided for by Article of the Special Part of the Criminal Code;

the rule that the term or amount of punishment for preparation for a crime and attempt to commit a crime shall not exceed three quarters of the maximum punishment provided for in the appropriate Article of the Special Part of the Criminal Code: for uncompleted crimes against peace and security, as well as the following: for a victim who has not reached the age of eighteen, satisfying sexual desire in an unnatural way by touching her or using violence against her; engaging in sexual intercourse with a person under the age of sixteen; bringing into the territory of the Republic of Uzbekistan for the purpose of distributing, advertising, and showing a pornographic product in which a juvenile is described or depicted, as well as preparing, distributing, advertising, showing it, or involving a juvenile as a performer of pornographic actions; it is based on the fact that it should be applied to crimes related to the involvement of a juvenile, the establishment or maintenance of brothels.

**The practical results of the research are as follows:**

of the author definition of the concepts “assignment of punishment”, “assignment of punishment for an uncompleted crime”, “assignment of punishment for several sentences”, “object of assignment of punishment”, “algorithm of assignment of punishment” is given;

the current criminal legislation on the general principles of sentencing and the decisions of the Plenum of the Supreme Court of the Republic of Uzbekistan are analyzed with a view to preventing different interpretations of legal norms, exclusion of the Articles “recidivist”, “dangerous recidivist” and “especially dangerous recidivist” as aggravating circumstances from Article 56 of the Criminal Code and an appropriate Articles of the Special Part of the Criminal Code, as well as from Article 34 of the Criminal Code; the proposal to determine the punishment specified in the section is put forward and substantiated;

on the basis of the practice of application of the law, the results of a public survey conducted among judges, and the analysis of the norms of criminal law of some foreign countries, a proposal to exclude the current Article 57<sup>1</sup> of the Criminal Code, which provides for the imposition of punishment in the event that the perpetrator really repents of his act;

proposals to improve the practice of application of the law on plea bargaining and the norms of criminal law regarding the imposition of punishment;

on the basis of an analysis of the law enforcement practices and criminal law

norms of some foreign countries, in accordance with the principles of fairness and inevitability of liability, the proposal to exclude the institution of repeated crimes from the current Criminal Code, to introduce punishment for such crimes as a set of crimes is justified.

#### **The reliability of research results.**

Theoretical and scientific conclusions obtained in the course of the study were formed on the basis of reliable information of international scientific databases (<https://www.scholar.google.com>, <https://www.sciencedirect.com>, <https://elibrary.ru>) and other official sources. Based on the letter No. 7/1380-19-01 sent by the Tashkent State University of Law on April 10, 2023, to the Supreme Court of the Republic of Uzbekistan, the results of a questionnaire survey among more than 100 law enforcement officers and more than 1,000 court verdicts were analyzed.

#### **The scientific and practical significance of the research results.**

Scientific significance of the research results is based on scientific and theoretical conclusions, practical proposals and recommendations in further scientific activity, improvement of the current criminal legislation, preparation of relevant normative legal documents, activities of judicial investigation bodies, as well as criminal law, punishment for crime, and crime prevention, which serves to further enrich it from a scientific and theoretical point of view. The research results can be used in future research.

The practical significance of the research results lies in law-making activities, in particular in the process of preparing normative legal documents and in the process of making amendments and additions to them, in improving the practice of applying the norms of criminal legislation, and in teaching the science of criminal law in higher law schools.

#### **Implementation of the research results.**

Based on the results of the research of the theoretical and practical issues of punishment for crimes:

Proposal that the punishment for crimes for which a plea bargaining has been concluded, i.e., the term or amount of punishment imposed for crimes for which a plea bargaining has been concluded, shall not exceed half of the maximum punishment provided for in an appropriate Article (part) of the Special Part of the Criminal Code. Decree of the Republic of Uzbekistan of February 18, 2021, reflected in Article 1 of Act No. DRU-675, “On amendments and additions to the Criminal Code and the Code of Criminal Procedure of the Republic of Uzbekistan”, Article 57<sup>2</sup> of the Criminal Code (04/2-10 of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan dated April 8, 2022, reference No. 3735). This proposal represents a simplified form of case management in court, which has served to end unnecessary hassle for citizens, increase efficiency, and improve the protection of human rights, freedoms, and legitimate interests;

In accordance with part six of Article 50 of the Criminal Code, the term of imprisonment for women as well as men over 60 ears of age, including in cases where punishment is imposed on the basis of a combination of crimes and several sentences – The term of imprisonment provided for by the sanction of an appropriate article (part of the article) of the Special Part of the Criminal Code may not exceed

two-thirds of the maximum term. Proposal to punish women, as well as men over 60 ears of age, to a lesser or other lighter punishment than the term of imprisonment provided for by an appropriate Article (part of an Article) of the Special Part of the Criminal Code, with the application of Article 57 of the Criminal Code (No. 08/877-23 of November 7, 2023). This proposal has served to improve the protection of human rights, freedoms, and legitimate interests;

The proposal that one day of restriction of liberty, including various types of basic punishments, is equivalent to three days of correctional labour or service restriction is based on Decision No. 9 of the Plenum of the Supreme Court of the Republic of Uzbekistan of May 14, 2022, and Decision No. 1 of the Plenum of the Supreme Court of the Republic of Uzbekistan of February 3, 2006. This is reflected in paragraph 51 of the decision on the practice of sentencing courts for crimes. Supreme Court Reference No. 08/877-23 of November 7, 2023). This proposal has served to improve the protection of human rights, freedoms and legitimate interests;

The proposal to impose a substitute sentence of a fine (Part 3 of Article 44 of the Criminal Code) for a term not exceeding three ears, based on the amount of the basic calculation amount in force at the time of sentencing, by decree No. 9 of the Plenum of the Supreme Court of the Republic of Uzbekistan of May 14, 2022. Paragraph 27 of Supreme Court plenum decree No. 1 of 3 February 2006 on the practice of sentencing by the courts for crimes is reflected in subparagraph three of the first paragraph. Supreme Court Decision No. 08/877-23 of November 7, 2023). This proposal has served to strengthen the protection of human rights, freedoms, and legitimate interests;

In sentencing juveniles, the requirements of Articles 82–86 of the Criminal Code must be observed, and Article 57 of the Criminal Code does not apply. The decree of the Plenum of the Supreme Court excluded the sentence of other lighter penalties not provided for in an appropriate Article of the Special Part of the Criminal Code. Supreme Court plenum decree No. 9 of May 14, 2022, No. 21 of September 15, 2000, paragraph 10 of the decision on judicial practice in cases involving juvenile offences is reflected in the third paragraph. Supreme Court Decision No. 08/877-23 of November 7, 2023). This proposal has served to strengthen the protection of human rights, freedoms and legitimate interests;

The rule that the term or the amount of punishment for preparation for a crime and attempt to commit a crime shall not exceed three quarters of the maximum punishment provided for by an appropriate Article of the Special Part of the Criminal Code: for uncompleted crimes against peace and security, as well as from: up to eighteen ears of age affecting the honor of the victim or applying violence to him, satisfying sexual needs in an unnatural way; engaging in sexual intercourse with a person under the age of sixteen ears, or satisfaction of his or her sexual needs by an unnormal way; importation into the territory of the Republic of Uzbekistan for the purpose of dissemination, advertising and displaying pornographic products in which a juvenile is depicted or portrayed, and its manufacture, distribution, publicity and demonstration or attracting a juvenile as an artist of pornography acts; The proposal for applicability to crimes related to conspiracy involving a juvenile and the establishment or maintenance of public houses is reflected in the Law of the Republic of Uzbekistan of April 11, 2023, No. DRU-829. (Reference No. 27/2-120-23 of the

General Prosecutor's Office of the Republic of Uzbekistan, dated April 25, 2023). This proposal demonstrated in practice the principle of humanity while protecting the rights, freedoms, and legitimate interests of juveniles.

**Approbation of the research results.** The research results were discussed at 9 scientific conferences, including 2 international and 7 republican scientific-practical conferences.

**Publication of the research results.** A total of 26 scientific papers have been published on the subject of the dissertation, including 2 monographs and 24 scientific articles (6 in foreign publications).

**The structure and volume of the dissertation.** The dissertation consists of an introduction, four chapters, a conclusion, a list of references, and an appendix. The volume of the dissertation is 256 pages.

## THE MAIN CONTENT OF THE DISSERTATION

In the **introduction** of the dissertation, it indicates the relevance and necessity of the research topic, its compliance with the priority directions of development of science and technology of the republic, a review of foreign scientific research on the topic, the degree to which the problem has been studied, the connection of the topic with the research work of the university where the dissertation is performed, its purpose and objectives, object and information about the subject, methods, scientific novelty and practical results, reliability of the results of the research, scientific and practical significance, introduction, statement, announcement of the results of the thesis, and other information.

The first chapter of the dissertation is called “**General principles of sentencing**” and is devoted to the theoretical and practical analysis of the general principles of sentencing, analyzing the peculiarities of the history of the development of norms related to the principles of sentencing in criminal law.

In criminal law, the general principles of punishment assignment were theoretically and practically analyzed; the history of the development of norms related to the principles of punishment assignment was studied; the sources of the development of norms related to punishment assignment were analyzed by dividing them into periods; and the specific features of each period were identified.

The case proposed to divide the features of punishment in the current criminal legislation into two groups: general and special grounds of punishment, and analyze them.

The author has developed a definition of institutions of punishment for uncompleted crimes.

assignment of punishment – an institute of criminal law regulating issues related to the choice of a specific punishment applied to a person found guilty by the court in order to achieve the principle of proportionality and the purpose of punishment provided for by the criminal law, as well as issues related to giving instructions on the amount and duration of punishment.

“imposition of punishment for an uncompleted crime” – application by the court of a measure of punishment in the presence of signs of a crime, an uncompleted commission of socially dangerous behavior or non-occurrence of criminal

consequences (at the stages of preparation or attempt to commit a crime).

On the basis of historical and comparative analysis of the norms of criminal law on the grounds of assignment of punishment, they are divided into the following stages:

1. The Antique period (Avesta, Hammurabi, and Code of Yasa).
2. The period of Shariah norms. The 50th year of the VIII–XIX centuries (Holy Qur'an, Hidayah, Timur's rules).
3. Colonial period of Tsarist Russia (50s of the 19th century and 20s of the 20th century).
4. The former union period (from 1922 to April 1, 1995).
5. The period of independence (from April 1, 1995 to the present).

**1. Ancient period** (Avesta, Hammurabi, Code of Yasa). In the Avesta, the same punishments were prescribed for all people who committed a crime; some punishments could be replaced by alternative punishments; and the idea of honoring the human being was a priority. The Turkic Khanate was characterized by the fact that punishments were harsh, especially for severe crimes; the whole clan was executed, and for less severe crimes, the perpetrator himself was executed. The liability was borne by the tribe, clan or community, and the main focus of the punishment was to compensate for the damage caused. Code of Yasa, under Mongol rule, provided severe punishments for crimes. Punishment in criminal law was based on social and national inequality. That is, if the price of blood for the death of an innocent Mongol was 40 bolsh (coins) of silver, that amount was equal to the price of a donkey for the death of a Chinese. Another distinctive aspect of sentencing under criminal law was that a person was given a harsher punishment for a re-committed crime.

## **2. The period in which Shariah norms apply.**

VIII–XX centuries (Holy Qur'an, Hidayah, Timur's rules). The main source of Islamic law, the Qur'an, prescribes punishments depending on the form of crime (payment for blood, punishment of ta'zir, regular two-month fasting or feeding 60 people). Although specific circumstances are not specified as a general basis for punishment, the penalties prescribed by the qualification of crimes are. Shariah rules constitute a penal structure similar to modern criminal law, and the subject matter of the offense has also gained special importance in determining just punishment. Depending on the severity of crime and the personality of the perpetrator, it is stated that punishment may include public reprimand, a warning from a judge or ruler, a talk with a call to order, and other measures of influence. In Islamic law, there are no mitigating circumstances in the imposition of punishment for committing unlawful acts that violate human rights. The range of punishments for committing prohibited but not punishable acts is wide, varied, and flexible. Under Shariah, a murderer could buy the life of the victim or his relatives if they waived the right to blood feud by providing things or money as compensation. Although Islamic law does not define general principles of direct punishment, depending on the nature of the crime committed, there is a practice of mitigating or increasing punishment under the Shariah, and such practice is directly at the discretion of the law enforcer. In Timur's rules, the punishment applied to those who committed crimes in the country is comprehensively developed; in particular, it is emphasized that only one punishment

should be imposed for the crime committed in matters related to punishment. During this period, punishment was imposed only in accordance with Islamic law. Punishments under Timur's rule were applied strictly but with fairness. For the first time, amnesty and warning measures were applied for crimes committed out of negligence.

**3. During the period of colonialism in Tsarist Russia,** restrictions on the ability of judicial courts to impose punishments led to a revision of some Shariah rules. For example, extremely severe punishments such as burying alive, stoning, cutting off hands or feet, throwing from a tower, cutting off ears and noses, and gouging out eyes were abolished.

**4. The period of the Former Union.** The Criminal Code of the SSR of 1926 did not contain a separate article on general principles of sentencing, but it was the first time that circumstances aggravating or mitigating the sentence were identified. In contrast to this code, the Criminal Code of the SSR of 1959, for the first time, provided for general principles of punishment; crimes against the state were considered to have a higher degree of social danger than crimes on the person, and for crimes against the state, a stricter punishment was provided.

**5. Period of independence.** The 1994 Criminal Code of Uzbekistan clearly defined the general principles of sentencing, prioritized for the first time mitigating circumstances over aggravating circumstances, and prioritized the interests of the individual over the interests of the state.

The second chapter of the dissertation is called “**Theoretical and practical issues of the norms of criminal law on the assignment of punishment in individual cases**”, in which the theoretical and practical aspects of the assignment of a more lenient punishment when the perpetrator actually regrets his act and plea bargaining has been made; theoretical and practical aspects of sentencing for uncompleted and complicit crimes are analyzed.

The researcher developed the definition of the concepts of the object of punishment and the algorithm of punishment.

As a result of studying the works of scientists who investigated the issues of assigning a lighter punishment in this case, it was concluded that a lighter punishment can be applied under Article 57 of the Criminal Code only in the presence of two legitimate grounds, that is, circumstances that seriously decrease the degree of social danger of the committed crime and in special cases.

The fact that Article 57<sup>1</sup> of the Criminal Code logically overlaps with the imposition of punishment when the guilty person repents of his deed and imposes a lighter punishment; the fact that the criminal legislation of most foreign countries does not have a separate norm regarding the imposition of punishment when the guilty person really regrets his deed; this norm is due to the fact that it limits the application of Article 57 of the Criminal Code; the exclusion of this norm from the Criminal Code is justified.

The author's definition of the concept of punishment for an uncompleted crime is developed in the work.

The researchers proposed to expand in this chapter the list of mitigating and aggravating circumstances, namely:

absence of the claim of the victim (civil plaintiff);

provision of medical or other assistance to the victim after the commission of the crime;

justified that to mitigating circumstances should be attributed the presence of a juvenile in the care of the perpetrator.

The third chapter of the dissertation is called **“Theoretical and practical aspects of sentencing for several crimes and convictions”**. It describes the norms of criminal law and the theoretical and practical aspects of their application. The aggregate of crimes, recidivism, is devoted to the theoretical and practical aspects of the norms of criminal law on the assignment of punishment for several convictions. In this chapter, the author defines the terms of sentencing for several crimes and several convictions, as well as the question of which Article of the Criminal Code should be applied for the imposition of punishment for crimes committed before and after conviction. In part one of Article 59 of the Criminal Code, a person has committed two or more crimes, and if the sentence for any of them has come into legal force and there is no conviction, the court shall impose for each act a punishment in accordance with the rules of Article 54 of this Code and then impose a permanent punishment for each of them. At the same time, in the current Criminal Code, for several offenses and several punishments, in addition to other punishments, only the punishment of imprisonment is calculated. a) one day of imprisonment is  $\frac{1}{2}$  (mmw) of a fine, two days of restriction of liberty, one day of committing to disciplinary unit, three days of correctional labor or service restriction; for two hours of compulsory community service; b)  $\frac{1}{3}$  (mmw) of a fine for one day of restriction of liberty, three days of correctional labor or service restriction; for two hours of compulsory community service; c)  $\frac{1}{4}$  (mmw) of a fine for one day of correctional labor, one and a half hours of compulsory community service; g) proposed that two hours of compulsory community service be equivalent to  $\frac{1}{5}$  (mmw) of a fine.

On the basis of studying the works of scientists on the issues of punishment for a number of crimes, the researcher substantiated her point of view, proposing to exclude the institute of repeated crimes from the Criminal Code and, as a solution, assign punishment as a set of crimes to make changes and additions to Article 59 of the Criminal Code.

As grounds for abolishing this institution, she pointed out the following: 1) the sign of repetition in Article 77 of the Special Part of the Criminal Code; Of these, 12 Articles mention only repetition, in one part of 57 Articles, repetition and dangerous recidivism are aggravating circumstances of a crime, in 4 Articles, repeated Crime, dangerous recidivism, and especially dangerous recidivism in one part are cited as qualifying features, which indicates the absence of a single norm for this institute in the criminal legislation; 2) the inconsistency between the decisions of the Supreme Court of the Republic of Uzbekistan and the Plenum of the Supreme Court on the issue of the; 3) the fact of assigning a person a heavy punishment for repeated commission of a socially dangerous crime, namely the punishment does not correspond to the degree of guilt and public danger of the person (it does not correspond to the principle of justice; 4) the principle of inevitability of liability is not observed in one third of more than 1000 court verdicts studied; 5) according to the results of a public survey conducted among judges and law enforcement officers, 82

foiz of participants supported the need to abolish this institution.

Based on the study of the works of scientists on the issue of punishment for several crimes, the dissertation justified his opinion by removing the institution of repeated crimes from the Criminal Code and by proposing to impose punishment as a set of crimes and to make changes and additions to Article 59 of the Criminal Code. As a basis for the cancellation of this institution, she indicated the following: 1. Repetition in Article 77 of the Special Part of the Criminal Code; of these, only repetition is mentioned in 12 Articles, repeated and dangerous recidivism in one part of 57 Articles as aggravating features of the crime, repeated, dangerous recidivism and extremely dangerous recidivism in one part as qualifying signs in 4 Articles. This shows that there is no rule for this institution in the criminal law. 2. Non-uniformity between the Criminal Code of the Republic of Uzbekistan and the decisions of the Plenum of the Supreme Court on the issue of punishment for completed and uncompleted crimes; 3. The fact that a person is being given a severe punishment for committing a socially dangerous crime for the second time, that is, the punishment is not following the degree of guilt and social danger of the person (it is not following the principle of justice); 4. The principle of normality of liability was not observed in one-third of the more than 1000 court verdicts studied during the research. 5. According to a social survey conducted among judges and law enforcement officers, 82 foiz of participants supported abolishing this institute.

According to the researcher, the imposition of a punishment on the basis of a set of crimes is generally justified in order to impose a fair and proportionate punishment on a person who has committed a repeated crime.

According to statistics, in 2014, Article 57 of the Criminal Code was applied to 12,345 persons, in 2021 to 14,056 persons, and in 2022 to 16,959 persons on the basis of 13,096 cases. In 2021, 110 persons were convicted under Article 57<sup>2</sup> of the Criminal Code, and in 2022, 150 persons were convicted in 123 cases. In 2018, the number of persons convicted under Article 60 of the Criminal Code was 3,350, and by 2021, the Article was applied to 4,275 persons, and sentences were imposed. In 2022, 5,298 persons were convicted<sup>38</sup> under Article 60 of the Criminal Code in 4,974 cases, indicating that recidivism by the individual is not decreasing.

The author divides the opinions of scientists into two groups on the issue of punishment for recidivism: 1) punishment for intentional crimes; 2) divided opinions of scientists who justified the inclusion of a crime committed by negligence in the crime of recidivism. Also, the sentences “dangerous recidivist” and “especially dangerous recidivist” were excluded from Article 56 of the Criminal Code, and the Articles of the Special Part of the Criminal Code, and the general rule for all crimes - Article 34 of the Criminal Code. The Criminal Code stipulates that if a crime is committed by a particularly dangerous recidivist provided for in the Special Part of the Criminal Code, it is reasonable to determine the punishment provided for in the strictest part of the Article.

This chapter demonstrates that the involvement of two or more persons in the commission of a conspiracy offence is considered as complicated participation, and the punishment should be imposed with the reservation of “conspiracy by a group of

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<sup>38</sup> Supreme Court Response Letter No. 07/14-12515-325, dated October 10, 2022.

persons". It was also proven that the fact that two or more persons committed a crime several times to carry out a joint criminal activity was considered to be an organized group and should be qualified for aggravating circumstances as a "member of an organised group" of the Special Part of the Criminal Code.

In this chapter, the criminal legislation of a number of countries (Russia, Kazakhstan, Ukraine, Belarus, Germany, France, Japan, Korea, Spain, Norway, France, Sweden, CIS countries, etc.) on recidivism and its punishment was analyzed, and the following was identified.

The countries in this group do not explicitly clarify the concept of recidivism in criminal law, including the concept of recidivism in Swedish criminal law. Here, issues related to recidivism are defined as crimes committed by convicted persons regardless of intent<sup>39</sup>.

In the criminal law of the countries in the above group, there are different approaches to how long a criminal record lasts, which affects recidivism; in the Criminal Code of Finland, Norway, and Sweden, the length of a criminal record is reduced to a maximum, even for less severe crimes. The term of conviction does not apply, and the repeated commission of a given category of crime is not considered recidivism. In France, Germany, and Italy, the term of conviction is longer, and for more severe crimes, this period is several years<sup>40</sup>.

In the Criminal Code of France, Japan, and Korea, recidivism is not divided into types according to the severity of the crime but is only considered in sentencing.

In a case involving multiple sentences, the following definition of punishment was developed:

the imposition of a sentence in connection with several convictions before the person has served the full term of the sentence imposed for the previous offence committed by him or her, as well as conditional release for the time of the outstanding part of the punishment on the basis of an amnesty or pardon, or a milder punishment, if the person to whom the replacement is applied has committed a new offence only intentionally during the uncompleted part of punishment, and also the sentencing by the court for the commission of a new crime during the probation period of the convicted person to the conditional punishment is subject to the person whose sentence has been replaced by a lighter punishment during the probation part, regardless of the form of guilt.

The fourth chapter of the dissertation is called "**Analysis of the legislation of some foreign countries on sentencing and improvement of the norms of national criminal law**" and is devoted to the peculiarities of the legislation of some foreign countries on sentencing and improvement of the norms of national criminal legislation on the imposition of punishment.

In the dissertation, it is shown that the understanding of the circumstances that are taken into account when imposing punishment in the legislation of foreign countries comes from doctrinal and practical experience. According to the researcher, in international experience, there are different approaches to the issue of division of criminal elements into groups on the degree of social danger depending on the

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<sup>39</sup> [http://www.sweden4rus.nu/rus/info/juridisk/ugolovnyj\\_kodeks\\_shvecii](http://www.sweden4rus.nu/rus/info/juridisk/ugolovnyj_kodeks_shvecii)

<sup>40</sup>The works of these scientists are listed in the reference

circumstances mitigating or aggravating the punishment imposed on a person.

The set of mitigating circumstances in the Criminal Code of CIS countries is broad: reconciliation with the victim (Azerbaijan), provision of medical or other assistance to the victim after the crime, voluntary compensation for property and moral damage caused by the crime (Armenia, Belarus, Russia, Tajikistan, Turkmenistan), compensation for damage caused or elimination of damage (Ukraine, Turkmenistan), mitigating circumstances, not punishment but liability (Turkmenistan), presence of children under 14 years of age in the care of the perpetrators (Armenia, Belarus, Azerbaijan, Russia, Tajikistan, Kazakhstan), family with many children is considered a mitigating circumstance in sentencing (Turkmenistan).

In practice, the institution of plea bargaining and sentencing for crimes committed under plea bargaining is widely used (in Russia, Kyrgyzstan, and the USA). In this case, the researcher proposed to apply Article 57 of the Criminal Code.

It was also suggested not to impose long prison sentences for crimes that have not been completed in the case.

In the Criminal Code of Russia, Belarus, Kazakhstan, Moldova, Azerbaijan, Kyrgyzstan, Turkmenistan, Tajikistan, and Georgia, issues related to the imposition of punishment for crimes committed with participation are placed in a separate article. This provision is proposed to be separately reflected in Article 58 of our national criminal legislation.

For each committed crime, a separate punishment shall be appointed on aggregate of crimes; if the aggregate of crimes consists of crimes of small or medium severe or attempts to commit a severe or especially severe crime, the final punishment shall be compensation for a less severe crime planned to appoint punishment with a stricter punishment or partial compensation of appointed punishments, or full inclusion (Russia, Kazakhstan, Azerbaijan, Moldova, and Lithuania). Such an approach in the Criminal Code serves to prevent judicial errors that may be made when imposing punishment for a set of crimes in law enforcement practice. The final sentence for a set of crimes is imposed by compensating a lesser punishment by a more severe punishment, and when equal punishments are imposed for each crime, one punishment is fully compensated by another (Georgia). It is substantiated that only the rule of full or partial addition (except for long and life imprisonment) should be applied when imposing punishment for this group of crimes.

At partial or full addition of punishments for a combination of crimes and several punishments, one day of imprisonment is equal to two days of restriction of freedom, eight hours of compulsory works (Russia, Tajikistan), and at addition of punishments on the aggregate of crimes and aggregate of punishments, one day of imprisonment is equal to two days of restriction of freedom, twenty-four hours of public works (Belarus), determined accordingly.

In Japan, sentencing norms for recidivism are explicitly defined in penal law rather than in criminal law. In some countries, the concept of recidivism is not considered in the Criminal Code, and issues related to recidivism are defined as crimes committed by convicted persons (Sweden, Finland, and Norway)<sup>41</sup>.

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<sup>41</sup> <https://cyberleninka.ru/article/>

In the Criminal Code of most of the studied countries, namely Belarus, Latvia, Lithuania, Estonia, and Azerbaijan, the main characteristics of recidivism are: the concept of recidivism is considered an institute of criminal law; recidivism includes the repetition of crimes; and the content of the Criminal Law consequences for previously committed crimes, recidivism is manifested in the imposition of a stricter punishment on a person in order to deter him/her from committing a new crime.

In France, Japan, and Korea, recidivism is not divided into types of crimes according to the severity of crime, but is only taken into account in sentencing.

According to several decisions, the amount of final punishment imposed for a newly committed crime should be more than the unserved part of the punishment imposed by a previous court decision (Russia, Azerbaijan, Armenia, Belarus, Kazakhstan, Moldova, and Turkmenistan).

In the Criminal Code of Moldova, the rule of individualization of punishment is applied, according to which a person found guilty of committing a crime shall be sentenced to a just punishment within the limits provided for by the Special Part of the Code and in accordance with the provisions of the Criminal Code of Moldova. General Part. A stricter punishment than the alternative punishments provided for the commission of a crime may be imposed if a lighter punishment does not ensure the achievement of the purpose of punishment. When applying punishment by deprivation of liberty, the reason must be justified by the court.

Criminal legislation of the PRC provides for deprivation of political rights, that is, the right to elect and be elected; public speeches, publications, participation in meetings, trips, demonstrations of freedom of rights; occupation of positions in state bodies; state-owned companies, enterprises, and organizations are deprived of the right to hold managerial positions as the main punishment. The term of deprivation of political rights is set from 1 to 5 years.

According to the Criminal Code of the Ukraine, it is established that if a person has served a sentence of imprisonment or restriction of freedom for exemplary behavior and a conscientious attitude to work, the court may cancel the criminal record before the expiration of these specified terms. However, according to the Criminal Code of Moldova and Belarus, after serving the imposed sentence, the court may cancel the criminal record before the expiry of these specified periods. The author argues that the application of the rule of mitigation of all major sentences imposed does not allow a person to be sentenced to a stricter punishment for a subsequent offense.

In addition, taking into account the social significance of sexual violence against juveniles, taking into account the social significance of sexual violence committed against juveniles, based on the theoretical views expressed by scientists on the prevention and combating of crimes against sexual freedom committed against juveniles, and based on the analysis of materials of law enforcement practice and legislation of foreign countries, it is proposed to include chemical castration as a punishment.

In this chapter, the dissertation shows that the minimum term of punishment by restriction of freedom and imprisonment for juveniles is longer than for adults, and substantiates that the minimum term of these punishments should be set at 1 month in accordance with the principle of justice.

## CONCLUSION

As a result of the dissertation research on the theme “Theoretical and practical aspects of punishments for crime”, the following theoretical, and scientific, and practical conclusions were drawn:

### **I. Scientific and theoretical conclusions:**

1. Historical processes of development of the institute of punishment are divided into the following periods:

- a) ancient times (Avesta, Hammurabi, and Code of Yasa);
- b) the period of Shariah norms. The 50s of the VIII–XIX centuries (Holy Qur’an, Hidayah, Timur's rules);
- c) the period of colonialism of Tsarist Russia (50s of the 19th century and 20s of the 20th century);
- d) the period of the former union (1922–1995);
- e) the period of independence (from 1995 to the present).

2. The author defined punishment as follows:

the imposition of punishment – an institution of criminal law that regulates issues relating to the principle of proportionality applied to a person found guilty by the court and the choice of a particular punishment to the purpose of the punishments provided for by the criminal law, giving instructions on the basis of the amount and duration of the sentence.

3. The person who has not served the full term of punishment for the earlier committed crime, and also the person conditionally paroled from serving punishment, and during the uncompleted part of punishment, conditionally paroled from punishment on the basis of the act on amnesty or the uncompleted part of punishment is replaced by milder punishment. Application of a measure of punishment for the purpose of committing a new crime, regardless of the nature of the crime, during the probationary period of the person whose sentence has been replaced by milder punishment is considered to be a sentence based on multiple sentences.

4. Punishment for an uncompleted crime - the application of punishment by the court for an act that has the signs of a crime, does not involve committing socially dangerous acts, or does not have criminal consequences (at the stage of preparation or attempt to commit a crime).

5. The object of punishment are elements of legal position (status) of the person recognized by the court as guilty in commitment of a crime (rights, duties, and legitimate interests providing the possibility of punishment under the criminal law).

6. The algorithm of punishment was defined as follows:

the algorithm of assignment of punishment is a strict sequence of actions that must be carried out by courts in accordance with criminal law to assign a strict punishment to a person who has committed a crime.

7. When imposing punishment, courts shall adhere to the following algorithm for imposing punishment:

- 1) consideration of the planned punishment in accordance with the legality, equality of citizens under the law, democracy, humanity, justice, liability for guilt, inevitability of liability, and the principles of proportionality in the Criminal Code;
- 2) to discuss the issue of exemption from liability or punishment in accordance

with Articles 65, 66, 70, and 71 of the Criminal Code;

3) examination of the nature of social danger of the crime, that is, the object of assault (life and health, property, public safety, etc.), the type of crime, and the category of criminal act in the law;

4) the degree of social danger of the crime, that is, the degree of realization of criminal intent, the stage of the crime, the manner of committing the crime, the extent of damage or severity of consequences, and the degree of participation of the accused in the commission of the crime;

5) to analyze the objective characterizing the personality of the perpetrator (age, sex, pregnancy) and social factors (criminal record, behavior in the family, society, occupation, state or public position, etc.);

6) to study the existence of situations in which it is possible to correct morality without separating the morality of the perpetrator from society;

7) to analyze all the options available in the law for assigning to the guilty person punishments not involving deprivation of liberty, including the presence of alternative punishments in the sanctions of the article or articles, the question of the necessity to apply a punishment involving deprivation of liberty in the sentence;

8) examination of mitigating and aggravating circumstances;

9) verify the existence of grounds for imposing a milder punishment than that provided for the committed crime;

10) consider and take into account the presence or absence of features provided for in Articles 81–90 of the Criminal Code when imposing punishment on juveniles;

11) when considering a criminal case on appeal and cassation, it is necessary to verify whether the general principles of sentencing have been observed and whether the punishment imposed is proportionate to the severity of the crime and the personality of the convicted person.

8. Characteristics of the subject of criminal punishment:

the court is the only authorized body imposing punishment for committing a crime;

legal documents enshrine an appropriate powers and duties of the subject imposing punishment in the field of imposing punishment;

to provide the state with organizational, social, material, and other necessary measures for the full functioning of the punishment body.

9. Application of the new principle of proportionality in the Criminal Code, which includes the following ideas:

a) laws do not impose excessive obligations on people but ensure the stable continuation of their lives;

b) it is advisable to prevent the imposition of duties that are difficult or impossible for one person to fulfill while protecting rights and freedoms.

10. Based on the analysis of criminal legislation of a number of foreign countries (Russia, Azerbaijan, and Kazakhstan), taking into account that conditional conviction in Article 72 of the Criminal Code of the Republic of Uzbekistan is a type of punishment, it was proposed to transfer this norm to the general principles of punishment.

11. It is appropriate to introduce punishment in the form of chemical castration for persons who have violated the sexual inviolability of juveniles (pedophiles who

have committed crimes against sexual freedom). (Such punishment exists in Kazakhstan, Ukraine, Germany, Norway, Sweden, Denmark, Israel, South Korea, France, and the USA. They are executed in China, Latin American countries, Saudi Arabia, and Iran). Statistics show that crimes related to pedophilia in Uzbekistan are increasing every year. (In 2022 alone, 238 people were found guilty of sexual intercourse with children under 16, and in the first six months of 2023, 257 people were sentenced for such acts).

12. The following criteria for individualization of punishments in the imposition of punishment:

a) general criteria used in assigning punishment for any crime (the nature of the crime and the degree of social danger, the cause of the act, the nature and extent of the harm, the personality of the perpetrator, mitigating and aggravating circumstances);

b) special criteria reflecting the peculiarities of the punishment imposed for individual crimes (criteria related to the degree of participation in the crime, completeness);

c) additional criteria to be taken into account by the courts when imposing certain types of punishment (not to impose punishment in the form of restriction of liberty on military service, foreign citizens, or persons who do not have a permanent place of residence in the territory of the Republic of Uzbekistan, who have committed a crime of low social risk, who committed the crime recklessly and intentionally, based on the non-imposition of imprisonment for a minor crime against pregnant women and women with children under three years of age, as well as against persons entitled to receive an old-age pension in accordance with the law);

13. Certain norms of criminal legislation concerning the imposition of punishment should be clearly defined, giving courts the opportunity to apply punishment at their discretion. (from the norm of part 4 of Article 34 of the Criminal Code “a person may be recognized as a dangerous recidivist” in part 5 “when deciding the issue of recognizing a person as a particularly dangerous recidivist, the fact that he or she has been convicted under the sentences of courts of other countries may also be taken into account”, it is advisable to change the sentences “uses”, “finds”, “takes into account”).

14. If the court does not consider it necessary to apply Article 57 of the Criminal Code, it shall justify it in the sentence.

15. As a theoretical rule, two different methods of sentencing in individual cases have been developed:

a) taking into account all circumstances, consecutively or

b) the imposition of punishment by applying the lightest of benefits.

## **II. Suggestions for the improvement of criminal legislation:**

1. The exclusion of the provision of Article 32 of the Criminal Code from the General and Special Parts of the Criminal Code is justified.

2. Article 33 of the Criminal Code shall be amended as follows:

### **Article 33. Cumulative Crime**

The commission of two or more punishable criminal acts provided for by the

Special Part of this Code, if a sentence imposed on a person for any of them **has not come into legal force**, shall be recognized as a set of crimes.

**A crime consisting of several homogeneous criminal acts covered by common intent and directed to a single purpose shall not be considered as a set of crimes (continuous).**

**A crime consisting in non-fulfillment of one's duties for a long time, forming a continuous structure of one crime (long-term) shall not be considered as a set of crimes.**

**Committing of one act, including several structures of a crime, provided by two and more Articles of the Special Part of the Code, if it is not completely provided by one of these norms, shall be recognized as a cumulative crimes".**

If one act committed by a person contains signs of crimes provided by different parts of one and the same Article of the Special Part of the Code, punishment shall be appointed on a part of Article providing more severe punishment.

3. Article 34 of the Criminal Code shall be amended as follows:

#### **Article 34. Recidivism**

**Part 2. Excluded.** The exclusion of the words "recidivist", "dangerous recidivist", and "especially dangerous recidivist" from Article 56 of the Criminal Code and Articles of the Special Part of the Criminal Code is justified.

**Part 4.** A person shall be recognized as a high-risk recidivist **only by court decision.**

**Part 8. In case a particularly dangerous recidivist commits a crime provided for by the Special Part of the Criminal Code, the punishment provided for by the most severe part of this Article shall be imposed on him.**

4. Part 3 of Article 46 of the Criminal Code shall be amended as follows:

#### **Article 46: Correctional labour**

**Part 3.** Correctional labour shall not be imposed on person of pension age, under **16 ears of age**, disabled, pregnant women, and women with children under three ears of age, military service.

5. It was proposed to add the following additional Articles to Article 55 of the Criminal Code:

#### **Article 55: Mitigating circumstances**

The following circumstances shall be recognized as mitigating circumstances:

absence of a claim by the victim (civil plaintiff);

the provision of medical or other assistance to the victim after the commission of the crime;

the presence of a juvenile in the custody of the perpetrator.

6. It is proposed to supplement Article 57 of the Criminal Code with Part 4:

**Part 4. This rule does not apply to persons who have committed a crime against the sexual inviolability of juveniles (except when such a crime is committed by a juvenile against a juvenile between aged fourteen to eighteen ears).**

7. The removal of Article 57<sup>1</sup> of the Criminal Code from the Criminal Code was justified.

8. Article 57<sup>2</sup> of the Criminal Code shall be amended as follows:

**Article 57<sup>2</sup>. Punishment of crimes related to plea bargaining.**

**Part 2.** The court should also consider the application of Article 57 of this Code in the imposition of punishment.

**8. Part 3 of Article 58 of the Criminal Code shall be amended as follows:**

**Article 58. Penalty for uncompleted crime**

**Part 5.** Long and life imprisonment may not be imposed for uncompleted crimes.

**9.** Article 58<sup>1</sup> of the Criminal Code shall be amended as follows:

**Article 58<sup>1</sup>. Penalty for joint crime**

**When imposing punishment for a crime committed in complicity, the court shall take into account the nature and degree of participation in the crime of each perpetrator. Mitigating and aggravating circumstances relating to the personality of each participant will be taken into account by the court only when imposing punishment on that participant.**

**The participation of two or more persons in the commission of a crime by means of prior conspiracy is considered to be compound participation, and the punishment shall be imposed under the Article “by prior conspiracy by a group of persons” of an appropriate Article of Special Part of the Criminal Code. Also, if two or more persons commit a crime two or more times for the purpose of joint implementation of criminal activity, it shall be considered that it is committed by an organized group, and punishment shall be imposed under the norm provided by the aggravating circumstance of Article “by a member of an organized group” of the Special Part of the Criminal Code.**

**10.** Article 59 of the Criminal Code shall be amended as follows:

**Article 59. Inflicting Penalty in Instance of Multiple Crime**

**Part 1.** If a person has committed two or more crimes for any of which a sentence has come into legal force and has not been convicted, the court shall inflict a penalty for each act in accordance with the rules provided for in Article 54 of this Code, and then, by joining them in whole or in part to the continuous punishment shall impose. **In this case, if a set of crimes consists only of crimes with low social risk and less severe crimes, the punishment imposed shall be half of the maximum amount and term of the type of punishment provided for by the General Part of this Code. If one of the crimes constituting a set of crimes is a severe or extremely severe crime, the punishment imposed shall not exceed the maximum amount and term of the type of punishment provided for by the General Part of this Code.**

**Article 8.** If a convicted person is found guilty of another crime committed prior to the conviction, the sentence shall be imposed in the same manner. **In this case, the punishment imposed on the first sentence shall be added in whole or in part to the punishment imposed by the court on the set of crimes, and the term of the conditional punishment shall be calculated from the day of serving the sentence imposed upon the first conviction.**

**Part 9.** If the person is sentenced to conditional punishment for the crime committed by the person in accordance with Article 72 of the Criminal Code, in case of discovery before the court verdict of another crime, taking into account

**that sanction for this crime provides: at assignment only of punishment in the form of imprisonment, the defendant shall be sentenced to punishment in the form of imprisonment and probation period in connection with conditional punishment. The execution of the new punishment shall be calculated from the moment of the beginning of the first probationary period.**

**Part 10. The maximum sentence for several crimes shall not exceed twenty years (except in cases of long-term imprisonment or life imprisonment).**

**11. Article 60 of the Criminal Code shall be amended as follows:**

**Article 60. Inflicting Penalty in Instance of Multiple Sentence**

**Part 1.** If the convicted person has committed a new crime after the sentence has been issued and come into legal force, the court shall add to the punishment imposed on the new sentence the punishment that has not been served due to the previous sentence in whole or in part.

**Part 5.** In cases when correctional labour or restriction on service are appointed on the basis of several convictions, and also different amounts of deductions from salary or monetary maintenance are determined, only terms of these punishments shall be added. Accordingly, in such cases, when a punishment in the form of long-term correctional labour is appointed, the maximum amount of deductions from wages or money content shall be determined. These rules should also be observed at assignment of punishment for commission of several crimes in accordance with Article 59 of the Criminal Code.

**Part 7. The amount of punishment appointed successively for several convictions cannot be less than the unseved part of punishment for the previous conviction.**

**12. Part one of Article 61 of the Criminal Code shall be amended as follows:**

**Article 61. Rules of Credit in Case of Joinder of Penalties**

**If the punishments for multiple crimes and multiple convictions are added together:**

**a) one day of deprivation of liberty - ½ of the fine; two days of restriction of liberty; one day of committing to a disciplinary unit; three days of correctional labor or service restriction; for two hours of compulsory community service;**

**b) 1/3 of a fine for one day of restriction of liberty, three days of correctional labor or service restriction; for two hours of compulsory community service;**

**c) 1/4 of a fine for one day of correctional labor, one and a half hours of compulsory community service;**

**g) two hours of compulsory community service equal to 1/5 of the fine (mmw).**

**When combining punishment in the form of deprivation of a certain right with deprivation of liberty, committing to a disciplinary unit, restriction of liberty, restriction on service, correctional labour, compulsory community service, each of them shall be executed individually.**

**13. Article 62 of the Criminal Code shall be amended as follows:**

**Article 62. Rules for counting the time of detention, imprisonment or house arrest**

**Part 1.** For each day of detention, imprisonment or house arrest, when sentencing the court:

- a) **two days** of restriction of liberty;
- b) for one day of committing to a disciplinary unit—deprivation of liberty;
- v) three days of correctional labour or service restriction;
- g) equal to four hours of compulsory community service.

14. Article 74, paragraph 4 of the Criminal Code shall be amended as follows:

#### **Article 74. Mitigation of Penalty**

Part 4. At substitution of unserved term of penalty in the form of imprisonment or restriction of liberty by correctional labour, correctional labour shall be appointed for the term of unserved part of punishment in the form of imprisonment or restriction of liberty. The mitigated term of punishment can exceed the term provided by Article 46 of the Criminal Code. This rule applies when punishment is imposed on the basis of Article 59, paragraph 8, of the Criminal Code or Article 60 of the Criminal Code.

15. Article 79 of the Criminal Code is proposed to amend as follows:

#### **Article 79. Reversal of conviction**

If a person has not been subjected to administrative punishment or disciplinary measures after serving the sentence, the court, upon the petition of a public association, citizens' self-government body, collective or a person who has served the sentence, may reverse his criminal record after the expiration of at least half of the terms stipulated in Article 78 of this Code.

16. Article 83 of the Criminal Code shall be amended as follows:

#### **Article 83. Correctional labour**

**Part 1.** Correctional labour shall be assigned for a period of one month to one year only for persons over 16 years of age who are able to work, at their place of employment, or if the offender is not employed anywhere, at other places in the area where he or she lives, as determined by the bodies supervising the execution of this punishment.

17. Article 84<sup>1</sup> of the Criminal Code shall be amended as follows:

#### **Article 84<sup>1</sup>. Restriction of liberty**

Restriction of liberty shall be appointed for a period from one month to two years as the main punishment for juvenile convicts.

18. Article 85 of the Criminal Code shall be amended as follows:

#### **Article 85. Deprivation of liberty**

**Part 1.** A sentence of deprivation of liberty for juveniles is imposed for a period of one month to ten years, except for the cases provided for in the second, third, and fourth parts of Article 86 of the Code.

### **III. Recommendations for improving judicial practice:**

**Regulation “On the procedure for organizing the execution of punishment in the form of compulsory community service”, approved by the decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 346 of May 8, 2018.**

1. **Paragraph 15, second sentence.** The time of performance of compulsory community service by a juvenile shall not exceed two hours on weekends and days when the convicted person is not engaged in study or main work and on weekdays and days of study—not more than two hours, but three days a week.

**2. Plenum of the Supreme Court of the Republic of Uzbekistan on 14.11.2007. No. 15 in its decision “On some issues of the application of punishment in the form of life imprisonment”.**

3. Clarify to the courts that long-term deprivation of liberty for more than twenty ears but not more than twenty-five ears, as provided for in Article 50, paragraph 3, of the Criminal Code, is a form of deprivation of liberty that may be imposed only in cases of aggravated manslaughter and manslaughter or other serious consequences. Punishment by the court in respect of these crimes by long-term imprisonment is excluded by law in the form of life imprisonment (e.g., for an uncompleted crime (this sentence is excluded)), and depending on the circumstances of the case, the court may impose a sentence of long-term imprisonment or fifteen ears' imprisonment on the perpetrator. It is proposed to clarify that it may be imposed in cases where it would be concluded that the punishment of deprivation of liberty for a term of up to twenty ears is not appropriate.

**3. A new version of the decision of the Supreme Court Plenum of the Republic of Uzbekistan dated February 3, 2006, No. 1, “On the practice of sentencing for crimes by the courts” , has been drafted.**

**НАУЧНЫЙ СОВЕТ DSc.07/13.05.20.Yu.22.03 ПО ПРИСУЖДЕНИЮ  
УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ  
ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

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**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ  
УНИВЕРСИТЕТ**

**РОЗИМОВА КУНДУЗ ЮЛДАШЕВНА**

**ТЕОРЕТИЧЕСКИЕ И ПРАКТИЧЕСКИЕ АСПЕКТЫ НАЗНАЧЕНИЯ  
НАКАЗАНИЯ ЗА ПРЕСТУПЛЕНИЕ**

12.00.08 – Уголовное право. Криминология. Уголовно-исполнительное право

**АВТОРЕФЕРАТ**

**диссертации доктора юридических наук (Doctor of Science)**

**г.Ташкент – 2024 г.**

**Тема диссертации доктора наук (Doctor of Science) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инноваций Республики Узбекистан № В2022.2.DSc/Yu207.**

Диссертация выполнена в Ташкентском государственном юридическом университете. Автореферат диссертации размещен на трех языках (узбекском, английском, русском (резюме)) на веб-сайте Научного совета (<https://tsul.uz/uz/fan/avtoreferatlar>) и Информационно-образовательном портале «Ziynet» ([www.ziynet.uz](http://www.ziynet.uz)).

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**Университет общественной безопасности  
Республики Узбекистан**

Защита диссертации состоится 9 февраля 2024 года в 14<sup>00</sup> на заседании Научного совета DSc.07/13.05.20.Yu.22.03 при Ташкентском государственном юридическом университете (Адрес: 100047, г. Ташкент, ул. Сайилгох, 35. Тел.: +99871 233-66-36; факс: +99871 233-37-48; e-mail: [info@tsul.uz](mailto:info@tsul.uz)).

С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрировано за № 1234). (Адрес: 100047, г. Ташкент, ул. Амира Темура, 13. Тел.: +99871 233-66-36).

Автореферат диссертации разослан 26 января 2024 года.

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## **ВВЕДЕНИЕ (аннотация диссертации доктора наук (DSc))**

**Цель исследования** заключается в обеспечении решения выявленных проблем на основе всестороннего изучения теоретических и практических вопросов института наказания за преступления, разработке предложений и рекомендаций по совершенствованию соответствующих норм Уголовного кодекса.

**Объектом исследования** является система уголовно-правовых отношений, связанных с назначением наказания за преступление.

**Научная новизна исследования** заключается в следующем:

обосновано, что при назначении наказания за преступления, по которым заключено соглашение о признании вины, срок или размер наказания не должны превышать половины максимального наказания, предусмотренного соответствующей статей (частью) Особенной части Уголовного кодекса;

обосновано, что срок лишения свободы для женщин, а также мужчин старше 60 лет, в том числе в случаях, когда наказание назначается по совокупности преступлений и нескольких приговоров, – предусмотрено санкцией соответствующей статьи (части статьи) Особенной части Уголовного кодекса. Лишение свободы не может превышать двух третей максимального срока. Предложение о наказании женщин, а также мужчин старше 60 лет к меньшему или иному более легкому наказанию, чем срок лишения свободы;

обосновано, что один день ограничения свободы, включая различные виды основных наказаний, соответствует трем дням исправительных работ или ограничения по службе;

обосновано, что замена наказания в виде штрафа (часть 3 статьи 44 УК) – назначается на срок не более трех лет, исходя из размера базовой расчетной величины, действующей на момент вынесения приговора;

обосновано, что при назначении наказания несовершеннолетним должны соблюдаться требования статей 82–86 УК, а статья 57 УК не применяется. Предложение о признании подсудимого виновным освобождает от других более легких видов наказаний, не предусмотренных соответствующей статей Особенной части УК;

обосновано правило о том, что срок или размер наказания за приготовление к преступлению и покушение на преступление не может превышать трех четвертых максимального наказания, предусмотренного соответствующей статей Особенной части УК, не применяется при назначении наказания за неоконченные преступления против мира и безопасности, а также преступления, связанные с: изнасилованием или насильственным удовлетворением половой потребности в противоестественной форме в отношении потерпевшего, не достигшего восемнадцати лет; половым сношением или удовлетворением половой потребности в противоестественной форме с лицом, не достигшим шестнадцати лет; ввозом на территорию Республики Узбекистан с целью распространения, рекламирования, демонстрации, а равно изготовлением, распространением, рекламированием, демонстрацией порнографической

продукции с описанием или изображением несовершеннолетнего либо вовлечением несовершеннолетнего в качестве исполнителя в действия порнографического характера; сводничеством, организацией или содержанием притонов разврата с привлечением несовершеннолетнего.

**Практические результаты исследования состоят в следующем:**

– на основе теоретических воззрений ученых, анализа норм действующего законодательства дано авторское определение понятиям «назначение наказания», «алгоритм назначения наказания», «объект назначения наказания», «назначение наказания за неоконченное преступление», «назначение наказания по нескольким приговорам»;

– проанализировав действующее уголовное законодательство об общих основаниях назначения наказания, постановления Пленума Верховного суда, в целях предотвращения различных толкований правовых норм выдвигается и обосновывается предложение об исключении таких отягчающих обстоятельств, как повторность, опасный рецидивист и особо опасный рецидивист, из статьи 56 УК РУз и соответствующих статей Особенной части УК, а также в статье 34 УК РУз в случае совершения особо опасным рецидивистом преступления, предусмотренного Особенной частью УК РУз, определении наказания, предусмотренного наиболее тяжелой частью этой статьи;

– на основе практики правоприменения, анализа результатов общественного опроса, проведенного среди судей, норм уголовного права некоторых зарубежных стран выдвинуто предложение об исключении действующей статьи 57<sup>1</sup> УК, которая предусматривает назначение наказания при деятельном раскаянии виновного в содеянном;

– разработаны предложения по совершенствованию уголовного законодательства с целью обеспечения либерализации в практике правоприменения при заключении соглашения о признании вины, то есть при раскрытии особо тяжких преступлений;

– на основе анализа практики правоприменения, норм уголовного права некоторых зарубежных стран, а также следуя принципам справедливости и неотвратимости ответственности, обосновано предложение об исключении из действующего Уголовного кодекса института повторного преступления и назначении наказания за такую категорию преступлений в качестве совокупности преступлений.

Предложение о том, что срок или размер наказания за приготовление к преступлению и покушение на преступление, не может превышать трех четвертых максимального наказания, предусмотренного соответствующей статьей Особенной части УК, не применяется при назначении наказаний за неоконченные преступления против мира и безопасности, а также преступления, связанные с: изнасилованием или насильственным удовлетворением половой потребности в противоестественной форме в отношении потерпевшего, не достигшего восемнадцати лет; половым сношением или удовлетворением половой потребности в противоестественной форме с лицом, не достигшим шестнадцати лет; ввозом

на территорию Республики Узбекистан с целью распространения, рекламирования, демонстрации, а равно изготовлением, распространением, рекламированием, демонстрацией порнографической продукции с описанием или изображением несовершеннолетнего либо вовлечением несовершеннолетнего в качестве исполнителя в действиях порнографического характера; сводничеством, организацией или содержанием притонов разврата с привлечением несовершеннолетнего, – отражено в Законе Республики Узбекистан от 11 апреля 2023 года № ЗРУ–829.

**Внедрение результатов исследования.** На основе результатов исследования теоретических и практических вопросов назначения наказания за преступления:

предложения о назначении наказаний за преступления, в отношении которых установлено соглашение о признании вины, то есть срок или размер наказания, назначаемого за преступления, в отношении которых заключено соглашение о признании вины, не должен превышать половины максимального наказания, предусмотренного соответствующей статей (частью статьи) Особенной части Уголовного кодекса, нашли отражение в статье 1 Закона Республики Узбекистан «О внесении изменений и дополнений в Уголовный и Уголовно-процессуальный кодексы Республики Узбекистан» от 18 февраля 2021 года № ЗРУ–675, статье 57-2 Уголовного кодекса (Акт Генеральной прокуратуры Республики Узбекистан от 6 апреля 2022 года № 27/2-59-22). Данное предложение касается упрощенной формы передачи дела в суд, и его внедрение послужило прекращению ненужного отвлечения граждан, повышению эффективности работы, улучшению защиты прав, свобод и законных интересов человека;

в соответствии с частью шестой статьи 50 УК срок лишения свободы для женщин, а также мужчин старше 60 лет, в том числе в случаях, когда наказание назначается по совокупности преступлений и нескольких приговоров, – предусмотрено санкцией соответствующей статьи (части статьи) Особенной части Уголовного кодекса, и лишение свободы не может превышать двух третей максимального срока. Предложение о наказании женщин, а также мужчин старше 60 лет к меньшему или иному более легкому наказанию, чем срок лишения свободы, предусмотренный соответствующей статей (частью статьи) Особенной части УК с применением статьи 57 УК, отражено в пункте 28 Постановления Пленума Верховного суда Республики Узбекистан «О практике назначения судами уголовного наказания» от 3 февраля 2006 года № 1 (справка Верховного суда Республики Узбекистан от 9 августа № 08/599-23). Внедрение этого предложения послужило улучшению защиты прав, свобод и законных интересов человека;

один ден ограничения свободы, включая различные виды основных наказаний, соответствует трем дням исправительных работ или ограничения по службе. Предложение отражено в пункте 51 Постановления Пленума Верховного суда Республики Узбекистан «О внесении изменений и дополнений в некоторые постановления Пленума Верховного суда

Республики Узбекистан» от 14 мая 2022 года № 9, Постановлении Пленума Верховного суда Республики Узбекистан «О практике назначения судами уголовного наказания» от 3 февраля 2006 года № 1 (справка Верховного суда Республики Узбекистан от 7 ноября 2023 года № 08/877-23). Внедрение данного предложения послужило улучшению защиты прав, свобод и законных интересов человека;

замена наказания в виде штрафа (часть 3 статьи 44 УК), – назначается на срок не более трех лет, исходя из размера базовой расчетной величины, действующей на момент вынесения приговора. Предложение нашло отражение в Постановлении Пленума Верховного суда Республики Узбекистан «О внесении изменений и дополнений в некоторые постановления Пленума Верховного суда Республики Узбекистан» от 14 мая 2022 года № 9, в третьем абзаце первой части пункта 27 Постановления Пленума Верховного суда Республики Узбекистан «О практике назначения судами уголовного наказания» от 3 февраля 2006 года № 1 (справка Верховного суда Республики Узбекистан от 7 ноября 2023 года № 08/877-23). Внедрение этого предложения послужило усилению защиты прав, свобод и законных интересов человека;

при назначении наказания несовершеннолетним должны соблюдаться требования статей 82–86 Гражданского кодекса, а статья 57 Гражданского кодекса не применяется. Предложение о признании подсудимого виновным освобождает от других более легких видов наказаний, не предусмотренных соответствующей статьей Особенной части УК. Предложение нашло отражение в пункте 10 Постановления Пленума Верховного суда Республики Узбекистан «О внесении изменений и дополнений в некоторые постановления Пленума Верховного суда Республики Узбекистан» от 14 мая 2022 года № 9, в пункте 3 постановления Пленума Верховного суда Республики Узбекистан «О судебной практике по делам о преступлениях несовершеннолетних» от 15 сентября 2000 года № 21 (справка Верховного суда Республики Узбекистан от 7 ноября 2023 года № 08/877-23). Внедрение данного предложения послужило усилению защиты прав, свобод и законных интересов человека;

предложение о том, что срок или размер наказания за приготовление к преступлению и покушение на преступление не может превышать трех четвертых максимального наказания, предусмотренного соответствующей статьей Особенной части УК РУз, не применяется при назначении наказаний за неоконченные преступления против мира и безопасности, а также преступления, связанные с: изнасилованием или насильственным удовлетворением половой потребности в противоестественной форме в отношении потерпевшего, не достигшего восемнадцати лет; половым сношением или удовлетворением половой потребности в противоестественной форме с лицом, не достигшим шестнадцати лет; ввозом на территорию Республики Узбекистан с целью распространения, рекламирования, демонстрации, а равно изготовлением, распространением, рекламированием, демонстрацией порнографической продукции с описанием

или изображением несовершеннолетнего либо вовлечением несовершеннолетнего в качестве исполнителя в действиях порнографического характера; сводничеством, организацией или содержанием притонов разврата с привлечением несовершеннолетнего, – отражено в Законе Республики Узбекистан от 11 апреля 2023 года № ЗРУ–829 (Акт Генеральной прокуратуры Республики Узбекистан от 25 апреля 2023 года № 27/2-120-23). Внедрение данного предложения послужило защите прав, свобод и законных интересов несовершеннолетних, а также демонстрации на практике принципа гуманности.

**Апробация результатов исследований.** Результаты исследований обсуждены в 9 научно-практических конференциях, в том числе 2 международных и 7 республиканских конференциях.

**Публикация результатов исследований.** По теме диссертации опубликовано 26 научных работ, в том числе 2 монографии, 24 научных статей (6 – в зарубежных изданиях).

**Структура и объем диссертации.** Диссертация состоит из введения, четырех глав, заключения, списка использованной литературы и приложения. Объем диссертации составляет 256 страниц.

**E'LON QILINGAN ISHLAR RO'YXATI**  
**LIST OF PUBLISHED WORKS**  
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