CRIME AND PUNISHMENT SOCIAL PHILOSOPHICAL FEATURES OF INTERNATIONAL AND NATIONAL EXPERIENCES

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The international criminal justice system is a collection of international institutions, such as the International Criminal Court, ad hoc tribunals, international investigative institutions and national criminal justice systems, operating on a complementary model to maximize the capacity and effectiveness of the application of international criminal law.

The effectiveness of this system will depend on a number of measures that are fairly easy to implement. With regard to international crimes under general international law (jus cogens international crimes), such measures include the application of universal jurisdiction, the abolition of laws on the limitation of criminal prosecution, the intensification of criminal prosecution at the national level, the simplification of extradition and mutual legal assistance procedures, the improvement of the procedure for the transfer of proceedings in criminal cases, the transfer of convicts, the recognition of foreign judgments in criminal cases, and the strengthening of interstate cooperation in the seizure and confiscation of property obtained as a result of criminal activity.

National and international prosecution efforts, along with enhanced interstate cooperation in criminal matters, based on international norms, standards of legality and due process3, represent the most effective approach to accountability for international and transnational crimes. In addition to international judicial and investigative bodies, another 189 national legal systems prosecute the same offenders, apply to varying degrees similar legal norms and effectively promote the same goals, which undoubtedly indicates much greater obstacles than the prospects of prosecution solely International Criminal Court.

Deeper interstate cooperation presupposes, however, the existence of effective national criminal justice systems. Unfortunately, this is not always the case, especially in developing and least developed countries, where criminal justice officials in most cases lack sufficient experience. This is even truer for states that have or have only recently overcome civil conflicts and whose legal systems either destroyed or significantly weakened. Many of these states have faced the challenges of a competitive economy and their governments have been unable to allocate resources to criminal justice over other compelling social and economic needs.

This explains the existence of a small number of effective international programs for the reconstruction of national judicial systems in post-conflict situations. Finally, there are repressive regimes that prevent their own justice systems from functioning independently, objectively, fairly and effectively. Due to the above circumstances, a more global approach needed in practice.

The international criminal justice system is nothing more than a global mutual agreement that links the international and national criminal justice systems in an independent, objective, fair and efficient manner in order to carry out the functions for which they intended.

The main question is whether international criminal justice should be considered as an undeniable part of the values, principles and practices of the international legal system, or whether it selectively perceives the characteristic features of national legal systems. In our opinion, the answer to this question lies in the theory of complementarity. The international community, with its diversity of elements and participants, considers the international legal system and national legal systems from the standpoint of mutual complementation, combining their distinguishing features. Consequently, when considering the philosophy and principles of international criminal justice, the interests, goals and values of the international legal system and only in some respects of national legal systems revealed. This is why the philosophy and principles of international criminal justice derive in part from "general principles of law" that go back both to the international legal system and to national rules of law [2].

A comparative assessment of national philosophy and criminal justice policy leads to the conclusion that, despite the heterogeneity of national criminal justice systems, a common historical thread runs through all legal families that unite national legal systems, which be traced for most of them, looking back at about 3,500 years. This is primarily the existence of an implied "social contract", which assumes that a person rejects the right to personal revenge in exchange for the obligation of the state to protect its citizens, and in cases of violation of such a contract, a person is assumed to have agreed in advance with a well-deserved punishment [1]. As a result, every organized community has developed a legal system, wholly or partly arose from the delegation of the right to act in search of revenge or compensation at will, outside the established legal order.

The current situation requires finding ways to solve it. Dissertation studies have shown that the use of the experience of foreign countries can significantly help in this regard. The interest in studying it is due to its increasing influence on national states directly (including through bilateral agreements on the execution of sentences) and indirectly through various international documents: Standard Minimum Rules for the Treatment of Prisoners, European prison. The Rules are the UN Standard Minimum Rules for Non-Custodial Measures, the so-called Tokyo Rules, adopted by the UN General Assembly on 14 December 1990, which list minimum requirements to ensure the application and implementation of alternative measures within the framework of the law, and such facial measurements, etc., without violating the rights of those sentenced to punishment [2].

The practical importance of studying the experience of foreign countries for the Republic of Uzbekistan, as well as a positive trend related to the predominance of non-custodial punishments - fines, compulsory (community) works in the penal practice of most of them also defined, deprivation of various rights (first of all, this applies to European countries and Japan).

Imprisonment is one of the most common punishments used by courts only in some states, notably the USA, Belarus, Ukraine and some other countries.

The study of this experience, based on the socio-philosophical features of international and national experiences of the legislation in the field of crime and punishment, in our opinion, allowed us to formulate a different conceptual approach to the problem of the considered criminal offense: the system of punishments, the conditions of their execution and serving.

The study of the legislation of foreign countries and the criminological situation in Uzbekistan led us to the conclusion that it is necessary to introduce such punishment as the expulsion of foreign citizens from the Republic of Uzbekistan, expanding the practice of transferring convicts who are foreign citizens to their country of citizenship to serve their sentence.

We believe that in the conditions of increased criminalization of society, taking into account the criminogenic situation in the country (an increase in the number of intentional murders, terrorist crimes, etc.), it is premature to talk about the abolition of the death penalty as a type of punishment, the exclusion of the death penalty from the system of punishments is possible only in the future, with the gradual creation of appropriate conditions. Evidence of this is the experience of a number of foreign states. Despite the general trend towards a reduction in the number of states whose criminal laws provide for the death penalty, in some countries the use of this type of punishment not only does not decrease, but continues to grow (USA, China, Arab states, etc.).

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