

General Concepts on Criterias of Crime Classification

Raximjonova Nargizaxon Raximjonovna

Faculty of Criminal Justice, Lecturer at the Department of Criminal law, criminology and anti-corruption of TSUL

Heybatollah Najandiamnesh, PhD

Assistant Professor of International Law at Allameh Tabataba'i University, Tehran, Iran

Abstract: How to classify crimes, how many different forms they should take, has always been the subject of debate in criminal law. Most importantly, the essence of the crimes, the most important features should be reflected in their classification. In such a situation, it is necessary to study the interrelationships that allow to distinguish a certain category of crimes.

Most lawyers point to the social danger of this action as such a sign that it reflects the social nature of the crime. Its qualitative and quantitative indicators are used in the distinction of crimes in order to differentiate criminal liability and individualize punishment.

This article illustrates the types, roles, essence of criterias of crime classification, their views in some countries' Criminal Codes and suggestion in order to improve the Criminal Code of the Republic of Uzbekistan.

Key words: criteria, crime classification, the feature of social danger, the level of social danger, damage caused, guilt.

There have been and still are other views in the science of criminal law¹. According to this, the following were considered as classification criteria: *the amount of damage, the form of guilt, the amount of punishment*.

In our opinion, the term social danger is preserved in criminal law and legislation, as it deals with the criminalization or decriminalization of an act or omission, the separation of crimes from other non-criminal acts, as well as the classification of crimes.

Criteria for classifying crimes are the criteria that distinguish crimes from other offenses.

The lawyers who were the first to comment on the concept of social risk were A.A. Piontkovskiy and N.F. Kuznetsova. The term refers to the serious damage or threat of such damage to social relations. While several lawyers have suggested removing the concept of social danger during the development of criminal law and leaving out the classification of crimes by their legal features, N.F. Kuznetsova, on the contrary, stressed the need for this term². In our opinion, preserving the term social danger in criminal law and legislation, it is essential, as it deals with the criminalization or decriminalization of an act or omission, the separation of crimes from other non-criminal acts, as well as the classification of crimes.

A number of authors prioritize the level of social risk as a key criterion for delimitation of criminal activity. In particular, O.F. Shishov writes: "The concept of the degree of social danger of a criminal act characterizes it both quantitatively and qualitatively"³. Focusing on this criterion, the author notes that some crime groups differ from others in the degree of social risk. In addition, he associates this sign with the criminal punishment, the importance and value of the object of aggression, the amount of damage inflicted, the form of the offense.

Some scholars suggest considering the nature and level of social risk as criteria for classifying crimes. For example, according to N.F. Kuznetsova, "The nature of social danger determines the qualitative nature of the crime. It depends on the nature of the social relations in which the crime is committed, the nature of the consequences (material, physical, moral damage), the specificity of the method of aggression (with or without violence), the forms of guilt. The level of social risk is a quantitative expression of the risk of action.

¹ Кадников Н.Г. Классификация преступлений по уголовному праву России: Дис. канд. юрид. наук. – Москва, 2002.

² Кузнецова Н.Ф. Значение общественной опасности деяний для их криминализации и декриминализации. С. 74.

³ Шишов О.Ф. Преступление и административный проступок. М., 1967.

It is determined by the importance of the object of aggression, the degree of guilt, the motive and purpose of the crime⁴.

A.V. Korneeva also said that in determining the quantitative indicators of crime, a number of factors that determine the level of its social risk, i.e., a number of factors, should be identified, such factors; the severity of the damage, the specifics of the aggression (whether the crime was committed or not, whether committed by one person or a group of persons, the method of the crime, etc.), the nature of the crime, the specifics of the subject of the crime, etc⁵.

Y.M. Brainin and I.I. Carpets et al believe that the nature of social danger is a common feature of certain types of crime. The level of social danger is a sign of the gravity of this type of crime. In addition, the assessment of the nature of social risk is the prerogative of the legislature and and the level of social risk is taken into account by law enforcement agencies⁶.

According to MI Kovalev, "social danger is a material sign of a crime, because its social characteristics are not determined by law, arise from the conditions in society, and then are defined in a particular piece of legislation and therefore prohibited" 56. According to him, social risk is determined by:

- a. type of regulated social relations;
- b. the amount of damage caused and to be delivered;
- c. the identity of the offender and the subjective aspect of the act⁷.

In our opinion, first of all, the social danger of an act depends on how the society perceives it, that is, the society evaluates it. If the citizens living in it cannot accept a certain crime, if their culture, habits, upbringing do not allow it, then the act is considered dangerous for the society.

Based on the above considerations, it can be said that social risk is a measure of how and to what extent a social relationship is damaged as a result of a crime. It has its own character and level, and at the same time expresses both qualitative and quantitative indicators.

The feature of social danger is reflected in the importance of the object of aggression. The reason is that a socially dangerous act harms or endangers a social relationship protected by law. However, it depends on the form of damage (material, physical, spiritual, etc.).

The level of social danger requires consideration of the amount of damage, the method of the crime, the form of the crime, the motive and purpose, and other circumstances. The level of social danger of the crime is reflected in the type and amount of punishment in the sanction of the articles of the Special Part of the Criminal Code. To determine the level of social risk of crimes, the sanctions in the articles of the Special Part are compared. As the penalties in the sanctions of the substances become heavier, their level of social danger increases. However, the question arises as to what the social risk is. In our view, social risk depends on how it is perceived and expressed. Take usury, for example, as this act is a crime under the New York Penal Code⁸, which means it is socially dangerous, but our criminal code does not provide for liability for it. It should be noted that in determining the social danger, it is advisable to pay special attention to the identity of the offender, in particular, the commission of the crime by a dangerous recidivist leads to the qualification of the act with a heavier part of the article. However, in the Criminal Code of Uzbekistan, the legislature provides for non-custodial punishment for some crimes that do not pose a significant social risk (Articles 139-141², Articles 148¹-149, etc.). For example, a person has previously been convicted of an offense under Article 139 of the Criminal Code and has committed a new offense under Article 168. This is the basis for finding the person to be a dangerous recidivist, and the act is qualified under Article 168 § Part 3.

⁴ Советское уголовное право. Общая часть. М., 1969. – С. 72.

⁵ Кorneeva A.B. Понятие и признаки преступления. Уголовное право Российской Федерации. Общая часть. – М; —Юрист, 2001, с. 152.

⁶ Брайнин Я.М. Уголовная ответственность и ее основание в советском уголовном праве. М., 1963. – С. 247.

⁷ Ковалев М.И. Понятие преступления в советском уголовном праве. Q.11.

⁸ <http://nyscrimallaws.com/penal.law/>

Criteria for classifying crimes can also include the form of guilt, the amount of punishment, the damage caused.

For example, in the Criminal Code of the Kyrgyz Republic, crimes are classified according to the maximum amount of imprisonment. The Moldovan Criminal Code classifies crimes based on the nature and extent of the damage caused. The Criminal Code of the Republic of Turkmenistan divides crimes into categories based on the level of social danger and the form of guilt.

In particular, a form of guilt is understood to mean that the act was committed intentionally or negligently. The form of guilt is of great practical importance in the qualification of crimes and the imposition of punishment on them.

First, it helps to more deeply determine the level of danger of the crime.

Second, it allows the assessment of the crime committed and the differentiation within the scope of similar crimes.

In the case of the Criminal Code of the Republic of Uzbekistan, the intentional or negligent commission of a crime, in addition to the above, also affects their classification (only intentional or negligent offenses have a less serious social risk). For example, intentional homicide (Article 97 § 1) is a very serious crime and is punishable by ten to fifteen years' imprisonment, as well as negligent homicide (Article 102 § 1) is a crime of low social risk. is punishable by up to two years of correctional labor or one to three years of restriction of liberty or up to three years of imprisonment.

The nature and extent of the damage caused by the crimes are one of the criteria for classifying the crimes. Its distinctive feature is that the punishment for crimes is determined not only by their social danger, but also by the consequences. Here, for example, some norms of the Moldovan Criminal Code related to the death of a person and other serious consequences as a result of violation of the same rules. In particular, possession, production or use of radioactive materials or devices or nuclear facilities (Article 2951), crimes against the safety of water transport (Article 2892), crimes against aviation safety and airport security (Article 2891) if such an outcome occurs, the penalty is 10 to 15 years in prison, which is a serious crime.

Norms related to the death of a person and other serious consequences as a result of violation of the same rules are also provided for in the Criminal Code of the Republic of Uzbekistan⁹.

In our view, the legislature took into account the social risk of the crimes, but did not pay attention to the consequences. It is clear from the amount of penalties established by law that these crimes are less serious crimes (death of a person is mainly caused by negligence)¹⁰. In our opinion, it would not be correct to say that the act that caused the death of a person or the death of a person is a less serious crime¹¹. Because a person's life is the most precious object protected by criminal law. In addition, Article 24 of the Constitution of the Republic of Uzbekistan states that the right to life is an inalienable right of every person, and assassination is the most serious crime.

Therefore, in classifying crimes, taking into account the nature and degree of their social danger, as well as the damage caused, we propose to amend Part 1 of Article 15 of the Criminal Code of the republic of Uzbekistan as follows:

“Crimes are characterized by the nature and degree of social risk and the nature and extent of the damage caused: crimes with low social risk; less serious crimes, serious crimes, very serious crimes”¹².

⁹ Criminal code of the Republic of Uzbekistan

¹⁰ Rakhimjonova, Nargizakhon Rakhimjonovna. "Classification System of Crimes in Criminal Code of the Republic of Uzbekistan." *Psychology and Education Journal* 58.1 (2021): 1094-1101.

¹¹ Камалова, Дильдора Гайратовна, and Наргиза Рахимжоновна Рахимжоновна. "Жиноятларни таснифлаш тизими ва мезонларини такомиллаштиришнинг айрим масалалари." *ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ СПЕЦИАЛ* 3 (2020).

¹² Рахимжоновна, Наргиза. "Система уголовного наказания как критерий для классификации преступлений." *Review of law sciences* 4. Спецвыпуск (2020).

In conclusion, we can cite as criteria for the classification of crimes the nature and degree of social danger of the crime, the size, nature and extent of the damage caused, the form of guilt, the amount of punishment. Article 15 of the Criminal Code of the Republic of Uzbekistan classifies crimes according to the nature and level of social danger. Crimes are punished according to their classification criteria. For example, the sanction provides for a higher penalty for high-risk crimes and a lower penalty for relatively low-risk crimes. The main purpose of such a classification is to differentiate the socially dangerous act and to determine the appropriate punishment.

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