



## THE ROLE OF PARDON IN CRIMINAL LAW

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### ANNOTATION

*This article deals with the essence of applying oblivion from the humane point of view, some limits of trial rights system and legislation of the Republic of Uzbekistan as well as the place of criminal policy as the bright humane institute.*

**KEYWORDS:** *amnesty, forgive, criminal rights, legislation, humanism, decrime, adaptation, the system of trial rights.*

### INTRODUCTION

In Uzbekistan, human rights, freedoms and legitimate interests are identified as one of the highest priority areas for the development of society and state building, domestic and foreign policy.

Our country has created a regulatory framework in accordance with international standards. Significantly strengthened are the functions, forms and mechanisms of interaction between civil society institutions and state bodies based on the principles of social partnership, including expanded control over the law enforcement activities of officials of state authorities and administration, law enforcement agencies, especially in the field of ensuring the rights and legitimate interests of citizens.

Humanism is one of the priority areas of criminal law, which includes the exclusion of certain types of punishment established by the law of the system, instead of introducing milder types of punishment, and the specification of the grounds for exemption from criminal liability and punishment. And also humanism is the key to improving the content and structure of sections of chapters and individual articles not only of the Criminal Code, but also of criminal procedural, criminal executive law.

### OBJECTIVES

The adoption of the Strategy of Action in five priority areas of the development of the Republic of Uzbekistan for 2017-2021 [1] made it possible to determine the vectors of the country's development for the next five years. Pursuant to the action

strategy, a number of legal acts have been adopted aimed at ensuring genuine independence and independence of the judiciary, improving the quality and transparency of justice, expanding the use of the Habeas Corpus institute, and creating an effective anti-corruption system.

Over the years, the criminal legislation of Uzbekistan has undergone significant changes and amendments have been made to it that affect the criminal policy of the state.

Firstly, decriminalization of acts that did not pose a great danger to society was carried out, to some extent cease to be criminal.

Secondly, various types of crimes were criminalized, which are associated with the development of society, technology, technology, science, etc.

Thirdly, law enforcement practice has been changed, and the size of sanctions for committing various crimes has been changed.

### LITERATURES REVIEW

The study of pardon in the system of criminal policy of the state should be carried out with a clear idea of the concept of pardon, its legal nature. V.I.Dal in his "Explanatory Dictionary of the Living Great Russian Language" interpreted the pardon as follows: "To pardon - to show mercy, to regret, to heed repentance" [2].

S.I. Ozhegov in his dictionary gives the following definition: "To pardon - having shown leniency, to ease or cancel the punishment" [3], also to "pardon" is defined as to cancel or soften the



punishment to which the accused was sentenced; to forgive someone “guilt, show indulgence to someone [4]”. We believe that resolving the issue of pardon is important.

So A.Ya. Grishko notes that pardon is, apparently, an interdisciplinary institution. Moreover, the author shares the point of view of K.M. Tishchenko, who believes that the intersectoral character cannot be replaced by the concept of complexity, since “we are talking about the form and content that do not exist separately from each other, being two sides of a single, and not two parts of it” [5].

I.L. Marogulova notes that “the need for knowledge of the legal nature of the pardon is very great and is felt whenever you have to deal with this legal phenomenon” [6].

Famous Russian lawyer I.Ya. Fojnitsky wrote: “Under a pardon, of course, the repayment of all or part of the punishment by the will of the state power, announced in relation to this particular case. Criminal law is an expression of the will of public authority, a judicial sentence its implementation in a particular case. But if the public authority, in view of the situation in this case, expresses a different will, then the will expressed by law disappears, the punishment is not applied, and the applied is canceled. Such is the formal basis of the right of pardon: the will expressed earlier is canceled by its later expression. The new will can be considered as a new law for a particular case, the mildest for the perpetrator of the crime” [7].

Initially, the institution of pardon was not even enshrined in any regulatory sources, but was enshrined in a collection of sacred texts of Christians, the Bible. The Bible confirms that since ancient times the authorities had the right to pardon. The most striking example of this is the story described in the Gospels: the ruler Pontius Pilate used to release one prisoner on Easter day at the request of the people. The people wished that he would release the murderer Barabbas, although Pilate himself wanted to let Jesus go. Obeying tradition, he had mercy on the criminal and, following the demands of the crowd, imposed the death sentence on Jesus [8].

The institute of clemency has a very ancient origin. The German jurist F.List believed that “the right of pardon arose in the era of the Roman Empire” [9]. American lawyer H. Jensen refuted this opinion, citing a historical fact dating back to a much more ancient era. He argued that although the laws of Hammurabi (XVIII century BC) do not mention the indulgence of criminals, there is a case where Samsui-moon, the son of King Babylon Hammurabi, had mercy on a slave subject to death [10]. However,

there is evidence of a pardon that occurred in Ancient Egypt 200 years earlier than indicated by H. Jensen.

In the holy book of Muslims in the Qur'an there is a sura sent to the Prophet Muhammad in Mecca and containing 85 ayats. This surah is called "Gafir", which means "Forgiving." It begins, like many other suras, with two letters of the Arabic alphabet. At the beginning of the sura, the great significance of the Qur'an is revealed, sent from Allah the Mighty, Knowing, forgiving sins and accepting the repentance of the repentant, strict in punishment, generous in blessings and mercy. Sura calls for monotheism and not to be deceived by the power that infidels could have, and also urges infidels to remember the end of former peoples who did not believe in the Lord. Then we are talking about those who wear the Throne of the Lord and who praise Allah and pray to Him. The Surah speaks of the condition of the infidels on the Last Day and of the wrath of Allah against them. A number of ayats of the surah speak of the signs of Allah and His power, manifested both in the people themselves and in everything that surrounds them in the Universe, as well as the mercy of Allah to people. Allah in several ayats of this surah calls people to monotheism: "Call to Allah with true faith." For Allah said: "Call Me, and I will answer your prayer." Allah is your Lord, the Creator of every thing, He is One and there is no deity except Him [11].

The earliest mention of the pardon is in the Egyptian papyrus, from which we can learn that the Egyptian Sinuhe served in the army of the pharaoh, and then deserted. He fled abroad, wandered for a long time, hiding in Syria. Pharaoh Senuseret I (the second Egyptian pharaoh of the XII dynasty (Middle Kingdom), reigned around 1970-1934 BC) Not only allowed the fugitive warrior to return, but also forgave him, although such misconduct was subject to severe punishment.

This incident, which occurred in the 20th century BC, became known due to the decoding of Egyptian papyri from the Berlin Museum, containing the so-called “Sinuhe Story”, by the English Egyptologist A. Gardiner, who provided his translation with detailed comments [12].

The institute of pardon was taken very much during the reign of Amir Timur. So in “Timur's Code” it is interpreted that “Emir Khudaydat told me, “ Take care of your enemy, like a pearl or diamond, so that when the time comes to hit the stone, and strike so that it shatters to smithereens and there is no trace left of it. He added, "When the enemy surrenders and asks for your protection, spare him and give him a blessing." Therefore, I graciously accepted Takhtamysh, who sought refuge from me. If the enemy, having used the kindness shown to the



mind in an evil way, renews hostility, let the Almighty judge him” [13].

From time immemorial, pardon as an attribute of the supreme power has a long history. The sole right of the emperor was not subject to legislative regulation and was considered his inherent prerogative. Both in antiquity and in the Middle Ages, the monarch was both a legislator and a ruler, and, most importantly, a judge, on the basis of which, pardon was one of the functions of the supreme authority, and it did not occur to anyone to perceive the pardon of contradictions and doubt its need.

## METHODOLOGY

Today, pardon, as an actual form of exemption from punishment, is forgiveness, mercy shown to a person as a manifestation of true concern for his fate.

As we know, in recent years, large-scale reforms have been carried out in our country to ensure the rule of law and improve the judicial sphere. These transformations are aimed at ensuring the interests of man, his rights and freedoms, expanding access to justice, improving the activities of law enforcement agencies. Undoubtedly, ensuring the legitimate interests, rights and freedoms of man is based on such a thing as justice.

It is no coincidence that our great ancestor Sahibkiran Amir Temur immortalized the saying “Justice is the basis of the state and the acts of wise rulers” on the portal of the palace of Oksara. Of course, this idea has not lost its relevance today. In particular, strict liability has been established for using information obtained by illegal methods as evidence of accusations. Only in 2018, 1881 the criminal case was terminated due to the inaccessibility of evidence. 590 people were acquitted, while in 2016, please note - only 28, in 2017 - 263 [14].

It is worth noting that the head of our state, Shavkat Mirziyoyev, emphasizes that there should be only one goal in the mind of a judge - justice, in the mouth - truth, in the soul - purity. In this regard, the words of our great poet and thinker Alisher Navoi take on especially deep meaning: “People, do not do evil, erect a temple of justice and justice in your heart and soul of the people” [15].

There are very serious factors determined by the traditions of customary law, other legal systems that affect the position in the law of the victim in a criminal case, the rules governing the execution of sentences, etc. They should be taken into account when analyzing pardon and amnesty in specific conditions [16].

## CONCLUSION

The traditional approach to disclose the essence of pardon is to appeal to the concept of a legal institution. As we know, a legal institution is a set of legal norms that make up an isolated part of the branch of law and regulate a certain type, side of homogeneous social relations [17].

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From the above definitions, it becomes clear that these authors determine the legal phenomenon, which is a pardon, through such moral categories as mercy, mercy, trust, humanism, etc.

The social and legal nature of the pardon gives every reason to believe that it should be considered as an element, a direction, an integral part of the criminal law regulation of public relations, and, accordingly, as one of the components of the criminal policy of society and the state.

From the foregoing, it follows that pardon requires the use of norms relating to various branches of national law. The implementation of the pardon is associated not only with organizational and managerial activities, it requires knowledge in the fields of economics, sociology, constitutional, criminal executive, criminal law, psychology, understanding of complex issues of social and legal policy.

Thus, it should be noted that the pardon, as an act of humanism and mercy, is based on a comprehensive consideration of the circumstances characterizing the personality of the convict and the materials of the criminal case carried out in the process of implementation of the pardon. The pardon policy in Uzbekistan is characterized by a certain personality, testifying to its scope and direction, formulating the general state policy in the field of pardon, which, like any other state policy, is determined by the head of state, based on the Constitution and laws.

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