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SECTION 32. Jurisprudence

THE AMNESTY – THE SUPREME EXAMPLE OF HUMANITARIANISM AND FORGIVINGNESS

Abstract: *In this article from the theoretical and practical point of view reveals the issues of the conformity of each decision on the act of amnesty, adopted in our country by the principle of humanism, as well as the being in it along with the idea of forgiving the criminals, returning to the right path of life, the idea of giving them a chance to re-occupying a worthy place in the family and society by associating with socially useful work, adopting an act of amnesty by the relevant higher state bodies on the basis of political and economical expediency direction amnesty not only in the social aspect, but also accordance with the ideals of kindness, mercy, justice, and social validity of human politics in a democratic state of law.*

Key words: *Amnesty, punishment, imprisonment, humanism, serving sentence, condemned, social adaptation.*

Language: *English*

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Introduction.

There is a proverb in our nation which says “It is not shameful to confuse, the most importantly one should find his right way”. The changes made by our government on liberalization of punishment are based on these lofty customs of our nation as generosity and forgivingness. Forgiving a person who had broken the law, accepting him as equal member of the society is a trustworthy way of preventing him from committing a crime again. The respected head of our government Sh.M. Mirziyoyev has paid specific attention to this field and on his speech called “Let us work together on for the fatherland and its future” on the conference “providing social stability, reserving the purity of our sacred religion is the requirement of the time” that he mentioned the followings., “We should see a man who has gone wrong way as our offspring, and not count him as an enemy immediately. This man should feel that we have been feeling sorry for him from deep down of our hearts. Would that perhaps stimulate them to see the world wholeheartedly, would that lead him to the right path of life... It is not only the sorrow of a single family, but also of the whole society’s when a man steps on a wrong path. This would definitely put the man’s parents, brothers, relatively in sorrow, in the first order. They need to be assisted in such cases. And we, with regrets, avoid

them... Our great enlightened ancestor Abdulla Avloniy stated: “The noble people accept the apology”. Our nation is brave and noble people. They forgive a person who requests, apologizes from the bottom of their heart. That is why; we have been forgiving so many people who have wrongly done something bad, and showing them the right path of the life. We have been redirecting one of them to the study, one of them to the work and another one to the profession” [1].

The act of amnesty, which is the example of supreme humanitarianism, whose main task is to reserve the rights and liberty of citizens through the court, giving another chance for people who have committed wrongdoing confusedly by sending them back to their neighborhood, family and children so as to re-bring them up not separating them from the society, has its unique position in this way.

The Russian researcher D.V. Kokhman conducted a research under the circle of the application of the act of amnesty and its circle that he mentioned the followings., “Although there are various views towards the matter of the application of this institution, the application of this act on not only the citizens of a certain country, but also on the foreigners staying in the land has been considered as an important factor of avoiding present conflicts, similarly, the database made by the scientists of the



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world from the second world war to the year of 2008 claims that the states of our planet has declared the act of amnesty 506 times” [2].

The judicial books refer to the act of amnesty as an important measure in terms of humanitarianism. It is emphasized that among many of its positive aspects one of them is the persuasion characteristics of preventing repressive features of punishment that this, in turn, serves to relieve the punishment. The authors of these ideas consider that it should be strictly studied that the people who have been granted with the act of amnesty should find their position in social life so as to reduce the risk of negative impacts of application to the act of amnesty[3].

However, a number of scientists, including the Russia MIA academy of control the professor of judicial sciences candidate P.A. Skoblikov claims, along with its advantages, several negative cases as its peculiar issues like the restriction of rights of the victim on the process of reserving the rights and benefits of the victim and the accused, similarly, the process of application of amnesty on the behalf of common country celebrations, the cases of commitment of crime by the representatives of the crime world near the public holidays so as to make the law to go for their own benefits[4].

A group of researchers believe that the first target of granting with amnesty is to fulfill the principle of humanitarianism in the society and country. First of all, the adoption of amnesty does not only benefit for the person who had committed crime or a victim, but also ensures his family members, close and distant relatives, their immature offspring to feel the kindness of them, similarly, considering the huge position of parents in creation of economic and moral atmosphere in the family, taking the benefits of society into account, the government cares for its society members, the other group of scholars, including E. Trifonova claim that granting with the act of amnesty is occurred as a result of few number of finding the accused as an innocent in the courts[5]. However, we consider that E. Trifonova draw such conclusion after comparatively studying the experience of Russia and CIS, Germany and the Netherlands, because the law and order of Germany and the Netherlands does not imply the act of amnesty, similarly, the courts of these countries have been finding the accused as an innocent on daily basis.

The act of amnesty is only considered to be the one that has perfectly served its duty only when it can stimulate the feeling of regret and or sorrow on a person it is being granted or when it can improve the legal condition of a person, but in some cases, the court grant the accused with amnesty hurriedly or as a result of wrong implementation of norms of process the process which could have improved the legal condition of a person is not applied, yet still he

is granted with the act of amnesty. For instance, according to the resolution of the crime court of Shurchi district on January 2014, M. was found as a guilty in accordance with the line “g” of the second part of the article of 167 and the first part of the article of 2009 of the Crime Code, he was set free from the punishment based on the act of amnesty on December 24, 2013. The resolution of the court was changed with the resolution of the Crime Court of the Region of Surkhandarya appeal instance on March 11, 2014 that M was set free from the responsibility based on the 65th article of the Crime Code.

According to the resolution of the court, M was found as guilty since he served as the deputy of a school belonging to the department of public education of district that he misused his position, since he showed teachers with low qualification as highly qualified teachers on 48 reports faking the documents which was presented to the organization and methodical providing the activities of educational institutions department which resulted in the loss of 4.641.462 UZS from the account for the salary of the budget finance. According to the 1st part of the 65th article of Crime Code if the case is found as the one that has lost its social danger during the process of interrogation or trial, it is written that the person who had committed the crime may be released. The 5th part first line of 84th article of the Crime Processional Code reads that if the commitment loses its social danger as time elapses or if the person is found to be no more dangerous while the interrogation or trial is taking place, the crime case is meant to be finished with the agreement of a person not reaching a compromise. Although appeal instance have considered the fact that M. had not been formerly tried, the loss that had been made was completely recovered, the court wrongly hurried to draw a conclusion before getting the agreement of M. and not following the demands of procession law. That is why; the appeal instance resolution towards M. was canceled based on the final resolution of Supreme Court of crime judges on September 4, 2014 that the case was re-send to try again to the appeal instance[6]. It is clear that rather that granting M. with the act of amnesty, applying appropriate article of procession law so as to finish the case without reaching compromise would represent his benefits more.

The declaration of the Independence of the Republic of Uzbekistan, the confirmation of the Constitution of the Republic of Uzbekistan and other glorious dates almost 30 Resolutions and Decrees on amnesty during the past years, just only over one hundred convicts have been set free from the places of carrying out the punishment, and some more hundreds of convicts have had their reminder period shortened[7].

It should be mentioned here that the Decree numbered PF-5275 of the President of the Republic



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of Uzbekistan on December 7, 2017 named “On forgiving on the behalf of the 25th anniversary of declaration of the Constitution of the Republic of Uzbekistan”[8] has made it possible for us to see the study of practical and theoretical researchers into the direct essence and differences of these two institutions. From historical point of view, the institution of forgiveness served as a basement for the existence of the institute of amnesty, afterwards as the portion of the parliament on ruling the state and the society got bigger, forgiving was kept as a complete power of the ruler of the country, and the parliament had gradually gained the power of granting with amnesty. However, it should be specifically mentioned here that the application to the institution of forgiveness is considered to be more effective that the act of amnesty from the point of application of procession circle, the act of amnesty is also of great importance in countries and societies depending on the opinion and considerations of most of the members of the parliament, and the economical situation of the society. We shall entrust the matters of differences of these two institutions in our next scientific works that we can draw a conclusion as follows according to the information mentioned above[9].

There is the idea of forgiving the person who had committed a crime under any kind of resolution

related to the amnesty which is based on humanitarianism[10]. That is why; it would have been for good if changes concerning the granting and implementation of act of amnesty were done in accordance with the political, economical aim, changes and additions into the procession law on the wide scale participation of local and representative bureaus would have been appropriate.

The act of amnesty should not be granted on the behalf of certain public celebrations, but the general condition of the society should be taken into consideration that they should be granted between certain a five-year period or a decade, and the general situation of people granted with the act of amnesty should be analyzed so as to widen the circle of granting it to other subjects.

Conclusion.

The terms pardon/forgiveness and amnesty should be distinguished from one another through studying the experience of advanced countries that the scheme of granting with the act of amnesty to the political convicts only by the Parliament should be worked out and implemented that it would prevent foreigner right reserving organizations from getting involved in ruling our country and would prevent various kinds of political advantages.

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