Mediation Issues in Criminal Procedure

Abduolimov Urinboy Khudoiberdiyevich,
Master of Tashkent State Law University of the Ministry of Justice of the,
Republic of Uzbekistan

Abstract

The development of criminal justice in recent decades has been characterized not only by the fight against crime, but also by the search for the most effective mechanisms to achieve other critical goals. The resolution of criminal disputes arising as a result of the commission of an illegal act by a person includes such aspects as compensation for the damage caused to the person who committed the act, the restoration of the violated order, as a result of the crime, the restoration of the normal life of the victim after the commission of the crime, the re-socialization of the convict in order to prevent the recurrence of the crime, and so on. This article conducts a small amount of research on mediation issues in criminal proceedings.

Keywords: The traditional, mediation issues in criminal proceedings, mediator, "The concept of restorative justice and its connection with modern trends in criminal procedure".

INTRODUCTION

The solution of the designated tasks is impossible without certain changes in the criminal justice system. The traditional criminal procedure does not always allow to successfully solve these problems. The use of criminal liability and punishment as the most likely outcome of criminal proceedings is a direct, but not always effective way of resolving a specific criminal law conflict and influencing the state of crime in general. Together with the shortcomings of the penitentiary system, this path ensures the implementation of the punitive component of punishment, but does not always allow satisfying the needs of the victim, both material and psycho-emotional, as well as achieving the goal of prevention. A significant number of crimes of small and medium severity, a high level of crime in general, including juvenile delinquency, insufficient protection of the interests of victims, the need for an individual approach to each case of committing a wrongful act - these and many other reasons determine the need to develop new, modern and actual mechanisms for resolving criminal-legal conflicts.

MATERIALS

Taking into account these tasks, the concept of restorative justice, which arose in the 70-80s of the last century, has acquired particular relevance. This concept is a set of teachings on how to respond to unlawful acts, which are based on the idea of the need to reconcile the parties to a conflict arising as a result of an unlawful act, in order to restore the normal order that existed before the act was committed, to satisfy the interests of the party who was harmed by the act, as well as the correction and resocialization of the person who committed the act. The idea of restorative justice is based on the use of mechanisms, alternative to criminal prosecution, based on the reconciliation of the parties to the conflict and allowing the resolution of criminal-legal conflicts with the greatest positive effect for the parties. The mechanisms proposed by the developers of this concept have found their application in the criminal process of many states. One of the most effective ways to resolve conflicts within the framework of this concept is mediation, i.e. dispute resolution through negotiations with the participation of a third party, in the role of which is the mediator-mediator.

METHODS

The concept of restorative justice, which originated in the 70s and 80s of the 20th century, is a
set of teachings on how to respond to illegal acts, which are based on the idea of the need to reconcile the parties to a conflict arising as a result of an illegal act in order to restore the normal order that existed. Before the commission of the act, the satisfaction of the interests of the party to whom the act has caused harm, as well as the correction and resocialization of the person who committed the act. To achieve these goals, the concept of restorative justice proposes the use of various mechanisms, procedures and practices that are aimed at resolving specific criminal and other cases through reconciliation, among which mediation, family conferences, the circles of justice, etc., stand out in world practice.

RESULTS: 1. The concept of restorative justice can be viewed as a complementary concept designed to complement and improve modern criminal justice, since it presupposes the achievement of goals that are not always successfully implemented within the framework of the traditional criminal process, namely: 1) restoration of social relations violated by a wrongful act; 2) condemnation of illegal acts and education of respect for generally accepted moral norms and values; 3) assistance and support of persons who have been harmed by the unlawful act, satisfaction of their interests and needs; 4) assistance to the person who committed the act in awareness of its consequences and in assuming responsibility for them; 5) identification of the restorative effect of punishment; 6) reintegration of persons who have committed an unlawful act into society and prevention of relapse; 7) identification of the causes of crime.

2. Based on the study and generalization of the experience of foreign states in the use of mediation for the resolution of criminal legal conflicts, as well as on the basis of the study of the mediation procedure as one of the alternative methods of dispute resolution, it is possible to define mediation in criminal proceedings (for the resolution of criminal conflicts) as a procedure, in which an independent and impartial third party - an intermediary (mediator) - participates in the resolution of a criminal legal conflict between the person who committed the unlawful act and the person who was harmed by the unlawful act, in order to reconcile the parties and find a mutually acceptable solution on compensation issues harm caused by an unlawful act, as well as on other issues that may arise when resolving a criminal law conflict, based on the voluntary expression of the will of the parties, and which may entail legal consequences for the parties to the criminal law conflict in the framework of criminal proceedings. 4. Mediation is used in many foreign countries to resolve criminal law conflicts. Models of mediation in foreign countries differ depending on the system of national criminal justice, but its widespread distribution in recent decades indicates the effectiveness of its application. Mediation originated abroad as a way of resolving a criminal-legal conflict on the basis of experimental programs, but recently there has been a tendency towards institutionalization and normative consolidation of mediation in the criminal process.

The experience of foreign countries in the use of mediation to resolve a criminal-legal conflict allows us to conclude that there are two models of mediation. These models differ depending on the prerequisites for the emergence of mediation and its implementation in law enforcement practice:

DISCUSSION: 1) The Anglo-Saxon model, in which mediation is a manifestation of the theory of restorative justice, i.e. is considered as a communal way of resolving a criminal-legal conflict and therefore, as a rule, does not find clear legislative regulation. Great Britain, USA, Canada, New Zealand, etc can be referred to this group of states;

2) Continental model, within which mediation is a procedural institution, as a rule, enshrined in legislation and embodying one of the possible alternatives to criminal prosecution. This group of states includes France, Germany, Portugal, Austria, Norway, etc. Within the framework of the proposed concept, it seems appropriate to develop the institution of mediation as an additional measure of a criminal procedural nature aimed at achieving reconciliation between the accused and the victim in order to terminate the criminal prosecution or to issue a judgment in a simplified manner, taking into account the agreement reached by the parties. Subsequently,
mediation can also be used as a true alternative to criminal prosecution, before the initiation of a criminal case, since reaching a conciliatory agreement between the parties to a criminal conflict will allow the competent authorities and officials to refuse to initiate criminal prosecution as such.

The introduction substantiates the relevance of the chosen topic, shows the degree of its elaboration in domestic and foreign law and legal doctrine, determines the goals and objectives, the object and subject of research, the methodological basis, the normative and empirical base, reveals the scientific novelty of the main provisions submitted for defense, notes them theoretical and practical significance, data on the approbation of the results of the dissertation research are given.

Chapter one "The concept of restorative justice and its relation to the criminal process" consists of two sections and is devoted to the study of the concept of restorative justice, its origin and historical development, the main provisions of this concept. This chapter reveals the goals and objectives of restorative justice, its relationship with the institutions of traditional criminal justice, as well as its relationship with modern trends in the development of criminal procedure, in particular, with trends towards the humanization of criminal proceedings, to accelerate and simplify the criminal process and to expand private principles. in criminal proceedings.

CONCLUSION

In the first paragraph - "The concept of restorative justice and its connection with modern trends in criminal procedure" - the author points out that the concept of restorative justice (restorative process) can be considered in both narrow and broad aspects. According to the author, these aspects reveal the applied and theoretical aspects of the concept of restorative justice. In particular, in the narrow sense (applied aspect), restorative justice can be viewed as a set of specific mechanisms, programs and practices that are aimed at resolving specific criminal and other cases through reconciliation. In a broad sense (theoretical aspect), restorative justice is a set of teachings on how to respond to illegal acts, which are based on the idea of the need to reconcile the parties to a conflict arising as a result of an illegal act, in order to restore the normal order that existed before the act was committed, to satisfy interests of the party to whom the act has caused harm, as well as the correction and resocialization of the person who committed the act.

REFERENCES:


