

CRIMINAL LAW AND CRIMINOLOGICAL ASPECTS OF ARBITRARINESS

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**Abstract:** *The article deals with topical problems of theory and practice of criminal liability for self-law in the Criminal Code of the Republic of Uzbekistan, and criminal and criminological aspects of arbitrariness, analysing the theoretical views and legislation of legal scholars. At the same time, sound, constructive proposals for the prevention of the crime of self-law have been put forward.*

**Key words:** *crime, arbitrariness, crime prevention, criminology, actual or supposed right, responsibility.*

Crime, which negatively affects the development of society and its development, has steadily put at risk the peaceful lifestyle of mankind, no matter what form or category it is. Therefore, it can be seen that measures to prevent crime, to prevent it were applied at each period of development, on the basis of existing scientific and technological achievements in society, and the measures of this struggle had the necessary scientific and theoretical foundations<sup>1</sup>.

Generally speaking, a crime is an illegal act that can be punished by law. It involves causing harm to other people or causing damage to the property of others, including common property belonging to society<sup>2</sup>.

The existence and transformation of crime as a socially negative phenomenon in society, as well as a wide range of social attitudes related to its prevention, as phenomena, include: crime, the reasons for the commission of a crime and the conditions that made it possible for it, the personality of the criminal, the personality of the victim, crime prevention<sup>3</sup>.

It should be noted that the purpose of the law of the Republic of Uzbekistan "on the Prevention of offenses" adopted on May 14, 2014 in this regard is to regulate relations in this area and prevent future offenses. According to this law, prevention of offenses is understood as a system of legal, social, organizational and other measures of general, special, individual and victimological prevention of offenses used in order to maintain and strengthen the law, identify violations, eliminate them, as well as identify the causes of the occurrence of offenses and the conditions that allow them.

One of the measures to prevent damage to the rights of other citizens or the interests protected by law or the interests of the state or the public through the arbitrary exercise of rights by citizens in the Republic of Uzbekistan is the regulation of such relations by criminal legal means. In particular, in society, the issues of responsibility for the arbitrary exercise of real or assumed rights, whether in the interests of citizens protected by law or in the interests of the state or the public, studies aimed at developing measures to prevent them are becoming increasingly important. Therefore, the arbitrary exercise of the real or hypothesized rights of individuals leads to such dangerous consequences as causing a feeling of disrespect for the institutions of the state and society in the population, ignoring laws, causing serious violations of the rules of conduct in a society established by legal norms.

<sup>1</sup> Academy of the Ministry of internal affairs of the Republic of Uzbekistan textbook "criminology" T.2007. P.3

<sup>2</sup> <https://www.statista.com/topics/780/crime/#dossierKeyfigures>

<sup>3</sup> Academy of the Ministry of internal affairs of the Republic of Uzbekistan I.Ismailov, Q.R.Abdurasulova, I.Y.Fazilov textbook "criminology" General part T.2015 P.6-7

Article 20 of the Constitution of the Republic of Uzbekistan stipulates that citizens are obliged in the exercise of their rights and freedoms not to undermine the legitimate interests, rights and freedoms of other persons, the state and society, and Article 25 states that the presence of norms such as the right of everyone to freedom and personal inviolability serves as the constitutional basis. Currently, as a result of judicial and legal reforms carried out in our country, liberalization of criminal penalties, misunderstanding of the content of measures taken to strengthen guarantees of the rights and freedoms of citizens, there are cases of arbitrary implementation by certain citizens of real or hypothetical rights, without ignoring the laws. Despite the fact that in case of violation of each right in the legislation, the procedure for resolving these issues and authorized bodies are established arbitrarily other citizens, the state causes harm to the interests of society, not only violation of the rights freedoms of citizens, but also violation of the activities of Public Administration and its institutions.

Also, the analysis of the statistics of criminal law, the study of criminal case materials, as well as sociological surveys of law enforcement officers and citizens, shows not an indicator of the growth of an arbitrary crime, but a change in its characteristics of social danger, an increase in the level of danger to society, the use of the capabilities of criminal structures. It can be seen from court decisions that most of the arbitrary crimes that occur in practice and that are committed by active action are either intimidated by the use of force or by the use of force, or committed in a group. For example, according to the verdict of the Shakhrisabz District Court of criminal cases, relatives were in a group, as a result of a family quarrel, beat their son-in-law, inflicted a minor injury, arbitrarily took a Malibu car from his house "during the period when you lived with my daughter", hid it in another person's house, causing damage to his The court, having considered the case in content, appointed a sentence to the guilty person in the appropriate manner under Article 229 of the CC of the Republic of Uzbekistan<sup>4</sup>.

From the example presented, it can be seen that with one arbitrary act, the established order of management, judicial and investigative powers, family, property relations, Etiquette, kindred relations and other rights and freedoms protected by law are violated.

The above set of forms of arbitrariness determines the need for a deep criminological analysis of this problem in order to improve the quality and effectiveness of combating this type of criminal manifestations.

Prevention of arbitrariness involves, first of all, the analysis of the criminological characteristics of these crimes, the study of the identity of the criminals who committed them and the identification of the causes of the commission of a crime, the study of the conditions that contributed to the origin of the crime. However, at present, the nature of social danger in the committed arbitrariness is changing, and not an increase in the numerical aspect of arbitrary actions, although arbitrariness does not fall into the category of widespread crime. In most cases, this crime has become a character to commit using force or in groups. The volume and scope of damage is significantly increasing not only is it not limited to serious material (property) damage, but arbitrariness increasingly leads to the consequences of physical and spiritual (psychochemical) damage, which is also explained along with violations of various constitutional rights of citizens and organizations.

We can see in the table of the melody in practice the socially dangerous akbats enshrined in the theory of arbitrariness shown above.

**Dynamics of cases committed by the courts of the Republic in 2016-2021 under Article 229 of the Criminal Code (arbitrary crime)**

<sup>4</sup> From the archive of the shakhrisabz District Court. 1-1605-1801 / 52-the final Work 2016.

<b>41</b>	ISSN 2277-3630 (online), Published by International journal of Social Sciences & Interdisciplinary Research., under Volume: 11 Issue: 08 in August-2022 <a href="https://www.gejournal.net/index.php/IJSSIR">https://www.gejournal.net/index.php/IJSSIR</a>
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o/n	years	Total number of criminal cases seen	Number of persons who committed a crime	From this			
				men	Women	In the city committed	Committed in the village
1.	2016 year	86	131	113	18	46	40
2.	2017 y	74	95	83	12	37	37
3.	2018 y	50	55	51	4	29	21
4.	2019 y	52	74	69	5	30	22
5.	2020 y	50	69	65	4	22	28
6.	2021y 6 in the month of	27	35	31	4	17	10
	Full	339	459	412	47	181	158

Although the given table shows a decrease in the indicator of the increase in the total number of crimes committed in 2016-2021, it can be seen that the number of persons who committed it is higher than the number of crimes, due to the fact that the arbitrariness committed by women also constitutes a certain indicator, a high indicator of

For example, according to the court verdict of the Zarafshan City Court in criminal case №. 01-211-15, the head of the LLC and a group of other entrepreneurs, with a mutual criminal tongue, do not have the appropriate certificate of installation of electrical equipment, without obtaining the appropriate permission to carry out electrical installation work in trade shops of light construction, , in 165 shopping shops and administrative buildings located on the territory of an arbitrary central item market, using cable wires that do not meet the requirements of the state standard and are not intended for high voltage, as a result of the illegal implementation of electrical construction work, due to malfunctions in electrical cable wires, a total of 157 shopping shops in the, more than eight billion of material damage has been done to the interests of the state and the public<sup>5</sup>.

Even if the official statistics presented are incomplete, not only the growth or decrease rate of arbitrariness, but also their transition to a new quality (type, form) is of concern. This is especially evident in the analysis of law enforcement practice to combat arbitrariness, which is subject to criminal liability.

Danger is not only the prevalence of arbitrary actions , serious harm, the severity of the consequences, but also the predominance of their competent form. In particular, there are more and more cases of arbitrary actions by a group of persons, the actions of citizens in order to resolve property disputes, often with the aim of repaying debts by hiring criminals, are the reason for committing other, more serious crimes. For example, according to the court verdict of the Bukhara Regional Court in criminal case No. 1-87-10, in order to withdraw 600,000 sums of money stolen from the House of the guilty person, a citizen was killed by the guilty person, as a result of a scandal caused by resistance by the victim at the time of taking a head<sup>6</sup>.

<sup>5</sup> From the archives of the Zarafshan City Court of Navoi region. Criminal case No. 01-211-15. 2018 year.

<sup>6</sup> From the archive of the court of Bukhara region. Criminal case №. 1-87-10. 2019 year.

The analysis of statistical data, the study of the materials of criminal cases, as well as the result of social surveys of law enforcement officers and citizens, the changing nature of the social danger of arbitrariness and the growing level of mass offenses, the criminologically significant signs and laws of arbitrariness in the Prevention of these crimes, the personal characteristics of criminals and

The main task of any creative legislation is this – there is a generally accepted rule that it is better to prevent it than to punish for a crime<sup>7</sup>.

The law of the Republic of Uzbekistan "on the Prevention of offenses" provides for the tasks of general prevention of offenses, according to which: development and implementation of state programs and other programs for the Prevention of offenses; legal propaganda among the population; identification of the causes of the occurrence of offenses and the conditions that allow them, elimination of the established<sup>8</sup>.

M. from the CIS lawyers on this issue. A. Yakovlev believes that "one of the types of state anti-criminal measures is social control," D. A. Shestakov believes that "the fight against crime is a stimulating social mechanism"<sup>9</sup>. Focusing on this erdana concept of "control", the essence of this concept means "verification", "observation", which does not include a whole set of measures to prevent crime. The law "on the Prevention of offenses", presented above, defines as state bodies that are directly involved in the Prevention of offenses: territorial authorities, internal affairs, the prosecutor's office, the State Security Service, Tax, Customs, National Guard and other bodies, which are entrusted with their powers regarding the Prevention of offenses and the tasks of conducting control over their field.

In a word, this law serves to ensure that citizens are protected by their rights, freedoms and legitimate interests, to live a peaceful life protected from various encroachments and threats, to strengthen guarantees of employment, to ensure the employment and leisure of educated persons, to promote a healthy lifestyle<sup>10</sup>.

In the fight against crime, "the insufficient effectiveness of legal mechanisms for the prevention and Prevention of crimes, as well as instilling in Citizens a high legal culture and a sense of respect for the law," necessitates the study of this area, improving the fight against arbitrary crimes.

Based on the above, in order for the state to be free of crime and offenses, it is necessary to intensively develop judicial and legal reforms in society, to raise the legal consciousness and culture of the population. To do this, it will be necessary to prevent possible offenses and criminal cases, to carry out preventive propaganda programs in all spheres of society.

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<sup>7</sup> Q. Abdukodirova textbook "criminology" Tashkent State Legal Institute T. 2007. P. 84

<sup>8</sup> Chapters 3-6 of the law "on the Prevention of offenses" of May 14, 2014.

<sup>9</sup> file:///C:/Users/Dell/Downloads/k-voprosu-o-pravovom-regulirovanii-mehanizma-profilaktiki-prestupnosti%20(1).pdf

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