



THE NECESSITY OF ESTABLISHING RESPONSIBILITY FOR RESISTING A PERSON PERFORMING THE DUTIES OF A GOVERNMENT REPRESENTATIVE OR CIVIL OBLIGATION

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<https://doi.org/10.5281/zenodo.13884026>

Keywords:

Representative of authority, person fulfilling civic duty, resistance, social danger, intent, criminal personality, punishment.

In the context of the wide-ranging reforms being implemented in our country, special attention is being paid to ensuring the peaceful and tranquil life of the population, as well as fostering a culture of law obedience and public safety in our society.

As our President emphasized, "Strengthening order and responsibility, as well as enhancing the environment for preventing crime, is the main factor in the effectiveness of crime prevention. Offenses do not occur spontaneously. The main issue is not to fight against the consequences of offenses, but to prevent them in advance by timely addressing the causes and conditions that allow them to happen." ¹ Indeed, it is worth noting that preventing crime is more effective than combating it, and studying and analyzing the social causes behind each crime is of great importance. Answering the crucial question of who commits a specific crime and why is one of the first steps in preventing that crime. "We need to reach the roots of each crime and foster an immunity against crime in society. Otherwise, we will just be busy dealing with the consequences of crime. I will not allow a working atmosphere like that," stated President Sh. Mirziyoyev.²

The researcher O. Kravtsova, who studied the social danger of resisting a representative of authority or a person fulfilling a civic duty, states, "One of the essential conditions for the existence of any statehood is the organization of governance by state authority, particularly its representatives."³

P. Feferov acknowledged that the main factor for imposing criminal-legal sanctions for an act must primarily be its social danger. Furthermore, the author emphasizes that the social danger of a crime manifests its social significance, and this quality should be taken into account by the legislative body of the state.

¹ On November 15, 2017, a video selector meeting was held under the chairmanship of the President of the Republic of Uzbekistan, Shavkat



Mirziyoyev, dedicated to the implementation of tasks set for the prevention of offenses and the fight against crime in our country, as well as issues related to existing problems and their solutions. [Source](<https://president.uz/uz/lists/view/1232>)

2 Report of the video selector meeting chaired by the President of the Republic of Uzbekistan, Shavkat Mirziyoyev, on July 27, 2018, dedicated to issues of crime prevention and enhancing the responsibility of state bodies and society in this regard. [Source](<https://president.uz/uz/lists/view/1914>)

3 Kravtsova O.V., Blinova-Sychkar I.V., Dmitrienko S.A. The representative of the authorities as a victim of a crime // Young Scientist. 2014, No. 2. P. 584

It is necessary to identify the signs of illegality regarding the social danger of resisting a representative of authority or a person fulfilling a civic duty, that is, to determine what actions or inactions constitute this resistance.⁴

"Chowing resistance not only has a psychological impact on this individual but also on other members of society, resulting in the formation of a spirit of disrespect towards the existing rules in society by others."

Professor K. Abulkosimov defines "social security" as "the state of being protected from threats to the vital interests, rights, and freedoms of individuals, social groups, and communities, as part of national security, where the state's social policy plays a crucial role in ensuring it."⁵ One can agree with the author's perspective on this matter. Indeed, social security is the condition of being safeguarded from threats to an individual's interests, rights, and freedoms.

In turn, the question of what the concept of "social danger" is and how it is defined in science is natural. Professor M. Rustambaev stated that "social danger refers to actions that are classified as crimes based on their objective characteristics, which cause harm to criminal law objects or pose a real threat of harm."⁶

Similarly, Professor A. Naumov has also put forward a theory, stating that "social danger is an act aimed at causing sufficient harm to objects (interests) protected by criminal legislation."

In this regard, it is appropriate to agree with the opinions of scholars that the concept of social danger inherently includes the characteristic of having a direct negative impact on the interests of individuals, society, and the state. This idea is particularly expressed by Professor A. Martsev, who recognized social danger as the quality of specific or all crimes that negatively affect the vital interests of individuals, society, and the state.⁷



Researchers A. Gorbuza and E. Sukhareva have expressed the opinion that the social danger of a crime has no relation to the natural-social characteristics of the act and is only manifested as the quality of the crime. Without agreeing with the views of the aforementioned authors, it must be stated that the social danger of a crime is manifested not only in its qualitative indicators but also in its quantitative description, as well as in the degree of severity and lightness.⁸

Y. Pudovochkin has also noted the following regarding this matter: the social danger of an act causes harm to social relations regulated by criminal law or creates a risk of causing harm. The author adds that these acts negatively affect the

4 Fefelev P.A. Criteria for establishing criminal punishability of actions // Soviet State and Law. 1970, No. 11. P. 101.

5 X. Abulkasimov Some issues of ensuring social security in Uzbekistan. Economics and Finance / Ekonomika va moliya 2019, 2(122)

6 M.Kh. Rumtambaev. Comments on the Criminal Code of the Republic of Uzbekistan. General Part. 1. Tashkent. "Yuridik Adabiyotlar publish". 2021. P. 88.

7 A.I. Martsev. General Issues of the Doctrine of Crime. Omsk, 2000.

8 Epifanova E.V. Social Danger as a Scientific Category, Legislative Definition: History and Modernity: Monograph. Moscow, 2017. P. 17.

stability of society and the interests of its members.⁹ Indeed, the essence of this idea is that a criminal act negatively impacts not only society and individuals who are its members but also social stability itself. This theory is supported by Russian scholar Professor A. Martsev, who has stated that one of the main factors for a certain act being defined as a crime by legislative state bodies is its social danger.¹⁰

The analysis shows that the crime of resisting a representative of authority or a person fulfilling their civic duty poses a social danger not only to one individual but also to the rights and interests of other members of society. Therefore, when analyzing the social danger of this crime, it is essential to consider its object, the form of guilt, the prevalence of the crime, and the identity of the offender. These criteria allow for the determination of the social danger of any crime, including the crime of resisting a representative of authority or a person fulfilling their civic duty. In cases where the crime specified in Article 219 of the Criminal Code is committed, that is, when there is resistance to a representative of authority or a person fulfilling their civic duty, the object of the crime is manifested in the activities of state authorities and in relations aimed at



ensuring the inviolability of a person fulfilling their civic duty as established by the Constitution and other laws.

Another important aspect of the social danger of resisting a representative of authority or a person fulfilling their civic duty is that these crimes are committed intentionally. In cases of resistance, the individual is aware of the dangerous nature of their actions and commits them purposefully. The person engages in targeted actions when resisting. In this regard, criminal law doctrine emphasizes that the social danger level of intentionally committed crimes is high.

According to scholars in the field of criminal law, M. Usmonaliyev and P. Bakunov, understanding the social dangerous nature of an act involves comprehending its true essence and social significance. This understanding encompasses recognizing that an object protected by law is being violated, as well as the content of the action or inaction being carried out, including the time, place, method, and circumstances of the crime. When a person commits a crime, it indicates that they are aware of all these circumstances in their guilty mind and have a prior understanding of the social danger of their actions. The knowledge, experience, and awareness of the social significance of one's actions are abilities inherent to every individual.¹¹

Another criterion for determining the social danger of the crime of resisting a representative of authority or a person fulfilling their civic duty is the motive and purpose behind the individual's resistance. It is known that the motive for a crime is a facultative characteristic of the subjective side of the crime and is typically present in most intentionally committed crimes.

9 Pudovochkin Yu.E. Doctrine of Crime: Selected Lectures. 2nd ed., revised and supplemented. Moscow, 2010. P. 22.

10 Criminal Law of the Russian Federation. Special Part: Textbook / edited by A.I. Martsev. Omsk, 2000. P. 71.

11 M. Usmonaliyev, P. Bakunov. Criminal Law. General Part. Tashkent: "Nasaf Publishing", 2010. p. 202.

The motive can be considered as a circumstance that either mitigates or aggravates responsibility during sentencing.

Taking into account the social-legal direction of motives, Doctor of Philosophy in legal sciences Kh. Ochilov classifies them as follows:

1. Low motives (vandalism, personal interest, revenge, and jealousy). In many cases, these are considered aggravating circumstances.



2. Motives that are not of low character (envy arising from the victim's wrongful actions, resentment, emotional stress).

3. Positive motives: altruism, kindness. These do not exclude criminal liability but can mitigate punishment.¹²

From the perspective of these classified motives by the author, the crime of resisting a representative of authority or a person fulfilling their civic duty can be committed with both low motives and motives that are not of low character.

Actions that fall under the category of low motives, such as resisting for the sake of vandalism or personal interest, can often be encountered in practice.

The classification of resistance crimes based on motives that are not of low character (envy arising from the victim's wrongful actions, resentment, emotional stress) is also observed in practice. During the analysis of court rulings, it can be seen that the crime of resisting a person fulfilling their civic duty may occur in some cases as a result of mutual envy or resentment.

Moreover, it can be observed during the analysis of judicial practice that in most cases, the person resisting acts with a specific purpose in mind. In many cases, the individual's goal in resisting is to conceal another unlawful act or to ensure that the representative of authority or the person fulfilling their civic duty does not obstruct such actions.

Our analysis shows that criminal acts related to resistance involve not only intent but also motives and purposes in most cases.

One of the next criteria for determining the social danger of a crime is the high level of its growth potential, meaning the degree of spread of the crime and the personality of the person committing it. The study and analysis of the criminal's personality reveal one of the reasons for committing a specific crime.

In the field of criminal law, distinguished scholars have conducted scientific research on studying the criminal's personality and published a number of scientific works. Specifically, "Studying the criminal personality is a fundamental source for identifying general criminogenic factors based on summarizing the reasons and characteristics of an individual criminal behavior, understanding the state, structure, dynamics of crime, changes in the composition of offenders, and other related issues."¹³ This view is supported by Professor Y. Karaketov and Professor M. Usmonaliev.

¹² K.R. Ochilov. The Role and Importance of Motive and Purpose in the Qualification of Criminal Composition. Eurasian Journal of Academic Research, online journal. 2022. P. 658.

13 Y. Karaketov, M. Usmonaliev. Criminological Measures Against Crime. Tashkent, "Uzbekistan", 1995. P. 82-83.

Professor A. Eminov stated, "The personality of a crime is the carrier of the causes for its commission; this very person is a key and essential link in the mechanism of criminal actions."¹⁴

In agreement with the opinions of the aforementioned scholars, it should be emphasized that when analyzing the prevention of crime, the personality of the criminal, their social life, and lifestyle are considered highly significant in committing specific types of crimes.

The social danger of an act is also directly influenced by the criminal's personality. Therefore, when determining the social danger of the crime of resisting an authority figure or a person fulfilling their civic duty, it is necessary to take into account the gender, age, education, family status, occupation, social connections, and criminal record of the person accused of committing this crime.

According to a survey conducted among representatives of the field and an analysis of criminal case documents, it was found that crimes related to resisting an authority figure or a person fulfilling their civic duty were committed by men in 90% of cases on average, while the remaining 10% were committed by women.

In Uzbekistan, extensive work is being carried out to liberalize criminal legislation and fully adhere to humanitarian principles in sentencing. The doctrine of criminal law emphasizes that the purpose of sentencing is to guide individuals through these legal measures. In this regard, the principles of the Criminal Code of the Republic of Uzbekistan, particularly the principle of humanity, also establishes a clear framework for specific situations.

However, an analysis of judicial practice shows that in many cases, the crime of resisting an authority figure or a person fulfilling their civic duty is committed by individuals who have previously committed crimes. Researcher I. Suleymanova emphasizes that the use of violence against an authority figure is a primary cause of the crime, which manifests in the personal social-psychological profile of the criminal. The formation of negative motives influencing the commission of the crime arises from the following social-ideological, socio-economic, and legal conditions, namely:

- The artificial latency of the violence crime committed against an authority figure;
- The lack of conditions for social adaptation for individuals coming from correctional facilities;



- The existence of illegal arms trafficking in the country and the open display of violence in the media;
- Insufficient upbringing in the family and low levels of legal education.¹⁵

In agreement with the author's view, it is particularly appropriate to emphasize the importance of family and legal education in the formation of an individual as a person.

14 V.E. Eminov, Yu.M. Antonyan. The Personality of the Criminal and Its Formation. Journal "Current Problems of Russian Law". 2015. No. 1. P. 107.

15 Suleymanova Inna Evgenyevna. Violent Crimes Against Representatives of Authority in the Sphere of Management: Criminal Law and Criminological Study. Dissertation for the Degree of Candidate of Legal Sciences. Ufa. 2015. P. 182.

In conclusion, it can be stated that the scientific perspectives and analytical approaches mentioned above, particularly regarding the object of criminal aggression, the intentional nature of the offense, the prevalence of the act, the growth dynamics of crime, and the personality of the criminal, highlight the social necessity of establishing criminal liability for resisting an authority figure or a person fulfilling their civic duty within existing criminal legislation.

The commission of criminal aggression against the social relations governing the normal functioning of state authority and management bodies, as well as public organizations, can harm the state structure and lead to a loss of trust in the government among the population.

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