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The Social Dangers Of The Crime Of Abuse Of Power Or Position: Problems Of Theory And Practice

Shukhrat Khodjievich Alirizaev

Deputy Head Of The Department For Combating Economic Crimes Under The General Prosecutor's Office Of The Republic Of Uzbekistan

ABSTRACT

The article deals with the theoretical problems of social danger of the crime of abuse of power or official position (Article 205 of the Criminal Code), its place in criminal law, its connection with other official crimes. It also analyzes the increase in this crime in public life, corruption offenses and the origin of crimes. Signs of these and other official crimes are highlighted. Qualification issues in the competition of general and special official crimes are analyzed.

KEYWORDS

Criminal Code, legal society, crimes include looting, bribery, certain types of crimes against the environment, the public or individual citizens protected by law.

INTRODUCTION

President of the Republic of Uzbekistan Sh.M. In his speech at the solemn meeting dedicated to the 27th anniversary of the Constitution of the Republic of Uzbekistan, Mirziyoyev said

that “ensuring the rule of law and the rule of law is the main criterion of the democratic rule of law we are building”[1]. Ensuring human rights and interests in our country largely

depends on government agencies and local governments. Every citizen with their problems first of all turns to local khokimiyats, they feel the need for help. At the heart of these appeals is the face of injustice, lawlessness and various abuses that create distrust of the state. When the great master Amir Temur said, “Unless the state is built on the basis of laws, the splendor, power and structure of such a kingdom will be lost,” the legal society and the state were also mentioned.

In this regard, the responsibility of the official, the strict performance of his duties, a responsible approach to the implementation of the law is important, first of all, for the protection of human rights. Article 2 of the Constitution of the Republic of Uzbekistan states: “The state expresses the will of the people and serves its interests. Government agencies and officials are accountable to society and citizens,” he said, adding that any government agency and official has a responsibility to legally protect the rights and interests of any citizen on behalf of the state.

THE MAIN FINDINGS AND RESULTS

In this regard, official crimes, in particular the abuse of official authority, undermine the lawful activities of the state and public apparatus, undermine its reputation, undermine confidence in social justice, and in many cases lead to violations of the rights and legitimate interests of citizens. The most common and high-risk criminal offense in the commission of such offenses is the abuse of office. President of the Republic of Uzbekistan Shavkat Mirziyoyev chaired a video conference on June 30, 2020 to discuss the tasks of ensuring justice and combating corruption, - “Over the past year and a half,

the courts have annulled 1,730 decisions of governors on land allocation, demolition and privatization” [2]. The fact that so many decisions have been annulled in a year and a half across the country means that so many decisions have been made without justification and abuse. It is not difficult to understand that such abuses have caused a lot of damage in the background.

In many cases, career abuse is combined with other crimes: robbery, smuggling, anti-justice, customs [3], tax and other crimes.

The need for a theoretical study of a set of measures aimed at improving the effectiveness of the fight against crime [4], further improvement of criminal law and their application by law enforcement agencies (which have significant shortcomings) is relevant to establish a legal society, substantiate the rule of law.

Judicial practice analysis notes that official crimes are on the rise. In particular, on November 7, 2020, the Prosecutor General of the Republic of Uzbekistan N.T. Yuldashev at an interdepartmental meeting on the causes and conditions of corruption in the observed areas and ministries and departments, Over the past two years, 1,986 officials in Uzbekistan have been prosecuted for corruption. The amount of material damage caused by such crimes exceeded 2 trillion soums [5].

The role of law enforcement agencies in combating career abuse is growing. One of the main directions of such struggle is crime prevention. Such a situation would be grounds for saying that it is necessary to significantly increase the effectiveness of punishment and crime prevention.

Official crimes cannot be considered a criminal or purely criminological problem. Because it is a problem of deep and complex political, economic and moral significance. There is a need for a comprehensive analysis of the problem of career abuse in relation to sociology, law, criminology, social psychology and other areas of scientific knowledge. The need for such complex solutions reflects the general situation and principles in the development of science, which is reflected in the integration of scientific knowledge, the growth of the study of interrelated problems in the interaction of different disciplines and the interdependence of disciplines.

The prevalence of crimes of abuse of power in public administration allows to further improve the laws to combat these crimes, to improve the work of law enforcement agencies in combating these crimes, to identify the causes of these crimes and to achieve the effectiveness of combating these crimes.

In the theory of criminal law, the concept of the crime of abuse of power or official authority is interpreted in conjunction with the concept of official crimes. The necessary signs of this crime are exactly the same as the signs of official crimes.

The normal functioning of public authorities or local self-government bodies as a result of the crime of abuse of power or official position seriously harms the rights and interests of citizens. This indicates that in the process of building a democratic state governed by the rule of law in the independent Republic of Uzbekistan, the responsibilities of leaders and all officials have been further increased in the process of modernization of the system of

government and administration, as well as the mechanism of all farms.

It is necessary to analyze the features of the socio-economic and legal analysis of the components of socially dangerous crimes at the level of legislative theoretical analysis of general official crimes.

At the legislative level, general concepts of official misconduct are not stated. However, this issue is widely covered in the legal protocols of official crimes as well as in theories of criminal law [6].

One of the main features of the concept of official crime is that it is focused on the social relations associated with the normal functioning of the state apparatus and the activities of the administrative order.

The concept of official crimes is defined in criminal law theory by the collective expression of the characteristics of these crimes. But it does not rule out the possibility of clarifying the concept of career abuse and making additions.

In particular, official crimes are actions committed by an official using his official powers or duties, which seriously damage the rights and interests of the state, other public organizations or citizens protected by law.

This definition also had another serious flaw in addition to the specific relationship at the time. Nothing is said about the harm that distinguishes a criminal offense from a simple offense, which is of great importance in the process of qualifying actions.

Although the crime of abuse of power or official position is generally described as the same as the crime of official crime, it is often emphasized that these types of crimes are

defined as false information included in an official document [7]. But even this definition cannot be agreed upon. In our opinion, in order to be considered an official crime, it is necessary that the official has suffered serious damage as a result of a socially dangerous act. According to Rustambayev, official crimes seriously damage the normal functioning of the state apparatus, even if they are not provided for in the relevant laws [8]. In fact, whether the harm was inflicted or whether there was a risk of infliction has the potential to determine whether the act was a crime. Serious damage to the rights and interests of the state, the public or individual citizens, protected by law, in the crime of abuse of power or official position should be considered a necessary sign of this crime.

Damage may not always be property. In some cases, it can seriously damage the normal functioning of enterprises, organizations or institutions that are the basis of the state apparatus, can lead to its discrediting, and so on.

The direct object of the crime of abuse of power or official position - the order of activity of state or public organizations that are part of the state apparatus; special subject - official; the commission of a crime by an official in connection with his official position or official authority; and as a result, the rights and interests of the state, the public, or individual citizens, which are protected by law, have been seriously harmed. This set of listed features makes it possible to determine their socio-legal nature in determining the composition of certain official crimes.

We consider it appropriate to define the crime of abuse of power or position as follows: an act by an official in the exercise of his or her

official duties in the exercise of his or her official authority in violation of his or her official authority to cause serious harm to the rights and interests of the state, the public or individual citizens protected by law.

The crime of abuse of power or official authority embodies all of the above-mentioned characteristics, although it has its own characteristics as a type of official crimes. It is on the basis of these features that it is possible to analyze the objective and subjective features of the crime.

The legal essence of this crime is the serious damage to the rights and interests of citizens, the state or public interests, protected by law, as a result of intentional abuse of power by an official.

Abuse of power or position is often accompanied by other crimes, and often such abuses constitute the manner in which those crimes are committed. Such crimes include looting, bribery, certain types of crimes against the environment, etc., in the course of carrying out the work of an official.

The crime of abuse of power or official authority is a crime of a general nature in relation to other official crimes, and other official crimes are always committed together with the general features of this crime. A general crime is a crime for which special liability is established for specific types of this crime. Typically, special types of criminal law do not provide for signs of a crime of abuse of power or position, but those crimes are committed with signs of a crime of abuse of power or position. For example: forgery of documents obtained by the director of the enterprise in the transfer of criminally obtained property, transfer of smuggled

property as a result of forgery of documents from customs inspection, and so on. Such cases always occur with abuse. Due to the existence of such features of the crime of abuse of power or official position, the theory of criminal law proposes to significantly change the text of this law, and even replace it with other legal norms in order to specify certain types of official crimes.

CONCLUSION

It is concluded that the crime of abuse of power or official authority is a crime of a general nature in comparison with all other official crimes, and special types of official crimes are committed with the characteristics of a crime of abuse of power or official authority. Offenses with a special content do not require additional qualification with the general content in the criminal law, which also includes the features of the general content and the text of the law. In the competition of general and special content crimes, it is sufficient to qualify with the special content criminal law.

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