Original research article / Originalus mokslinis straipsnis
Vol. 1 No. 3 (2025): Gegužė

Circumstances that Prevent an Act from Being a Crime

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Accepted: 04.28.2025
Published: 05.02.2025

https://doi.org/10.69760/portuni.010303

Abstract:

The article elaborates the circumstances which prevent an act from being a crime. Crime owns its specific signs. Not all the acts can be considered a crime. In order to get the status of crime, the act must be socially dangerous, must be committed by a guilty person, must be considered in the Criminal Code, and must be prohibited by the threat of punishment. The main and basic task of criminal law is to protect society from relatively dangerous crimes. As for the special deterrent duty of criminal law, it should be noted that the person who committed the crime is given the punishment provided for by law, and in this way, he is prevented from committing a new crime a second time. One of the important methods of fulfilling such duties is the prevention of socially dangerous acts directed against collective and personal interests. While protecting against the emerging threat, in the process of preventing a socially dangerous act in connection with the elimination of such a threat, physical, material and moral damage may be caused to a person or persons. An action that eliminates the existing danger by causing damage may formally correspond to the signs of this or another composition provided for in the Special Part of the Criminal Code.

Keywords: *reasonable risk, guilt, necessary defense, immorality, last necessity, illegality, euthanasia, incossator*

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INTRODUCTİON

The first legal definition of crime was given in the French Criminal Codes adopted in 1791 and shortly thereafter in 1810. Before that, Beccaria attempted to give the material side of crime. This definition was also given more fully in the Soviet criminal laws adopted in different years. This concept was further developed in the criminal law adopted on December 30, 1999, which is in force.

Any act (action or inaction) that is not considered socially dangerous due to its minor importance, even if it formally has the signs of being provided for in the criminal law, i.e. does not harm the individual, society or the state or does not pose a threat of harm, is not considered a crime. Here, four signs of a crime have been established - socially dangerous; committed by a guilty person; considered in the Criminal Code; prohibited by the threat of punishment. This law also specifies once again the scope of protected social relations. Thus, according to criminal law, a crime is a socially dangerous, illegal, guilty, punishable and immoral act. Social dangerousness is the characteristic of an act that harms social relations. This feature expresses the social essence of a crime. The feature of illegality implies the indication of the act in law, or the criminalization of the act by legislation. Illegality determines that only the act specified in criminal law is considered a crime. Illegality is the legal form of social dangerousness expressed in law. Guilt is the mental attitude of a person to a socially dangerous act committed by him in the form of intent and recklessness. Where there is no guilt, there can be no talk of a crime. An act may be socially dangerous, but if there is no guilt, the act cannot be considered a crime. Crime is an act that must be punished. This sign implies that the law determines the punishment for every act considered a crime. However, in certain cases, punishment may not be applied for a crime committed. Such a situation may arise in the following cases: 1. If a crime has been committed, it cannot be solved. If it is impossible to identify the culprit, 2. If a crime has been solved and the culprit is identified, the court does not consider it necessary to impose punishment on that person. A crime is an immoral act. The legal norm that determines the criminality of an act must correspond to the prevailing moral concepts. An act considered a crime must be condemned by the general public.

Like any other field, criminal law has certain responsibilities. The main and basic task of criminal law is to protect society from relatively dangerous crimes. We are talking about the protective task of criminal law. The essence of the protective task of criminal law is to ensure peace and security of humanity, to protect the rights and freedoms of man and citizen, property, public order and public security, the environment, the constitutional order of the Republic of Azerbaijan from criminal acts. Among them, the task of protecting the individual, his rights and freedoms occupies an important place. In democratic states under the rule of law, criminal law must first of all ensure the protection of human rights and freedoms. Preventing crime is a duty of criminal law. This is called the preventive duty of criminal law. The preventive duty of criminal law is of two types: the general preventive duty; the special preventive duty.

The essence of the general deterrent duty of criminal law is that the establishment of a norm of criminal law on the imposition of punishment for a criminal act deters all members of society from committing a crime, warns them with the threat of criminal punishment: whoever commits a crime,

then punishment will be applied to that person. The object of the general deterrent duty is all individuals.

As for the special deterrent duty of criminal law, it should be noted that the person who committed the crime is given the punishment provided by law, and in this way, he is prevented from committing a new crime a second time.

THEORETICAL FRAMEWORK

The legal norms that constitute criminal law (norms included in both the general and special parts) are outwardly expressed in the criminal law. The Constitution of the Republic of Azerbaijan plays the role of a legal basis in the creation of criminal law. The Constitution is the normative basis of all legislation, including criminal legislation. A number of norms provided for here have an important and essential (determining) significance and role for criminal legislation (for example, the norm on equality of all before the law and the court, etc.) (Khalilov, 2024).

Criminal law is the source of criminal law. Only criminal law can determine the norms of criminal law. The following issues can be determined only and exclusively by criminal law:

• which socially dangerous acts are considered crimes and should be punished.

• the grounds for criminal liability.

• the system of punishment, the rules and conditions for its determination.

• exemption from criminal liability and punishment.

The protection of existing public relations from criminal acts is considered the main constitutional duty of the relevant state bodies and the civic duty of the citizens of the country. One of the important methods of fulfilling such duties is the prevention of socially dangerous acts directed against collective and personal interests. While protecting against the emerging threat, in the process of preventing a socially dangerous act in connection with the elimination of such a threat, physical, material and moral damage may be caused to a person or persons. An action that eliminates the existing danger by causing damage may formally correspond to the signs of this or another composition provided for in the Special Part of the Criminal Code. However, when such actions are allowed under certain conditions, its sign of public danger disappears and the act is not considered a crime. Circumstances that eliminate the public danger of an act are such that, with the existence of these circumstances, acts that outwardly resemble a crime become lawful behavior. The nature of the circumstances mentioned in the theory of criminal law has been assessed as a circumstance that eliminates the public danger of the act, sometimes the act is criminal and punishable. Sometimes it's illegal.

In the Criminal Code of the Republic of Azerbaijan, the main case is defined in a special chapter under the title "Cases that eliminate the criminality of an act". Such cases include such cases as: necessary defense (Article 36), arrest of the perpetrator (Article 37), extreme necessity (Article 38), justified risk (Article 39), execution of an order or decree (Article 40). Thus, the range of cases listed in the Criminal Code of the Republic in comparison with the 1960 Criminal Code has been doubled. This has

significantly strengthened both the preventive function of the Criminal Code and its effectiveness. Various considerations are found in the legal literature regarding the classification of the mentioned cases (Khalilov &Mirzezade, 2025). Some authors propose to divide the cases that eliminate the criminality of an act into two: socially beneficial (necessary defense and arrest of the perpetrator) and other cases. Among the cases listed in the judicial practice, the first group of cases should be examined in more detail. Cases such as self-defense and last resort are considered relatively ancient institutions of criminal law. Currently, the criminal legislation of most foreign countries, for example, the USA, Spain, Bulgaria, Poland, Hungary, France, Germany and other countries, provides for cases that exclude the criminality of an act, such as self-defense and last resort (Aliyev 2016). In addition, the criminal legislation of various countries includes the conduct of cognitive, medical, technical or economic experiments (for example, in the Polish Criminal Code), euthanasia with the consent of the victim (in the German Criminal Code), the performance of professional and official duties, the exercise of legal rights (in the Spanish Criminal Code), etc. such cases are defined as circumstances that eliminate the criminality of an act (Abbasov et al, 2024).

As already mentioned, an act is considered a criminal act if it has the following features: contradiction with criminal law (unlawful), public danger, guilt and worthiness of punishment. The absence of any of these features means that there is no criminal act. In some cases, an act may have a formal resemblance to a crime. However, in certain circumstances in which it is committed, it does not have one of the four specified features of a crime. It may be deprived of all of them, and therefore it is not a crime. All these circumstances exclude the fact that the act is against the criminal law (against the law), socially dangerous, worthy of punishment, and therefore a crime. This means that the act committed in these circumstances does not have the elements of a crime. There is no basis for the person who committed this act to bear criminal liability (Aliyev, 2024).

In addition, the social nature of these cases is such that the relevant act is not only non-criminal, that is, lawful, but also socially beneficial. In all these cases, the infliction of certain harm (for example, in the case of self-defense, severe harm is also possible. The committed act is compensated by the socially beneficial consequences for the interests of the individual, society and the state (Huseynov, 2025). The crime, which excludes the circumstances that constitute a criminal act, is based on the Constitutional norms on the inviolable and inalienable fundamental rights and freedoms of a person from the moment of birth (Constitution of the Republic of Azerbaijan). These are the following norms: on the right to life, on the right to property, etc. In the theory of criminal law, in addition to the cases that eliminate the criminal act provided for in the criminal law, other cases are listed.

Thus, A.A. Piontkovsky also attributed the consent of the injured party, the performance of socially useful professional functions, the exercise of personal rights, and compliance with the law to such cases. In educational literature, the legal nature of these cases that exclude a criminal act is usually denied. Often this is justified by the fact that these cases are determined not by criminal law, but by other legislation (the Constitution, administrative: civil and other norms of law) (Garibli, 2025). However, the matter is more complicated. First, time itself "works" to expand the circle of the indicated cases.

Consequently, in 1996, four new circumstances excluding a criminal act were included in the RF Criminal Code: causing harm to a person who committed a crime during his detention, physical and psychological coercion, justified risk, and execution of an order (Tofig & Nurlan, 2024) . Whereas previously, necessary defense and extreme necessity were considered in the RSFSR Criminal Code. Secondly, although the consent of the victim, the performance of socially useful professional functions, the exercise of personal rights, and compliance with the law are not directly provided for in the criminal law as circumstances excluding a criminal act, they cannot but have criminal-legal significance when it comes to the grounds for criminal liability or exemption from this liability. At this time, it is clear that the legal researcher cannot directly refer to these cases in the process of resolving the issue of the grounds for a person's criminal liability, since they are not specified in the criminal law. However, the specified cases are not criminal law.

According to Article 26 of the Constitution of the Republic of Azerbaijan, everyone has the right to defend their rights by methods and means not prohibited by law. Article 36 of the Criminal Code in force defines self-defense as follows: "An act committed in the course of self-defense, that is, while protecting the life, health and rights of the person defending himself or another person, the interests of the state and society from a socially dangerous intent by causing harm to the person defending himself or another person, is not considered a crime if it exceeds the limits of self-defense.

Necessary defense is understood as legally protecting oneself by inflicting harm on a person who is intentionally dangerous to society. Actions taken in the course of necessary defense are not considered crimes, but rather socially beneficial actions, since they are intended to protect the interests of the state, public interests, and the personality and rights of citizens from a socially dangerous act. Necessary defense is one of the effective means in the fight against crime and serves to prevent crimes, strengthen the rule of law, and educate each person in a spirit of non-compromise against crime. All persons, regardless of their profession or other special training and service status, have the right to necessary defense (Article 36.2 of the Criminal Code).

Necessary defense is a subjective right of a citizen, but not his legal duty. Therefore, refusal to defend, although morally reprehensible, cannot give rise to criminal liability. However, for some individuals, protecting the interests of the state, public interests, as well as the interests of others from criminal intent is considered a legal duty arising from their official position, and failure to fulfill such a duty may also give rise to criminal liability (Ozturk et al, 2025). Police officers, military personnel, security service, as well as state security service employees, collectors, guards at certain facilities, etc. belong to this group of individuals.

RESULTS

It is clear from the law that citizens, when protecting themselves from socially dangerous attempts against their lives, health and other personal well-being, act as a means of self-defense in the institution of necessary defense, and in necessary defense, a socially dangerous attempt is prevented by causing harm to the perpetrator. If the action taken in this way to prevent the danger does not exceed the limits of necessary defense, it is not considered a crime. Article 38 of the Criminal Code of the Republic of Azerbaijan currently in force defines last necessity as follows: "An action committed in a

state of last necessity, that is, by causing harm to the life, health and rights of a person or other persons, the interests of the state and society, to objects protected by this Code, if in that situation it is impossible to eliminate this threat by other means and if at this time the limit of last necessity was not exceeded, is not considered a crime. It is clear from the meaning of the law that a person may cause damage to objects protected by law in order to eliminate a threat that directly threatens the mentioned interests, and such damage must necessarily be less than the prevented damage. This act is not considered a crime. The infliction of damage that is clearly disproportionate to the nature and degree of the threat that has arisen, as well as the conditions for eliminating that threat, and the fact that the damage caused is equal to or exceeds the prevented damage, is considered to be an excess of extreme necessity. Exceeding the extreme necessity in this way gives rise to criminal liability only if the damage is caused intentionally. It is clear from the concept of extreme necessity that the act of causing damage to objects protected by criminal law while protecting the life, health and rights of a person or other persons, the interests of the state and society from a threat that threatens them, should be the only means of eliminating this threat, and the action should be aimed at preventing the expected threat.

DISCUSSION

In the legal sense, actions allowed in a state of extreme necessity are not socially dangerous. There is another position in literature that opposes this. According to the latter, two types of relationships protected by law collide in a state of extreme necessity. Of these, the more important relationships are protected by giving preference to one that is considered important and harming the other. For example, a doctor may be called to two patients at the same time. In such a situation, the doctor must first aid the patient who is in serious condition. The doctor's inaction in delaying assistance to the second patient should be assessed from the standpoint of extreme necessity. In most solutions, the behavioral act allowed in a state of extreme necessity is carried out through action.

In the case of necessary defense, the act of behavior aimed at preventing the intent, the arrest of the criminal, is carried out only by active action. The last necessity may also be associated with permissible inaction. When the last necessity is associated with the conflict of two types of obligations, the person does not prevent the occurrence of a less severe consequence, but shows inaction. In the case of last necessity, the action aimed at eliminating the danger is given to every citizen. For certain categories of people, for example, for police officers, fire protection workers, it is a duty to take actions that save the state interest, public interest and the personality and rights of citizens from the danger that threatens them. For example, the captain, in order to save the ship from capsizing, in the case of last necessity, saves the passengers on the ship by throwing most of the cargo into the sea.

The commission of a crime, as a legal fact, creates criminal liability for the person who committed it. The realization of criminal liability is possible in any case by ensuring the appearance of the perpetrator of the crime to law enforcement agencies. It is rare for a perpetrator to come and voluntarily present himself to law enforcement agencies. In most cases, such people are brought forcibly. If the perpetrator of the crime refuses to appear before the authorities upon summons, tries to escape and hide, in such cases he is brought forcibly to the relevant medical institutions.

Article 37 of the Criminal Code of the Republic in force establishes legal grounds for the detention of a person who has committed a crime. It states that: 37.1. Causing harm to a person who has committed a crime when he is detained for the purpose of bringing him to the competent state authorities or preventing him from committing new crimes is not considered a crime if the use of all other means of influence for that purpose has not yielded the necessary result and the limits of the measures necessary for this have not been exceeded. 37.2. The use of means and methods used to detain a person who has committed a crime are clearly excessive in relation to the degree of public danger of the committed act and the person who committed that act, as well as the circumstances of the detention. Exceeding the limit in this way only leads to criminal liability if the damage is caused intentionally. When imposing a punishment on a person with reference to criminal legislation, all circumstances must be taken into account. That is, isolating a person from society is not considered his correction. The range of acts considered criminal should always be analyzed, and preventive conversations should be held regularly with persons prone to crime.

CONCLUSION

In short, all necessary measures should be taken, taking into account the possibility that he may commit a criminal act in the future, either on his own initiative or under the influence of others. Preventive conversations should be held with those persons, and all necessary measures should be taken towards his reformation. The punishment imposed for all violations of the law specified in the Criminal Code should be carried out in accordance with the article of the law. That is, the Principles of the Criminal Law should be taken as a basis. The imposed punishment should be approached from a fair perspective. Therefore, the main goal in selecting the types of punishment in determining punishment is not its severity, but the principle of the severity of responsibility should be taken as the basis. Thus, according to the Penal Execution Legislation, the work to be done on the humanization of penal policy should not reduce the effectiveness of the measures taken in the country in the field of combating crime, and the necessary work in this area should be continued.

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