

## Review Article

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## Issues of Use of Prejudice in Criminal Proceedings

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### ABSTRACT

Since the advent of Carbon nanotube (CNT), the technology has made significant contribution in the realm of physical, chemical, engineering and life sciences. Thus it is necessary to know its structure, synthesis techniques, its properties and above all its biomedical utilization. Though, the technology has proved its utility in multiple fields, it is still developing and the best is yet to come. This paper aims to review and underline the significance of CNT and tries to develop a complete understanding for beginners in this realm. The paper presents brief but precise description of CNT along with the possibility of further development of this technology.

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Elimination of conflicts in the activities of state bodies and officials responsible for conducting criminal proceedings by the Institute of Prejudice in criminal proceedings; create conditions for a more competent consideration and resolution of a criminal case by an authorized person; to enable easy resolution of prejudicial situations that require a lot of expense and effort in the conduct of criminal proceedings; It is important to prevent previous court decisions with legal force from disappearing without a trace and ultimately serve to find an acceptable solution in certain cases.

This research work was initially carried out through observation, generalization, axiomatic and comparative methods due to the fact that scientific research was not carried out as a research work in criminal-procedural law. It should be noted that the method of comparative legal analysis was widely used during this research. Prejudiciality is a feature of the legal force of a court decision, which describes its external relationship with other decisions [1]. The following goals are aimed at: 1) compliance with the universality of the decisions of judicial bodies; 2) preserving the social value of documents of judicial bodies; 3) following the authority of judicial bodies; 4) follow the authority of the decisions taken by the judicial bodies; 5) compliance with the legal succession of the decisions taken by judicial bodies; 6) speeding up the process of proof in a criminal case [2].

To determine the prospects for improving the national legislation related to the use of the institution of prejudice in criminal proceedings in Uzbekistan and to prepare scientific proposals and recommendations for the development of the legal basis of this criminal-procedural institution:

1) the concept and significance of the institution of prejudice is revealed as a means of increasing the importance of court

documents and ensuring reasonableness, speed and uniformity in the consideration of criminal cases in criminal procedural law; 2) concrete proposals are developed for solving theoretical and practical problems related to the prospects of introducing the institution of prejudice in criminal proceedings.

3) suggestions are made on the development of the limits and scope of the institution of prejudice and procedural procedures related to its application in the operation of the court in criminal cases, etc. [3].

There are various means of proof in jurisprudence. These can include arguments, prejudices, presumptions, etc. When talking about evidence in criminal cases, evidence is often referred to as a means of proof. Other means of proof are of secondary importance. However, prejudice is one of the important tools for proof in forensic practice, and it is of special importance in proof [4].

Prejudice includes two elements: 1) *praecedo* - moving forward, leading; 2) *praeiudico* - pre-preliminary discussion, where “*raye*” means additional “before”, and “*judicium*” means a legal decision that has the legal force of law [5]. In fact, prejudice is the cases determined by the court, prosecutor, investigator, investigator within the framework of civil, economic or administrative court proceedings by a legally binding judgment or other decision of the court, provided that they are not rejected by the evidence collected, checked and evaluated during the criminal proceedings in accordance with the law. , addition is an element of the process of proof expressed in recognition without checks.

It is widely recognized that when the term prejudice is used in science, in most cases we are talking about a previous court decision.

Also, as stated by V.V. Vasin, prejudice is an element of the system of criminal-procedural knowledge of the court of general jurisdiction and is of great practical importance for the correct resolution of the criminal case [6].

In this regard, it would be appropriate to agree with the opinion of O. E. Yatsishina that “prejudice confirms once again the legal and social importance of court decisions, their inevitability and authority” [7].

At present, this is only one side of prejudice, the other side of which is the use of prejudicial evidence to determine the circumstances that must be proven in another case.

The accused (defendant, convict), victim, civil claimant, civil defendant has certain rights and obligations in one criminal case, and under the influence of prejudicial circumstances, he has the same scope of rights and obligations in another case.

Prejudicial determined legal relationship frees the participants of the evidence from recognizing a person as a repeated victim or a civil claimant, from repeatedly involving a person as a civil defendant. Their rights and obligations are not repeatedly explained to the representatives of the said criminal proceedings. The existence of prejudgment rules in criminal proceedings brings the following advantages.

1. Resolves conflicts in the activities of state bodies and officials responsible for criminal proceedings.
2. The criminal case is considered and resolved more competently by an authorized person.
3. Allows for easy resolution of prejudicial situations that require a lot of expense and effort in criminal proceedings.
4. Prevents previous court decisions with legal force from disappearing without a trace, as a result of which leads to finding an acceptable solution to the circumstances [8].

V. V. Vasin evaluates prejudice in the criminal-procedural knowledge activity of the court as “ready-made knowledge” of any circumstances related to the subject of knowledge in another criminal case, which was received by the court during the review of previous criminal cases and expressed in the legally binding judgment and used by the court in passing judgment. [9].

In the words of T.G. Morshakova and S.V. Golubinskaya, “prejudice is the circumstances that have been determined by one court and cannot be repeatedly determined by other courts and must be evaluated as concluded by them” [10].

However, there is some objection to the views of these authors. It will not be possible to accept all cases, the reason of which was determined by previous court decisions, without checks. Sometimes their inspection is mandatory depending on the working conditions.

O.V. Levchenko believes that prejudice is “a legal rule that a court judgment (decision) entered into legal force is binding for one court (judge) and because of this, a full or partial retrial of the same case is excluded.” In this case, the author is right to some extent [11].

L.S. Zarzhiskaya defines prejudice as the recognition of circumstances determined by a previously accepted court decision, acceptable and reliable evidence [12]. Recognizing the multifacetedness of procedural prejudice, the author shows its following features: obligation, according to him, procedural prejudice is understood as the supremacy of procedural truth that

has been determined; technology - a set of tools and methods that enable the realization of the possibilities of the state power within the framework of resolving conflict situations; communicability - prejudice is a category with a single meaning for all law practitioners [13].

S.V. Esaulov, it is a provision that exempts the court from the obligation to prove the circumstances determined by the legally binding court judgment for prejudice in the proceedings of the criminal court. defines that it does [14].

Yu.Ye. Saleeva mentions that prejudice in the procedural sense should be interpreted as a mandatory rule for the participants of the criminal court proceedings to take into account prejudicial circumstances and assess them based on their internal confidence based on the system of evidence collected [15]. In the opinion of the author, prejudice does not require the acceptance of prejudicial determined cases with complete confidence, but represents the requirement for their mandatory assessment.

A.R. Belkin defines prejudice as “the result of the gradual application of the presumption of the correctness of the verdict as a binding decision of one court for another” [16]. In this, the author pays attention to the fact that it is an official fact.

N.A. Tuzov applied the concept of general prejudice of court documents and defined it as specific cases by all bodies, organizations and individuals (subjects). recognizes as binding the court documents (primarily their decision parts) that have entered into force in the future in the cases specified in these documents [17].

Implementation of the rule on prejudgment - 1) always requires to take into account the existence of a legally binding court decision related to the case being conducted by the investigator, the investigator and the court. The state of prejudicial does not allow to proceed with the case without taking into account the prejudicial document;

2) allows for the detection of a miscarriage of justice and ultimately the determination of the truth in two related cases; 3) frees the investigator, the investigator and the court from the need to repeatedly determine the circumstances relevant to the case, they can be limited to referring to the legally binding court verdict [18].

Prejudicial circumstances must be expressed in a legally binding court verdict and used in making a relevant criminal-procedural decision by concluding the act without additional checks in the criminal-procedural and criminal-legal qualification [19].

The importance of prejudice in criminal-procedural activity is that the court acquires knowledge about the circumstances that were previously the subject of judicial investigation and with the help of certain circumstances that were not known to it, and achieves the determination of other events through a legally binding court verdict.

Disputes about the role and importance of prejudice in criminal proceedings are primarily determined by its status as evidence [20]. It should be noted that, logically, prejudicially identified situations and information are already established knowledge. This knowledge is based on real and proven evidence. In the future, this knowledge can be used as evidence and as verified and ready knowledge in other criminal cases. Thus, prejudicial findings or information, by their nature and internal content, are new ready

knowledge and therefore can be used by the court as prejudicial circumstances. Prejudicial determined cases are manifested in their readiness and suitability for use by the court in criminal-procedural cognitive activity with attention to the essence [21].

Prejudice in criminal proceedings refers to the circumstances identified in a legally binding court document (sentence, decision, ruling, decision, etc.), provided that they meet criteria such as acceptability, reliability, and formalization in accordance with the requirements of procedural legislation, additional in the course of criminal proceedings, which ensures recognition and application without examination and evaluation, as well as repetition of these cases author's definition was given that it means a legal rule exempting from proof [22].

We can distinguish three types of prejudice in the criminal proceedings, depending on the subject who makes the procedural decision in the criminal court proceedings: 1) prejudice used by the inquirer, investigator; 2) prejudice used by the prosecutor; 3) prejudice used by the court [23].

It is worth noting that, therefore, it must meet the relevant requirements: it must be objective (based only on verified and established evidence), clearly defined (it must not give different understanding based on suspicion), legally based (properly based on the requirements of criminal and criminal procedural legislation), as well as, must fully meet stylistic and grammatical requirements [24].

### Summary

Summarizing the theoretical opinions expressed in some sources, it is concluded that there are the following descriptions of prejudice: 1) the act of applying the right, 2) the situation determined by the court, 3) the result of the step-by-step application of the presumption of the correctness of the sentence in the form of binding of one court decision for another; 4) intellectual-will activity on proof; 5) nature of separate legal events; 6) method of legal technique (rule of proof); 7) prohibition of disputing prejudicially determined facts; 8) basis (rule) of exemption from proof; 9) a legal rule defining special rules for the use of legal judgments in evidence. In short, prejudice in criminal proceedings refers to the circumstances identified in a legally binding court document (sentence, decision, decision, etc.), provided that they meet criteria such as admissibility, reliability, and formalization in accordance with the requirements of procedural legislation, in a criminal case means a legal rule that ensures recognition and application without additional checks and evaluations in the course of business, as well as exempting these cases from repeated proof [25].

We can distinguish three types of prejudice in the criminal proceedings, depending on the subject who makes the procedural decision in the criminal court proceedings: 1) prejudice used by the inquirer, investigator; 2) prejudice used by the prosecutor; 3) prejudice applied by the court.

According to the field of action within the legal system, prejudice is divided into general legal, inter-sectoral and network (internal network) prejudice. A special feature of general legal prejudice is that it is valid in all areas of law [26].

The following important features characteristic of prejudice were identified: 1) prejudice is a legal technical method, a rule of proof that expresses the subject and direction, content of evidence used in law enforcement activities, and is used in considering legal cases and making decisions on them; 2) the basis of prejudgment is the

reliability of proven circumstances in other legal cases;

3) Prejudice is mandatory for all law enforcement bodies; 4) prejudgment is related to a legally binding court decision [27]. The objective side of the prejudice is determined by the court's activity, and its observance ultimately leads to a legal result in the form of a decision; 5) prejudice is applied only to the legal facts that form the basis of a court decision [28]. It is generally accepted that prejudice alters the normal procedure of proof and exempts cases from the obligation of repeated determination and investigation because they have been decided by the court.

The current structure of the court system and the state unit do not allow for a rational distribution of official duties, which requires their improvement and optimization taking into account the requirements of the time [29].

The following tasks are being solved within the framework of the current reforms, i.e. ensuring the effective and reliable protection of the rights and freedoms of citizens, the interests of society and the state, systematizing and harmonizing the norms of criminal procedural law, improving the mechanisms for reliably ensuring the guarantees of the rights and freedoms of the individual in criminal proceedings, measures to introduce new forms and procedures of the process are being implemented. Evidence and their admissibility and reliability take a firm place in the range of tasks to be solved above. For this purpose, it is appropriate to consider the prejudicial significance of the evidence. We hope that such innovation will take place in our legislation.

### References

1. Zimenko ye (2013) Significance pre'yuditsii i pretsedenta v prave // [The meaning of prejudice and precedent in law]. *Zakon i jizn* 8: 183.
2. Levchenko OV (2010) Pre'yuditsiya v ugolovno-protsessualnom prave // [Prejudice in criminal procedure law]. *Vestnik OGU* 3: 58.
3. Bruskov PV (2013) Pre'yuditsiya v ugolovnom, arbitrazhnom i grazhdanskom protsessax // [Prejudice in criminal, arbitration and civil proceedings]. [www.pravoektb.ru/stati/pre'yuditsiya-v-ugolovnom-arbitrazhnom-i-grazhdanskom-protsessakh](http://www.pravoektb.ru/stati/pre'yuditsiya-v-ugolovnom-arbitrazhnom-i-grazhdanskom-protsessakh).
4. Smirnov I Pre'yuditsiya kak sredstvo yuridicheskoy tekhniki // [Prejudice as a means of legal technique]. [www.izvestia.vologda-uni.ru](http://www.izvestia.vologda-uni.ru).
5. Vasin VV (2006) Ugolovno-protsessualnoye poznaniye sudom pervoy instansii obstoyatelstv ugolovnogo dela // [Criminal procedural knowledge by the court of first instance of the circumstances of a criminal case]. *Authorref. diss cand. yurid. science. - Tomsk: YUITGU*: 5.
6. Yatsishina OE (2006) Vnutrenneye ubejdeniye kak osnovaniye svobody otsenki dokazatelstv v rossiyskom ugolovnom protsesse // [Inner conviction as a basis for freedom of evaluation of evidence in the Russian criminal process]. *Monographia. - Chelyabinsk: Izd-vo LLC "Poligraf-Master"*: 21.
7. Zarjitskaya LS (2013) Pre'yuditsii v sisteme ugolovno-protsessualnogo dokazyvaniya: prezentatsiya rezultatov nauchno-prakticheskogo issledovaniya // [Prejudice in the system of criminal procedural proof: presentation of the results of scientific and practical research]. *Mirovoy sudya* 1: 26.
8. Levchenko OV (2003) Sistema sredstv dokazyvaniya po ugolovnym delam // [System of evidence in criminal cases]. *Monographia. - Astrakhan: Izd-vo AGTU*: 164.
9. Zvyaginseva LM (2000) Dokazyvaniye v sudebnom praktike



- po grajdanskim delam || [Evidence in jurisprudence in civil cases]. Uchebno prakticheskoye posobiye. -M: 15.
10. Chashina IV (2009) Preyuditsii v ugovnom protsesse: ponyatiye i znachenije // [Prejudice in criminal proceedings: concept and meaning]. Nauchno-prakticheskiy jurnal Akademii Generalnoy prokuratury Rossiyskoy Federatsii 5: 67.
  11. Zarjitskaya LS (2013) Mesto i rol preyuditsiy v ugovno-protsessualnom dokazyvanii || [Place and role of prejudice in criminal procedural proof]. Authorref. diss cand. jurid. Science - M.: RUDN: 9.
  12. Pulatov BX (2002) [Theoretical Foundations for Improving Legislative Regulation and the Practice of Participation of the Prosecutor in the Consideration of Criminal Cases in Courts]. - T Fan: 156.
  13. Pulatov B Kh (2004) Participation of the public prosecutor in the examination of evidence in court. Scientific and methodological manual for the public prosecutor [Participation of the public prosecutor in the examination of the evidence in court. Scientific and methodological manual for public prosecutors]. -T: 78.
  14. Ugolovny process (2010) Obshaya i Osobennaya chast: uchebnik dlya yuridicheskikh vuzov i fakultetov [Criminal process. General and Special parts: a textbook for law schools and faculties]. V.V. Vandyshev; Mezhtseionalnyy institut ekonomiki i prava. - M.: "Contract": 720.
  15. Uralov SS (2021) Institute of Prejudice in Criminal Procedure Law [Institute of Prejudice in Criminal Procedure Law]. Monograph. - T.: "Lesson Press" publishing house: 106.
  16. Uralov SS (2021) Pre-trial and trial litigation. Monograph - T.: Tashkent State Law University: 102.
  17. Uralov SS (2021) Aurora M. PREJUDICE IN EVIDENCE AND PROOF //Fundamentalnye osnovy nauki: 22-26.
  18. Uralov Sarbon (2020) Required perspectives for investigation of crimes in the field of information technology and overcoming crime // Review of law sciences4. URL:<https://cyberleninka.ru/article/n/required-perspectives-for-investigation-of-crimes-in-the-field-of-information-technology-and-overcoming-crime> (data obrasheniya: 21.12.2021).
  19. Decree of the President of the Republic of Uzbekistan dated July 13, 2018 "On measures to further improve the judicial system and increase confidence in judicial authorities" // "NORMA" information-legal system. Available at: <https://www.norma.uz/search/group310?search=farmon&curtab=120>.
  20. Decree of the President of the Republic of Uzbekistan dated February 21, 2017 "On measures to radically improve the structure of the judicial system of the Republic of Uzbekistan and increase its efficiency" // "NORMA" information-legal system. Available at: <https://www.norma.uz/search?search=farmon&curtab=2>
  21. Decree of the President of the Republic of Uzbekistan dated October 21, 2016 No. 4850 "On measures to further reform the judicial system and strengthen guarantees of reliable protection of the rights and freedoms of citizens" // "Republic of Uzbekistan collection of legal documents", October 31, 2016, No. 43, Article 497. Available at: <https://lex.uz/docs/3050491>.
  22. Morshakova TG (1996) Razgranicheniye kompetence mejdu Konstitutsionnym Sudom i dr. sudami RF: Sudebnyy konstitutsionnyy kontrol v Rossii [Delimitation of competence between the Constitutional Court and other courts of the Russian Federation: Judicial constitutional control in Russia]. // Vestnik Konstitutsionnogo suda RF 6: 20-21.
  23. Esaulov SV (2013) Implementation of the principle of the presumption of innocence in proving at the pre-trial stages of criminal proceedings]. Authorref. diss cand. jurid. science. - M.: MU MVD RF: 11.
  24. Saleeva Yu Ye (2014) Prejuditsiya v sovremennom ugovnom protsesse [Prejudice in modern criminal procedure]: Avtoref. diss. ...cand. jurid. science. - N.Novgorod : 11.
  25. Belkin LR (1999) Teoriya dokazyvaniya: nauchno-metodicheskoye posobiye [Evidence theory: scientific and methodological manual]. -M: 295.
  26. Tuzov NA (2006) Motivirovaniye i preyuditsiya sudebnyx aktov [Motivation and prejudice of judicial acts]. Monographia. - M: 46.
  27. Chashina IV (2011) Preyuditsiya v ugovnom protsesse Rossii i zarubejnyx stran (sravnitelno-pravovoye issledovaniye) [Prejudice in the criminal process of Russia and foreign countries (comparative legal research)]. Diss. ...cand. jurid. science - M: 23.
  28. Skoblikov PA (2013) Mejotraslevaya i vnutyotraslevaya preyuditsiya prigovorov i svyazannyx s nimi sudebnyx aktov [Intersectoral and intrasectoral prejudice of sentences and related judicial acts]. // Zakon 8: 59-60.
  29. Asnis A Ya, Istomina O V, Granitsa M (2013) Konstitutsionno-pravovye problemy primeneniya prinsipa preyuditsii v ugovnom protsesse. Obobscheniye pravoprimenitelnoy praktiki. Responsible editors [Constitutional and legal problems of applying the principle of prejudice in criminal proceedings. Generalization of law enforcement practice. Responsible editors] 24.

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