

Liability for Crimes against Personal Liberty in French Law

Kurbanov Davlat Ravshanovich

*Doctor of philosophy, associate professor, Samarkand State University named after Sh.Rashidov
Head of the Department of "Special Legal Sciences" of the Faculty of Law*

Abstract: This article analyzes the stages of the development of criminal law norms in French criminal law, which establish responsibility for crimes against the freedom of a person. Freedom presupposes that people can determine their own destiny, goals and aspirations, and realize them independently according to their subjective will. That is why in all periods of historical development, people have been striving for freedom and fighting for freedom and liberty. The norms defining responsibility for crimes against the freedom of a person in the French criminal laws were analyzed, the aspects of these norms different from the norms defined in the current criminal law of the Republic of Uzbekistan were determined, and the issues of restoring the positive experiences existing in the processes of historical development and improving the current criminal law were studied.

Keywords: French criminal law crimes against the freedom of the person, their characteristics, freedom, liberty, privacy, kidnapping, torture, deprivation of liberty, human trafficking, forcing a woman to touch the ground.

Introduction

The protection of personal freedom and human rights has always been one of the fundamental values of societies. Crimes that violate personal freedom, such as unlawful detention, torture, or forced labor, are strictly prohibited not only in national legal systems but also under international law. French law, particularly its Criminal Code, plays a significant role in addressing such offenses. This article analyzes the criminal law norms in France that establish liability for crimes against personal liberty. It also examines the positive aspects of French legal practices and explores how these can be adapted and applied within the framework of Uzbekistan's current criminal legislation. The aim is to highlight how France's historical and contemporary legal approaches can contribute to improving the legal mechanisms for protecting personal freedom in Uzbekistan.

Freedom and liberty are concepts that embody the hopes, dreams and aspirations of humanity to live freely, independently and independently. Indeed, a person by nature always strives for freedom and liberty. He feels the need to feel free, to live a life without danger. That is why in different periods of human history, in all regions of the world, there have been various forms of struggle for freedom, but similar in essence, in all regions of the world. From this point of view, independence is the most important step towards equality. Because where there is no equality, someone is subordinate to someone. Article 25 of the Constitution of the Republic of Uzbekistan also establishes the right to freedom and personal integrity for every person. Indeed, the rights to freedom and personal integrity are considered one of the inalienable rights of a person. We can also see this norm in Article 3 of the Universal Declaration of Human Rights, which ensures the right to personal integrity. Download According to him, "everyone has the right to life, liberty

and security of person. Article 9 states that no one may be subjected to arbitrary arrest, detention, or exile.¹.

It should be noted that Uzbekistan's general analysis of crimes against personal freedom in foreign countries, identification of positive and negative aspects of combating them allows us to effectively use the experience of these countries and implement it into our national criminal legislation.

It is known that currently the French Constitution of 1958 and the French Criminal Code adopted in 1992 are recognized as the sources of French criminal law. Although criminal law norms are not directly established in the Constitution, in its preamble it strengthens the Declaration of Human and Civil Rights adopted in 1789 as the foundation of all French legislation. The most important criminal-legal principles in French law were defined for the first time in this constitutional document. In particular, according to its Article 7, "any person can be charged, arrested or detained only in the cases and in the manner specified by the law".

This provision of the Declaration served as the basis for the first French Criminal Code of 1810. It should be noted that the French Criminal Code of 1810 had a great influence on the development of criminal law in many countries of the world. It was followed by the German Criminal Code of 1817, the Russian Code of Crime and Morals adopted in 1845, served as the basis for the regulation on correctional penalties.

The norms establishing liability for encroachment on personal liberty are contained in Chapter II of the second part of the French Civil Code of 1810, entitled "Crimes against the Person". For example, Article 341 of the Code states: "Anyone who arrests, detains or deprives any person of his liberty without the order of the authorities and except in cases where the law requires the detention of the accused, shall be punished by imprisonment for a fixed term."².

Illegal detention and detention for a long period of time is recognized as an aggravating circumstance. If detention or detention lasted for more than one month, the accused shall be punished with life imprisonment (Article 342), if the arrest was carried out using a false name or a false order, or if the victim was subjected to violence or threatened with death, the accused shall be punished with death (Article 343).

In the event that the victim is released after a ten-day period, the possibility of mitigating the punishment, that is, imposing a prison sentence of two to five years, is provided for. The chapter "Crimes and Offenses Against the Constitutional Charter" provides for liability for actions by officials that encroach on the freedom of a person: "If an official, agent, or representative of the Government commits an act that encroaches on the freedom of a person, he shall be sentenced to civil degradation" (Article 114).

Since March 1, 1994, the new Criminal Code, adopted in 1992, has been in force in France. It was adopted to replace the "classic" Napoleonic Code of 1810, which had been in force in France for more than 180 years. In the new French Criminal Code, the person, his life, health and freedom are the primary objects of criminal law protection. In the old Criminal Code, the protection of the state system was recognized as the primary task.

Article 2241 of the French Criminal Code of 1992 establishes liability for "arrest, kidnapping, detention or illegal detention of a person without the order of the legal authorities and except in other cases provided for by law." The law also provides for aggravating and mitigating circumstances. The first group includes articles 2241–2245: causing serious consequences (injury, chronic illness or death); committing the crime by an organized group or against several persons; committing these acts against a minor under the age of 15; committing the crime or the

¹ Инсон хукуклари: Парламент аъзолари учун қўлланма. / Масъул мухаррир: А.Х.Саидов. – Тошкент: Инсон хукуклари бўйича Ўзбекистон Республикаси Миллий маркази, 2007. – Б. 202.

² Хрестоматия по истории государства и права зарубежных стран. Новое и новейшее время. – М., 2000. – С. 389.

preparation for it or facilitating its commission; aiding the escape of the perpetrator or participant in the crime or offense or ensuring his impunity; committing the crime or offense with the aim of obtaining compensation or the fulfillment of any other condition.

The law provides for practical remorse for one's actions as a mitigating circumstance. If the victim was released within 7 days of being arrested or illegally deprived of his or her liberty and the victim's physical integrity was not harmed, and torture or other cruel acts were not used against him or her, the punishment is mitigated.

Enslavement and kidnapping, if they lead to the disappearance of a person, are considered crimes against humanity in the French Criminal Code. It should be noted that taking a person hostage (Article 245 of the Criminal Code of the Republic of Uzbekistan) is not considered an independent criminal offense in the French Criminal Code. Therefore, such actions are qualified as unlawful deprivation of liberty for the purpose of obtaining compensation or achieving the fulfillment of another type of condition.

The criminal legislation of the Republic of Uzbekistan does not provide for the possibility of exempting the perpetrator from criminal liability for kidnapping, illegal deprivation of liberty, and taking a person as a hostage.

Also, Article 661 of the Criminal Code of the Republic of Uzbekistan stipulates that the institution of reconciliation shall be applied to the crimes of "forcing a woman to touch her husband or preventing her from touching her husband" (Article 136) and "unlawful deprivation of liberty by force" (Part 1 of Article 138) from the system of crimes against personal freedom. The current state of the dynamics of crimes confirms that the application of the institution of reconciliation in relation to persons who, having committed a crime, have confessed their guilt, reconciled with the victim and compensated for the damage caused is an effective means of combating crime. However, the list provided for in Article 661 of the Criminal Code does not include the crimes provided for in Articles 135 (human trafficking) and 137 (kidnapping). However, if there is a proper basis, the establishment of incentive norms in the criminal law against the persons who committed these crimes and their application, in our opinion, would serve as an effective tool in the fight against such crimes, as well as the institution of reconciliation. For this reason. It is considered appropriate to include an incentive norm in Articles 135, 137, 138 of the Civil Code, as well as in Article 245.

Studying the historical aspects of responsibility for crimes against the freedom of the person in the French law, understanding the essence of the Scacha case, identifying the positive aspects and shortcomings of the norms of the current criminal law of the Republic, drawing conclusions about the development trends of the criminal law and determining its prospects are of great importance.

Methodology

This article employs a comparative legal research methodology to analyze the legal norms related to crimes against personal liberty in French criminal law and their application in Uzbekistan. The study is based on a thorough review of primary legal sources, including the French Criminal Code, the French Constitution, and relevant legal provisions from the Republic of Uzbekistan's criminal law. Additionally, secondary sources such as scholarly articles, legal commentaries, and historical texts are used to provide context and insights into the evolution of these laws.

The research focuses on identifying the differences and similarities between the French and Uzbek criminal law systems concerning crimes against personal freedom. The methodology also involves analyzing the historical development of French criminal law, particularly its treatment of personal liberty violations, and assessing its impact on modern legal frameworks. By comparing both legal systems, the study seeks to extract valuable lessons that can enhance Uzbekistan's approach to combating crimes that infringe upon personal freedom.

Furthermore, the article explores the effectiveness of legal reforms and practices in France, aiming to suggest possible improvements in Uzbekistan's criminal legislation. The comparative analysis is complemented by a review of relevant case law and legal precedents to understand how these laws are applied in practice.

Results and Discussion

The analysis of French criminal law, particularly its provisions concerning crimes against personal liberty, reveals a strong emphasis on protecting individual freedoms and ensuring legal accountability for violations. The French Criminal Code, both in its original 1810 form and in the updated 1992 version, offers a comprehensive framework for addressing crimes such as unlawful detention, kidnapping, and human trafficking. Notably, the inclusion of aggravating and mitigating circumstances in the legal provisions, as well as the emphasis on the protection of personal integrity, reflects the progressive approach of French law in safeguarding human rights.

One key finding is that French law provides severe penalties for crimes that involve the unlawful deprivation of liberty, with significant punishments for offenses involving organized crime, minors, or particularly violent acts. The French system's approach to offering potential sentence reductions for perpetrators who demonstrate remorse or cooperate with the investigation further highlights the flexibility of the legal system. Moreover, the provision of civil degradation as a punishment for government officials who violate personal liberty emphasizes accountability within the state apparatus, reinforcing the principle of equality before the law. Comparing these provisions with the criminal law of Uzbekistan, several differences emerge. While both legal systems emphasize the protection of personal freedom, the Uzbek Criminal Code does not allow for the same level of flexibility in sentencing for crimes such as kidnapping or human trafficking. Unlike French law, where there are provisions for mitigation based on the perpetrator's actions following the crime, Uzbekistan's criminal law is more rigid in its approach to these offenses. Additionally, the Uzbek legal system currently lacks specific provisions for crimes such as hostage-taking, which in France are considered unlawful deprivation of liberty for the purpose of obtaining compensation. The application of reconciliation mechanisms in Uzbekistan's legal framework, particularly for crimes like forced marriage or unlawful deprivation of liberty, also contrasts with the French approach, which tends to impose stricter penalties for similar offenses. This difference in legal philosophy highlights the need for a more nuanced approach in Uzbekistan's criminal law, where the possibility for leniency could be considered based on factors such as remorse, the nature of the crime, and the perpetrator's cooperation with authorities. Furthermore, the study suggests that adopting certain aspects of French criminal law, such as the incorporation of specific aggravating circumstances and more differentiated punishments based on the severity of the offense, could improve the effectiveness of Uzbekistan's legal system in combating crimes against personal liberty. The development of more comprehensive laws that address human trafficking, kidnapping, and related offenses, with clear distinctions between various forms of criminal behavior, would contribute to a more refined and effective legal response to these issues. In conclusion, while Uzbekistan's criminal law provides a solid foundation for the protection of personal liberty, there are opportunities for improvement by incorporating some of the flexible, human-rights-oriented elements found in French law. By learning from France's legal history and current practices, Uzbekistan can enhance its legal framework to better address violations of personal freedom and align with international human rights standards.

Conclusion

This article explored the criminal law norms related to crimes against personal liberty in both France and Uzbekistan. The French legal system offers a comprehensive framework to protect individual freedoms, with provisions for aggravating and mitigating circumstances that ensure accountability and human rights. In contrast, Uzbekistan's criminal law is more rigid and lacks some of the flexible mechanisms found in French law, such as sentence reductions based on remorse. By adopting certain aspects of French law, such as clearer distinctions between

different offenses and more flexible sentencing, Uzbekistan could improve its legal framework for protecting personal liberty. This would enhance its alignment with international human rights standards and provide a more effective response to crimes such as kidnapping and human trafficking.

References:

1. Инсон ҳуқуқлари: Парламент аъзолари учун қўлланма. / Масъул мухаррир: А.Х.Саидов. – Тошкент: Инсон ҳуқуқлари бўйича Ўзбекистон Республикаси Миллий маркази, 2007. – Б. 202.
2. Инсон ҳуқуқлари: Парламент аъзолари учун қўлланма. / Масъул мухаррир: А.Х.Саидов. – Тошкент: Инсон ҳуқуқлари бўйича Ўзбекистон Республикаси Миллий маркази, 2007. – Б. 202.
3. Уголовное право. Учебник. / Под общ. ред. Л.Д.Гаухмана, Л.М.Колодкина, С.В.Максимова. – М., 1999. – С. 270.
4. Хрестоматия по истории государства и права зарубежных стран. Новое и новейшее время. – М., 2000. – С. 389.
5. Хрестоматия по истории государства и права зарубежных стран. Новое и новейшее время. – М., 2000. – С. 403.
6. Крылова Н.Е. Основные черты нового уголовного кодекса Франции. – М., 1996. – С. 93–94.