

## Measures For Preventing Crimes Committed Through An Improper Performance Of Professional Duties.

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**Abstract:** The article identifies the factors that determine the development of criminal legislation governing liability for crimes against life and health committed by the medical personals of Uzbekistan and foreign countries because of their inadequate responsibility. Taking into account the experience of foreign countries (USA, Australia, Canada), there are measures aimed at preventing the crime of medical personnel who are unable to professionally perform their duties.

**Keywords:**Crime prevention, causes of crime, infringement prevention, crime control, negligence, health workers, general and special measures, crimes against life and health, general and special prevention.

Evidently, today our country is carrying out variety of reforms on preventing crimes. In his appeal to the parliament, President Sh.Mirziyoyev, stated as follows: “Unfortunately, despite our latest affairs on preventing human health, in remote places, some acute problems are still remaining. Therefore, we will consistently continue our works that we have already begun on early disease detection, high standard and convenient, as well as modern medical care for the people living in regions”.

Preventing crimes or its prophylactics is considered as one of the important issues in criminology. Nevertheless, it is worth to take a note that both concepts are interpreted similarly in different political, philosophical, and legislative literatures.

Preventing crimes – is a process which consists of a direct effect on the conditions which give birth to crimes and its causes. Moreover, it covers the realization of the means, which have variety of characteristics. Resolving socio-economic issues is the most important factor in preventing infringements and fighting against it.

Separating the crime prevention into three main directions: general, special, and individual has become a widespread tradition in modern literatures on criminology and in practices fighting against crimes.

Turning to the types of crimes which is committed via professional negligence and improper performance of their duties, one should consider the fact that, general prophylactics are pervasive in every aspects of human life, as such, “different criminogenic occurrences show itself as an object of general prophylactics. General prophylactics serves as a warrant for a normal behavior of people. Thus, general prophylactics involves socio-economic, organizational, legal, cultural, technical and other measure systems.

In a wider sense though, special prophylactics incorporates a number of activities such as planning, programming, forecasting, and developing measures, as well as identifying causes and conditions of crimes. Such activities include alcoholism, fighting against drug addiction, helping the families with bad social conditions, conducting educative activities, and advocating legal knowledge among populations. In a short sense, special prophylactics is directed to identifying the causes and conditions of certain crime. The result might be obtained during the investigation of the crimes, sentencing the criminals and serving terms by convicts. The subjects of such activities are prosecutors, Courts, and organs of internal affairs.

In addition, individual prophylactics includes range of special measures towards certain individuals, such as persuasion or coercion, furthermore, the application of effective measures against negative inhuman activities.

As well-known author in this sphere – N.F.Kuznesova notes, individual prophylactics always addresses one particular person who committed a crime. This, as a norm, is actually used in the prophylactic events before crimes are committed or during a sentence period. Inspectors for the under-ages affairs, district inspectors, department of public order, and the teachers of the different educational organizations, as well as the institutions of punishment execution may act as a subject of individual prophylactics.

Criminological description of crime subjects plays an important role in carrying out individual prophylactics. Specifically, when we analyze the crimes, which is committed through improper performance of one’s professional duties, 66 % of them is committed by highly educated subjects, while 34 % is committed by the

subjects with secondary special education. Moreover, 100% of the criminals are previously convicted subjects, and subjects with families make up 72% of crimes.

Furthermore, during the analysis of more than 200 decisions that are made by courts based on the article 116 of Criminal Code of the Republic of Uzbekistan, medical personals, as a subject for this crime, make up 94%. Remaining 6% of crimes are mainly committed by other professionals, especially sports teachers and so on. As this study clearly shows, that the main subject of this crime is medical professionals.

By considering this fact, one additional article, 116<sup>1</sup>, as **“Failure to provide medical care to the patients or providing inappropriate medical care”** needs to be added to the Criminal Code of Uzbekistan. Today, as different types of diseases are increasing in a number, especially incurable ones, such as AIDS/HIV, such a reality requires new and more comprehensive norms for increasing the responsibilities of medical personals.

Although, this crime is mainly committed by medical personals, there have been occasions in different regions of our country where other professionals also were a perpetrator by committing the crimes that we are discussing now. For instance, in one occasion that was happened in regions has drawn the attention of scholars. Citizen S. was prosecuted by Criminal Court in Altiariq region. By the time he committed a crime, he had worked as an electrician in regional electrical networks. His negligence towards the people who used electricity illegally caused a death of some people living around the region.

It is important to note that, considering overwhelmingly high number of crimes are committed by medical personals, following general and special measures should be implemented in order to prevent crimes that are committed by medical personals through improper performance of their professional duties:

### **1. General measures for preventing crimes that are committed by medical personals through improper performance of their professional duties:**

1) Strengthening social protection systems of medical personals, raising their salaries to the level of world standards, additionally, creating comfortable environment for their recreation, with one word, achieving to the point where medical profession is one of the prestigious sphere.

2) Deeply inventorying current medical care, normative legal acts on medical service to the population, as well as cataloguing criminal laws and filling the gaps in normative legal acts

3) Deepening the legal reforms in healthcare, furthermore, adopting a program designed for increasing the professional capabilities of medical personals.

4) Improving the general system of fighting against crimes, specifically, increasing the effectiveness of punishment and assuring the inevitability of penalties.

5) Analyzing statistic materials of 2008-2018, and based on this study, amending some Plenum decisions of Supreme Court for achieving the intended purposes by punishing medical personals for the crimes committed through improper performance of their professional duties.

6) Increasing the legal cultures of certain professionals, along with forming their behaviors compatible with legal systems.

## **2. Special measures for preventing crimes that are committed by medical personals through improper performance of their professional duties:**

1) Analyzing the nature and practice of committing such crimes, in addition to this, as children and infants are becoming more vulnerable to this crimes, improving the legal norms with regard to the protection infant rights

2) Amending the legislations regarding the medical services, additionally, developing new norms that regulates the surgical procedures,

3) Improving the attitudes of the citizens towards their professions, as well as carrying out propagative affairs for the creation of friendly and attentive characteristics when treating the patients,

4) Reforming the system of staff training, especially, reinforcing the requirements for the medical personals with regard to their personal and professional qualities.

5) Using the methods of direct-court-decision practices productively for the criminal cases concerning the crimes committed through improper performance of one's professional duties,

6) Carefully examining all the profiles of patients who suffered from unfair treatment and lack of professional responsibilities by medical personals, besides developing specific measures for preventing such cases.

7) Making a written contract between a medical organization and patient, their relatives, and showing, in this contract, their rights and duties, as well as entrenching the judicial responsibilities of the sides to this agreement.

8) Starting the documentation of the informing process of the patients about their general conditions since they have applied for a doctor.

9) Creating the databases of the accidents with patients by studying the experiences of developed countries, such as the USA, Canada, and Australia.

10) In order to protect themselves, medical personals might demand all necessary documents related to the accidents for proving the correctness of all procedures. Moreover, medical personals should adhere to all standards of first medical aid.

In conclusion, the criminological analysis of the crimes committed through improper performance of one's professional duties demonstrates that the main subjects of such crimes are medical personals. Considering this fact and special features of such crimes requires the general and special prophylactic procedures.

The following recommendations and feedbacks are important when dealing with the crimes committed through improper performance of one's professional duties:

Firstly, guaranteeing the inevitability of punishment for the crimes committed through improper performance of one's professional duties, through creating the special norms in Criminal law of the country.

Secondly, improving the social protection systems of medical personals

Thirdly, identifying the gaps in the current medical legislations and eliminate them

Fourthly, such recommendations help to identify the person who committed such crimes, additionally, serves to classify the personality of criminals and mechanisms of committing crimes.

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