

**PROCEDURAL BASIS OF DETENTION IN PRISON: ANALYSIS OF UZBEK
LEGISLATION AND INTERNATIONAL STANDARDS****Rakhimov Bakhtiyor Rakhimovich**

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Annotatsiya: Maqolada tergov hibsonalari sharoitida shaxsni ushlab turish institutining huquqiy mohiyati, uning konstitutsion erkinlikka ta'siri va jamoat xavfsizligini ta'minlashdagi o'rni chuqur tahlil qilingan. O'zbekiston Jinoyat-protsessual kodeksining 221-moddasi ushlab turishning faktik holatlarga asoslanishi, aniq normativ mezonlar bilan chegaralanishi va uch bosqichli protsessual filtr orqali qo'llanishi lozimligini ko'rsatuvchi asosiy huquqiy mexanizm sifatida baholangan. Maqolada ushlab turish bayonnomalarining hujjatlashtirish talablari, advokat yollash va qarindoshlarga xabar berish kabi protsessual kafolatlarning inson huquqlarini himoya qilishdagi funktsional ahamiyati ochib beriladi.

Аннотация: В статье подробно анализируется правовая сущность института содержания под стражей в условиях следственных изоляторов, его влияние на конституционную свободу и роль в обеспечении общественной безопасности. Статья 221 Уголовно-процессуального кодекса Узбекистана была оценена как основной правовой механизм, указывающий на то, что задержание должно основываться на фактических обстоятельствах, ограничиваться конкретными нормативными критериями и применяться через трехэтапный процессуальный фильтр. В статье раскрывается функциональное значение процессуальных гарантий, таких как требования к документированию протоколов задержания, найм адвоката и уведомление родственников, в защите прав человека.

Abstract: The article thoroughly analyzes the legal essence of the institution of detention in pre-trial detention facilities, its impact on constitutional freedom, and its role in ensuring public safety. Article 221 of the Criminal Procedure Code of Uzbekistan is assessed as the main legal mechanism indicating that detention should be based on factual circumstances, limited by specific normative criteria, and applied through a three-stage procedural filter. The article reveals the functional significance of procedural guarantees in protecting human rights, such as the requirements for documenting detention protocols, hiring a lawyer, and notifying relatives.

Kalit so'zlar: tergov hibsonasi, ushlab turish instituti, protsessual kafolatlar, erkinlik huquqi, sud nazorati, Habeas Corpus, hujjatlashtirish, xalqaro standartlar, Mandela qoidalari, inson

huquqlari, tergov bosqichi, sud protsessi, konstitutsion kafolatlar, huquqni muhofaza qiluvchi organlar.

Ключевые слова: следственный изолятор, институт задержания, процессуальные гарантии, право на свободу, судебный контроль, Habeas Corpus, документирование, международные стандарты, правила Манделы, права человека, следственный этап, судебный процесс, конституционные гарантии, правоохранительные органы.

Keywords: pre-trial detention center, detention institution, procedural guarantees, right to freedom, judicial control, Habeas Corpus, documentation, international standards, Mandela Rules, human rights, investigation stage, judicial process, constitutional guarantees, law enforcement agencies.

The institution of detention in criminal proceedings is the most critical procedural measure that establishes a delicate balance between the right to freedom and the state's obligation to ensure public safety. Its application not only directly affects the constitutional status of the individual but also serves as an indicator of the legality, validity, and control of investigative bodies' powers. The legal framework of this institution is strictly defined in the Criminal Procedure Code of Uzbekistan, with Article 221 forming the foundation of the detention mechanism. It enshrines at the constitutional level that deprivation of liberty can only be applied in specific, evidence-based, legally justified cases. This article establishes a three-stage procedural filter: the presence of factual circumstances, the degree of their relevance to the crime, and the existence of a clear normative basis justifying the restriction of liberty. This approach theoretically fully expresses the "principle of certainty" - detention must be based not on general suspicion, assumption, or the will of authorities, but on facts that can be documented and subjected to procedural investigation. Therefore, the article strictly enumerates four grounds, and the closed nature of this list clearly limits law enforcement practice. These grounds are: apprehending a person in the act of committing a crime or immediately thereafter; witnesses or victims identifying the person as the perpetrator; the discovery of traces of the crime on the person; and the existence of substantiated information about their involvement in the crime. Precise specification is the central requirement of the article. Article 221 also clearly defines the purpose of detention: it acknowledges that detention is not punishment, but a temporary procedural measure ensuring the unimpeded conduct of investigative actions and allowing for the determination of the suspect's legal status. This aspect is a logical and functional expression in Uzbekistan's legal system of the triad "legality - necessity - proportionality," which prevails in the civil law family.

This norm fully aligns with international standards. Article 9 of the UN Covenant on Civil and Political Rights requires that deprivation of liberty may only be applied when there are "grounds established by law" and "reasonable evidence." The European Court of Human Rights' interpretations of "lawful detention" reinforce the same approach: the process of deprivation of liberty must not only be legal, but its content and purpose must also not contradict the minimum standards guaranteed for human dignity, freedom, and inviolability. Article 221 of the Criminal Procedure Code incorporates these aspects into the national procedural mechanism - the degree of interference with freedom is always measured by necessity, and each detention decision is transformed into a documented, evidence-based, verifiable procedure.

Consequently, this norm ensures that the detention of a suspect is based only on specific factual circumstances, protected from the subjective will of authorities; does not exceed the limits of procedural necessity; and most importantly, is inextricably linked with constitutional guarantees protecting human freedom, dignity, and legal status. In this sense, Article 221 is not merely a set of procedural requirements, but a legal mechanism that embodies the principles of state policy on freedom and security. Its correct application will play a central role in preventing abuses in practice, strengthening legality in the investigative process, and ensuring real guarantees of human rights.

The lawful application of the detention institution depends directly not only on the factual grounds established in the article itself but also on the comprehensive, complete, and accurate procedural formalization. Every minute of interference with personal freedom becomes a real test of the state's constitutional responsibility and procedural integrity. For this reason, the Criminal Procedure Code of Uzbekistan strictly requires full documentation of facts, time, grounds, and legal interpretations from the moment of detention. These requirements theoretically form the principle of "procedural consistency of interpretation" in the process of depriving a person of liberty - that is, a state body is obliged to clearly state which action it took, for what reason, and on what grounds. This approach ensures that each element of interference with the right to freedom is subject to scrutiny for subsequent judicial review.

The detention report, which is drawn up when a detained person is brought to the internal affairs body, serves as the central document of this mechanism. It requires precise identification of the person, recording of the exact time of detention and delivery down to the minute, a legal description of the suspected crime, and most importantly - an indication of the specific article of the Criminal Procedure Code that forms the basis for detention. This normative approach does not allow for personal discretion or subjective assumptions by authorities, transforming each aspect of

detention into a verifiable procedural fact. This ensures in practice the preventive function of Habeas Corpus - the principle that "no deprivation of liberty should be left unexplained."

The need to protect individual rights is reflected not only in documentation but also in the institution of procedural warnings. Informing the suspect immediately, clearly, and comprehensibly about their right to hire a lawyer, notify relatives, that testimony given during the investigation can be used against them, as well as their right to remain silent, allows the person to consciously organize their defense. Timely issuance of this warning not only reveals the constitutional content of the right to defense but also legally balances the power dynamic between the investigative body and the individual. If a procedural warning is delayed, violated, or not given at all, the legal nature of the detention is compromised, and the measure is branded with a "mark of illegality."

According to Article 217 of the Criminal Procedure Code, the immediate notification of the detainee's relatives, employer, or educational institution is one of the norms ensuring the socio-legal stability of the detention institution. This norm serves to maintain the person's uninterrupted connection with society, prevents state bodies from concealing this process, and eliminates risks of human rights violations such as disappearances. From a legal theory perspective, the obligation to inform relatives serves as a "guarantee of social identity" for the person - that is, a person deprived of liberty is recognized not as an anonymous object isolated from society, but as an individual with rights and obligations.

All these procedural obligations represent an adapted form of the Habeas Corpus principle in Uzbekistan's legal system, which stipulates that detention of a person must be carried out only on clear and reliable grounds, the person's rights must be immediately explained, and the legality of the detention must be verified through prompt judicial oversight. These principles align with Article 9 of the UN Covenant on Civil and Political Rights, the jurisprudence of the European Court of Human Rights, and the requirements of leading continental legal systems. Their implementation provides real protection of the suspect's legal status, strengthens procedural discipline in investigative bodies' activities, and transforms any interference with the right to liberty into a verifiable, transparent, and accountable process. Therefore, even a single deficiency in documenting the detention process can lead to the detention being declared illegal, the authorities being held liable for harmful consequences, and the restoration of a person's constitutional right to liberty.

There are various approaches to detention practices at the investigative stage, most of which highlight the differences between the theoretical model and actual practice. Legally, the Criminal

Procedure Code of Uzbekistan guarantees strict legal grounds for detention, duration limits, judicial control, and the participation of a defense attorney. However, as noted by several international organizations and independent observers, there is criticism that these requirements are not fully met in practice.

Some international reports highlight the potential for corruption, abuse of office, pressure, or torture against suspects within Uzbekistan's pre-trial detention system. These cases are mainly related to attempts to achieve faster results in the form of "confessions" during the investigation process, leading to problems such as "false testimony", "statements given under duress", or "insufficient prosecutorial oversight". Such practices not only undermine the fairness of criminal proceedings but also lead to violations of the right to personal inviolability guaranteed by the Criminal Procedure Code.

Furthermore, theoretical studies have shown that detention during the investigation phase directly influences subsequent court decisions. For example, empirical research conducted by University of Chicago scholars in New York City demonstrates that suspects detained at the beginning of an investigation are approximately 13 percent more likely to receive a conviction compared to other individuals (chicagounbound.uchicago.edu). This practically confirms the phenomenon of "pretrial detention bias" - that is, "the impact of investigative detention on court decisions." This situation is not related to corruption but indicates that the psychological and procedural consequences of pre-trial detention may increase the tendency to impose harsher punishments.

The detention mechanism is considered one of the most central institutions protecting human freedom and dignity in international law. Article 9 of the International Covenant on Civil and Political Rights strictly prohibits "arbitrary - unjustified, willful detention" of a person and stipulates that each instance of detention must be "lawful, justified, and necessary."

Article 5 of the European Convention on Human Rights has similar requirements, stating that a person should be brought under judicial supervision promptly, following a clear procedural order, only when there is "reasonable suspicion" (fra.europa.eu). This norm is interpreted in international judicial practice with three main requirements:

- legality of detention;
- necessity of detention;
- proportionality of detention.

Additionally, the UN's Nelson Mandela Rules (Minimum Standards for the Treatment of Prisoners) establish guarantees such as humane conditions in detention facilities, medical care,

security, and uninterrupted access to lawyers. These rules reiterate that detention is not a form of physical punishment but only an investigative measure.

These international principles are significantly reflected in Uzbekistan's legislation. Specifically:

- the requirement to bring a detained person before a court within a specified period;
- guaranteed access to legal counsel;
- only the court has the authority to sanction arrest;
- the obligation to notify relatives and the workplace;
- rejection of evidence obtained through torture and coercion.

At the same time, international experts, drawing attention to practical issues, emphasize the need to further strengthen the judicial control mechanism, implement independent monitoring of pre-trial detention centers, and establish a permanent preventive system against torture.

Conclusion

The above analysis indicates that reforms in the detention of individuals in pre-trial detention centers are necessary. In particular, the practice of unjustified arrests based on applications should be eliminated, and arrests should be limited to strict grounds. To strengthen procedural control, it is necessary to adhere more closely to the principle of "Habeas Corpus," that is, to introduce a procedure for automatic judicial review of each instance of detention - although there were legal achievements in this area in 2008-2009, their effective implementation remains problematic. To strengthen the defense institution, it is necessary to expand the opportunity for victims and suspects to hire lawyers and reinforce the legal aid system. Moreover, the introduction of a unified electronic standard (for example, the "E-Detain" system) for documenting the grounds for selecting the type of punishment and arrest by the court will enhance transparency in practice. If the aforementioned proposals are implemented, the process of detention in pre-trial detention centers will be based on legal grounds, and the compliance of human rights guarantees with international standards will be strengthened.

List of used literature:

1. Constitution of the Republic of Uzbekistan // <https://lex.uz/docs/-6445145>;
2. Criminal Procedure Code of the Republic of Uzbekistan // <https://lex.uz/docs/-111460>;
3. International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly Resolution 2200 A (XXI) of December 16, 1966 // <https://lex.uz/docs/-2640479>
4. Zedner L. Remanding in custody: principles for judicial evaluation // Criminal Law Review. — 2005. — P. 159–175. //

https://www.researchgate.net/publication/225438729_Defending_the_Criminal_Law_Reflections_on_the_Changing_Character_of_Crime_Procedure_and_Sanctions

5. Ashworth A. Human rights, serious crime and criminal procedure. – Oxford: Oxford University Press, 2002. – 312 p. // chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://law.exeter.ac.uk/v8media/facultysites/hass/law/hamlyn/Human_Rights_Serious_Crime_and_Criminal_Procedure.pdf

6. Dobbie W., Goldin J., Yang C. S. The effects of pretrial detention on case outcomes // American Economic Review. – 2018. – Vol. 108, No. 2. – P. 201–240. // DOI: 10.1257/aer.20161503.