

PRESUMPTION AND PREJUDICE IN THE LEGAL SYSTEM

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ABSTRACT	KEYWORDS
This article explores the concepts, types, content, and significance of presumption and prejudice in the legal system, along with their positive and negative aspects. It analyzes the views and opinions previously put forward by legal experts and scholars on presumption and prejudice. Furthermore, it highlights how these concepts acquire importance within legal families.	Presumption, prejudice, court president, argument, evidence, assumption, burden of proof, legality, fiction, fact, Anglo-Saxon and Roman-German legal families.

Introduction

In today's legal system, presumption and prejudice hold unique and significant positions. Before delving into their definitions, types, and content, it is essential to understand their concepts. According to legal scholar Professor M. Ahmedshayev, the term "presumption" is derived from the Latin word "praesumptio," meaning "to assume" in everyday language. Therefore, unless proven otherwise, presumption generally holds true from a legal perspective. Legal presumption, on the other hand, is defined by the presence or absence of certain facts based on specific relationships among existing facts. Currently, our legal system includes several presumptions. For example; the presumption of innocence, the presumption of guilt, the presumption of equality, the presumption of authority, the presumption of legality, the presumption of incapacity, and the presumption of equality. The main features of presumption include:

- ☐ Burden of Proof: Presumption typically determines which party has the burden of proof in an argument or court case. The party with the burden of proof is responsible for providing evidence to support their claims. If the burden of proof lies with one party, the presumption usually supports the other party.
- ☐ Based on Hypothetical Opinion: Presumption is based on the assumption of a certain situation in the absence of evidence to the contrary. This assumption is often grounded in sound reasoning, logic, or societal norms. For example, in criminal law, suspects are presumed innocent until proven guilty.
- ☐ Possibility of Rejection: Hypothetical opinions are usually subject to rejection, meaning they can be challenged or dismissed with sufficient evidence. If evidence contradicting the assumption is presented, it weakens or negates its impact. For example, a defendant may rebut the presumption of innocence by proving their guilt.

These characteristics illustrate how presumption functions as a foundational concept in managing decision-making and judicial processes in various fields.

Methods

Our legal scholars and professors classify presumptions based on their legal strength: factual, legal and prejudicial.

Factual presumptions are not explicitly stated in legal documents, but they are considered in certain matters. For instance, the presumption of legality. Because the presumption of legality is not specified in any legal documents.

Legal presumptions, on the other hand, are expressed by their names and are considered to be those presumptions that are specified in legal documents and are accepted by all parties. In my opinion, for example, the presumption of innocence is specified in Article 28 of the Constitution of the Republic of Uzbekistan. The legal presumption of innocence states that a person accused of committing a crime is considered innocent until proven guilty beyond reasonable doubt. Another main feature of the presumption of innocence is that it is considered correct until proven otherwise.

The next type of presumption is prejudice. There are several definitions of prejudice that have been given by legal scholars. For example, legal expert Sh. Saydullayev has given the following definition: prejudice, that is, the obligation of courts examining certain matters to accept facts and examinations established by previous legal decisions or judgments based on factual evidence and verification. Another Russian legal expert, L.A. Morozova, defines prejudice (translated from Latin as "prejudgment") as the obligation of all courts examining a matter to accept facts and verifications established in advance by the legal force of a court decision or judgment without evidence. If we explain prejudice through practical examples, in my opinion, in a criminal case between two persons, the accused and the coerced person, are identified.

Prejudice itself has several distinctive characteristics. Specifically:

- Freedom from the obligation to re-prove already proven and identified situations when identifying other work;
- Neutralizing the contradictions between the evidences;
- Obligation and law guaranteeing the legality of the resolutions in the conflict condition.

In accordance with the application of presumptions, it is possible to distinguish between the following types:

1. Universal: For example, the presumption of innocence. The implementation of this principle not only contributes directly to the development of the overall legal culture, but also directly contributes to effective action, which is often used in public relations. The security situation and the credibility of the legality of the law.

2. Legal Field: For example, the presumption of innocence in criminal law. The presumption of innocence assumes the defendant, accuser, or court, until proven guilty in accordance with the law, has committed a crime. According to Article 23 of the Criminal Procedure Code of the Republic of Uzbekistan, all doubts about culpability are necessary, and assumptions that benefit the defendant, accuser, or court must be dispelled.

Results and Discussions

Various foreign researchers have expressed different opinions on prejudice and presumption. For example, American John F. Remenyi says that, prejudice literally means prior judgement. Presumptions can be made without also making judgements, and judgements can be made without presumptions (sometimes). A cheap example: I presume that the sun will rise tomorrow. No judgement involved there. Another one: In my judgement, the weather will be too cold tonight for outdoor swimming. That required no presumption except that the swimming would be in a body of water and the swimmer would be a physiologically ordinary human. So, they are not the same thing, though they are often applied together. Presumption may be a manifestation or symptom of prejudice, or sometimes a cause of it, but it is not a form of prejudice, and they are not synonymous. According to another researcher, Doyle Maston, it is important to note that neither word can be accurately called "a form of prejudice" in a blanket manner as you imply in your question.

The word "presumption" is a noun related to the verb presume, which means "a belief formed/based on reasonable grounds or probable evidence. (Oxford Dictionary) The accurate application of the word "presume" implies that the action/opinion is based on at least some level of information/informed position.

To make a presumption is not, unto itself, always a form of prejudice. Only a bad or false presumption would fall into that category.

Some legal scholars say that presumption is not type of prejudice and classify prejudice as a type of presumption in legal literature. However, another group of scholars previously argued that such presumptions are not used in the Roman-German legal system. Nevertheless, in my view, prejudice is also used in many countries belonging to the Roman-German legal family, including our country. For example, in the following scenario: if a citizen is accused of a criminal offense in a criminal court, the fact that the act constitutes a legal offense with a hypothesis under Article 140 of the Criminal Code is identified by the fact that it is recognized. Therefore, according to the Criminal Code, the person is required to be held responsible for slander regarding the accusation in advance. In short, it is necessary to obtain information about the fact that it has been previously discovered or not discovered and to use it in legal matters.

In general, it is possible to recognize this as a true example of prejudice in Uzbekistan's legislation. Apart from this, in Article 61(2) of the Civil Procedure Code of the Russian Federation, it is specified: "It is mandatory for the court to establish the circumstances determined by the legal force of the decision based on the prejudice in advance. These circumstances cannot be proven again, and it is not possible to object to other cases in which these circumstances were taken into account in the Code." From this, it can be seen that prejudice is also used in certain civil cases in the Russian Federation.

Now, if we focus on the positive and negative aspects of prejudice, in my opinion, the positive aspect is that prejudice contributes to ensuring the consistency and consistency of court decisions and their applicability and clarity universally. On the negative side, however, prejudice imposes constraints on the constitutional guarantees of independence and impartiality in court proceedings, such as the independence of the judiciary according to our legislation. If the court recognizes the facts and decisions of other courts in its own activities, it undermines the principle of independence. Similarly, according to the opinion of Russian legal scholar Professor Mikhail Shvarts, it contradicts the principle of impartiality in court proceedings. This is because the essential part of the court's decision-making process should be the result of impartial litigation and the presentation of evidence by parties.

However, in the case of pre-audit, it is understood that it is necessary to identify the facts that have been determined in the essential part of the court's decision-making process, as well as the facts that must be identified by the court on the basis of the evidence presented by the parties in the court proceedings.

Conclusion

Taking into account the opinions and legal references mentioned above regarding this case, we can draw the following conclusions. Firstly, according to the views of the scholars and considering the indicators of presumption, it can be argued that prejudice is a type of presumption, and currently, prejudice enhances several processes in the legal system. Secondly, prejudice are mainly based on the concept of Anglo-Saxon legal system. However, at present, prejudice forms of presumptions are available in the legal documents of many countries of Roman-German legal system

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