

Prejudice in the Legal Field

Uralov Sarbon Sardorovich ¹

¹ PhD, Lecturer, Department of Criminal Procedural Law, Tashkent State University of Law

Abstract:

In modern philosophy, any event or object is viewed through the prism of the unity of content and form, with form acting as a way of expressing content. This concept is especially relevant when analyzing evidence that cannot be considered as such unless presented in the form required by law. The article compares evidence with facts to determine whether a crime was committed on their basis, whether the person is guilty of committing it, and also examines other circumstances of the case that affect the degree of responsibility of this person.

Keywords: prejudice, evidence, trial, judicial investigation, assessment, evidence.

Introduction

Prejudice as a legal concept originally appeared in Roman law. Roman jurists developed the "judata pro veritate accipitur (habetur)" rule, which has survived to the present day. Today, the legislation of almost all countries is applied in practice, although not in the name of "prejudice". Prejudice is derived from the Latin word "praejudicium," which means "to solve a problem in advance; pre-existing decision; circumstances that allow for discussion of the consequences".

Prejudice includes two elements:

- 1) Praecedo - to move forward, to lead;
- 2) Praeiudico - preliminary discussion, in which "rrae means additional in advance" and "judicium" means a legal decision with the force of law[1].

In the legal sphere, "prejudice" carries specific meanings that vary depending on its application within criminal, civil, or common law contexts, diverging from its more general use in everyday language. The term is often seen in phrases like "with prejudice" and "without prejudice," which have distinct legal implications[2].

As we have witnessed, different views on the concept of prejudice have been formed in the legal literature. In particular, A.G. Gorelikova and I.V. Chashchina understand prejudice as a rule that

exempts from the recognition and proof of the facts established by a court verdict that has entered into force in other criminal proceedings[3]. Indeed, prejudice is a case established by a court, prosecutor, and investigator, inquiry officer in the course of civil, economic or administrative proceedings by a court judgment or other decision that has entered into force, unless they are refuted by evidence collected, examined and evaluated in criminal proceedings. In criminal proceedings, we can distinguish three types of prejudice depending on the subject making the procedural decision in criminal proceedings:

- 1) Prejudice applied by the inquiry officer, investigator;
- 2) Prejudice applied by the prosecutor;
- 3) Prejudice applied by the court[4].

1. **In Criminal Law:** The concept of prejudice is closely tied to the principle of double jeopardy, as outlined in the Fifth Amendment of the U.S. Constitution, which prevents an individual from being tried twice for the same offense. "Jeopardy" refers to the risk of conviction and punishment. Once jeopardy attaches in a case (which happens at different stages in jury trials and bench trials), a dismissal or resolution of the case "with prejudice" means the case is conclusively closed and cannot be reopened. Conversely, if a case is dismissed "without prejudice," it may be possible to litigate the matter again under certain conditions[5].
2. **In Civil Law:** The terms "with prejudice" and "without prejudice" indicate the finality of a court's dismissal of a case. A dismissal "with prejudice" means the case is permanently closed, and the claim cannot be brought again, essentially serving as a final judgment on the matter. This type of dismissal might occur for various reasons, including bad faith litigation or failure to comply with court procedures. On the other hand, a dismissal "without prejudice" allows for the possibility of refileing the case, offering the plaintiff another opportunity to pursue the claim under potentially different circumstances[6].
3. **In Evidence Law:** A judge might deem a piece of evidence "prejudicial" if it unfairly biases the jury against one party, potentially leading to its exclusion from the trial. This application of prejudice aims to ensure fairness in the proceedings by preventing undue influence on the jury's decision-making process[7].
4. **Settlement Negotiations:** The term "without prejudice" is also used during settlement negotiations, indicating that discussions or correspondences cannot be used as evidence in court. This practice encourages open dialogue between parties to settle disputes outside of court by ensuring that concessions made during negotiations cannot later be used against a party if settlement talks fail and the case proceeds to trial[8].

Material and methods

Historical, systematic, logical, comparative-legal, statistical, social survey methods of scientific knowledge, law enforcement practice were used in the coverage of this topic. Also, the method of comparative legal analysis was widely used.

Research results

In criminal procedural law, the concept of prejudice is utilized in several key ways to protect the rights of defendants and ensure fair trial procedures. The term "prejudice" in this context primarily refers to any potential harm or disadvantage that could affect the outcome of a case due to procedural errors or violations[9].

One critical application of prejudice in criminal law is in the concept of "prejudice-based rights," which are rights that hinge on the idea that a procedural error must have a likely impact on the outcome of a case to be considered prejudicial. For instance, the right to obtain favorable, material

evidence (as established in *Brady v. Maryland*) and the right to effective assistance of counsel are contingent upon whether the absence of these rights could prejudice the defendant by affecting the case's outcome. Courts may consider removing the element of prejudice from the definition of these rights and treating it instead as a question of remedy, which would come into play during appeals or postconviction relief efforts. This approach aims to enhance fairness by focusing on the context of errors rather than their potential impact on case outcomes[10].

Procedural law, which establishes the court's rules and methods used to ensure individuals' rights within the court system, is another area where prejudice is considered. It provides the framework for conduct during trials, including the procedures law enforcement must follow during investigations, arrests, and evidence gathering. If officers fail to follow these procedures, resulting in procedural errors, evidence obtained may be suppressed to prevent prejudice against the defendant. This suppression can sometimes lead to acquittal if the evidence was crucial to the prosecution's case[11].

Moreover, the U.S. Constitution and various federal, state, and local rules delineate procedures that aim to prevent prejudice. For example, the Fourth Amendment protects against unreasonable searches and seizures, ensuring that evidence obtained in violation of these protections cannot be used in trial, thus preventing prejudice against the defendant. Additionally, the Miranda rights are designed to prevent self-incriminating statements made without awareness of the right to remain silent and the right to counsel, which could otherwise prejudice the defendant's case[12].

Understanding and applying these concepts of prejudice within criminal procedural law are essential for protecting defendants' rights and ensuring the integrity of the legal process.

Prejudice in criminal procedural law refers to the restrictions placed on the procedural rights of criminal defendants based on the concept of outcome-centric prejudice. This concept means that certain rights are only deemed violated if their non-application could change the outcome of the case. For example, two significant rights under this scrutiny are the right to obtain favorable, material evidence known to the government, as established in *Brady v. Maryland*, and the right to effective assistance of counsel. The constitutionality of actions such as the suppression of favorable evidence or the provision of ineffective assistance by counsel hinges on whether there's a reasonable probability that these actions affected the case's outcome[13].

Procedural law, on the other hand, establishes the rules and methods used within the court system to ensure individuals' rights. It includes the Federal Rules of Civil Procedure, which guide how federal courts should conduct justice administration in civil actions, and the Federal Rules of Criminal Procedure, which cover rules specific to criminal proceedings. These rules govern a wide range of procedures, from pleading requirements and discovery rules to standards of review, and have a significant impact on the administration of justice. The distinction between substantive and procedural law is crucial, as it influences how cases are processed and decided. The delineation between these types of law has been an ongoing challenge in the legal system, with significant implications for how justice is administered[14].

To address concerns around prejudice-based rights in criminal procedure, some propose removing prejudice from the definition of these rights and instead treating it as a remedial question. This approach would involve assessing prejudice when a convicted defendant seeks relief from an appellate or postconviction court. Additionally, it's suggested to replace the outcome-centric conception of prejudice with a non-outcome-centric framework for review. These reforms aim to improve the fairness of the criminal process without overly disturbing the finality of trial court judgments[15].

Prejudice in criminal procedural law significantly impacts the rights and fair treatment of defendants during the criminal justice process. This concept mainly revolves around the idea that for certain rights of defendants to be deemed violated, the lack of or improper application of these

rights must have affected the outcome of the case in a material way. This is referred to as "outcome-centric" prejudice[16].

Two pivotal rights within this context are:

The Right to Obtain Favorable Evidence: Stemming from the landmark case *Brady v. Maryland*, this right obligates the prosecution to disclose evidence favorable to the defendant that is material to either guilt or punishment. The violation of this right hinges on whether the suppressed evidence could have reasonably led to a different verdict had it been disclosed.

The Right to Effective Assistance of Counsel: This right ensures that defendants receive competent legal representation throughout the criminal justice process. Ineffective assistance claims must demonstrate that counsel's performance was deficient and that this deficiency prejudiced the defense to the extent that the trial outcome was unreliable or unfair[17].

The principle of prejudice in this context suggests that a defendant's rights are not considered violated unless there is a reasonable probability that these errors or omissions affected the judgment of conviction or sentence, thus embedding an outcome-centric view of prejudice within the procedural safeguards of the criminal justice system.

Further reform proposals have been suggested to address the limitations and challenges posed by this outcome-centric approach to prejudice. These include removing the concept of prejudice from the definition of these rights and treating it as a remedial question. This means that the assessment of prejudice would typically occur when a convicted defendant seeks relief from an appellate or postconviction court. Additionally, replacing the outcome-centric view with a non-outcome-centric framework—such as contextual harmless error review has been proposed to improve fairness in the criminal process without unduly affecting the finality of trial court judgments[18].

These discussions and reforms are crucial in ensuring the fairness and integrity of the criminal justice system, emphasizing the need for a balance between procedural safeguards and the finality of judgments.

For a more detailed exploration, the article from the University of Pennsylvania Law Review provides an in-depth analysis of prejudice-based rights in criminal procedure. This resource critically examines the cluster of rules that use the concept of prejudice to restrict the scope of criminal defendants' procedural rights, proposing reforms to improve the fairness of the criminal process.

Prejudice in the context of court use encompasses a broad array of implications, both procedural and substantive, affecting the fairness and integrity of legal proceedings. Here's an overview based on the concepts and applications of prejudice in legal contexts:

Procedural Context: In legal procedures, "prejudice" often refers to the detrimental impact on a party's right to a fair trial or hearing. For example, evidence obtained unlawfully or in violation of a defendant's rights may be excluded to prevent prejudicing the defendant's case. Similarly, a case dismissed "with prejudice" indicates it has been decided on its merits and cannot be brought again, preventing unjust repeated litigation against a party[19].

Evidence and Bias: The concept of "prejudicial evidence" involves information that may unduly sway a jury or judge's opinion, not based on its relevance or probative value to the case's factual determinations but on its potential to appeal to biases or emotions. The legal system strives to mitigate such prejudice through rules that govern the admissibility of evidence[20].

Jury Selection and Bias: Prejudice also plays a critical role during jury selection, where efforts are made to identify and exclude potential jurors who may harbor biases against a defendant or plaintiff, which could unduly influence the trial's outcome. Legal mechanisms, such as voir dire and peremptory challenges, are employed to address these concerns.

Legal Remedies to Combat Prejudice: The legal system employs various remedies to combat prejudice, including motions for mistrial, appeals, and the setting aside of verdicts where bias or prejudicial errors have likely influenced the outcome. Additionally, appellate courts scrutinize lower court decisions for evidence of bias or procedural errors that could have prejudiced the defendant's or plaintiff's case.

Prejudice in Decision Making: Beyond procedural aspects, prejudice in the broader sense - such as racial, gender, or socioeconomic bias - poses significant challenges to achieving justice and equity in the legal system. Courts and legal professionals are increasingly focused on training, policies, and reforms aimed at recognizing and reducing these forms of prejudice to ensure fair treatment for all individuals.

Reform and Education: Efforts to address and reduce prejudice in the legal system extend beyond the courtroom, involving legal education, professional training, and systemic reforms aimed at enhancing awareness, fairness, and impartiality in legal processes.

The use of "prejudice" in court underscores the legal system's commitment to fairness, objectivity, and justice. While procedural safeguards help minimize its negative impact, ongoing vigilance, education, and reform are essential to address underlying biases that may affect legal proceedings and outcomes[21].

Analysis of research results

Proving prejudice in court decisions is a nuanced and complex process that often depends on the specific context of the case and the nature of the alleged errors or biases. In criminal cases, for example, the Supreme Court has considered whether errors in applying the Sentencing Guidelines should trigger a rebuttable presumption that a defendant's substantial rights were affected. This involves a plain-error review where the defendant must show that an error was clear or obvious and affected their substantial rights.

The difficulty in proving prejudice under such circumstances has led to arguments for a rebuttable presumption of prejudice, especially when the error concerns sentencing guidelines that play a central role in determining a defendant's sentence. However, the opposing view is that sentencing miscalculations do not automatically trigger such a presumption and that a defendant seeking relief must meet all requirements of the plain-error standard[22].

In civil litigation, proving prejudice involves demonstrating specific evidence of how a party's conduct or a procedural error has adversely affected another party's case or legal position. For instance, in a case involving a personal injury claim that was initially managed under an inappropriate protocol, the courts examined whether the defendant was prejudiced by this mistake. The examination considered whether the use of the wrong protocol deprived the defendant of benefits such as a more open approach to medical treatment and experts, or whether it prevented setting a proper reserve due to misrepresentation of the claim's value. Ultimately, the courts look for concrete evidence of actual prejudice, such as how earlier adherence to the correct protocol might have influenced the proceedings or the outcome. This highlights the importance of specific evidence in substantiating claims of prejudice in court decisions.

These examples illustrate that in both criminal and civil contexts, proving prejudice requires a careful analysis of how errors or missteps in the legal process have materially impacted a party's rights or the case's outcome. Courts typically require clear, specific evidence of prejudice rather than presumptions or general assertions of harm.

Prejudice in the context of crime and criminal justice has been a significant issue, impacting both the process and outcomes of law enforcement activities. Research and discussions around this topic focus on identifying the underlying biases that contribute to discriminatory practices and exploring effective strategies to mitigate these prejudices.

One critical aspect of prejudice in crime involves the recognition of unconscious racial biases that influence police officers' decisions, particularly in high-stress situations such as deciding when to shoot a suspect. Studies have shown that both police and civilians are quicker to shoot black suspects than white ones, indicating that deeply ingrained cultural stereotypes and evolutionary biases play a role in these decisions. Efforts to reduce these biases include recommendations for law enforcement agencies to address not just overt but also unconscious biases. This involves training programs designed to reduce unconscious racial bias in critical decision-making processes ("Can We Reduce Bias in Criminal Justice?", Greater Good)[23].

Strategies to reduce prejudice in broader societal contexts have also been explored. Research conducted by Monash University and discussed in their annual Mapping Social Cohesion Report found that 60% of Australians perceive racism as a significant problem. Field experiments and trials conducted in real-world settings have identified effective interventions to reduce prejudice. Contact theory, which involves creating opportunities for interaction between different groups, and awareness interventions, aimed at improving understanding of prejudice and its consequences, have shown promise in reducing prejudicial attitudes among primary and secondary school students. However, there's a noted lack of interventions tested with adults in general community settings, highlighting the need for more efforts to reduce prejudice among adults ("What really works to reduce prejudice in the real world?", Monash Lens)[24].

The Greater Good Science Center outlines ten strategies for reducing prejudice, emphasizing the importance of personal and collective efforts. These strategies include leveraging contact theory, promoting inclusive identities, and engaging in activities that highlight common goals and shared identities. Implementing these strategies requires both individual commitment to change personal biases and systemic efforts to address the root causes of prejudice within society ("The Top 10 Strategies for Reducing Prejudice", Greater Good).

Addressing prejudice in crime and broader social contexts is a complex challenge that requires multifaceted solutions. It involves both acknowledging the deep-seated biases that exist within individuals and society and actively working towards creating more inclusive and equitable environments.

For more detailed insights and strategies on reducing prejudice, you can visit the Greater Good Science Center and Monash Lens articles.

Prejudice in crime perception and its representation in the media significantly impact public opinion and criminal justice policies. Research has demonstrated that white Americans often have skewed racial perceptions of crime, associating it more strongly with African Americans and Latinos than with whites. This bias exists even though whites experience less crime and are more punitive than people of color, who are actually more likely to be victims of violent and property crimes. Such perceptions are bolstered by the media, which frequently overrepresents minorities as crime perpetrators and whites as victims, further entrenching racial stereotypes and biases in the public's mind.

The media plays a crucial role in shaping these perceptions by overreporting crime and presenting minorities in a more threatening manner than whites. Studies have shown that black Americans, particularly black men, are overrepresented as perpetrators of crime in U.S. news media, often depicted in a manner that emphasizes their criminality over their individuality. Similarly, Latinos are often portrayed in the context of crime or immigration, reinforcing stereotypes that paint them as outsiders or lawbreakers[25].

These racialized narratives not only influence public opinion but also have real-world impacts on policy and law enforcement practices, leading to discriminatory policies that disproportionately affect communities of color. For instance, biased media coverage contributes to a heightened fear of crime among the public, despite data showing a steady decline in both violent and property crime

rates since the 1990s. This fear, in turn, supports more punitive measures and policies that unfairly target minority communities.

Conclusions

Efforts to combat these biases and their effects on criminal justice policy are essential for ensuring fairness and equity within the system. Addressing and mitigating the impact of racial perceptions of crime requires a multifaceted approach, including media reform, public education about the realities of crime and racial bias, and policy changes that focus on fairness and justice rather than punitive measures based on unfounded fears.

For a deeper understanding of the issues surrounding racial bias and media coverage of crime, and the impact these have on public perception and policy, refer to the comprehensive reports and analyses by The Sentencing Project and the Center for American Progress.

Prejudice in criminal investigations can manifest through various cognitive biases that inadvertently influence the decision-making process of law enforcement professionals, potentially leading to wrongful convictions. Cognitive biases are unconscious beliefs or mental tendencies that can impact perception, memory, reasoning, and behavior. These biases, while universal and a natural part of human cognition, can skew perceptions and undermine the search for truth in criminal investigations.

One significant cognitive bias is confirmation bias, where individuals may selectively seek, interpret, or recall information that confirms their preexisting beliefs, expectations, or hypotheses. This bias can lead to a situation where initial impressions become firm conclusions without critically evaluating all available evidence, thereby contributing to wrongful convictions. For instance, law enforcement professionals might ignore evidence that contradicts their theory of a case, focusing instead on evidence that supports their initial suspicions (Innocence Project).

Another common bias in investigations is the automation bias, where there's an overreliance on automated decision-making systems, potentially ignoring or discounting contradictory evidence not highlighted by these systems. This could lead to pursuing incorrect leads based on automated alerts, thereby wasting valuable resources (Media Sonar).

Furthermore, racial bias is a deeply ingrained issue within the criminal legal system, affecting individual perceptions and structural decisions. Black people and other minorities are more likely to be perceived as threatening compared to their white counterparts, significantly increasing the risk of wrongful convictions and making the system unjust for all involved. This bias extends to all corners of the criminal justice system, from policing practices to prosecutorial charging decisions and sentencing (Innocence Project).

Addressing these biases is crucial for ensuring fairness and accuracy in criminal investigations. Solutions include promoting awareness and understanding of these biases among law enforcement professionals and implementing measures to mitigate their influence, such as instituting roles within police departments to challenge prevailing theories and encouraging consideration of all possible leads and evidence impartially.

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