

REPUBLIC OF AZERBAIJAN



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**ABSTRACT**

of the dissertation submitted for the degree of Doctor of  
Philosophy

**CRIMINAL-LEGAL AND CRIMINOLOGY  
PROBLEMS OF THE FIGHT AGAINST ACTS OF  
RESISTANCE OR APPLICATION OF FORCE AGAINST  
REPRESENTATIVES OF AUTHORITY**

Specialization: 5611.01 – “Criminal Law and criminology;  
Punishment-executive Law”

Field of study: Law

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**BAKU -2025**

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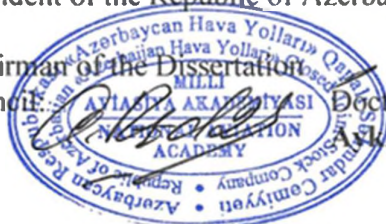
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## **GENERAL CHARACTERISTICS OF THE DISSERTATION**

**The relevance of the topic.** According to Article 7 of the Constitution of the Republic of Azerbaijan, developed under the direct leadership of the national leader of our people Heydar Aliyev and adopted in a referendum on November 12, 1995, state power in our republic is organized on the basis of the principle of separation of powers. The legislative, executive and judicial authorities, which are independent within their powers, operate mutually. State authorities have an exceptional role in solving the tasks facing the state and society, and in reliably protecting the rights and freedoms of man and citizens. At the same time, high requirements are imposed on representatives of state authorities and administrative bodies, who have superior powers and privileges compared to citizens, in connection with the performance of their duties. Ensuring stability in society, which is one of the most important tasks of the state, largely depends on the effective activity of the representatives of these bodies. Any society cannot exist without a management apparatus that performs special functions. Ensuring socio-political stability, legality in the country by the state, etc. In order to solve important tasks, certain powers are given to management bodies, a system of legal, organizational, material and technical support measures is created for them. The normal activity of management bodies also depends on the level of legal support. The norms established in Chapter 34 of the Criminal Code of the Republic of Azerbaijan (hereinafter referred to as the Code) entitled "Crimes against administrative regulations" act in this sense as a criminal-legal support for the activity of management bodies.

Criminal liability for resisting or using force against a representative of the authorities is established in Article 315 of the Code. This article is the first in Chapter 34. The object of the crimes included in this chapter are public relations related to ensuring the normal functioning of state power and administrative bodies. At the same time, liability for some actions included in

the studied act is partially reflected in other articles of the Code (126.2.2, 127.2.1, 169.1, 169.2, 220.1, 220.2, 221.2.2, 288, 206.3.4, 317, 329, 330). It should be noted that, despite the new editions of Article 315 of the Code in 2015 and 2020, legislative innovations in the areas of liability for the crime of resisting or using force against a representative of authority have not been the subject of special scientific research. Crimes committed against the rule of law, including acts of resisting or using force against a representative of authority, seriously damage the reputation of the state, disrupt the normal functioning of administrative bodies, hinder their work, and weaken management relations. The social danger of such a crime lies in the fact that the use of force against a representative of authority disrupts the normal service activities of these persons and creates an atmosphere of uncertainty about their own safety. The life and health of an individual can act as an additional object of the crime of resisting or using force against a representative of authority. The victims of the crime are representatives of authority or their close relatives. In general, acts of resistance or use of force against a representative of the authorities disrupt the moral and psychological climate in the country, destroy people's trust in the law, and increase social tension in the life of society. Therefore, the relevance of the dissertation topic is determined, first of all, by the importance of the object of the crime under study.

In criminal law, violence is considered both as an independent category and as a sign of separate criminal offenses. From this point of view, acts of resistance or use of force against a representative of authority are attributed to the group of violent crimes. One of the main signs characterizing crime in the modern world is the observed growth rate in the dynamics of its violent forms. In our republic, the number of persons convicted of committing a crime in 2004-2022 increased from 16,030 to 36,494, the number of crimes per 100,000 population increased from 193 to 361, and crimes against state power increased from 957 to 1,443. In 2023, the number of persons convicted of committing a crime reached 36,811, an increase of 317 compared

to 2022. Therefore, the relevance of the topic is also determined by the criminological situation of the crimes in question. One of the reasons that makes the problem under study relevant is the need to create a single legal space in the field of combating crime. The study of the issues related to the harmonization of norms related to resistance and use of force against a representative of authority in the criminal legislation of foreign countries is very important in this sense, both scientifically and practically. The relevance of the dissertation topic is also related to the difficulties that arise when describing acts of resistance or use of force against a representative of authority. In this sense, the constant improvement of the Code is of great importance. Thus, an error made in the description of any crime leads to the adoption of an unfair and illegal decision. The small number of scientific studies on this topic is also one of the factors that cause these errors. In such a situation, it is of great importance to strengthen the criminal-legal fight against acts of resistance or use of force against a representative of authority, to scientifically study the problems related to these crimes, to make proposals for eliminating and improving the shortcomings in the relevant norms of criminal legislation, to improve the practice of applying these norms in practice, as well as to develop recommendations for the prevention and suppression of these crimes.

One of the factors determining the relevance of the topic is the need to develop legal awareness. Since acts of resistance and use of force against a representative of the authorities occur in the form of individual or general resistance during the maintenance of public order or in other cases, it becomes necessary to instill in the resisting persons an understanding of how important it is for society to obey the requirements of the law. There is a need for constant improvement of legislation in this area. The main goal here is to more reliably protect public order, form the practice of holding lawful and peaceful assemblies, clarify legal regulation, apply punishment in accordance with the degree of public safety of the act, deter illegal acts, bring our legislation into line with world standards, and at the same time ensure more perfect

regulation of public relations in this sphere. The above-mentioned determines the relevance of the dissertation topic, its selection as an object of research and necessitates its comprehensive investigation. The degree of development of the research topic. It should be noted that the criminal-legal and criminological problems of combating crimes against the rule of law, including acts of resistance or use of force against a representative of the authorities, in the post-Soviet republics are studied more by Russian criminologists. In the Russian Federation, regarding the topic studied in the theory of criminal law, we can cite the candidate's theses of A.Y. Kizilov, K.V. Tretyakov, R.T. Hamidov, I.E. Suleymanova, and the doctoral dissertations of N.K. Rudny, as well as the monographs, books and articles of A.P. Kuznetsov, E.A. Lobanova, and L.D. Gaukhman. The studies of Russian criminologists Y.I. Glinsky, V.O. Kasimov, A.A. Kvik, N.D. Ratnikova, A.V. Ratnikov and V.I. Pinchuk are also very important in terms of studying the topic<sup>1</sup>.

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<sup>1</sup> Кизилов, А.Ю. Уголовно-правовое обеспечение управленческой деятельности представителей власти: / Дис. канд. юр. наук. / - Ульяновск, - 2002. - 204 с.; Третьяков К.В. Уголовная ответственность за насилие в отношении представителя власти / Автореф. дисс. канд. юр. наук. / - Самара, 2009. - 24 с. <https://www.dissercat.com/content/ugolovnaya-otvetstvennost-za-nasilie-v-otnoshenii-predstavitelya-vlasti>; Гамидов, Р.Т. Применение насилия в отношении представителя власти: уголовно-правовое и криминологическое исследование (на примере Республики Дагестан): / автореф. дисс. канд. юр. наук. / - Москва, 2010. - 30 с.; Сулейманова, И.Е. Насильственные преступления против представителей власти в сфере порядка управления: уголовно-правовое и криминологическое исследование / Автореф. дисс. канд. юр. наук. / - Уфа, 2015. - 30 с.; Рудный, Н.К. Преступления против порядка управления, посягающие на служебную деятельность и личность представителей власти: сравнительный анализ законодательства России и стран: / Дис. докт. юр. наук. / - Москва, 2009. - 325 с.; Кузнецов А.П. Преступления против порядка управления: юридическая характеристика проблемы классификации. - 2017. <https://cyberleninka.ru/article-p...>; Лобанова Л.А. Порядок управления как объект уголовно-правовой охраны и классификация преступлений на него посягающих, - 2012. <https://cyberleninka.ru/article-p...>; Глинский, Я.И. Криминология постмодерна (неокриминология) / Я.И.Глинский. - СПб: Алетей, - 2021, - 136 с.; Касимов, В.О. Возраст

The crime of resisting and using force against a representative of the government in Azerbaijan has not been a subject of special research, only some aspects of the problem related to these crimes have been considered by T.M. Gafarov, F.Y. Samandarov, R.I. Guliyev, H.S. Gurbanov, I.B. Ağayev, Sh.T. Samadova, N.K. Aliyev, N.T. Aliyev and others within the framework of textbooks, teaching aids or commentaries on criminal law<sup>2</sup>.

Thus, in our country, the criminal-legal and criminological problems of combating crimes against the rule of law, including acts of resistance or use of force against a representative of the

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преступника как криминологическая проблема: / Дисс. канд. юрид. наук. / - Саратов, 2018. - 231 с.; Кык А.А. Преступления против порядка регистрационного учета в уголовном кодексе России. - 2015. <https://cyberleninka.ru/article-p...>; Ратникова Н.Д., Ратников А.В. К вопросу об установлении круга потерпевших при посягательстве на жизнь сотрудника правоохранительного органа. - 2018. <https://cyberleninka.ru/article-k...>; Пинчук В.И. Сопротивление представителю общественности, выполняющему обязанности по охране общественного порядка. Санкт-Петербург. - 1995, - 20 с.;

<sup>2</sup> Qafarov T.M. Cinayət və cinayət məsuliyyəti. Bakı, Azərnaşr, - 1978. - 168 s.; Səməndərov, F.Y. Cinayət hüququ: Ümumi hissə. Dərslik, yenidən işlənmiş təkrar nəşr / F.Y.Səməndərov. – Bakı, "Hüquq yayın evi" nəşriyyatı, Digesta. - 2018. - 724 s.; Səməndərov, F.Y. Cinayət hüququnda cəza problemi: tarix və müasirlik. Dərs vəsaiti / F.Y.Səməndərov. - Bakı: "Bakı Universiteti" nəşriyyatı, - 2009. - 286 s.; Səməndərov, F.Y. Kriminologiya: Ali məktəblər üçün dərs vəsaiti / F.Y.Səməndərov. - Bakı: "Digesta" nəşriyyatı, 2012. - 240 s.; Quliyev, R.İ., İmanov, M.N. Cinayət hüququ: Xüsusi hissə / R.İ.Quliyev, M.N.İmanlı. - Bakı: Qanun, - 2004. - 816 s.; Qurbanov H.S. Cəmiyyət və sosial-hüquqi problemlər. Bakı, "Elm" nəşriyyatı, - 2018. - 272 s.; Ağayev, İ.B. Cinayət hüququ: Xüsusi hissə / İ.B.Ağayev. - Bakı: Nurlar, - 2018. - 488 s.; Ağayev İ.B. Cinayət tərkibi: Dərs vəsaiti / İ.B.Ağayev. Bakı: Təhsil, - 2005. - 496 s.; Səmədova Ş.T. Cinayətin kateqoriyaları. Dərs vəsaiti. Bakı, "Adiləli" nəşriyyatı, 2007. 304 s.; Əliyev N.K. Qəsdən adam öldürmə cinayətlərində iştirakçılığın növlərinə görə cəza təyini məsələləri. Bakı Universitetinin xəbərləri, - 2013, №3, - s.48-59.; Əliyev N.K. İştirakçılıq ilə törədilən qəsdən adam öldürmə cinayətlərinə görə məsuliyyət (monoqrafiya). Bakı, - 2019, - 476 s.; Əliyev N.T. Azərbaycan Respublikasında regional cinayətkarlığın tədqiqi, proqnozlaşdırılması və qarşısının alınması problemləri: / Hüquq üzrə elmlər doktoru dis. avtoreferatı. / - Bakı, 2017. - 60 s.

government, have not been studied at a complex and monographic level. The dissertation work submitted for defense nümayəndəsinə is the first initiative in the direction of a complex and monographic study of the criminal-legal and criminological problems of combating acts of resistance or use of force against a representative of the government.

**Object of the research.** The object of the study is the criminal-legal provision of the normal activity of state authorities, criminal-legal and criminological problems of combating acts of resistance or use of force against a representative of authority, and social relations arising in the field of protection from the aforementioned socially dangerous acts.

**Subject of the study.** The subject of the study is the legal norms of the criminal legislation of the Republic of Azerbaijan and some foreign countries providing for liability for acts of resistance or use of force against a representative of authority, statistical indicators on the status and dynamics of the aforementioned crimes, and the study of relevant criminal-legal norms.

**The goals and objectives of the study.** The goal of the study is to study the theoretical and practical aspects of the criminal-legal and criminological problems of combating acts of resistance or use of force against a representative of authority in criminal law, to improve the norm determining responsibility for acts of resistance or use of force against a representative of authority in the criminal legislation of the Republic of Azerbaijan, to provide scientifically substantiated proposals to eliminate the contradictions in the field of defining such crimes, as well as to develop recommendations for the prevention and suppression of these crimes.

To achieve the stated goal, the following tasks were set for the study:

- to review the historical development of the criminal legislation of Azerbaijan regarding the resolution of responsibility for acts of resistance or use of force against a representative of authority;



- to conduct a legal analysis of the criminal composition of resistance or use of force against a representative of authority;
- study of the state of application of norms providing for liability for resisting or using force against a representative of authority in judicial and investigative practice;
- differentiation of acts of resisting or using force against a representative of authority from similar criminal offenses;
- review of the state of regulation of liability for resisting or using force against a representative of authority in the criminal legislation of foreign countries;
- investigation of criminological problems of the crime of resisting or using force against a representative of authority, development of recommendations for the prevention and suppression of such crimes;
- submission of proposals for improving norms providing for liability for resisting or using force against a representative of authority.

**Research methods.** The research work used general theoretical-scientific (analysis and synthesis, abstraction, systematic-structural, from abstract to concrete) and specific-empirical (concrete-historical, comparative, logical, formal-legal, statistical, systematic approach, classification) methods. Theoretical basis of the research work. The theoretical basis of the research work was the study of legal literature devoted to the study of crimes committed against the rule of law, including resistance or use of force against a representative of authority. The development of the dissertation work was supported by prominent legal scholars M.D. Shargorodsky, N.A. Belyayev, A.G. Kolomen, N.F. Kuznetsova, A.G. Kibalnik, A.V. Naumov, I.M. Rahimov, F.Y. Samandarov, Sh.T. Samadova, B.S. Zahidov, M.B. Ahmadov, K.H. Salimov, Ch.F. Mustafayev, H.S. Gurbanov, N.K. Aliyev, N.T. Aliyev and others have been very useful<sup>3</sup>.

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<sup>3</sup> Шаргородский М.Д. Избранные труды. СПб.: юрид. Центр Пресс, 2004.- 655 с.; Беляев Н.А., Орехов В.В., Прохоров В.С. Уголовное право на

### **The main provisions put forward for defense.**

1. In the criminal legislation of Azerbaijan, both during the period of the Russian Empire, the People's Republic, and the Soviet era, authorized persons of state bodies were the object of high criminal-legal protection, and the criminal-legal norms determining responsibility for attempts against them were distinguished by the stability of them.

2. In the history of the criminal legislation of the Republic of Azerbaijan (1922, 1927, 1960, 1999), a more complete content of the norms determining criminal responsibility for the act of resisting or using force against a representative of the authorities was established in the Criminal Code of the Azerbaijan SSR of 1960. Thus, various concepts were used in that criminal law: "representative of the authorities", "representative of the public", "police officer", "people's brigade member", "official" and "representative of the public maintaining public order".

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современном этапе: проблемы преступления и наказания. СПб: Изд-во С.-Петербург. ун-та, 1992. 604 с.; Коломен А.Г. К вопросу об объективной стороне посягательства на жизнь сотрудника правоохранительного органа. - 2016. <https://cyberleninka.ru/article-k...>; Кузнецова Н.Ф. Проблемы квалификации преступлений. М.2007, 336 с.; Кибальник А.Г. Сложности в понимании преступлений против порядка управления. - 2015. <https://cyberleninka.ru/article-s...>; Наумов, А.В. Уголовный кодекс Российской Федерации: пять лет спустя. Проблемы и перспективы совершенствования уголовного закона // - Москва: Российская юстиция, Юридическая литература, - 2002. - № 6, - с. 46-49. ; Наумов, А.В. Российское уголовное право. Общая часть: Курс лекций / А.В.Наумов. - Москва: БЕК, - 1996, - 560 с.; Рагимов, И.М. Бессмертная смертная казнь / И.М.Рагимов. - Санкт-Петербург: Издательство Юридический центр, - 2017. - 192 с.; Самедова, Ш.Т. Проблемы уголовного права квалификация преступлений, дифференциации уголовной ответственности к построению санкций. Монография. Баку, «Экопринт», 2017. 744 с.; Əhmədov M.B., Məmmədli İ.F. Cinayət hüququ. Dərs vəsaiti. B, - 2007, - 312 s.; Səlimov K.H. Kriminalistika. Dərslik. Bakı, Qanun, - 2010. - 750 s.; Əliyev N.K. İştirakçılıq ilə törədilən qəsdən adam öldürmə cinayətlərinə görə məsuliyyət (monoqrafiya). Bakı. - 2019, - 476 s.; Əliyev N.T. Azərbaycan Respublikasında regional cinayətkarlığın tədqiqi, proqnozlaşdırılması və qarşısının alınması problemləri: / Hüquq üzrə elmlər doktoru dis. avtoreferatı. / - Bakı, 2017. - 60 s.

Responsibility for violent acts against these persons is determined in separate articles and in different structures.

3. The crime of resisting or using force against a representative of authority is a crime with two objects. The main direct object of the crime is public relations that ensure the normal management activities of representatives of authority, and the

additional direct object is public relations related to ensuring the safety of the representative of authority and his close relatives.

4. The Code does not provide a definition of a representative of authority, which creates certain difficulties in law enforcement activities and in the process of defining the crime. In order to establish a unified practice in this area, we propose to include the following definition of a representative of authority in the form of a note in Article 315 of the Code: "In this Article and other Articles of the Code, a representative of authority means persons exercising legislative, executive and judicial power, as well as persons of state or supervisory bodies or local self-government bodies, citizens and organizations not subordinate to them, who are granted discretionary powers in accordance with the procedure established by law."

5. The objective aspect of the composition established in Article 315 of the Code includes two alternative actions: 1) resisting a representative of authority by using force while performing his official duties; 2) using force against him or his close relatives in connection with the performance of his official duties. The first of the actions indicated in the title of the Article ("Resisting or using force against a representative of authority") is emphasized in part, and the second in full. Considering that both actions are of a violent nature, we propose that the words "resistance or" be removed from the title of this article and that the title of that article be more concisely called "Using force against a representative of authority".

6. Individual and general resistance against a representative of authority usually manifests itself more clearly during mass riots, illegal gatherings, rallies, and pickets. Regular changes

made to the Law of the Republic of Azerbaijan “On Freedom of Assembly” and the Code arise from the need for their constant improvement, and this work must be continued. It is becoming increasingly necessary to tighten deterrent measures in order to increase the effectiveness of the criminal-legal fight against violations of the law. In order to strengthen the criminal-legal fight against violations of the law, we propose to tighten the sanctions provided for in Articles 169.1 and 169.2 of the Code:

“Article 169. Violation of the rules for holding assemblies.

169.1. Organizing, holding assemblies or participating in such assemblies in cases prohibited by law, if they cause a significant violation of the rights and legitimate interests of citizens –

shall be punished by a fine in the amount of eight thousand to ten thousand manats, or restriction of liberty for a term of up to three years, or imprisonment for a term of up to three years”.

169.2. Carrying firearms or cold weapons, or explosive substances and devices, as well as other substances and objects that pose a threat to the life and health of others by those participating in the assembly during the assembly –

shall be punished by a fine in the amount of ten thousand to fifteen thousand manats, or restriction of liberty for a term of up to five years, or imprisonment for a term of up to five years.”.

7. In relation to the initial draft of the Code, the normative content of Article 315 was significantly changed in 2015 and 2020, and as a result of these changes:

- Psychological violence (threat with the threat of violence) committed against a representative of authority in the main content established in Article 315.1 was decriminalized (Law of the Republic of Azerbaijan No. 1396-IVQD dated October 20, 2015);

- The phrase “not dangerous to life and health”, which determined the nature of violent acts applied in the main content established in Article 315.1, was abolished (Law of the Republic of Azerbaijan No. 1396-IVQD dated October 20, 2015);

- Article 315.2 has been abolished, and the legislator has thereby abandoned the differentiation of criminal liability for this crime (Law of the Republic of Azerbaijan No. 68-VIQD dated May 1, 2020).

Thus, unlike the previous edition, the issues of liability and punishment for the crime of resisting or using force against a representative of authority have been significantly eased, and the principle of individualization of punishment has prevailed over the principle of differentiation of criminal liability.

8. We believe that liability for the crime of resisting or using force against a representative of authority should be differentiated at a higher level and we propose adding the following articles to Article 315, defining aggravating and especially aggravating elements:

“315.2. The same acts: 315.2.1. committed by a group of persons or a group of persons in prior collusion;

315.2.2. committed repeatedly —

shall be punished by imprisonment for a term of five to eight years.

315.3. The acts provided for in Articles 315.1 and 315.2 of this Code, if committed with the use of weapons or objects used as weapons, shall be punishable by imprisonment for a term of seven to ten years.”

9. The norms studied are reflected in the criminal legislation of the member states of the Commonwealth of Independent States. The criminal codes of the post-Soviet republics are largely similar to each other. All of them equally apply to the norms related to crimes against the rule of law, the norm we are studying. However, there are also certain differences. For example, according to the Criminal Code of Ukraine, the subject of the crime in question can be any sane individual who has reached the age of 14 at the time of committing the crime. However, in most of the post-Soviet republics, the subject of this crime is 16.

10. The criminological typology of the personality of the criminal who committed an act of resistance or use of force

against a representative of authority is a set of signs related to his character and behavior, which are an expression of the distinctive features of that personality. As a result of the study (on the criminal cases we studied), it was found that:

- The vast majority of persons who committed the crime of resistance or use of force against a representative of authority are men;

- Among the socio-demographic indicators characterizing personality, the level of education is one of the important elements. The vast majority of persons convicted of these crimes do not have a high level of education;

- One of the important places in the formation of personality is occupied by family status, family upbringing. How a person grows up and what social image he has depends mainly on the family. Regarding the family status of the criminals who committed the crime we studied, it was found that the majority of those who committed this crime are married;

- The study of the age composition of the persons who committed the crime under study is also an important and interesting issue from a theoretical and empirical point of view. Age is one of the important elements of the socio-demographic and criminological characteristics of the criminal's personality. Depending on age, the behavior of the personality in conflict situations, the system of needs and interests, the ways and means of satisfying them change. The age group with the largest share of the contingent that committed the crime we are talking about is 25-39 years old;

- One of the important characteristics of the category of criminals we are considering is the presence of a previous conviction for a crime. This characteristic is of great importance both from a criminal-legal and criminological point of view. It was found that the majority of the persons who committed the crime we investigated had a first conviction;

- The sentences to which the persons who committed the crime in question were sentenced are also of interest. The

majority of the persons whose criminal cases we investigated were sentenced to imprisonment;

- Most of the crimes we investigated were committed in cities and at night, and most of the criminals were unemployed when they committed the socially dangerous act.

11. Within the framework of general social prevention of the crimes under study, it is necessary to take the following measures: ensuring the stability of the socio-political situation in the country, reducing unemployment, increasing spending on the social sphere from the state budget, actively promoting the rule of law and positive practices in its application in the mass media, raising the level of legal awareness of citizens, involving citizens widely in ensuring the rule of law, strengthening the fight against drug addiction and alcoholism, and implementing measures aimed at protecting and enhancing the authority of government officials at the state level.

**Scientific novelty of the research.** The scientific novelty of the research is determined by the formulation of the problem and is reflected in the following provisions:

- the research is the first attempt to monograph the problem of resistance or use of force against a representative of authority in Azerbaijan;

- the criminal-legal and criminological problems of combating acts of resistance or use of force against a representative of authority in criminal law theory have been studied theoretically and empirically;

- the differentiation of acts of resistance or use of force against a representative of authority from similar criminal formations has been analyzed based on classification, modeling and grouping methods;

- a comparative analysis of the regulation of the problem in the criminal legislation of foreign countries has been given;

- recommendations have been given on the investigation of criminological problems of the crime in question, prevention and prevention of such crimes;

- it has been proposed to rename Article 315 of the Code to "Use of force against a representative of authority";

- A proposal was made to amend the sanction of the article in the Code that includes cases of violation of the rules for holding assemblies;

- Proposals were made to improve the norms that provide for liability for resisting or using force against a representative of authority;

- In the dissertation work, the legal norms that determine liability for acts of resisting or using force against a representative of authority were studied in a comprehensive manner for the first time.

**Theoretical and practical significance of the research.**

The dissertation work can be useful for the teaching process of the criminal law course at law faculties of higher education institutions, conducting lectures and seminars, writing relevant textbooks, courses and materials, monographs and commentaries on criminal legislation.

The results obtained will help improve the norms of criminal legislation that determine liability for crimes of resisting or using force against a representative of authority and the practice of their application, as well as implementing measures for the prevention and suppression of the specified crimes.

The provisions arising from the research and formulated will serve the successful prevention of crimes against governance, the fair application of the law, the formation of a sense of justice among citizens, and the strengthening of the rule of law.

**Normative basis of the research.** The Constitution of the Republic of Azerbaijan, the Criminal Procedure Code, the Criminal Code, as well as the Criminal Codes of a number of foreign states can be accepted as normative acts of the research.

**Approbation and application of the dissertation.** The author conducted research on various foreign and local literature on the topic of the dissertation work and collected the necessary materials. The provisions reflecting the main content of the dissertation, the results of the research and the theses and articles



dedicated to the criminal offense of resisting or using force against a representative of authority were reflected in journals and magazines recommended by the AAK in the Republic of Azerbaijan, as well as in reports and speeches read at international and republican conferences. The proposals given in the dissertation can be used in the process of improving the criminal legislation of the Republic of Azerbaijan, applying the norms determining liability for acts of resisting or using force against a representative of authority in judicial and investigative practice, as well as in the implementation of measures for the prevention and suppression of the specified crimes.

**Name of the organization where the dissertation work was performed.** The dissertation work was completed, discussed and submitted for defense at the Department of Criminal Law and Criminology of Baku State University.

**The structure of the dissertation.** The dissertation consists of an introduction, four chapters covering nine subchapters, a conclusion and a list of used literature. The total volume of the dissertation, excluding the list of used literature, is 262049 (two hundred sixty-two thousand forty-nine characters without spaces).

## **MAIN CONTENT OF THE WORK**

The introductory part justifies the relevance of the research topic, indicates the level of its scientific research, determines the goals and objectives of the research, theoretical foundations, notes the scientific novelty of the work, formulates the main provisions put forward for defense, explains the theoretical and practical significance, and also provides information on the structure of the dissertation and the approval of its results.

**The first chapter of the dissertation entitled “History of the development of the criminal legislation of Azerbaijan on**

resistance or use of force against a representative of authority” consists of two subchapters.

The first subchapter entitled “Norms on the crime of resistance or use of force against a representative of authority in the legislation of Tsarist Russia and the People's Republic of Azerbaijan” notes that it is impossible to understand the social problems and events of our time outside of the historical context. Therefore, it is necessary to approach the legislation of Azerbaijan on the crimes of resisting or using force against a representative of the government from a historical perspective and consider the path of its development.

In the criminal legislation of Azerbaijan, both during the period of the Russian Empire and the People's Republic, authorized persons of state bodies were the object of high criminal-legal protection, and the criminal-legal norms determining responsibility for attempts against them were distinguished by their stability. This was due to the high social danger of attempts against the state's administrative activities and its authorized subjects, causing serious damage to the activities of state bodies and undermining their reputation.

The second subchapter entitled “The history of the development of the criminal legislation of the Azerbaijan SSR and the independent Azerbaijan Republic regarding resistance or use of force against a representative of authority” states that, as in the legislation of both the Tsarist and the People's Republic periods, in the criminal legislation of the Soviet period, authorized persons of state bodies were the object of high criminal-legal protection, and the criminal-legal norms determining responsibility for attempts against them were distinguished by the stability of them.

The author shows that currently the main source of Azerbaijani criminal law is the Code adopted on December 30, 1999. In the 1999 Code, the norm determining responsibility for resistance or use of force against a representative of authority is provided for in only one article - Article 315, unlike the criminal law that was in force before.

The second chapter of the dissertation entitled **“Legal analysis of the criminal composition of resistance or use of force against a representative of authority”** consists of three subchapters.

The first subchapter, entitled **“The object and objective aspect of the criminal composition of resistance or use of force against a representative of authority”**, shows that social relations are a decisive concept for the object of the crime. Resistance or use of force against a representative of authority is a two-object crime of violence, which includes an act of violence as a constructive element. The main direct object of resistance or use of force against a representative of authority is social relations that ensure the normal management activities of representatives of authority. An additional direct object of the crime under study is social relations that ensure the health, physical integrity, and safety of the representative of authority and his close relatives.

The researcher states that the concept of a representative of authority is defined in Article 310 of the Model Criminal Code of the Commonwealth of Independent States, as well as in the notes to the relevant articles of the criminal codes of many CIS member states. We also propose to define the concept of a representative of authority and include it in the form of a note in Article 315 of the Code.

At the same time, the legislator made certain mistakes in the formulation of Article 315. We consider it appropriate to reword this article by naming it **“Using force against a representative of authority”** and increasing the level of differentiation of criminal liability (by adding aggravating and especially aggravating elements in Articles 315.2 and 315.3, respectively).

The second subchapter entitled **“Subject and subjective signs of the criminal composition of resisting or using force against a representative of authority”** indicates that the subject of resisting or using force against a representative of authority is a person who has reached the age of 16 and is capable of committing the act and bearing criminal liability for it.

For all dual-object violent crimes, the subjective aspect is characterized by direct intent. The second act, which is included in the objective aspect of the composition, namely the use of force against a representative of the authorities or his close relatives in connection with the performance of official duties, is motivated by the motive of revenge for the lawful activities of the representative of the authorities.

The third subchapter is called **"Different aspects of the criminal composition of resistance or use of force against a representative of authority from similar criminal compositions"**. It is noted here that criminal compositions differ from each other according to the features that constitute them. At the same time, criminal compositions also have certain common features. As a result, some crimes are very similar to each other, which in practice leads to some difficulties in the process of describing these crimes. It is noted that the distinction of crimes from similar criminal compositions is of not only theoretical but also practical importance.

The third chapter, called **"Regulation of liability for acts of resistance or use of force against a representative of authority in the criminal legislation of foreign countries"**, consists of two subchapters.

In the first half-chapter entitled **"Norms related to the crime of resisting or using force against a representative of authority in the legislation of countries included in the Roman-Germanic and Anglo-Saxon legal systems"**, the author shows that there are certain points in terms of harmonizing the norms related to resisting or using force against a representative of authority in the criminal legislation of individual foreign countries. In the current circumstances, the creation of a single legal space in the field of combating crime is extremely necessary, and this makes the problem under consideration even more urgent.

The legal systems of Turkey, Germany, France, Japan, the Netherlands, and Poland, which are included in the Roman-Germanic legal system, the USA and India, which are included in

the Anglo-Saxon legal system, and Iran, which is included in the Muslim legal system, as well as the norms of the criminal legislation of those countries on resisting or using force against a representative of authority, were involved in the study.

The second paragraph, entitled **“Regulation of liability for acts of resistance or use of force against a representative of government in the criminal legislation of the post-Soviet republics”**, indicates that the post-Soviet republics formed with the collapse of the USSR are divided into two parts: 1) Member countries of the Commonwealth of Independent States (CIS) (Russia, Belarus, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Azerbaijan, Turkmenistan, Armenia, Moldova) and countries not included in the CIS (Ukraine, Latvia, Lithuania, Estonia, Georgia). The criminal legislation of all post-Soviet republics, especially the CIS member countries, contains norms related to resistance or use of force against a representative of government. In particular, the criminal codes of the CIS member countries are largely similar to each other. All of this equally applies to norms related to crimes against the rule of law, including norms related to resistance or use of force against a representative of government. However, there are certain differences in the problem under study within the post-Soviet republics.

The fourth chapter, entitled **“Current problems of criminological research and prevention of the crime of resistance or use of force against a representative of authority”**, consists of two paragraphs.

The first paragraph, entitled **“Current problems of criminological research of the crime of resistance or use of force against a representative of authority”**, states that the state and level of crimes of resistance or use of force against a representative of authority are influenced not only by general factors, but also by specific factors specific to the area of social relations under consideration. Such factors include the following: the situation with criminogenic conditions related to resistance or use of force against a representative of authority; the quality of

criminal legal norms related to resistance or use of force against a representative of authority, their ability to influence the behavior of citizens; citizens' awareness of the content of criminal-legal prohibitions, the level and quality of the promotion of the considered norms of criminal legislation; the quality of the professional activity of representatives of the authorities, the level of its legality and professional culture, the assessment of such activity in the eyes of the population; the state and effectiveness of the interaction of authorities and management bodies.

The second subchapter entitled **"Issues of prevention of the crime of resistance or use of force against a representative of the authorities"** states that criminals who have committed acts of resistance or use of force against a representative of the authorities differ significantly from other categories of the population, including offenders who have committed other crimes. Due to the large number and wide spread of these crimes, the study of the specific behavior and socio-psychological characteristics of persons who have committed these crimes is of great theoretical and practical importance.

As special measures to prevent crimes of resistance or use of force against a representative of authority, it is necessary to implement the following measures: constantly improving the professionalism of representatives of authority, strengthening their skills to act decisively within the law in extreme situations, strengthening relations with the mass media, and increasing the authority of representatives of authority in the eyes of the population.

As a result of the research conducted, we have identified the following main **conclusions and proposals** regarding the crime of resisting or using force against a representative of authority:

1. In the criminal legislation of Azerbaijan, both during the period of the Russian Empire, the People's Republic, and the Soviet era, authorized persons of state bodies were the object of high criminal-legal protection.

In the history of the criminal legislation of the Republic of Azerbaijan (1922, 1927, 1960, 1999), a more complete content of the norms determining criminal liability for the act of resisting or using force against a representative of authority was established in the Criminal Code of the Azerbaijan SSR of 1960.

2. Resisting or using force against a representative of authority is a two-object crime that attempts the normal functioning of the state apparatus and is accompanied by violence against the person. Its main direct object is public relations that ensure the normal management activities of representatives of power, and its additional direct object is public relations that ensure the health, physical inviolability, and safety of the representative of power and his close relatives.

3. The Code does not provide a definition of a representative of power. In order to create a unified practice in this area, we propose to include the following definition of a representative of power in the form of a note to Article 315 of the Criminal Code: "In this Article and other Articles of the Code, a representative of power means persons exercising legislative, executive, and judicial power, as well as persons of state or supervisory bodies or local self-government bodies, citizens and organizations not subordinate to them who are granted discretionary powers in accordance with the procedure established by law."

4. In the title of Article 315 of the Code ("Resistance or use of force against a representative of authority"), the first of the specified actions is emphasized partially, and the second is emphasized completely. Considering that both actions are of a violent nature, we propose that the words "resistance or" be removed from the title of this article and that the title of this article be called more concisely "Use of force against a representative of authority".

5. Article 315 of the Code differs from similar criminal provisions mainly by the following features: 1) the relationship of the specific norm to the general norm; 2) the relationship of the

specific norm to the specific norm; 3) the ratio of the part to the whole.

6. Individual and general resistance against a representative of authority usually manifests itself more clearly during mass riots, illegal gatherings, rallies, and pickets. In order to strengthen criminal law enforcement measures in this area, we propose to tighten the sanctions provided for in Articles 169.1 and 169.2 of the Code.

7. In relation to the initial draft of the current Criminal Code of the Republic of Azerbaijan, the normative content of Article 315 was seriously changed in 2015 and 2020, psychological violence committed against a representative of authority was decriminalized in Article 315-1, the phrase "not dangerous to life and health" was abolished, Article 315.2 was abolished, and thus the legislator abandoned the differentiation of criminal liability for this crime.

8. We believe that liability for the crime of resisting or using force against a representative of authority should be differentiated at a higher level and we propose to add the following articles to Article 315 defining aggravating and especially aggravating elements:

"315.2. The same acts:

315.2.1. committed by a group of persons or a group of persons in prior collusion;

315.2.2. in case of repeated commission —

shall be punished by imprisonment for a term of five to eight years.

315.3. The acts provided for in Articles 315.1 and 315.2 of this Code, if committed with the use of weapons or objects used as weapons —

shall be punished by imprisonment for a term of seven to ten years."

9. The criminal legislation of all member states of the Commonwealth of Independent States contains norms related to resistance or use of force against a representative of authority.



The criminal codes of the post-Soviet republics are largely similar to each other.

10. Within the framework of general social prevention of crimes of resistance or use of force against a representative of authority, it is necessary to take the following measures: reducing unemployment, increasing expenditures allocated from the state budget to the social sphere, raising the level of legal awareness of citizens, strengthening the fight against drug addiction and alcoholism, implementing measures aimed at protecting and enhancing the reputation of representatives of authority at the state level.

11. The criminological typology of the personality of a criminal who committed an act of resistance or use of force against a representative of authority is a set of signs related to his character and behavior, which are an expression of the distinctive features of that personality. The vast majority of persons who committed the crime of resisting or using force against a representative of authority are men.

12. The level of education is one of the important elements among the socio-demographic indicators characterizing personality. The vast majority of persons who were held accountable for the crimes of resisting or using force against a representative of authority and were convicted (in the criminal cases we investigated) do not have a high level of education.

13. Although not decisive, one of the important places in the formation of personality is occupied by family status and family upbringing. The majority of the perpetrators of the crime we investigated – 53.6% or 118 people – are married. Almost all of those who are married or widowed have children, and most of these children also need financial and moral support.

14. The largest age group of those who committed the crime of resisting or using force against a representative of the authorities is 25-39 years old (46.8% or 103 people), 86.8% of them or 191 people had their first conviction. The majority of the persons whose criminal cases we investigated – 76.8% or 169 people – were sentenced to imprisonment. 64.9% or 141 of the

crimes were committed in cities, 35.1% or 79 in rural areas, the majority of these crimes – 66.3% or 146 occurred during the day, and 33.7% or 74 at night. Studies have shown that the majority of perpetrators were unemployed (85.9% of them or 189 people do not work anywhere, do not study anywhere, or do not have a permanent source of income).

**The main provisions of the dissertation are set out in the following scientific publications:**

1. Cinayət Məcəlləsinin ümumi hissəsinin bəzi normalarının təkmilləşdirilməsi problemləri // Azərbaycan Respublikasının Təhsil Nazirliyi, Bakı Dövlət Universiteti. Hüquq fakültəsinin 80 illik yubileyinə həsr olunmuş "Qloballaşan cəmiyyətdə hüquq elminin aktual problemləri" mövzusunda respublika elmi konfransının materialları (9 aprel 2008-ci il), - Bakı: Bakı Dövlət Universiteti, - 2008, s. 186-188;

2. К уголовно-правовому анализу оказания сопротивления или применение насилия представителю власти // - Москва: Журнал Кавказоведение, Институт Языкознания РАН, - 2010. №17, - с. 132-134;

3. Hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmənin obyektiv cəhəti haqqında // - Bakı: Bakı Universitetinin xəbərləri jurnalı: Sosial-siyasi elmlər seriyası, - 2011. № 4, - s. 67-75;

4. Hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmənin obyekt haqqında // 4-7 may 2011-ci il tarixdə Bakı Slavyan Universiteti ilə Gəncə Dövlət Universitetinin birgə keçirdiyi "Azərbaycanşünaslığın aktual problemləri" mövzusunda II beynəlxalq elmi konfransın materialları, - Bakı: BSU, 2011, - s. 577-583;

5. Azərbaycan Respublikasında hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmə haqqında cinayət qanunvericiliyinin inkişaf tarixi haqqında // - Bakı: Beynəlxalq hüquq və integrasiya problemləri jurnalı, - 2011. № 4 (28), - s. 188-197;

6. Azərbaycan Respublikasının hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmə haqqında cinayət qanunvericiliyinin təkmilləşdirilməsinin bəzi məsələləri // Bakı Avrasiya Universitetində keçirilmiş "Qloballaşma şəraitində hümanitar elmlərin aktual problemləri" mövzusunda respublika elmi-praktik konfransının materialları, - Bakı: - 15 mart, - 2011, s. 65-67;

7. Hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmənin subyektiv əlamətləri haqqında // - Bakı: AMEA Fəlsəfə, Sosiologiya və Hüquq İnstitutunun Elmi Əsərləri, - 2011. № 2 (17), - s. 319-324;

8. Некоторые вопросы уголовному законодательству Азербайджанской Республики и Российской Федерации // - Днепрпетровск: Журнал Право и суспильство, Днепрпетров-ский Государственный Университет, - 2011. № 5, - с. 219-222;

9. Hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmənin oxşar cinayət tərkiblərindən fərqləndirilməsi // 13-14 dekabr 2012-ci il tarixdə Ombudsman aparatında keçirilmiş 10 dekabr Beynəlxalq İnsan Hüquqları gününə həsr edilmiş "Qloballaşma dövründə insan hüquqları və milli hüquq sistemləri" mövzusunda beynəlxalq elmi-praktik konfransın materialları, - Bakı: 2013, - s. 528-531;

10. Azərbaycanda hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmə cinayətinin kriminoloji xüsusiyyətləri və profilaktikası məsələləri // 1-4 may 2013-cü ildə AMEA-da keçirilmiş Ümummilli lider Heydər Əliyevin anadan olmasının 90 illik yubileyinə həsr olunmuş "Azərbaycanşünaslığın aktual problemləri" mövzusunda IV beynəlxalq elmi-praktik konfransın materialları, - Bakı: AMEA, 2013, - s. 260-262;

11. Azərbaycan və MDB ölkələrinin cinayət qanunvericiliyi üzrə hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmə cinayətinə görə məsuliyyətin tənzimlənməsi məsələləri // 5-7 may 2014-cü ildə AMEA-da keçirilmiş Ümummilli lider Heydər Əliyevin anadan olmasının 91-ci

ildönümünə həsr olunmuş “Azərbaycanşünaslığın aktual problemləri” mövzusunda V beynəlxalq elmi-praktik konfransın materialları, Bakı: AMEA, 2014, - s. 323-326;

12. Azərbaycan və xarici ölkələrin cinayət qanunvericiliyi üzrə hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmə cinayətinə görə məsuliyyətin tənzimlənməsi məsələləri // 5-7 may 2015-ci ildə Bakı Slavyan Universitetində keçirilmiş Ümummilli lider Heydər Əliyevin anadan olmasının 92-ci ildönümünə həsr olunmuş “Azərbaycanşünaslığın aktual problemləri” mövzusunda VI beynəlxalq elmi-praktik konfransın materialları, - Bakı: BSU, 2015, - s. 38-39;

13. Hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmə cinayətinin profilaktiki məsələləri // 3-5 may 2016-cı il tarixdə Bakı Slavyan Universitetində keçirilmiş Ulu öndərin anadan olmasına həsr olunmuş “Ulu öndər Heydər Əliyev irsində multikultural və tolerant dəyərlər” mövzusunda beynəlxalq elmi-praktik konfransın materialları, Bakı: BSU, 2016, - s. 31-34;

14. Azərbaycan SSR-in 8 dekabr 1960-cı il tarixli Cinayət Məcəlləsində idarəçilik qaydaları əleyhinə olan cinayətlər // - Bakı: Qanun jurnalı, - 2017. № 10 (276), - s. 97-99;

15. Azərbaycan Respublikasında 2012-2016-cı illərdə törədilmiş dövlət hakimiyyəti əleyhinə olan cinayətlər // - Bakı: Qanun jurnalı, - 2018. № 1 (279), - 84-88;

16. 1845-ci il tarixli cinayət və islah cəzaları Qanunnaməsində idarəçilik qaydaları əleyhinə olan cinayətlər // 2018-ci ildə Azərbaycan Memarlıq və İnşaat Universitetində keçirilmiş Ümummilli lider Heydər Əliyevin anadan olmasının 95-ci ildönümünə həsr edilmiş “Milli-mənəvi dəyərlər: ənənə və müasirlik” mövzusunda beynəlxalq elmi konfransın materialları, Bakı, 2018, - s. 340-344;

17. Hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmə əməlləri ilə mübarizənin cinayət-hüquqi və kriminoloji problemləri / - Bakı: Bakı Universiteti nəşriyyatı, - 2018. - 168 s.;

18. Hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmə əməlləri ilə mübarizənin cinayət-hüquqi və kriminoloji problemlərinin tədqiqinin əhəmiyyəti // Ümummilli lider Heydər Əliyevin anadan olmasının 96-cı ildönümünə həsr edilmiş “İnsan inkişafı. Dünyaya inteqrasiya” mövzusunda beynəlxalq elmi konfransın materialları, - Bakı: Azərbaycan Memarlıq və İnşaat Universiteti, 2019, - s. 353-358;

19. Regulation of liability for the crime of resisting or using force against a government official under legislation of the United States of America // Сборник статей международной научно-практической конференции “Инновационные подходы в современной науке”, - Москва: 20 августа, - 2021, - p. 74-77;

20. Postsovet ölkələrinin cinayət qanunvericiliyində hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə və ya zor tətbiq etmə əməllərinə görə məsuliyyətin tənzimlənməsi // Bakı Universitetinin xəbərləri. Sosial-siyasi elmlər seriyası, №4, 2021. -s.46-52;

21. Roman-German və Anqlo-Sakson hüquq sistemlərinə daxil olan ölkələrin qanunvericiliyində hakimiyyət nümayəndəsinə qarşı müqavimət göstərmə ya zor tətbiq etmə cinayəti ilə bağlı normalar // Qanun. Elmi hüquq jurnalı, № 12 (348), 2023. – s.51-59;

22. Azərbaycan Respublikasında 2012-2023-cü illərdə törədilmiş dövlət hakimiyyəti əleyhinə olan cinayətlərin kriminoloji tədqiqinin aktual problemləri // Qanun. Elmi hüquq jurnalı, № 08 (358), 2024. – s.120-126.



The defense of the dissertation will be held on at the meeting of the ED 2.45 Dissertation Council operating under the National Aviation Academy on "18" "02" 2025 at "11:00".

Address: Baku city, Mardakan ave. 30.

The dissertation work can be viewed in the library of the National Aviation Academy.

Electronic versions of the dissertation and abstract are posted on the official website of the National Aviation Academy.

The abstract was sent to the necessary addresses on "17.01" 2025.

Signed for printing: 25.01.2025

Paper format: A5

Volume: 38238

Circulation: 100