



## CONCEPT AND CHARACTERISTICS OF THE CRIME OF FRAUD

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**Abstract:** This article discusses the concept and definition of fraud, as well as how fraud is defined in other foreign countries.

**Keywords:** fraud, victim, prevention, victimology, bitcoin, prevention, suspect, etc.

Just as in any society, in our society, there are socio-economic negative phenomena, events, and processes that influence individuals, forming in the spiritual and psychological world of a certain segment of people, under the influence of the psychological environment that arose in society and has a negative character, violence, greed, greed, selfishness, and other negative qualities, leading to the commission and increase of related crimes.

The crime of fraud involves the acquisition of someone else's property, greed, selfishness, selfishness, and other similar negative characteristics.

Despite the fact that fraud has historically been a socially condemned act, special responsibility for this act is defined in the current Criminal Code. The subject of fraud is someone else's property or property right. The right to property is usually enshrined in various documents.[1]

Fraud means the acquisition of property or property by deception or abuse of trust, the misrepresentation of any fact or concealment of the truth or the provision of knowingly false information by the guilty party in order to mislead the victim.

A person guilty of committing fraud may pose as another person by disguising himself as a representative of the authorities or by forging his identity and thus seizing someone else's property.

The difference between fraud and theft, robbery, and robbery forms lies in the fact that the victim of fraud voluntarily relinquishes property to the perpetrator because he believes or is deceived. The intentional illegal receipt by a private individual of any funds, allowances, or other payments by deceit or abuse of trust should be qualified as fraud.[2]

Fraud is a crime that has been terminated from the moment the property of another person is seized and the defendant has the opportunity to dispose of the property looted at his discretion. If a person by deception or abuse of trust acquires the property of a mentally incompetent person or a child who does not understand the nature of the actions committed against him, the guilty party should be held criminally liable not for fraud, but for theft.

Our sacred religion, Islam, condemns such vices as deception, fraud, deceit, and deception in trade. In the narratives of the Hadith, "Whoever tries to deceive is not from us!," "Whoever tries to deceive a Muslim in his family or neighbor is not from us!," "O people! There is no deceit among the Muslims! Whoever deceives us is not one of us." According to Islamic philosophy, fraud is based on deception and deceit. Lies are very strongly condemned in Islam, with the Quran citing 167 verses[3] about lies. Therefore, the analysis of concepts in this regard prohibits deceiving others.

According to Article 168 of the Criminal Code of the Republic of Uzbekistan, fraud is understood as the acquisition of another person's property or the right to another person's property by deception or abuse of trust.

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The Resolution No. 35 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated October 11, 2017, "On Judicial Practice in Cases of Fraud" provides detailed descriptions of various forms of fraud. According to it, fraud is expressed in the illegal and gratuitous acquisition of another's property or the right to property through deception or abuse of trust, as a result of which the owner (their representative), another possessor of the property or an authorized body transfers the property or the right to it to another person, while this property or the right to it allows for its appropriation by another person.

In addition, the Explanatory Dictionary of the Uzbek Language defines the lexical meaning of "fraud" as "deception, trickery." Moreover, the lexical meaning of abuse of trust, which is a method of fraud, implies "unscrupulous, illegal or malicious use."

Thus, fraud is expressed as an act manifested in a person's action of deceiving or abusing the trust of another person.

According to historical sources, honesty has always played a particularly important role in human society in social and economic relations between people and in maintaining a healthy moral and ethical environment. The opposite of honesty is lying.

The social danger of fraud-related offenses can be seen in the following:

firstly, it poses a real threat to the rights and freedoms of individuals, their property and other legitimate rights enshrined in the constitution;

secondly, it can significantly hinder ongoing economic reforms in society;

thirdly, the lack of comprehensive organization of measures to combat offenses by the subjects of offense prevention, and the failure to actively involve local authorities, state administration bodies, self-government bodies and public organizations in this process, resulting in the inability to prevent fraud crimes early;

fourth, the low level of compensation for damage caused to victims of committed fraud;

fifth, the lack of comprehensive planning for the prevention of fraud crimes and others.

Analysis shows that the criminal law aspects of fraud are defined in a similar manner in the current criminal legislation of almost all developed foreign countries.

The concept of fraud in the criminal legislation of some foreign countries can be explained as follows:

According to Austrian law, fraud consists of the victim carrying out a certain action, allowing a certain action, or carrying out inaction due to actual deception (in this case, its types are divided into: simple, severe, computer, committed due to necessity, etc.).

In the Japanese Criminal Code, fraud means the acquisition of property from another person through deception. If a person gains illegal property benefit for themselves or another person in this way, such actions are also considered fraud.

Article 263 of the Criminal Code of the Federal Republic of Germany states that fraud is considered to be causing damage to another person's property by reporting false facts or distorting or concealing real facts, deceiving or supporting deception in order to obtain illegal property benefits for oneself or a third party. Its types include: computer fraud, subsidy fraud,

capital fraud, insurance abuse, profit by roundabout means, credit fraud, abuse of trust, withholding wages or salaries, and embezzlement. It can be seen that in the criminal legislation of some advanced foreign countries, types of fraud are defined as separate corpus delicti.

An analysis of the aforementioned concepts shows that the concept of fraud stems from the method, forms, and methods of its application. For example, in all concepts of fraud, actions related to obtaining property or the right to property by deceiving someone are observed.

The differentiation of fraud by methods and types is a requirement of the times, and types of fraud affect their social danger. The necessary signs of the objective side of the crime of fraud are deception and abuse of trust, and today this crime can be divided into several types according to additional signs, that is, methods.

These analyzed issues reflect the concept and criminal law characteristics of fraud, but do not cover fraud and the criminological characteristics of the person who committed it, the causes of this crime, and issues of prevention. Therefore, a comprehensive analysis of this crime should include not only criminal law analysis, but also a criminological description.

A common characteristic of fraud and other crimes related to the embezzlement of other people's property is their desire to earn money easily. It is precisely in this aspect that individuals who have committed fraudulent crimes do not differ from crimes of embezzlement of other people's property.

According to the analysis, the share of fraud among the total number of crimes committed in our republic is increasing every year. Specifically, if in 2004 this figure was 1.6% of the total number of crimes, then in 2016 this figure was 11.7%, in 2017 - 13.1%, in 2018 - 15.1%, in 2022 - 31.1%, and in the first five months of 2024 - 18.1%.

Analysis of the causes of fraud and the conditions that contributed to it revealed that 30.5% of them were due to material shortage, 28.8% to education and upbringing deficiencies, 17% to unemployment, 13.5% to low legal culture, 5.3% to insufficient preventive work, and 2.2% to other reasons.

In our research, when studying the causes of fraudulent crimes committed by young people and the conditions that contributed to it, it was found that 31.1% were caused by procrastination in education and upbringing, 32% by unemployment, 14.9% by low legal culture, 7.6% by the negative impact of internment, 5.4% by material shortage, 4.1% by easy money earning, and 1.6% by alcohol and drug addiction.

There are a number of different concepts and opinions on the crime of fraud in legal literature. In particular, Russian scientists A. Nintovyoki and V.D. Menshagin expressed the following opinions on this matter. The crime of fraud is complex in terms of methods and forms, and its social danger to society is high.[8]

Today, the fight against fraud occupies a special place in the activities of law enforcement agencies. After all, most of the crimes committed in our country are crimes in the economic sphere. It should also be noted that among the violations committed in the economic sphere, the most frequently committed are fraudulent violations.

Fraud is expressed in the unpaid acquisition of someone else's property or property right by cheating or abusing trust, resulting in the owner of the property or another person or a competent authority transferring the property or the right to it to another person or allowing the right to it to be confiscated by another person.[9]



The subject of crimes against property can be everything that is at the disposal of a person and has material value.

In legal literature, there is a view that the object of fraud is the property right, property interests, economic category, legal category, the totality of economic and legal categories. The subject of fraud is understood as a legal category other than property, the right to own another's property, special powers to own property.

In legal literature, it is stated that deception is understood to be the misrepresentation of any fact or concealment of the truth or the provision of knowingly false information by the guilty person in order to mislead the victim in order to obtain the owner of the property or the person entrusted with the property to voluntarily, willingly give it to the fraudster.

In fraud, false information may include any circumstances that may lead to the victim being misled. In particular, legal facts and events are the quality of the property, the price of the person, the authority, the intention of the guilty party (for example, the guilty party may present himself as an official or an employee of a law enforcement agency).

In addition, examples of intentional crimes aimed at misleading the victim in fraud include forgery of a transaction or payment object, the use of cheating methods when playing gambling and other risk-based games.

In the latter case, from an objective standpoint, the second form of fraud is the misuse of trust. Abuse of trust is understood as the use by the guilty party of trust relations with other persons authorized to make a decision to transfer the owner of the property or property to a third party for self-interest purposes.

According to G.N. Borzenkov, fraud is the embezzlement of citizens' personal property or property rights by cheating or misusing trust.[10]

Criminals, when choosing a victim, are guided by various characteristics, namely: the presence of a large amount of material wealth; the future victim's appearance (the woman's "beauty" in rape, the behavior that motivates the crime; the "simplicity" of the individual in fraud, etc.); age; life experience; interests; characteristics of character (drunkenness, trustfulness, etc.).

The choice of victim by the perpetrator is an important factor determining victimization. However, this is not the only factor in this phenomenon. Another circumstance - the victim's behavior - is also important in determining victimhood. As noted above, it is necessary to distinguish between the victim's behavior before the crime, at the time of the crime, and after the crime is committed.[11] After all, the behavior of the victim plays an important role in the commission of a fraudulent crime.

Behavior of the victim before the commission of the crime:

- a) incitement to commit a crime (a person creates a criminogenic situation through their actions);
- b) active (a person does not directly create a criminogenic situation, but their actions have a serious impact on its emergence);
- c) passive (the person plays a serious or no role in the occurrence of a criminal situation).

Based on the actions of the victim during the commission of the crime:

- a) behavior of a person that creates an opportunity to realize the criminal intent of the offender;

b) the victim's behavior without elements that facilitate the possibility of a criminal outcome ("neutral" behavior);

c) it is possible to distinguish behavior that to a certain extent hinders the implementation of illegal behavior.

It should be noted that in fraudulent crimes, it is established that victims of this type of crime must be a sane person as subjects, and in relation to the blind, persons who do not have the ability to fully understand reality (insensitive persons, children under 14 years of age, people in a state of intense emotional excitement, people who abuse alcohol, narcotic drugs psychotropic substance and other substances that strongly affect the willpower of the mind) are held criminally liable for the crime of fraud or theft, which is not the acquisition of the right to deceive or abuse

In fraud committed as an independent method, there is a misuse of trust - a misrepresentation of the truth (active deception) and a concealment of the truth (inactive deception), but there is only a misuse of relationships based on mutual trust. In relationships based on mutual trust, we can observe cases such as the transfer of property from one person to another, that is, it is transferred to him and entrusted without documents.

The peculiarity of fraud lies in the fact that, externally, it manifests itself in the voluntary transfer of the property owner's property to the criminal. The content, nature, source, causes, timing, and similar circumstances of the victim's trustful attitude towards the perpetrator do not affect the assessment of the committed act. At the time of the fraud committed, the victim and the perpetrator may be acquaintances, relatives, co-workers, persons who were in contact with each other in connection with the provision of services, etc.

It would be correct to say that a necessary sign of this type of offense manifests itself in the voluntary transfer of the offender's property or right to property to the perpetrator.

The fraudulent possession of property is considered completed from the moment that this property is transferred to the wrongful ownership of the guilty or other persons and has real opportunities to use or dispose of it as desired.[13]

In his research, G.T. Abdullahodjaev argues that "most crimes would not have been committed if the victims themselves had behaved positively in a specific life situation."

When identifying the causes and conditions of fraud, it is important to emphasize the following issues:

first, the personality of the offender (social-demographic, spiritual-psychological and criminal-legal and biophysiological characteristics);

secondly, the upbringing of the offender, the environment in the family, needs, interests, motivation, purpose, chosen path in life;

third, time, place, conditions, method, means of commission of the offense;

fourth, the activities of subjects whose crime should be prevented at the time and place of the crime;

fifth, the personality of the victim of the offense (socio-demographic, spiritual-psychological and criminal-legal and biophysiological characteristics), the state of guilt or innocence;

sixth, relations between the offender and the victim (close relatives, relatives, relatives, neighbors, neighbors, colleagues, classmates, classmates, acquaintances, strangers) and relationships (conflicting, hostile, etc.);

seventh, the person's previous conviction.



As can be seen from the above, the goal of identifying the causes and conditions of fraud requires the implementation of a wide range of activities. In other words, the results of identifying the causes and conditions of offenses are based not only on general but also on special, individual and victimological prevention.

To do this, it is necessary not only to identify the causes and conditions of fraud, but also to improve the mechanism for their full accounting.

It is advisable to create a unified centralized accounting system and its electronic database by introducing electronic cards that provide for the full disclosure and accounting of information about the reasons for their commission and the conditions that allow them to be carried out simultaneously with individuals who have committed fraud and those who have suffered from it.

Identifying and accounting for the causes and conditions of fraud are the initial stages of their elimination, followed by another important stage, that is, the analysis stage.

Today, the information centers of the Ministry of Internal Affairs have a centralized system for recording information about offenses (crimes and administrative offenses) and offenders (persons who have committed crimes and administrative offenses), and the capabilities of this system are used in most cases only for the purpose of determining information that may be important in qualifying the act, that is, whether a person has previously committed a crime.

Furthermore, reports on the causes, conditions, and prevention of offenses by crime prevention units of internal affairs bodies are conducted only for the purpose of reporting to higher authorities. However, it is impossible to effectively conduct crime prevention without relying on analysis of the state of crime.

The introduction of a unified centralized information system on the causes of fraud and the conditions that allow them, in turn, requires the development of procedures for analyzing the causes of fraud and the conditions that allow them.

Fraudulent offenses are committed with direct intent on the subjective side. In this case, if a person acquired or acquired their property or the right to property with the intention of not fulfilling an obligation related to the condition of transferring this property or right to them, the act may be classified as fraud in practice only in the event that the intent to seize someone else's property or the right to it arose in the perpetrator before the acquisition of someone else's property or the right to it.

According to some studies, 80% of offenders committed fraud again after being convicted of fraud. Also, 23% of those convicted of this crime are those who have been convicted of fraud twice and three times before.[17]

In such cases, a fraudulent person, having entered their trust, will violate the relevant legal norms by providing incorrect information to the relevant competent authorities, and in another case, it should be considered fraud if the aforementioned persons themselves continue to receive social payments or other monetary payments without intentionally informing the relevant authority about the end of the legal basis for receiving them.

Criminal liability for fraudulent plundering of enterprise, institution, and organization's property arises only if the value of the plundered property exceeds the amount specified in Article 61 of the Administrative Responsibility Code (even if there are qualification signs). Therefore, if the value of the property of enterprises, institutions, and organizations weighed by fraudulent means does not exceed thirty times the minimum wage,



this act does not entail criminal liability and is considered an administrative offense. Because it doesn't matter how many times a small amount of robbery was committed.

In the case of fraud, an official is liable for abuse of power if he used this position in committing fraudulent embezzlement. It is important to determine the presence of factors similar to the identified causes and conditions of fraud in others or elsewhere, and if they are detected, it is important to develop plans to take measures to eliminate them before the commission of offenses.[18]

In this case, in cases where the amount of the coupons does not exceed thirty times the minimum monthly wage, the person authorized to consider the case should discuss the issue of terminating the criminal case on the basis of Articles 65 and 66 of the Criminal Code, taking into account the information about the person of the accused (courtendant) and the compensation for material damage, and this type of offense is considered as a situation that entails administrative liability on the basis of the relevant article. How is the amount of property determined?

Depending on the manner in which the property is purchased by the owner, the determination of the value of the property should be based on retail, market and commission prices that were in effect at the time of the offense and confirmed by relevant documents. In cases where there is no price, because in cases where there is a dispute about the quantity, the value of the property is determined based on the expert opinion.

According to Yu.M. Antonia, female recidivists are more likely to commit fraud. Because the number of female repeat offenders is twice as high as the number of first-time offenders.[19]

If a person, acting as an official, actually lacks official authority or is unable to use their official authority to obtain money, valuables, securities, and other tangible assets for a specific action, then it should be qualified as fraud if they intend to seize these assets. Let's focus on another important point. This fraud should be distinguished from a number of other types of offenses, including other forms of property theft.

The difference between fraud and theft lies in the fact that the perpetrator of fraud does not secretly seize property from someone else's possession, but rather achieves that the deceived victim himself transfers the property or the right to own it.

The difference between fraud and extortion lies in the fact that in extortion, the victim's will is broken, and as a result, the victim acts under the influence of fear, while in fraud, the fraudster harms the victim by deceiving them. The manufacture of counterfeit banknotes (values), metal coins, as well as securities or foreign currency or securities in foreign currency for the purpose of fraud, their transfer is distinguished by the direction of intention and the nature of forgery. In this case, the money mark or foreign currency is forged to be included in the circulation. Fraud related to counterfeiting securities (for example, adding several zeros to a money bill, using souvenir banknotes, photocopies of banknotes or securities, etc.) is deliberately aimed at deceiving a person and obtaining property benefits

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