

Situational Prevention of Judicial Misconduct in the Law on Oversight of Judicial Violations

Wahidullah Hamidi¹; Hussaindad Kamran²; Khadem Husain Habibi¹; Hassanreza Shayanfar³

¹ PhD Student in Criminal Law and Criminology at AhlulBayt International University, Tehran, Iran

¹ Faculty Member, Faculty of Law and Political Science at Khatam Al-Nabieen University, Ghazni Branch, Afghanistan

² Ph.D. in Criminal Law and Criminology, University of Tehran, Iran

² Faculty Member, Faculty of Law and Political Science at Khatam Al-Nabieen University, Ghazni Branch, Afghanistan

³ PhD Student in Criminal Law and Criminology at Mazandaran University, Iran

³ Faculty Member, Faculty of Law and Political Science at Khatam Al-Nabieen University, Ghazni Branch, Afghanistan

E-mail: Wahid.19hamidi@gmail.com, Habibi1393@gmail.com, Kamranlaw1@gmail.com, hassanrezashayanfar@gmail.com

<http://dx.doi.org/10.47814/ijssrr.v8i6.2778>

Abstract

Judges hold a distinct social and judicial status in ensuring justice, a status that comes with both privileges and restrictions. This position also imposes responsibilities, prompting the Iranian legislator to implement various preventive measures across different legal frameworks to curb judicial misconduct. This study examines the techniques embedded in Iranian laws to prevent judicial violations and analyzes their application. Under Iranian law, judicial misconduct is not handled through ordinary procedures but is subject to special oversight. According to the Law on Oversight of Judicial Violations, a specialized court is designated to address judges' misconduct. Additionally, official oversight is assigned to a special prosecutor under this law. Situational prevention, as a practical approach with observable outcomes, can play a significant role in reducing judicial misconduct. This research identifies the foundational rationale for situational prevention in judicial misconduct cases and highlights the most effective preventive techniques. These include; Techniques aimed at increasing the effort required to commit violations, such as continuous monitoring of judicial performance. Techniques that heighten the perceived risks associated with misconduct, such as criminalizing behaviors that undermine judicial integrity. Techniques that reduce the anticipated benefits of misconduct, including strict criminalization and eliminating potential

gains from corrupt behavior. Techniques that remove justifications and excuses for violations, contributing to effective situational prevention. The primary legal framework examined in this study is the Law on Oversight of Judicial Violations, which extensively employs situational prevention strategies. Additionally, the Iranian Constitution and the Code of Criminal Procedure are considered to assess legal innovations and shortcomings while exploring situational crime prevention techniques.

Keywords: *Situational Prevention; Prevention; Judicial Misconduct; Deterrence Models; Law on Oversight of Judicial Violations*

Introduction

Given the power and position that the law defines for judges in society, people's lives, property, honor, and dignity are entrusted to them. Judges have decisive or even fateful impacts on the lives of litigants in courts. For this reason, any vulnerabilities and threats to the judicial position pose dangers to society and social justice.

According to Article 156 of the Iranian Constitution, the judiciary is an independent body that supports individual and social rights and is responsible for ensuring justice. A judge, by virtue of law and the courts, has the duty to uphold justice and properly enforce people's rights. Ensuring justice and preventing judicial misconduct is crucial in this regard. Considering the importance of judicial misconduct, which affects society and contradicts justice, preventive measures must be effective in deterring such misconduct among judges.

The Law on Supervision of Judges' Conduct, enacted in 2011 (1390 Hijri Shamsi), was designed to prevent judicial misconduct and ensure adherence to justice by judges. This study focuses on situational prevention of judicial misconduct in light of this law, examining the techniques and measures introduced to prevent judicial infractions.

Like any other human being, a judge may slip and make mistakes, even committing acts recognized as crimes under the law. Given the high value and critical position of the judiciary, if a judge commits a violation or crime, specific legal procedures must be followed in handling their case. Additionally, the legislator has, in some cases, prescribed harsher penalties for crimes committed by judges compared to ordinary individuals.

According to legal provisions, judges enjoy occupational immunity, which is designed to uphold their dignity and judicial independence (Malouji & Others, 2020, p. 19). Article 164 of the Constitution of the Islamic Republic of Iran guarantees this immunity, stating that a judge cannot be temporarily or permanently dismissed, or transferred without consent, from their judicial position without a trial and proof of a crime or misconduct leading to dismissal. Iran's criminal policy regarding judicial offenses and misconduct has been strict. Judicial crimes can be categorized into several groups. According to the Islamic Penal Code, the relevant articles addressing judicial offenses include: (Article 575: Illegal imprisonment and detention, Article 578: Torture of an accused person, Article 589: Bribery and other crimes a judge may commit)

However, this study does not focus on criminal offenses committed by judges but rather on disciplinary violations in judicial conduct. These include; Violating procedural rules, such as failing to record personal details or sign hearing minutes, investigation documents, or decisions, Illegible handwriting or using inappropriate or disrespectful words¹, Failing to declare the conclusion of court hearings or investigations at the prosecutor's office, Unjustified delays of less than a month in issuing or

¹ . Article 14, Paragraph 1 of the Law on Supervision of Judges' Conduct.

executing rulings.² A judge's absence from court hearings without valid excuse or failure to participate in deliberations and sign rulings.³ Failure to convene court sessions on the scheduled date without valid reason, Expressing a substantive opinion before issuing a ruling.⁴ Issuing an unsubstantiated or unreasoned judgment.⁵ Scheduling hearings outside the official case timeline without proper justification.⁶ Other violations outlined in Articles 14, 15, and 17 of the Law on Supervision of Judges' Conduct include breaches of procedural rules, administrative and disciplinary regulations, and violations of judicial decorum.

Given the esteemed position and high status that judges hold in both legal and religious frameworks, specific procedural safeguards have been established to ensure that any potential offenses or misconduct committed by judges are addressed appropriately while preserving their dignity and professional standing. Whenever a judge is suspected of misconduct or a criminal offense, a special legal process is implemented in accordance with the Law on Supervision of Judges' Conduct, which is specifically designed to handle judicial offenses and infractions.

Before delving into the preventive measures and techniques outlined in the Law on Supervision of Judges' Conduct, it is crucial to first understand situational crime prevention thoroughly. Situational crime prevention, as a scientific concept, emerged in the 1990s in the United Kingdom and focuses on strategies that, based on the characteristics of offenders, types of crimes, criminal objectives, crime-related subjects, and victim attributes, aim to eliminate or weaken opportunities and conditions for crime commission (Najafi Tavana, 2014, p. 65).

Linguistically, "prevention" refers to avoiding or moving ahead of something. In criminology, preventive crime strategies involve anticipating criminal behavior and utilizing various intervention techniques to prevent crimes from occurring (Darvish, 2016, p. 93). In the introduction of his book *Situational Crime Prevention: Successful Case Studies* (1992), Clarke states that situational crime prevention is not aimed at elevating society or its institutions in a broad sense; rather, it is a practical approach that primarily focuses on reducing crime opportunities and situations (Mirkhalili, 2009).

Situational crime prevention interventions typically aim to prevent crime by reducing opportunities and increasing the risks of committing offenses (Mahdavi, 2011, p. 26). Two fundamental elements emerge from the various definitions of situational prevention; Increasing the difficulty of committing a crime and limiting access to criminal opportunities. Reducing the attractiveness of crime by eliminating incentives that drive individuals toward criminal behavior

Farrington and Welsh, in their analysis of the core principles of situational prevention, define it as "Situational prevention refers to interventions designed to prevent crime through reducing opportunities, increasing risks, and making crime commission more difficult." (Mahdavi, 2011, p. 26).

Based on the classifications outlined above, situational prevention strategies can be divided into two main categories; Strategies aimed at eliminating or at least making criminal acts more difficult to commit, such as increasing physical security measures, restricting access to potential targets, or protecting potential victims. Strategies designed to reduce the attractiveness of crime and mitigate situational stimuli, with the goal of discouraging offenders from transitioning from criminal intent to criminal action (Mirkhalili, 2009, p. 36).

² . Paragraph 2, Article 14 of the Law on Supervision of Judges' Conduct.

³ . Ibid, paragraph 3.

⁴ . Ibid, paragraph 4.

⁵ .Ibid, Paragraph 1, Article15.

⁶ .Ibid, paragraph 3.

Considering the definitions and classifications discussed above, this study will analyze the Law on Supervision of Judges' Conduct through the lens of situational prevention by examining the techniques and measures embedded within the law. Additionally, the challenges associated with implementing situational prevention in this legal framework will be explored.

A. Situational Preventive Measures Adopted in the Law on Judicial Conduct Supervision

Situational crime prevention, also referred to as preventive criminology, is widely recognized by contemporary criminal policy-makers as an effective approach for curbing and controlling delinquency. This strategy consists of non-coercive and non-punitive methods aimed at addressing criminogenic factors before the occurrence of an offense. It seeks to prevent the initial commission of a crime by an individual (Niazpour, 2023, p. 15).

In the framework of Iran's criminal policy, although crime prevention was acknowledged in the 1979 Constitution of the Islamic Republic of Iran, it was formally defined for the first time in Article 1 of the Law on Crime Prevention (2015). According to this article:

"Crime prevention refers to forecasting, identifying, and assessing the risk of crime occurrence and adopting necessary measures and actions to eliminate or reduce it."

This definition can be analyzed from two perspectives. First, it marks the first legislative definition of crime prevention within Iran's criminal policy framework, providing a legal foundation for the state's preventive approach. Second, the definition deviates somewhat from criminological doctrines, particularly in its scope and conceptualization (Niazpour, 2023, p. 16).

Unlike social crime prevention, which focuses on strengthening societal values, improving institutions, and addressing the root causes of crime, situational prevention is a pragmatic approach that emphasizes reducing opportunities and situations conducive to crime. Instead of addressing an individual's intrinsic motivations or criminal intent, which are difficult to alter and even harder to measure, situational crime prevention focuses on blocking access to crime targets, increasing the effort and risk for potential offenders, and reducing the attractiveness of crime. Nonetheless, proponents of situational prevention acknowledge the importance of addressing criminal motivation, particularly in preventing offenders from transitioning from criminal intent to action (Mirkhalili, 2009, pp. 51-52).

In 1986, Ronald V. Clarke and Derek Cornish introduced the rational choice theory of crime, explaining why individuals commit offenses. According to this theory, offenders engage in a cost-benefit analysis, assessing the risks and rewards of criminal behavior. If they perceive crime as beneficial, they are more likely to rationally choose to commit it. Consequently, the perceived profitability of crime creates criminogenic opportunities, encouraging individuals toward criminal behavior (Niazpour, 2023, p. 185).

As highlighted in previous definitions, situational crime prevention serves two primary objectives:

1. Making crime commission difficult or impossible, even in cases where the offender has a criminal motive or intent, by employing various situational prevention techniques.
2. Reducing criminal motivation, particularly impulsive or opportunistic offenses, by diminishing crime attractiveness and eliminating external triggers (Niazpour, 2023, p. 66).

This research will further examine the techniques and strategies of situational prevention within the framework of the Law on Supervision of Judges' Conduct. It will analyze situational crime prevention

mechanisms aimed at preventing judicial misconduct, as outlined in this law and other relevant legal provisions.

1. Deterrence-Based Measures

The relationship between deterrence theory and situational crime prevention can be understood through the potential offenders' fear of detection, arrest, or punishment in pre-criminal situations. The presence of deterrent mechanisms in such situations may instill fear in potential offenders, ultimately dissuading them from committing a crime (Afrasiabi, 2010, pp. 193-194).

An examination of the evolution of situational crime prevention reveals three distinct phases, each adding new dimensions to crime prevention strategies. These phases—increasing effort, increasing risk, and reducing rewards—are rooted in the "deterrence paradigm." Deterrence theory itself is grounded in classical and neo-classical criminological thought, which views criminal behavior as a rational and economic activity (Sheidaian et al., 2018, pp. 93-94).

Considering the range of deterrence-based measures applicable to the situational prevention of judicial misconduct, the following sections will explore their implementation in this specific legal context.

1.1. Techniques Based on Increasing the Effort Required to Commit a Crime

This technique encompasses a series of methods designed to make the process of committing a crime more burdensome and challenging for motivated offenders. Under this situational prevention framework, criminal acts are perceived as difficult, troublesome, and unstable endeavors (Niazpour, 2023, p. 186).

One of the key techniques introduced by Ronald Clarke in this regard is the "increase effort to commit a crime" strategy (Sheidaian et al., 2018, p. 94). By complicating the crime commission process and introducing multiple barriers and obstacles, this strategy reduces opportunities for criminal acts and may even lead to their abandonment altogether.

The methods of increasing effort vary and should be applied based on the characteristics of crime targets and criminal behaviors to play a significant role in crime prevention (Niazpour, 2023, p. 186). If the level of effort required for an individual to commit a crime or violation increases, it is likely that they will be deterred from engaging in criminal behavior.

In the context of judicial misconduct prevention, it is essential to analyze how this technique can be effectively implemented to deter judges from committing offenses or ethical violations.

1.1.1. Target Hardening

This technique not only creates obstacles for potential offenders in achieving their criminal objectives but may also prevent the formation of criminal motivation altogether (Mirkhalili, 2009, p. 198). The concept of target hardening or protecting crime targets is a fundamental method in situational crime prevention, aimed at enhancing the physical security of crime targets, thereby making crime more difficult to commit and increasing the risks associated with it (Mirkhalili, 2009, p. 196).

Criminal behavior typically targets specific entities, which constitute the subject matter of the crime. Thus, a crime target is an entity upon which a motivated offender directs their criminal intent. Given the diversity of valuable entities, crime targets can also be diverse in nature.

Material targets include tangible and visible criminal subjects, such as human bodies or physical assets.

Non-material targets are intangible and non-visible and may include reputation, dignity, and intellectual property (Niazpour, 2023, pp. 186-187).

Given the significance of target hardening in situational crime prevention, some scholars argue that situational prevention is essentially about securing crime targets. However, it is important to note that this is merely one of the multiple techniques employed within this framework (Sheidaian et al., 2018, pp. 94-95).

In the context of judicial misconduct, as outlined in the introduction, the primary victims of judicial infractions are often court visitors, litigants, or defendants. Judicial misconduct can lead to unjust hardships, wrongful convictions, or undue imprisonments, thereby compromising the integrity of justice. This section explores how the Law on Judicial Conduct Oversight implements target hardening strategies to prevent such violations.

1.1.1.1. Continuous Monitoring of Judicial Performance

According to Article 11 of the Law on Judicial Conduct Oversight, which outlines the responsibilities and jurisdiction of the judicial disciplinary prosecutor's office, Clause 2 explicitly states:

"Continuous monitoring of judges' performance, evaluating their conduct, and investigating behaviors that undermine judicial integrity while respecting their privacy."

Thus, direct supervision of judicial conduct serves as an effective situational crime prevention mechanism to deter judicial misconduct. The existence of continuous oversight functions as a target-hardening strategy, ensuring that judges perform their duties accurately and in compliance with legal standards.

This strategy can be implemented through regular performance reports submitted to judicial authorities. Additionally, Article 2 of the Special Clergy Court Regulations (1990) mandates preventive measures to combat violations within the judicial domain. Clause A of Article 2 explicitly states:

"Taking necessary actions to prevent judicial misconduct and crimes in the legal domain."

If this legal provision is interpreted as a target-hardening technique, then continuous oversight can serve as a deterrent measure, reducing the likelihood of judicial and administrative violations. It compels judges to uphold ethical and legal standards, ensuring that they act in a just manner and contribute effectively to the realization of justice for court visitors and litigants.

2.1.1.1. Rapid Access of those Harmed by Judicial Misconduct to Judicial Authorities

Judicial errors in the realm of criminal law hold significant importance. When an individual's rights are violated due to an erroneous judgment or judicial misconduct, caused by negligence, mistake, or incompetence of a judge, the Law on Judicial Conduct Oversight provides legal mechanisms for redress (Pourbaqi & Bakhtav, 2021).

According to Article 171 of the Iranian Constitution, compensation for material or moral damages resulting from judicial error or misconduct is emphasized. This article holds the judge personally responsible in cases of misconduct but obligates the state to compensate for damages in cases of judicial errors.

Similarly, Article 30 of the Law on Judicial Conduct Oversight states:

"Lawsuits for compensation arising from judicial error or misconduct, as stipulated in Article 171 of the Constitution of the Islamic Republic of Iran, fall under the jurisdiction of the General Court of Tehran. The adjudication of such claims in the General Court is contingent upon the verification of the judge's error or misconduct by the High Court."

Therefore, judges are held accountable for their judgments and rulings if misconduct is established. Article 31 of the same law further stipulates that upon confirmation of judicial misconduct, the judge shall be subject to disciplinary punishment.

3.1.1.1. Judicial Panel System in Case Adjudication

In the current Iranian judicial system, except for specific cases, a single-judge system is the norm in both civil and criminal proceedings (Khondi, 1993, p. 82).

Prior to 1994, the principle of a single judge prevailed in criminal trials at the trial court level following the Islamic Revolution. This principle was upheld in the Law on the Establishment of General and Revolutionary Courts (1994). However, in appellate proceedings, the legislator deviated from the single-judge rule, adopting a multi-judge panel system for appellate courts.

Thus, in the Iranian judicial system:

Trial courts (General, Revolutionary, and Military Courts) follow the single-judge principle.

Appellate courts, including Provincial Appeals Courts and the Supreme Court, operate with multiple judges.

For serious crimes (such as cases involving qisas (retaliation), execution, or stoning), Criminal Court I is composed of five judges.

In contrast, common law and civil law systems often adopt a multi-judge panel even at the trial court level, with three to five judges per case, and in some jurisdictions, even seven judges (Goldust Joibari, 2009, p. 34).

The principle of judicial panels serves as a target-hardening situational crime prevention technique, ensuring more accurate case adjudication and reducing the likelihood of judicial misconduct.

Although the Iranian judicial system currently employs judicial panels in appellate courts, expanding this system to trial courts would enhance case accuracy, prevent undue delays, and establish a consistent procedural standard (Adibi Mehr et al., 2012, p. 4).

From a situational crime prevention perspective, the most effective strategy to deter judicial misconduct and harden crime targets is mandating judicial panels at all trial levels. This approach ensures collective oversight, where each judge's authority serves as a check against misconduct by their peers, thereby reducing the risk of judicial errors or ethical breaches.

2.1.1. Controlling Crime-Facilitating Tools

The use of tools and instruments plays a significant role in the commission of crimes. These tools can either enable criminal activity or facilitate its execution. In the field of criminal policy, various approaches have been taken to address crime facilitators. One such approach involves criminalization and increased penalties for the use of certain instruments in committing crimes (Niazpour, 2023, p. 188).

As previously mentioned, criminalization and penalty enhancement have also been applied to judicial misconduct under the Law on Judicial Conduct Oversight. By criminalizing certain judicial offenses, the law aims to restrict opportunities for judicial misconduct. For example, Articles 14, 15, and 16 of the law define specific judicial offenses, effectively removing the means of misconduct from judges. If a judge engages in any of these prohibited behaviors, they will be subject to legal penalties.

Judicial Case Management Systems and Digitalization of Court Processes

The judicial case management systems implemented by the Judiciary of Iran have significantly impacted the efficiency and speed of judicial proceedings. The CMS (Case Management System), administrative automation, and electronic archiving are among the key initiatives. These systems provide numerous benefits, including; Expedited judicial proceedings, Faster administrative correspondence, Easy access for litigants to case information, Automated case status updates via SMS, Real-time case data entry and Enhanced transparency in judicial processes.

One of the most critical advantages of case management systems in the context of this study is their role in monitoring lower court branches by senior judicial authorities. Additional benefits include; Ensuring timely case registration and adherence to procedural deadlines, facilitating rapid reporting and statistical analysis, Reducing the need for in-person visits to judicial offices, Preventing and minimizing judicial misconduct and Enhancing oversight and evaluation of judicial performance (Qanbarpour & Ghorbani, 2022, p. 51).

Thus, electronic case management can serve as an effective technique for preventing judicial misconduct. However, the widespread adoption of this system remains limited due to insufficient funding for its full implementation (Qanbarpour & Ghorbani, 2022, p. 52).

The Criminal Procedure Code of Iran, in Articles 649 to 663, explicitly addresses the electronic transformation of judicial proceedings and mandates the establishment of the "National Justice Network". According to Article 652, the judiciary is required to develop an integrated electronic communication system between courts, law enforcement agencies, and affiliated institutions. This digital transformation strategy plays a crucial role in preventing judicial misconduct by enhancing transparency, accountability, and oversight within the judicial system.

2. Techniques Based on Increasing the Predictable Risks of Crime

One of Clarke's situational crime prevention techniques is "increasing the risk of committing a crime," which includes enhancing the likelihood of offender identification and apprehension. The maximum impact of punishments and crime prevention through risk enhancement is analyzed in two stages (Sheidaian et al., 2018, p. 99).

Within the framework of situational criminology, individuals contemplating criminal acts often conduct a cost-benefit analysis, which can deter them from proceeding. Since offenders seek benefits from crime, they assess the practicality and likelihood of achieving their objectives before committing an offense (Niazpour, 2023, p. 190). Similarly, in the realm of risk-increasing prevention, the rationality of motivated offenders is considered, ensuring that pre-crime evaluations lead to the perception that crime is disadvantageous (Moghimi, 2018, p. 22).

In this context, deterrence through punishment plays a crucial role in crime prevention and is examined in two key stages:

1. The declarative aspect of deterrence – Merely establishing legal penalties for specific behaviors acts as a deterrent, even before enforcement. However, this type of deterrence is effective only for individuals with strong internal control mechanisms.
2. The practical and operational aspect of deterrence – This stage involves the implementation of mechanisms that make punishments more visible and accessible, ensuring that potential offenders perceive a high probability of arrest and prosecution (Afrasiabi, 2010, p. 197).

Therefore, by employing legal and social measures, the perceived risk of committing crimes can be heightened. Demonstrating the harmful consequences of crime can deter offenders and reduce their motivation for criminal behavior. This technique has also been effectively applied in the Law on Judicial Conduct Oversight, discouraging judges from engaging in misconduct by increasing the risks associated with violations.

Application of Risk-Increasing Techniques in the Law on Judicial Conduct Oversight

The Law on Judicial Conduct Oversight criminalizes specific judicial behaviors and imposes disciplinary sanctions to prevent judicial misconduct. Article 13 of the law outlines 13 levels of disciplinary punishments for judges. Articles 14, 15, 16, and 17 specify different categories of judicial misconduct, with corresponding penalties, including:

Article 14 violations: Punishments range from a written reprimand without inclusion in the service record to salary deductions of up to one-third for six months to a year.

Article 15 violations: Penalties escalate to salary deductions of up to one-third for six months to a year and demotion by two judicial ranks or two military grades (for military judges).

Article 16 violations: Stricter punishments include demotion by one judicial rank (or one military rank for military judges) and even forced retirement or dismissal based on years of service.

Article 17 violations: The most severe penalties include temporary suspension (from one to six months) or permanent dismissal from government service (Article 13).

These disciplinary measures clearly demonstrate the legislator's intention to increase the risk associated with judicial misconduct. By removing any potential benefits of engaging in misconduct, this risk-enhancement technique effectively deters judicial violations and reduces unethical behavior within the judiciary.

As mentioned earlier, formal oversight mechanisms also fall under the category of risk-enhancement techniques. The Law on Judicial Conduct Oversight establishes an independent and authoritative body responsible for monitoring judicial behavior and addressing judicial violations.

According to Articles 1 and 2, the Special Court for the Clergy is responsible for investigating judicial misconduct and ensuring compliance with ethical and legal standards. Through strict oversight and enforcement mechanisms, this institution prevents judicial infractions and takes appropriate action whenever misconduct occurs.

By integrating strict legal measures, disciplinary actions, and oversight mechanisms, the judicial system effectively increases the risks associated with violations, thereby enhancing judicial integrity and reducing unethical behavior.

3. Techniques Based on Reducing the Predictable Benefits of Crime

According to criminological findings on situational crime prevention, motivated offenders are more likely to engage in crime when the perceived benefits outweigh the potential criminal costs. These individuals, following a rational decision-making process, will commit a crime only if it appears profitable (Niazpour, 2023, p. 197).

This technique, first introduced by Clarke in 1992, is a key situational crime prevention strategy. One of its primary measures is "restricting or eliminating criminal benefits" (Sheidaian et al., 2018, p. 109). In situational prevention, reducing the scope of criminal gain plays a crucial role in lowering crime rates. This method aims to minimize or eliminate the anticipated benefits of crime, thereby discouraging motivated offenders from engaging in criminal activities (Niazpour, 2023, p. 199).

Since many cases of judicial misconduct are linked to the judicial process itself, legislators have implemented strict criminalization policies to limit the potential benefits available to judges. By imposing specific disciplinary sanctions for unethical judicial behavior, the law prevents future misconduct.

For instance, Chapter II of the Law on Judicial Conduct Oversight outlines various disciplinary punishments for judges. These sanctions restrict any potential advantages that could arise from judicial misconduct. By criminalizing violations and ensuring that judges derive no benefits from engaging in unethical behavior, the law applies the technique of reducing criminal benefits, effectively deterring judicial misconduct.

4. Techniques Based on Eliminating Justifications and Excuses

One of the key situational crime prevention techniques is the removal of justifications and excuses from the situational context. This strategy works by eliminating the factors that offenders rely on to justify their criminal behavior. It encompasses various approaches, such as the "rationality paradigm," "inducing shame and guilt," and the "calculated decision-making paradigm," all of which can be utilized to prevent crime (Afrasiabi, 2010, p. 204).

Following the three primary situational crime prevention techniques discussed earlier, Clarke and Homel introduced a fourth category, "removing excuses," in the second edition of Clarke's book in 1997 (Sheidaian et al., 2018, p. 111).

Since judges possess a higher level of rationality and decision-making capability than other offenders, they conduct precise calculations regarding the risks and rewards of committing a crime or violation, aiming to minimize any potential consequences (Afrasiabi, 2010, p. 204). Due to their high social status and the job security guaranteed by Article 164 of the Iranian Constitution, judges cannot be removed from office without due process, and even their transfer requires their consent. Therefore, the Law on Judicial Conduct Oversight was specifically enacted to address judicial misconduct, recognizing that judges cannot be prosecuted in the same manner as ordinary offenders due to their social and professional standing.

In preventing judicial misconduct, both physical and moral barriers can be employed. In some cases, moral barriers may be even more effective than physical ones, as criminal policy aims to enhance accountability and instill a sense of shame in offenders. An individual on the verge of committing an offense may be deterred by feelings of shame and guilt, preventing them from engaging in further criminal behavior (Afrasiabi, 2010, p. 206).

Given the social status of judges, employing the technique of conscience stimulation and inducing a sense of shame can serve as a preventive measure against judicial misconduct. The disciplinary

sanctions outlined in the Law on Judicial Conduct Oversight serve a dual purpose; They impose strict penalties based on the severity of judicial misconduct. They create a sense of shame and reputational damage, deterring other judges who have not yet engaged in misconduct from doing so.

A fundamental method within this strategy is "establishing rules." This approach is based on the principle that potential offenders often deny the wrongdoing of their actions by using various justifications. These justifications differ depending on the type of offense and may include; Comparing their actions to worse offenses committed by others. Emphasizing the corruption of those in power. Reframing their actions using euphemistic language to lessen their perceived severity. Claiming they acted under a higher moral obligation. Asserting they were unaware of the wrongdoing.

People's conscience is often influenced by their social environment, which helps define what is right and wrong. In some cases, corrupt organizational culture can normalize unethical behavior. For example, in judicial institutions, a culture of widespread corruption may lead potential offenders to justify their actions by believing "everyone does it." Such attitudes are prevalent in court systems worldwide.

To counteract this, formal regulations must establish clear behavioral standards, reducing the likelihood that potential offenders can exploit loopholes or ambiguities in existing rules (Sheidaian et al., 2018, p. 112).

The Law on Judicial Conduct Oversight aims to prevent judicial misconduct by monitoring judges' behavior and imposing effective preventive measures. These measures include; Suspending judges suspected of misconduct. Reassigning or demoting judges from judicial roles to administrative positions.

Such interventions effectively restrict the ability of offenders to continue engaging in judicial misconduct and serve as a deterrent to others.

B: Challenges and Limitations of Situational Prevention of Judicial Misconduct

From a criminological perspective, situational crime prevention (SCP) faces inherent limitations that may render it ineffective when confronted with criminal behavior. These limitations can lead to a superficial and conservative approach to crime control. Among its shortcomings are its lack of comprehensiveness in addressing all types of offenses, its opportunistic nature, and other related issues, which will be examined in this discussion.

Regarding judicial misconduct, several challenges to SCP can be identified. These include the lack of awareness among victims regarding their rights and obligations, as well as the duties that judges must uphold. Furthermore, victims may refrain from lodging formal complaints against judicial misconduct, and various procedural hurdles in addressing such violations further complicate the matter. The following discussion explores the deficiencies and challenges of SCP, comparing these shortcomings with those encountered in preventing judicial misconduct.

1. General Limitations of Situational Crime Prevention

SCP encounters several broad criticisms, including; The opportunistic nature of crimes, Crime displacement rather than prevention, A conservative and reactionary approach to crime, Exclusion of unintentional offenses and Inability to comprehensively address all potential targets or offenders.

These issues pose significant challenges for SCP. This discussion will particularly focus on the opportunistic nature of crimes and crime displacement, given their direct relevance to the situational prevention of judicial misconduct. Other challenges will be omitted due to the scope limitations of this study.

1.1. The Opportunistic Nature of Crimes

The opportunistic nature of crimes is one of the major criticisms of SCP. This approach primarily targets crimes that occur due to situational opportunities, whereas not all offenses are opportunistic. Certain serious and violent crimes are more driven by emotions than by opportunity, making them less amenable to SCP measures. For instance, in crimes involving intense emotions, offenders actively create opportunities to commit the crime rather than simply exploiting pre-existing ones. Additionally, such offenders often have a specific target in mind that aligns with their objectives (Darvish, 2016, pp. 97-98).

The concept of opportunistic crime can be understood in two ways. The first suggests that all crimes are, to some extent, opportunity-driven, implying that the criticism of SCP's limitations in this regard is invalid. In this sense, every crime requires an opportunity—along with the presence of an offender and the absence of deterrents. The second interpretation defines opportunistic crimes as those primarily motivated by financial gain, where offenders act only when a low-risk, high-reward opportunity arises. In other words, an offender is unlikely to commit a crime unless the potential profit is accessible, significant, and carries minimal risk (Saffari, 2016). Thus, SCP is more effective for crimes based on cost-benefit analysis but less applicable to offenses driven by non-material motives, such as those committed for reasons of personal honor or reputation. Crimes that are not economically motivated cannot be effectively controlled through SCP techniques, which rely on manipulating risks and rewards (Babaei, 2011, p. 156).

In the Law on Judicial Conduct Oversight, some judicial behaviors align with the second definition of crime and are not strictly opportunity-driven. Such behaviors may stem from factors such as disorder, negligence, emotional bias, discrimination, incompetence, or other personal deficiencies. One key criticism of SCP within the Law on Judicial Conduct Oversight is that it fails to address these behaviors through criminalization. Moreover, since these actions do not typically provide offenders with financial gain, they are not committed for profit.

Therefore, effective prevention of such behaviors requires alternative strategies, such as legal education, professional development workshops, and training programs aimed at improving judicial knowledge, ethics, and conduct.

2.1. Crime Displacement

Situational crime prevention (SCP) is based on the premise that criminal behavior can be neutralized or rendered ineffective by disrupting one link in the chain of events leading to an offense. However, even if a crime is prevented through SCP techniques and measures, there is no guarantee that a potential offender will not seek another opportunity elsewhere to commit the offense. The measures implemented under SCP often lead to the displacement of criminal activities in terms of location, method of commission, or type of crime (Babaei, 2011, p. 160).

Crime displacement may occur not only in terms of place but also in terms of time, meaning that an offender might postpone the offense to a later occasion with more favorable conditions. This form of displacement is known as temporal displacement. Alternatively, offenders may adopt new methods to commit the intended crime or, in some cases, abandon their criminal intent altogether, which would be the most effective form of crime prevention. However, in some instances, offenders may switch to committing a different type of crime instead, leading to crime type displacement (Saffari, p. 210).

Within the Law on Judicial Conduct Oversight, certain judicial misconducts may also undergo temporal displacement, meaning that judges could engage in the same misconduct at a different time or place. Examples include behavior unbecoming of a judge, accepting gifts or favors, removing case documents, or other violations that can be relocated in time or space. In other cases, crime type

displacement may occur, where instead of committing a specific offense that has been effectively prevented through SCP, judges engage in alternative forms of misconduct. For instance, if removing case documents is prevented through digital case management systems, judges may resort to manipulating the weight of evidence—giving undue credibility to certain pieces of evidence while downplaying others—resulting in biased rulings. These possibilities highlight the need for SCP to address all dimensions of judicial misconduct comprehensively to prevent the emergence of alternative offenses.

2. Specific Legal Shortcomings in Crime Prevention

One of the fundamental flaws in Iranian judicial laws concerning case adjudication and judicial conduct is the failure to uphold the principle of judicial plurality at all stages of proceedings. As previously discussed, judicial plurality—having multiple judges review a case—is a crucial safeguard in preventing judicial misconduct. However, under Iranian law, trial courts operate under a single-judge system, where case adjudication is conducted by a sole judge.

This system presents significant challenges in ensuring accurate, timely, and misconduct-free adjudication. A single-judge system in trial courts creates an environment where a judge may be more prone to committing errors, misconduct, or even deliberate violations. Additionally, it reduces the level of scrutiny and precision in judicial decision-making. In contrast, implementing judicial plurality at all stages of legal proceedings would minimize case delays, ensure timely and accurate rulings, and uphold justice more effectively.

Conclusion

Situational prevention of judicial misconduct, implemented through the Law on Judicial Conduct Oversight and other relevant regulations, serves as a practical and effective approach in reducing judicial infractions. This study has examined the foundations of adopting situational prevention in judicial misconduct and has identified key preventive techniques, which include; Techniques that increase the difficulty of committing misconduct, such as restricting access to opportunities for corruption, controlling tools that facilitate infractions, and maintaining continuous oversight of judicial performance. Techniques that heighten the risks associated with misconduct, including criminalizing behaviors that contradict judicial integrity and enforcing stricter supervision. Techniques that reduce the benefits of misconduct, such as imposing harsher penalties and eliminating incentives for unethical behavior. Techniques that eliminate justifications for judicial misconduct, preventing judges from rationalizing their actions or evading accountability.

However, it is crucial to acknowledge the limitations of situational prevention and not view it as a complete substitute for other preventive approaches. As discussed in the challenges of situational prevention, crime displacement demonstrates that this method alone cannot fully resolve judicial misconduct and should instead be used as a complementary tool alongside social prevention and other supervisory mechanisms.

To enhance the effectiveness and efficiency of situational prevention in judicial misconduct, the following measures should be taken; Legislators must provide clearer definitions of judicial misconduct and formally criminalize various infractions, while also establishing appropriate and deterrent penalties for such violations. Judicial oversight bodies must intensify and expand their monitoring efforts, ensuring greater accountability through documented and transparent reporting on judicial activities. Timelines for case proceedings must be strictly regulated to prevent unnecessary delays. If unwarranted delays occur, judicial authorities must swiftly investigate and hold responsible judges accountable. Comprehensive electronic systems should be implemented for case management and record-keeping to prevent tampering with evidence and eliminate procedural inefficiencies. Although these systems are not yet fully

operational, officials must prioritize their development, as digitalizing judicial processes can expedite case resolutions and effectively prevent judicial misconduct.

In conclusion, situational prevention is a valuable and effective tool in minimizing judicial misconduct, but its success depends on combining it with legal reforms, rigorous administrative oversight, and modern technological solutions. A comprehensive strategy incorporating legal improvements, enhanced supervision, and digital advancements is essential to fostering greater transparency, reinforcing judicial accountability, and strengthening public trust in the judicial system.

References

1. Adibi Mehr, Mohammad, et al. (2012). A Jurisprudential Review of the Legitimacy of Judicial Plurality, *Criminal Law Research Journal*, Vol. 3, No. 1.
2. Afrasiabi, Ali (2010). Dominant Paradigms in Situational Crime Prevention, *Scientific-Promotional Quarterly Journal of Crime Prevention Studies*, Vol. 5, No. 17.
3. Babaei, Mohammad Ali (2011). Challenges of Situational Crime Prevention, *Judiciary Legal Journal*, No. 75.
4. Pourbaghi, Maryam & Karim Bakhnava (2021). Supervision of Judges' Professional Conduct in Criminal Courts with a Preventive Approach to Misconduct in Accordance with the Law on Judicial Conduct Oversight, *Legal Science Quarterly "Ghanoun Yar"*, Vol. 5, No. 2.
5. Khondi, Mahmoud (1993). *Criminal Procedure*, Tehran: Farhang and Ershad Islami Publications.
6. Darvish, Alireza (2016). *Summary of Essential Criminology Topics*, Tehran: Behnami Publications, 2nd Edition.
7. Sheidaian, Mehdi, et al. (2018). Legislative Situational Prevention of the Crime of Torture, *Criminal Research*, Vol. 7, No. 25.
8. Saffari, Ali. Criticism of Situational Crime Prevention, *Legal Research Journal*, Nos. 35-36.
9. Ghanbarpour, Behnam & Omid Ghorbani (2023). Examining the Impact of Electronic Notification and Registration on the Judicial Process, *Scientific Quarterly on Jurisprudential and Criminal Law Teachings*, Vol. 1, No. 4.
10. Goldoust Jouybari, Rajab (2009). *Fundamentals of Criminal Procedure*, Tehran: Jungle Publications.
11. Mahlouji, Monireh, et al. (2020). A Legislative Criminal Policy Review on Judicial Disciplinary Offenses in Iran, *Scientific Quarterly of Legal Research*, Vol. 13, No. 50.
12. Moghimi, Mehdi (2018). Theoretical Foundations of Rational Choice Theory in Situational Prevention, *Journal of Criminal Law and Criminology Research*, No. 12.
13. Mahdavi, Mahmoud (2011). *Crime Prevention (Developmental Prevention)*, Tehran: SAMT Publications, 2nd Edition.
14. Mirkhalili, Seyed Mahmoud (2009). *Situational Crime Prevention with a Focus on Islamic Criminal Policy*, Tehran: Institute for Cultural and Islamic Thought Publications, 1st Edition.
15. Najafi Tavana, Ali (2014). *Criminology*, Tehran: Amoozesh & Sanjesh Publications, 17th Edition.

16. Niazpour, Amirhossein (2024). Crime Prevention, Tehran: Dadgostar Publications, 2nd Edition.

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).