

CONCEPT, TYPES AND DESCRIPTION OF OFFENSES IN THE SCOPE OF FAMILY RELATIONS

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ABSTRACT

This article discusses the essence, types, causes and consequences of violations committed within the framework of family relations. In particular, legal analysis is provided of cases such as domestic violence, forced marriage, violence against minors, and evasion of alimony. The role of internal affairs bodies, civil society institutions and educational institutions in the prevention and early detection of these types of violations is also revealed.

At the heart of the reforms being implemented in our country, the person and his or her interests are paramount, and the role of the family, which has become an integral part of our lives, in achieving the intended goal is incomparable.

The fight against any evil in society can only be eradicated by starting with the family. After all, according to Article 63 of the Constitution of the Republic of Uzbekistan, the family is the basic unit of society and has the right to be protected by society and the state.

Article 26 of the Constitution states that no one may be subjected to torture, violence, cruel or other forms of oppression degrading human dignity.

A number of international human rights instruments¹ enshrine the principle that every person has all rights and freedoms, as well as the principle that no one should be subjected to discrimination, violence, or torture or to cruel, inhuman, or degrading treatment or punishment.

When we clarify the concept of violations within the framework of family relations, we note that the main part of these types of violations are socially dangerous acts in the form of administrative offenses or crimes, which are expressed in domestic violence and violation of the rights, freedoms and legitimate interests of women and children.

In our country, like in developed countries around the world, all human rights and freedoms, including the prohibition of domestic violence and the prohibition of subjecting a person to violence, torture, or cruel, inhuman, or degrading treatment or punishment, are enshrined in our national legislation.

¹The Republic of Uzbekistan and international human rights treaties / editor-in-chief – Doctor of Law, Professor A.Kh. Saidov. –T., 2002., –P. 48–53. (Articles 1,2,3,5,12 of the Universal Declaration of Human Rights); International Covenant on Civil and Political Rights of December 19, 1966, (Articles 7,17, 26). // Electronic source: <http://taraqqiyot.uz.fuqarolik-va-siyosiy> –uuiar-t2.; CIS Convention on Human Rights and Fundamental Freedoms of May 26, 1995, Article 3.

Therefore, analyzing violations within family relationships and developing effective mechanisms for their prevention is of great importance today. Before considering the prevention of violations within family relationships, it is necessary to understand the meaning of such concepts as “violence” and “use of violence against a person”.

Various concepts are given in the criminal-legal and criminological literature about the criminological description, causes, conditions, nature, sociality and signs of violence. Analysis and generalization of a number of scientific and legal literature shows that there is still no single concept of “violence” and “violence” in science. Although the concepts of “violence” and “violence” have been paid attention to by specialists in various fields, no single conclusion has been reached on this matter.

First of all, violence is a socio-legal concept ². Violence is the physical or psychological influence of one person on another, which causes the humiliation, oppression, ³or violation of the constitutionally guaranteed personal integrity of a person.

In some literature, violence is defined as the use of force, coercion, or oppression by one person against another. It manifests itself in the form of physical and mental coercion or oppression of a person.

Also, a separate theory related to this term in public administration has been developed - the "theory of force". According to it, the theory of force is a political doctrine that explains the work of maintaining society in obedience or carrying out activities to change it by force, a theory based on views, ideas and considerations about the emergence and functioning of the state ⁴.

However, as a research topic, domestic violence is one of the main concepts of the criminal law sphere. SS Niyazova offers the following definition of the concept of violence: violence is a deliberate, unlawful criminal encroachment on the safety of the victim, causing physical or mental harm by means of physical (energetic) or mental (informational) impact on his body (organs, tissues and their physiological functions) against his will (or against his will) ⁵.

It is worth noting that this violence is almost always committed within the family and is carried out through the use of physical force or psychological influence against the will and will of the person. When violence is used against a person, actions are performed against his will.

Domestic violence is characterized by the use of unlawful force against a person, such as beatings, rape, coercion, influence, and domination. It can be mainly physical or psychological. Psychological violence is often expressed in the form of intimidation (the intimidation of one person by another into submission, submission, or dependence).

Psychological violence is a product of nervousness and can be used to intimidate a person into submission, to “force” him “against his will” or to “educate” him. It is manifested in direct use against the perpetrator, his relatives or close people. From the point of view of criminal law, physical injury, beatings and other physical force of varying severity should be considered physical violence.

²Shestakov DA Family criminology: Criminofamiliarities . – SPb.: Legal center press, 2003. – P. 175.; Alaukhanov E.Kh. Criminology: A textbook. – SPb.: Law Center Press, 2013. – P. 236 .

³Uzbekistan legal encyclopedia. –T., 2009. –B. 199.

⁴Philosophy: komusiy lugat. / Masul muharir: K.Nazarov. – T : Sharq, 2004. – B. 137 .

⁵Niyozova S.S. Victimological theory of violent crimes against the person (Monograph). - T. : TDYuI, 2011. – B. 22.

In our opinion, violence is a criminal act committed by physical force or intimidation. In this case, the rights and freedoms of a person are violated by threatening their life and health. In this case, influence should be understood as influence that is carried out against the will of the victim and causes him obvious physical or mental suffering, that is, violence.

Even a change in a person's body that causes slight pain or even unpleasant sensations as a result of violence can be called violence. Violence should include not only the violation of the integrity of the body, but also any negative behavior towards the person. For example, laughing at a person, slandering, insulting, etc., in addition to violating the constitutional rights of the person, are considered psychological violence directed at him.

The next problem in the criminal-legal and criminological understanding of the concept of violence is related to its forms. As is known, traditionally violence is divided into such forms as physical and psychological violence. However, in some literature, in addition to these two forms of violence, sexual violence is also separately distinguished.

In our opinion, acts of physical violence include any method of exerting force on the human body, that is, actions that do not involve striking. For example, pulling hair, grabbing an arm painfully, squeezing a part of the body, causing pain, pushing, etc.

Violence can include torture, isolation, coercion or incitement to act against one's will, restraint, rape, sexual assault, humiliation, and humiliation.

In our opinion, " criminal domestic violence should be understood as an act or inaction by one family member against another family member, aimed at exercising his or her dominance by encroaching on his or her life, health, freedom, sexual integrity, honor, dignity, and other inviolable rights and legitimate interests protected by law ."

domestic violence :

Physical violence - can take the form of ⁶inflicting various degrees of bodily injury on the victim, beating, using physical force, killing the victim's relatives, loved ones, violating their honor, etc. In this case, one family member intentionally commits actions against another member that harm his life, health or various parts of the body, and manifests itself in the following forms: slapping, kicking, pushing, punching; pushing with a strong blow; throwing various sharp objects and things; threatening or wounding with a weapon; physically preventing him from leaving the house; not letting him sleep at night.

Psychological violence is the use of physical force against the victim, the destruction or damage of property, and the intimidation of the victim to disclose information that the victim wishes to remain confidential, etc. ⁷Psychological violence and physical violence can only have consequences when they are mutually exclusive and complement each other. This is manifested in the intentional use of words and actions by one family member to influence the psyche of another member by belittling his honor and dignity, by taking actions that suppress his feelings, by intimidating and insulting him, and by committing words and actions that damage his psyche: not recognizing feelings and emotions; laughing at him; ignoring his feelings as a punishment; telling lies and using him for his own benefit; threatening her friends and relatives with danger and preventing them from contacting her; refusing to go out

⁶ M.Kh. Rustambaev Criminal law: Special part. T.: TDYuI, 2006. -B. 42.

⁷ Takhirov F. Liability for sexual crimes in some foreign countries / Editor-in-chief Doctor of Law, Prof. M.H. Rustamboev. -T: TYUI, 2009. -P. 95-96.

with her in public places; taking control of the family budget; shaming her among relatives; threatening to leave home; refusing to help her when she is sick or pregnant, and resisting her from seeking medical care.

Sexual violence – is a violation of the sexual integrity and freedom of a person by one family member, aimed at the honor, dignity and sexual freedom of another, in which the person is threatened with violence or coerced into having sexual intercourse. These include: treating a man's wife as a sexual object; refusing sexual intercourse or not being gentle with a woman; forcing her to perform sexual acts; performing sexual intercourse with extreme cruelty; initiating sexual intercourse by force; beating her first and then having sexual intercourse; forcing her to watch or repeat pornographic acts; constantly being jealous of everyone and accusing someone of adultery, etc.

Economic oppression is the financial dependence of the head of the family on other family members by depriving them of the use of family funds, without giving any valid reasons. Simple dependence is understood as situations where the victim received legally established material assistance (money, food, clothing, etc.) from the perpetrator or was directly dependent on him ⁸;

The legal concept of domestic violence narrows its true meaning, as it does not take into account a number of circumstances:

Firstly, if we are talking about physical violence, then it is impossible to include direct physical force on the human body. It is necessary to limit this type of domestic violence to violence and include the deprivation of liberty of the victim.

It usually causes physical and mental suffering, and can sometimes lead to serious physical and mental injury (for example, keeping the victim in an unheated room in winter);

Secondly, it is also impossible to consider violence as an influence on the human body "against its will."

It would be more accurate to describe domestic violence as an act of involuntary influence on a person, because when the victim expresses their will, the abuser acts against them, which is not always the case. In many cases, the perpetrator disregards the victim's will;

Thirdly, the threat of force cannot be limited to the threat of physical harm. The psyche is affected not only by the threat of physical harm, but also by other interests, often no less important than the deprivation of health and even life (for example, honor, dignity, freedom, reputation, property);

Fourth, considering violence only as a direct influence on a person's will seems rather narrow these days, since influence on a person can also be exercised through other things protected by law, such as material wealth and property.

Physical violence is a form of violence that violates the life, health, freedom and other rights and freedoms of women protected by law by causing bodily injuries of varying severity, endangering them, failing to provide assistance to a person whose life is in danger, committing other violent offenses, using physical force or threatening to use other means of such force.

As can be seen from the above, family relations have their own specific scope, which is

⁸ Collection of Decisions of the Plenum of the Supreme Court of the Republic of Uzbekistan. Volume 1. – T., 2006. – P. 168.

primarily the entry into personal relationships of a group of individuals who are connected to each other by marriage, blood or family ties, or for certain reasons.

A *family* is a union of individuals, including spouses, parents, children, and adopted children, living together as a community based on mutual respect, care, and solidarity.⁹

Domestic violence refers to violence that occurs within the family, between family members, and between relatives (husband and wife, in-laws, brothers, sisters, relatives, etc.).

Taking into account the above, it can be said that crimes and violence are committed precisely within the family and marriage, and are carried out through the use of physical force or psychological influence against the will and will of a person.

Domestic violence and abuse are expressed in the use of unlawful force against a person, beatings, rape, coercion, undue influence, and domination. It can mainly be physical or psychological. Psychological violence, on the other hand, often takes the form of intimidation (the intimidation of one person by another into submission, submission, or dependence).

Psychological violence is a product of nervousness and can be used to intimidate a person into submission, to "force" him "against his will" or to "educate" him. It is manifested in direct use against the perpetrator, his relatives or close people. From the point of view of criminal law, physical violence of varying degrees, beatings and other physical force should be considered physical violence.¹⁰

Among the crimes and violence committed within the family, the commission of crimes such as beating, humiliation, oppression, and murder of children further complicates this problem. For example, infanticide, cruel and degrading punishment, neglect and abandonment, sexual abuse, and violence against children are committed within the family.

In our opinion, domestic violence is manifested in administrative or criminal acts committed with physical force or intimidation. In this case, the rights and freedoms of a person are violated by threatening their life and health. The result of the violation can also be a change in the person's body that causes minor pain and even unpleasant sensations.

A crime can include not only a violation of the integrity of the body, but also any negative actions against a person. For example, laughing at a person, slander, insulting, etc., which violate the constitutional rights of a person, are understood as a mental offense and violence directed at him.

It is known that 37.6% of crimes committed using violence within the family are intentional infliction of minor bodily harm, 17.0% are intentional infliction of moderate bodily harm, 12.3% are intentional infliction of serious bodily harm, 9.1% are intentional homicide, 8.3% are involvement of minors in antisocial behavior, 4.7% are torture, 3.4% are slander, 2.1% are defamation, 1.9% are threats of murder or violence, 1.2% are insults, and 1.7% are suicide.

According to an analysis of crime statistics, among crimes committed against the life and health of a person, intentional homicide and attempted murder committed within the family accounted for 30.2%, intentional infliction of moderate or severe bodily harm accounted for 29.5%, and domestic violence accounted for 6.4%.

⁹ Uzbekistan Republic Legal encyclopedia T... Justice 2018. 345 p.

¹⁰ Rustamboev M.Kh. Uzbekistan Republic Crime. Codex commentary. –T.,2018.

In short, domestic violence is the use of physical or psychological violence, usually against one person, in order to gain power and control over their loved ones (mainly women and children).

Women who have been subjected to violence cannot be held responsible for their actions and consequences that endanger legally protected social relations under the influence of insurmountable physical force or psychological coercion.

It is worth noting that a socially dangerous act is not subject to liability if it is committed in a state of self-defense. For example, when a husband uses force against his wife and tries to injure or kill her, in order to protect herself, the wife may, during self-defense, deprive her husband of life, harm his health, or destroy his property. In a state of self-defense, the limits of self-defense should not be exceeded. Otherwise, in cases where all the necessary conditions are present in the committed crime, it may be qualified as a crime committed in self-defense or recklessly under the rules of imaginary self-defense, or as a crime committed intentionally or recklessly under general conditions..

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