

Analysis of Relevant Opinions on Family Offenses

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Abstract: The article expresses opinions regarding violations observed in the family and marriage sphere, such concepts as "family", "marriage", "family and marriage relations", "family and marriage circle", "crime", "offenses in the family and marriage sphere", administrative offenses and crimes that can be committed in the family and marriage sphere, statistical analysis of crimes in the family and marriage sphere.

Keywords: family, marriage, family and marital relations, family and marital sphere, offense, offenses in the family and marital sphere, crime, administrative offense.



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In societies of all times, the family has been considered sacred, and the early prevention of violations within the family and domestic sphere that threaten it, undermine it, and negatively affect the upbringing of children living in the family is one of the important and therefore urgent tasks of society today.

Family is not a narrow household concept, it is a small social community. Consequently, the family is a part of society. In turn, families unite to form society. Just as legal, social, and economic changes in society affect the family, changes in the family also affect society.

Therefore, if crimes are allowed to be committed within the family, it cannot fail to have a negative impact on the economic and social development of society.

Today, there is a need to identify and analyze the violations observed in the family and domestic sphere in the republic through criminological research, as well as to forecast their future changes, identify their factors and make a scientific diagnosis of them, and improve practice in this area by identifying existing problems in the practice of combating them and addressing them in a targeted manner.

"Domestic crime" is a combination of concepts such as "family", "marriage", "domestic relations", "domestic circle" and "crime".

In explanatory dictionaries of the Uzbek language, the word "family" (*children, household, clan, generation*) is simply defined as a "household" - a group of people living together, consisting of a "husband and wife", their children, and their closest relatives¹.

The family is considered a social unit of people based on natural, economic, legal, spiritual and moral relations. The family has long been a sacred concept for our people. After all, each of us grew up and matured in the family.

, they ask each other, " Is your family peaceful, are your children safe, is everyone healthy ?" This means that our people have always considered preserving the family to be one of their sacred duties.

for nothing that the head of our state, Sh. Mirziyoyev, emphasized that "...Our people have always considered the family sacred and have been protecting it. If the family is strong, society will be stable. We must not forget one thing: peace and harmony in our homes is directly related, first of all, to a healthy environment in the family, and to the preparation of our daughters, who are on the threshold of independent life, for family life ."²

In explanatory dictionaries of the Uzbek language, "life" is defined as a set of lifestyles, customs, and rituals characteristic of a people, social group, etc. "Life" is also the way of life, livelihood, daily life of a person, nation, and people, as well as the life that arises on the basis of marriage, the state of being married, and life in this state³.

"Family relations" are relationships between husband and wife, parents and children, son-in-law and father-in-law, brother-in-law and sister-in-law, grandparents and grandchildren, brothers and sisters, adopted and adopted, neighbors and similar relatives , primarily personal relationships between persons related by marriage, blood relationship or family and other ties⁴.

As can be seen from the above, family relations have their own specific scope, which is characterized , first of all , by the entry into personal relationships of a group of individuals connected to each other by marriage, blood relationship, family ties, or for certain reasons .

In particular, the commission of a crime against each other by individuals within a family relationship means that we can understand this as a "crime within the family."

We can observe that the concept of offense is legally defined in Article 3 of the Law "On Prevention of Offenses" (2014) as "offense - a guilty unlawful act (action or inaction) for the commission of which administrative or criminal liability is provided." This definition refers to administrative or criminal liability for an act that constitutes an offense. Both of the above bases are reflected in the legislation of the Republic of Uzbekistan.

In particular , administrative liability in our country is regulated by the Code of Administrative Liability. According to Article 10 of the Code of Administrative Liability, an administrative offense is understood as an unlawful, culpable (intentional or reckless) act or omission that encroaches on the rights and freedoms of citizens, property, state and public order, and the natural environment, which, in accordance with the law, is subject to administrative liability.

1Explanatory dictionary of the Uzbek language / more than 80,000 words and word combinations / www.ziyouz.com / library. – P. 469.

²Speech by the President of the Republic of Uzbekistan Shavkat Mirziyoyev at the Youth Forum of Uzbekistan (December 25, 2020) / <https://uza.uz/uz/posts/ozbekiston-respublikasi-prezidenti-shavkat-mirziyoevning-ozbekiston-yoshlari-forumida-sozlagan-nutqi>

³Explanatory dictionary of the Uzbek language / more than 80,000 words and word combinations / www.ziyouz.com / library. – P. 469.

⁴Criminology: Textbook / QR Abdurasulova, AG Zakirova, I. Ismailov et al. – T.: Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan, 2023. – 354 p. P. 204.

Consequently, a crime is an intentional or reckless act that results in physical, material, or moral harm to the interests of society, the state, and citizens.

Liability is one of the main characteristics of a tort.

For example, the difference between a crime and an administrative offense, which have exactly the same form but entail two types of liability, can be seen in the degree of social danger. According to Article 41 of the Code of Administrative Responsibility, insult, that is, intentional humiliation of the honor and dignity of a person, is an administrative offense. Also, insult, that is, intentional humiliation of the honor and dignity of a person with indecency, is a crime, provided that such actions are committed after the imposition of an administrative penalty (Article 140 of the Criminal Code). In this case, the repeated commission of an insult after the imposition of an administrative penalty constitutes social danger (a criminal offense).

When describing administrative offenses, the legislator, unlike crimes, did not call them socially dangerous acts (Article 10, paragraph 1 of the Code of Administrative Offenses).

Like any other offense, an administrative offense consists of a set of characteristics such as the object and objective side of the offense, the subject and subjective side.

The direct object of an administrative offense is a specific object that is directly harmed as a result of the offense. For example, the direct object of the offense of defamation, enshrined in Article 40 of the Code of Administrative Responsibility, is the honor and dignity of a citizen.

Administrative offenses have two forms from an objective perspective:

- 1) committing an administrative offense as a result of an action. Action is considered an active behavior of a person. Most administrative offenses are committed objectively through the actions of individuals. For example, offenses expressed in slander, insult, infliction of minor bodily harm, violation of various established generally binding rules are committed as a result of actions;
- 2) administrative offenses resulting from inaction. Inaction is a passive behavior of a person, expressed in the failure to fulfill or improper fulfillment of a specified task, obligation. For example, offenses expressed in the failure of parents to fulfill their obligations to raise and educate children are a result of inaction.

The manner in which the offense was committed is also one of the features that determine the composition of an administrative offense. For example, Article 183 of the Code of Administrative Responsibility provides for administrative liability for petty hooliganism, that is, deliberate disregard for the rules of conduct in society, expressed in swearing in public places, offensive behavior towards citizens , and other similar actions that violate public order and the peace of citizens, and the legislator indicates that the act is committed in a manner of obvious disregard for society.

The person who committed the offense is considered the subject of an administrative offense. These include a sane person who has reached the age of 16, an official, foreign citizens and stateless persons, military personnel and other persons to whom the disciplinary code applies.

Today, administrative offenses specified in the following articles of the Code of the Republic of Uzbekistan on Administrative Responsibility can be committed within the family:

- ✓ Article 40 (defamation);
- ✓ Article 41 (insult);
- ✓ 46¹ (violation of privacy);
- ✓ Article 47 (failure to fulfill obligations to raise and educate children);
- ✓ Article 52 (inflicting minor bodily harm);

- ✓ Article 183 (petty hooliganism);
- ✓ Article 188: Involving a minor in antisocial behavior (Article 188 of the Criminal Code);
- ✓ Involving a minor in committing an administrative offense (Article 188¹ of the Criminal Code)⁵.

Article 14 of the Criminal Code of the Republic of Uzbekistan defines the concept of a crime, according to which a socially dangerous act (*action or inaction*) *prohibited by the Criminal Code* is considered a crime with the threat of punishment.

By analyzing this definition, its characteristics can be identified, and they are as follows:

- 1) the illegality of the act;
- 2) social danger;
- 3) the presence of guilt;
- 4) the act is punishable by criminal law (is punishable).

The simultaneous presence of all these signs in any socially dangerous act is the basis for recognizing it as a crime. If one of these signs is absent, the act is not considered a crime.

The crimes specified in the following articles of the Criminal Code of the Republic of Uzbekistan may be committed within the framework of family relations:

- ✓ Article 97 (intentional murder);
- ✓ Article 98 (intentional murder due to strong mental excitement);
- ✓ Article 99 (intentional killing of a mother by her own child);
- ✓ Article 100 (intentional murder beyond the limits of necessary defense);
- ✓ Article 103 (incitement to suicide);
- ✓ Article 104 (intentional infliction of grievous bodily harm);
- ✓ Article 105 (intentional infliction of moderate bodily harm);
- ✓ Article 109 (intentional infliction of minor bodily harm);
- ✓ Article 110 (torture);
- ✓ Article 112 (threat of murder or violence);
- ✓ Article 114 (criminal abortion);
- ✓ Article 115 (forcing a woman to artificially abort her own fetus);
- ✓ Article 118 (indecent assault);
- ✓ Article 121 (forcing a woman to have sex);
- ✓ Article 126 (polygamy);
- ✓ Article 127 (involving a minor in antisocial behavior or crime)⁶.

According to statistics, in 2024, crimes committed within the family in our republic accounted for 2.1% of total crime.

When analyzing the recorded crimes within the family, it was found that one in two occurred as a result of conflicts between husband and wife. The most tragic thing is that 54 percent of the crimes that occurred between husband and wife were committed by the wife against her husband,

⁵ <https://lex.uz/docs/97664>

⁶ Criminal Code of the Republic of Uzbekistan // <https://lex.uz/acts/111453>

and 5.5 percent were committed in the family as a homicide. 30 percent of these homicides were committed by the wife against her husband, and 22 percent were committed by the husband against his wife.

One in two, or 52 percent, of domestic homicides occurred between spouses.

According to Article 24 of the Constitution of the Republic of Uzbekistan, the right to life is an inherent right of every person, and violation of it is considered the most serious crime.

In criminal law, intentional homicide is defined as the unlawful, intentional taking of another person's life.

The direct object of the crime of intentional homicide is social relations that protect the inviolability of the life of another person.

The objective aspect of the crime of intentional homicide is expressed in the unlawful deprivation of life of another person. This crime is a material crime and is considered complete from the moment the death of the victim occurs.

The subjective aspect of the crime of intentional homicide is the fact that the crime was committed with intent . This crime can be committed with both direct and indirect intent.

When committing the crime of intentional homicide, the perpetrator acts with *the intent to deprive the victim of life* , foresees the socially dangerous consequences of his act, desires death to occur (*direct intent*) or consciously allows it to occur (*indirect intent*).

Attempted murder can only be committed with *proper intent* , since in this case the perpetrator was aware of the socially dangerous nature of his act, foresaw *the death of the victim* and wanted his death, but death did not occur due to circumstances beyond the control of the perpetrator (*due to the victim's active resistance, the intervention of other persons, the victim's timely provision of medical care , etc.)* .

clarify issues such as whether the accused acted with the intention of depriving the victim of life, and what circumstances prevented the death of the person .

According to Article 17 of the Criminal Code, the subject of the crime of intentional homicide is defined as 14 years of age.

Criminal law provides for direct liability for the following types of intentional homicide:

- intentional homicide (Article 97 of the Criminal Code);
- intentional homicide in a state of strong mental excitement (Article 98 of the Criminal Code);
- Intentional killing of a mother by her own child (Article 99 of the Criminal Code);
- Intentional murder beyond the limits of necessary defense (Article 100 of the Criminal Code);
- Intentional murder, exceeding the limits of necessary measures to apprehend a person who has committed a socially dangerous act (Article 101 of the Criminal Code).

According to an analysis of statistical data, 39% of domestic crimes recorded in our republic in 2024 were crimes of intentional bodily harm.

The proportion of these intentional bodily harm crimes committed between spouses was 4.4 percent.

In the Criminal Code, crimes of intentional bodily harm are divided into the following types according to their severity:

- Intentional infliction of minor bodily harm that did not lead to a short-term deterioration of health or a short-term loss of working capacity, if committed after the imposition of an administrative penalty for the same actions (Article 109, Clause 1 of the Criminal Code);
- health for a short period of time, that is, for a period of more than six days, but not more than twenty-one days, or a short-term loss of general working capacity (Article 109, Clause 2 of the Criminal Code);
- Intentional infliction of moderately grievous bodily harm, which at the time of commission was not life-threatening and did not lead to the consequences provided for in Article 104 of the Criminal Code, but which caused a deterioration in health for a long period, that is, for a period of at least twenty-one days but not more than four months, or the loss of ten to thirty-three percent of general working capacity (Article 105 of the Criminal Code);
- Intentional infliction of grievous bodily harm that is life-threatening at the time of the act and results in the loss of sight, speech, hearing, or the complete loss of function of any organ, mental illness, or general deterioration of health, resulting in the permanent loss of at least thirty-three percent of the total working capacity, or miscarriage or irreversible disfigurement of the body (Article 104 of the Criminal Code).

The direct object of the crime of intentional bodily harm is social relations that protect the inviolability of the health of another person.

is expressed in the unlawful infliction of harm to the health of another person. This crime is a material crime and is considered completed from the moment a certain degree of injury is intentionally inflicted on the victim's body .

The subjective aspect of the crime of intentional bodily harm is the fact that the crime was committed with intent . This crime can be committed with both direct and indirect intent.

According to Article 17 of the Criminal Code, the subject of the crime of intentional bodily harm is defined as 14 years of age (Articles 104-105 of the Criminal Code) and 16 years of age (Article 109 of the Criminal Code).

The origins of these crimes within the family are rooted in social problems within the family. This implies the need to identify social problems on the spot in each neighborhood and introduce mechanisms to solve them based on a comprehensive approach.

"Domestic violence" refers to any violence that occurs as a result of conflict, disagreement, quarrel, and social problems between family members (between husband and wife, in-laws, brothers, sisters, etc.).

In the process of studying crimes within the family , it is appropriate to consider mainly the relationships between husband and wife , in-laws, brothers, sisters, their children and other relatives. Because the family environment The balance is maintained by the couple. An analysis of the violations committed in this area shows that the majority of family conflicts arise as a result of mutual disagreements between the spouses and social problems.

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