



Journal Website:
<https://theusajournals.com/index.php/ijlc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

THE CONCEPT, ESSENCE AND MODERN FEATURES OF THE TERM "DOMESTIC VIOLENCE"

Submission Date: May 07, 2023, **Accepted Date:** April 12, 2023,

Published Date: May 17, 2023

Crossref doi: <https://doi.org/10.37547/ijlc/Volume03Issue05-02>

Niyozova Salomat Saparovna

Professor Of The Department Of Criminal Law, Criminology And Anti-Corruption Tashkent State University Of Law, Doctor Of Law, Uzbekistan

ABSTRACT

This article analyzes the opinions and opinions of scientists about the concept of domestic violence and its types, and gives relevant recommendations for improving the theory. In the process of writing the article, general scientific methods were used: functional approach, logical, systematic, historical, comparative-legal, statistical, sociological surveys.

KEYWORDS

Family, violence, prevention, juvenile, physical, mental, aggression, delinquency, crime, prevention.

INTRODUCTION

Domestic violence is one of the main problems in any society and state. For a state with a developed civil society, where the preservation and support of the institution of the family are prioritized, and where moral and cultural values take precedence, the rights and interests of each family member are respected. Official statistics on child sexual abuse are difficult to obtain, but according to some studies, child abuse is

the most common form of sexual abuse. The Council of Europe is running the "One in Five" campaign based on data indicating that one in five children in Europe experience some form of sexual or other violence, often within the family.

The rise in crime is closely related to domestic violence, as it leads to the psychological destruction of individuals from childhood within the family

environment. Sadly, sometimes the home can be a more dangerous place than the streets. The likelihood of injury is high within one's own home, where a person feels safe among familiar and loved ones. This includes actual physical harm, the threat of physical harm, sexual coercion, and other examples of domestic violence, such as partner violence, spousal abuse, and child abuse.

The high level of violent crime within families highlights the insufficient effectiveness of scientific and criminological support for preventive tactics. It also draws attention to the lack of focus from the scientific community on this problem and the under implementation of proposals developed by researchers who have conducted specific studies in this area.

Domestic violence, like an epidemic, does not discriminate against any particular social or ethnic group; it exists in families across different segments of the population. The problem of domestic violence is a dynamic and growing area of concern not only in foreign countries but also in the Republic of Uzbekistan. This negative phenomenon requires a unique approach, as it represents a complex social issue that reflects common crime patterns and their changes. Domestic violence as a subsystem of all crime exhibits noticeable specificity due to the social significance of the interaction among family members.

Families where violence prevails or is a common occurrence are at risk. Children who grow up in such families may become victims, experiencing psychological trauma, or they may become perpetrators themselves, posing a threat to their loved ones and society. They may commit acts of revenge against their parents, who are the cause of their psychological and physical trauma. The growth of

homelessness and neglect also contributes to violence, and this process can escalate and develop more rapidly than other areas of crime.

The relevance of criminological prevention of domestic violence lies in the fact that such criminal acts extend beyond mere morality. The home, where relatives live, becomes the scene of the crime, and the offender is someone close. Therefore, it can be concluded that domestic violence leads to significant public consequences that extend beyond the scope of criminal law, affecting the overall moral and psychological climate of society.

When interpreting such a phenomenon as domestic violence, one should clearly define the essence and significance of violence not only in the family, but in society as a whole and its subjects. Emphasizing these issues among the many, we must find a more promising approach to this phenomenon, the concept of the destructive and constructive beginning of violence, so we can comprehensively consider from the standpoint of an asocial and social phenomenon.

Proponents of the constructive beginning of violence note "the positive qualities of any violence, which lie in the fact that it is aimed precisely at eliminating the causes that gave rise to it, and seeks to eliminate them". I.L.Petin sees the creative role of violence in this.

Identifying violence with crime, D.L.Lee believed that crime is a useful phenomenon, as it is necessary for the normal evolution of morality and law. This can be characterized as follows, considering crime as a subsystem of society, the author suggests that, thus, disharmony, instability and chaos in the underworld will ultimately lead to social integrity. This means that crime acts as a kind of necessary evil, thanks to which

society can understand the essence and meaning of good .

The term "domestic violence" in the modern world does not have a single and fundamental definition either in the legislative framework or in the scientific field. Domestic violence as an antisocial phenomenon is still being studied by specialists in various fields: sociology , pedagogy , psychology , medicine , jurisprudence .

Analyzing the concept of “domestic violence”, we studied various interpretations, as well as the replacement of this term with other similar terms, which, in turn, have differences. So, there are several concepts of "family violence", "domestic violence", "domestic violence".

The term "domestic violence" was introduced in 1983 by the National Association of Social Workers. It encompasses a cycle of repeated abuse, including physical, verbal, spiritual, and economic forms, with the aim of control, intimidation, and instilling fear.

Given the broad aspect of this term, it indicates that violence can be inflicted on individuals beyond family members. The key word in this term is "home," referring to the house or living space and the people residing in it. Based on this definition, we can conclude that the victim can be both family members and other individuals who are part of the relationships developed within the household. Therefore, the main characteristic is the location where the violent act occurred, serving as a territorial feature.

Another perspective to consider is that of A.N. Fateev, who sought to merge the concepts of "domestic violence" and "family violence." According to Fateev, domestic violence encompasses a range of behaviors, both legally punishable and administratively

punishable acts, as well as behaviors that may not be formally considered offenses but conflict with accepted standards of behavior within the family. These behaviors serve as precursors to familial violent crimes ”.

Having studied this definition, we can say the following: according to A.N. Fateev, “domestic violence” is a criminally punishable and administratively punishable act, which means that this gives a big impetus to the need to expand the range of acts qualified as violence. According to him, domestic violence is contrary to the generally accepted behavior in the family, which means that the state must take control of the atmosphere in each family in order to prevent the destruction of the main unit of society, like the family, otherwise, this can lead to faulty consequences, such as an increase in crime. minors, not to mention mental trauma.

There is also the term "domestic violence" and "domestic violence" . The key feature is the word "life". “Life is a common way of life, everyday life”, or, as L.M. Arkhangelsky defines it, “part of the non-productive sphere, which is associated with personal consumption of material and spiritual goods” .

T.N.Grigoryeva also speaks about the features of the absorption of family relations by household ones . Thus, the actions of neighbors who live in communal apartments can also be attributed to domestic relations, therefore, such acts that are committed in communal apartments, we can call domestic, by no means family, therefore such relations will not be considered as domestic violence.

We can characterize another direction in the development of the definitions of “domestic violence” as “all violent acts of a physical, psychological and

sexual nature against women, committed on the basis of gender, by a person or persons who are related to them by family or close relationships, from verbal abuse and threats to severe physical beatings, abduction, threats of injury, intimidation, coercion, harassment, verbal abuse, forced or unlawful entry into a home, arson, destruction of property, sexual assault, marital rape, violence related to dowry or bride price. Genital mutilation, violence associated with exploitation through prostitution, violence against domestic workers and attempts to commit such acts should be considered "domestic violence".

From this we can conclude that domestic violence is a fairly widespread phenomenon in the world and it occurs in all strata of society. Facts that speak about domestic violence: rude and cruel treatment against a family member, which, in turn, is not isolated, random and situational, but, on the contrary, systematic. Physical, psychological (moral) violence - types of family violence.

An amazing fact: this problem is relevant all over the world and occurs in all segments of the population and, despite wide publicity, there is still no clear and generally recognized definition of domestic violence either in the regulations of the Republic of Uzbekistan or in scientific works.

According to E.P.Agapov, domestic violence or domestic violence is the intentional infliction of physical and / or psychological harm and suffering to family members, as well as threats to commit such acts, coercion and deprivation of personal freedom. That is, violence is an action by which they achieve unlimited power over a person, complete control over his behavior, thoughts and feelings. At the same time, analyzing the power in the family sphere, it is noted

that the right to raise a child belongs to the parents, but the boundaries of this right are minimized.

Researcher R.G. Petrova defines domestic violence as aggressive and hostile actions against other family members, as a result of which the object of violence may be harmed, injured, humiliated or die. In fact, under domestic violence, she understands emotional or physical abuse, as well as the threat of physical abuse.

Therefore, we can offer our own version of the definitions of domestic violence: domestic violence includes not only humiliation, insults, psychological cruelty, that is, moral harm, but also physical harm. Domestic violence is a socially dangerous negative phenomenon that specifically affects the level of development of society and the state. These are extremely cruel and antipathetic actions against family members, mainly against women and children by a man.

General sociological science identifies certain forms of domestic violence, such as:

Psychological violence (isolation, humiliation, threats);

Neglect (systematic inability or refusal to provide for the basic needs of a dependent family member in the most necessary: food, clothing, medical care, protection and affection).

Economic violence (forced to work, ban on work, financial restrictions and control);

Psychological violence (isolation, humiliation, threats);

Sexual violence (compulsion to have sexual intercourse, sexual acts against will);

From this list, it should be understood that domestic violence can be carried out not only by action, but also by inaction (neglect).

There are 3 types of family violence in the object:

1. Violence of parents over children;
2. Violence of one spouse over another;
3. Violence against elderly relatives

In terms of practice, in the Muslim world, domestic violence is more widespread and this type of violence is expressed vividly in the Muslim family. It is also noticeable that men tend to commit physical and sexual violence to a greater extent than women. We can explain this as follows: in Muslim families, a man is the main one, and he dominates in the family, this is due to gender differences and mental characteristics.

The historical fact of Muslim countries confirms this phenomenon. Not forgetting that drunken men commit domestic violence against their wives or children. On the other hand, such types of violence as psychological abuse and neglect are more characteristic of women. They are more likely to show aggression towards their own children than men.

Domestic violence cannot be considered as a personal problem of one family or their members. The following author's definition of domestic violence is proposed: "in a general sense, domestic violence from the standpoint of a criminal entity is the most dangerous act that destroys the state from the inside. This phenomenon contributes to the passive functioning and development of society as a whole, violating the norms of the law. Domestic violence results in physical, mental and sexual trauma".

Interpretations are similar to each other as "domestic violence" and "violent crime in the family", which complement each other. Domestic violence is a guilty socially dangerous act that destroys the human psyche, causing physical harm or sexual coercion to one of the family members. Violent crime in the family is a social phenomenon that has its own systematization, manifested in the actions of the perpetrator in the form of physical, mental, sexual influences.

REFERENCES

1. Петин И.Л. Роль насилия // Уголовное право в XXI веке: Материалы международной конференции на юридическом факультете МГУ им. М.В. Ломоносова. – М., 2002. –С.19.
2. Ли Д.Л. Преступность в структуре общества. – М., 2000. –С.45.
3. Смагина М.В. Насилие над детьми в семье как социокультурное явление современной России: диссертация кандидата социологических наук: 22.00.06. – Ставрополь, 2006. –С. 138.
4. Никулина Э.А. Организационно-педагогическая система профилактики насилия над детьми в семье: автореферат дис. . кандидата педагогических наук: 13.00.01. – Саратов, 2004. – С.23.
5. Стреленко А.А. Социально-перцептивные образы подростков и взрослых, переживших сексуальное насилие: Дис. . канд. психол. наук: 19.00.13. – Санкт Петербург, 2004. –С. 154.
6. Сабиров Р.Б. Медико-социальное исследование насилия в отношении женщин (по материалам г. Набережные Челны): Диссертация . кандидата медицинских наук.:14.00.33 - Казань, 2005. –С.121.
7. Штефан А.В. Насилие в отношении несовершеннолетних в семье: уголовно-правовой и криминологический аспекты: по

- материалам Уральского Федерального Округа: Дис. . канд. юрид. наук.:12.00.08. – Челябинск, 2011. – С.199.
8. Фатеев А.Н. Домашнее насилие: опыт криминологического исследования: Дис... к.ю.н.: 12.00.08. – М., 2006. –С. 7.
9. Игнатович В.Э. Борьба с насилием в быту (Историко-правовой анализ российского законодательства): Дис. ... к.ю.н. 12.00.01 – СПб., 2003. (В своей работе Владимир Эдмундович, изучая исторический аспект насилия внутри семейных отношений, отождествляет их с насилием в быту и бытовым насилием (прим. автора)).
10. Архангельский Л.М. Социально этические теории личности. – М., 1974. –С. 147.
11. Григорьева Т.Н. К вопросу о социально-психологическом механизме убийств малолетних и несовершеннолетних в семье // Законы России: опыт, анализ, практика. 2014. –№ 6. – С.101.
12. Методологические вопросы криминологических исследований. – М., 2003. – С.86.
13. Агапов Е.П., Норд-Аревян О.А. Семейведение: учебное пособие. –М.: Издательско-торговая корпорация «Дашков и К», 2010.
14. Агапов Е.П., Норд-Аревян О.А. Семейведение: учебное пособие. –М.: Издательско-торговая корпорация «Дашков и К», 2010.
15. Петрова Р.Г. Гендерология и феминология. –М., 2007.
16. Niyozova Salomat Saparovna. Strong Emotional Arousal (Effect) As A Criminal Law Norm. The American Journal of Political Science Law and Criminology (ISSN – 2693-0803) Published: March 31, 2021 | Pages: 96-102
Doi:https://doi.org/10.37547/tajpslc/Volume_03_Issue_p.03-15.
17. S.S.Niyozova. Prevention of Crime in the Family and the Role of Victimology in the Republic of Uzbekistan. International Journal of Advanced Science and Technology Vol. 29, No. 3, (2020), p. 3962.