

STALKING AS A CRIME

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Annotation: The article discusses the concept of "stalking" as a form of violent behavior. Based on the analysis of the legislation of foreign countries, the signs and features of stalking were identified. In addition, real examples from practice were given. Taking into account the public danger of this act, it is proposed to criminalize stalking in the criminal legislation of the Republic of Uzbekistan.

Key words: persecution, stalking, victim, violence, legislation of foreign countries, crime, criminal liability.

The world practice in the field of law enforcement, taking into account the ongoing relations in society, shows a continuous increase in crimes, including their new types. The number of new crimes increases every year, and the crime rate increases accordingly. According to the State Statistics Committee of the Republic of Uzbekistan, in 2020 the number of crimes committed was 62,081, and in 2021 this figure increased almost 2 times, amounting to 111,082 [1]

The process of criminalizing certain acts is quite time-consuming, due to the lack of appropriate legal regulators. The scientific community on this issue is divided into two camps. The first group considers it unnecessary to make changes and additions to the current legislation, and the other part positions its point of view by the fact that the absence of criminalization of certain acts will lead to impunity for the person who committed this act.

Article 43 of the Basic Law of the Republic of Uzbekistan stipulates that the State ensures the rights and freedoms of citizens. In case of their violation, citizens have the right to appeal to law enforcement agencies in order to restore violated rights.

Stalking is a relatively new type of act that has not yet found its reflection in national criminal legislation. Stalking is the obsessive pursuit of a victim by a criminal. Stalking by a former partner is frequently accompanied by physical violence, including up to the murder of the victim.

In the Republic of Uzbekistan, this crime began talked about not so long ago, but this does not mean that it has not been committed before.

For the first time, the topic of introducing responsibility for stalking was discussed on December 12, 2021. Employees of the Ministry of Justice analyzed the problems related to the protection of women from harassment and violence and came to the conclusion that there is no concept of "stalking" in the national legislation of our Republic, that is, when someone is following another person, trying to establish contact with him, threatens, harasses, sends intrusive messages.

In order to prevent such cases, proposed to introduce the concept of "persecution" into the legislation, according to which female representatives who are being persecuted will be issued protective orders.

In addition, restrictions on any relationship between the victim and her abuser during work or study will be imposed.

During the analysis conducted in 2021 by the Ministry of Justice of the Republic of Uzbekistan, it was found that there are many cases of violation of the privacy of women, in particular, by distributing photos, videos of women. In order to prevent such cases and ensure the inviolability of sexual life, the introduction of special responsibility is being considered. [2]

According to statistics, in 2020, a protective order was issued to 14,774 Uzbek women who suffered from harassment and violence. Most of the women who have received protective orders are women over the age of 30. However, there are also 125 underage girls who have been issued a protective order. [3]

It is worth noting that the latency of this type of crime is very high, as victims are afraid to contact law enforcement agencies in order to prevent further aggravation of their situation.

The concept of a protective order and the procedure for its issuance is enshrined in the Law of the Republic of Uzbekistan "On the Protection of women from harassment and violence". However, this

normative legal act does not fix the concept of "stalking" as one of the methods of violence. This suggests that there is a problem of issuing a protective order to victims who have suffered from persecution. The absence of such an act as stalking in national legislation threatens to make it impossible to qualify the actions of the persons who committed it. Consequently, when a victim who has suffered from persecution appeals to law enforcement agencies, assistance will not be provided. This provision is fraught with the fact that the stalker, knowing that he will remain unpunished, will continue to pursue, which can lead to serious consequences. For example, a stalker can commit more serious crimes; the victim's psyche will suffer greatly, and therefore the victim will commit suicide.

For example, in January 2020, the residents of Hanover were shocked by the murder of a young woman. Patrick S. stalked his victim, a former colleague, for about two years. After that, he stabbed his victim with a folding knife. In February 2021, the Hanover District Court sentenced Patrick S. to life imprisonment. "A young woman became a victim of stalking, which the law enforcement agencies became aware of too late, otherwise she would have been saved without allowing such a tragic outcome," Sandra Cegla, the head of the Berlin SOS Stalking foundation, comments on this case in an interview with DW. [4]

As you can see, this case of persecution ended with the deliberate murder of his victim. It should be noted separately that in Germany there is a special electronic website for the protection of victims of persecution www.sos-stalking.berlin. When contacting the SOS Stalking fund by leaving an application on the website or by calling a special number 0176 - 642 44 818 the victim will be provided with immediate assistance. Based on this practice is quite convenient and operational, it should be carefully studied and mechanisms should be developed for implementation in the practice of the Republic of Uzbekistan.

There is a question of the situation with stalking in Uzbekistan. Recently, a case of harassment in the city of Tashkent was published on social networks. A guy and a girl met five years ago. They started dating, everything was fine for the first month and a half, and then quarrels and beatings began. According to the girl, he hit her in the face, ribs, grabbed her by the hair and neck, forbade her to communicate with her friends, checked her phone. The girl admits that the guy controlled her, drove her from work and to work, on the way he constantly asked if she looked at men. The girl replied that she worked with people and how she could not look at anyone.

The girl repeatedly wanted to break off relations with him, but the guy threatened her with problems. After the girl finally broke up with the guy in 2020, after a short time he saw her on the street with a friend, grabbed her by the hair and dragged her into the car. The girls tried to escape, but the guy caught up with them and started beating the girl, broke her nose.

Upon the fact of the beating, a criminal case was opened against the guy. However, his parents persuaded the girl and her mother to withdraw the application, but this was not an obstacle to the continuation of the persecution.

In February 2022, the girl again wrote a statement to the district police officer, they were called to the police for a conversation. There she found out that the guy faces a maximum of 15 days of arrest, and then he will be released again. The case ended with reconciliation.

In March 2022, due to a conflict between a guy, a girl and her mother, at the moment when the girl ran away from him, went home, the guy hit the door with all his might and the girl's finger was torn off. It should be pointed out that the brawl took place on the street and in the presence of the police, the guy threatened the girl and her mother, insulted them and shouted. A criminal case has been opened on this fact under Article 111 (Negligent infliction of moderate severity or serious bodily injury) of the Criminal Code. At the moment, an investigation is underway. [5]

Based on the above case, it is clear that stalking has led to such horrific consequences for the victim. Firstly, restriction of the victim's freedom of movement; secondly, systematic torture, threats, infliction of bodily harm; thirdly, the appearance of incorrigible psychological injuries, mental disorders, as well as the loss of a finger. It should be noted separately that the victim was not provided with practical assistance from law enforcement agencies, therefore, the guy continued to pursue the girl.

This case is one of the ones published on social networks, thanks to the project Nemolchi.uz (don't be silent.uz) but how many more such cases exist when the victim, realizing that the stalker will not be brought to justice, does not apply to law enforcement agencies. Of course, should not accuse law enforcement officers

of inaction, because they cannot hold a person accountable for an act that does not contain the corpus of crime. Here the matter remains with the legislator. Clearly, if there was responsibility for stalking in the Republic of Uzbekistan, it would be possible to avoid committing such serious crimes, which would significantly affect their statistics. In addition, stalkers would not go unpunished, and the victims would be provided with their rights. It should also be noted that recognizing the existence of responsibility for harassment, stalkers would not pursue their victims.

It should be noted that criminal liability for stalking as a crime is provided for in the legislation of the USA, Canada, Germany, Great Britain, Norway, Holland, India, Poland, Australia and other countries.

Based on the study of the legislation of these countries, it is possible to identify actions that can be committed by a stalker. They are:

Systematic tracking;

Sudden appearance in places visited by the object of persecution;

Endless calls and messages. If you know the phone numbers of your loved ones – an attempt to establish contact with you through them;

Unsolicited emails via the postal addressee, as well as emails;

Various kinds of gifts. In case of refusal to receive it – leaving at the door of the house, work, etc.;

Various types of threats, namely the threat of violence to you or your loved ones;

The actual use of violence;

Causing damage to your property (house, car);

Attempts to find you or information about you through search engines and social networks;

Threat of dissemination or dissemination of personal data on the Internet that degrade honor and dignity;

Using technologies like hidden camera, GPS system;

Other actions that disrupt your usual lifestyle or make you feel fear.

Of course, it should not be denied that in the criminal legislation of the Republic of Uzbekistan there is responsibility for these actions separately, namely:

1. Article 41 of the Administrative Code, article 140 of the Criminal Code (insult);

2. Article 104 of the Criminal Code (causing serious bodily injury); Article 105 of the Criminal Code (causing moderate bodily injury); Article 109 of the Criminal Code (causing light bodily injury);

3. Article 112 (threat of murder or use of violence);

4. Article 103 (incitement to suicide);

5. Article 110 (torture);

6. Article 141-1 (violation of privacy).

In some cases, there may also be article 137 of the Criminal Code (kidnapping); article 118 of the Criminal Code (rape) and even article 97 of the Criminal Code (premeditated murder).

In this regard, there is a need to introduce an independent article into the criminal legislation of the Republic of Uzbekistan, which will cover all of the above actions. Subsequently, the criminalization of stalking into national legislation – law enforcement officers will not need to qualify all these actions under separate articles, because they all accompany each other, forming a single criminal act – "persecution". Victims of stalking will be able to apply for protection of their violated rights, and stalkers, knowing that there is responsibility for their actions due to legal awareness, will refrain from violating the habitual lifestyle of others. In addition, due to the introduction of liability for harassment, the statistics of serious, especially serious crimes, which stalkers could not commit due to being held accountable for harassment, will decrease.

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