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A LEGAL ANALYSIS OF THE SUBJECT OF THE FAMILY (DOMESTIC) VIOLENCE IN UZBEKISTAN: BRIDGING THE LEGAL GAP

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Abstract. *This article analyzes the issue of defining the circle of subjects of family (domestic) violence in the Republic of Uzbekistan. The conducted research has shown that the list of such subjects is strictly limited due to the clarifications provided by the Plenum of the Supreme Court of Uzbekistan. Particular difficulty arises in the interpretation of the term “individuals living together on the basis of a single household.” In practice, some investigators and courts include in this category mothers-in-law, fathers-in-law, daughters-in-law, adult children, and other relatives, which contradicts the legal position of the highest judicial authority in the country. A comparative legal analysis of the legislation and practices of foreign countries demonstrates that the subjects of family (domestic) violence are recognized not only as spouses and individuals in intimate relationships, but also as mothers-in-law, fathers-in-law, brothers and sisters of the spouse, and other family members who jointly maintain a household with the victim. At the same time, current judicial practice in Uzbekistan indicates that psychological and economic violence is also perpetrated by such persons; however, these acts often go unpunished due to the formal absence of a legally recognized subject of the offense. In this regard, the authors propose a broad interpretation of the term “individuals living together on the basis of a single household” to include the above-mentioned individuals living together with the victim in order to eliminate the existing legal gap and to enhance the effectiveness of measures to combat family (domestic) violence.*

Keywords: *family (domestic) violence, in-laws, single household, adult children, subject of the offense*

O'ZBEKISTONDA OILAVIY (MAISHIY) ZO'RAVONLIK SUBYEKTINING HUQUQIY TAHLILI: HUQUQIY BO'SHLIQNI BARTARAF ETISH

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Annotatsiya. Mazkur maqolada O'zbekiston Respublikasida oilaviy (maishiy) zo'ravonlik subyektlari doirasini aniqlash muammosi tahlil etiladi. O'tkazilgan tadqiqot natijalari shuni ko'rsatadiki, mazkur subyektlar ro'yxati O'zbekiston Respublikasi Oliy Sudi Plenumining tushuntirishlariga asosan qat'iy ravishda cheklangan. Ayniqsa, "bir ro'zg'or asosida birgalikda yashayotgan shaxslar" tushunchasini talqin qilishda muammolar yuzaga kelmoqda. Amaliyotda ayrim tergovchilar va sudlar ushbu toifaga qaynona, qaynota, kelin, voyaga yetgan farzandlar va boshqa qarindoshlarni ham kiritmoqdalar, bu esa mamlakatning oliy sud instansiyasi huquqiy pozitsiyasiga zid keladi. Xorijiy mamlakatlar qonunchiligi va amaliyotining qiyosiy-huquqiy tahlili shuni ko'rsatadiki, oilaviy (maishiy) zo'ravonlik subyektlari faqat turmush o'rtoqlar yoki yaqin munosabatda bo'lgan shaxslar bilangina cheklanmaydi. Bunday subyektlar qatoriga, shuningdek, qaynona, qaynota, er-xotinning opa-singillari va akalari hamda jabrlanuvchi bilan birga xo'jalik yurituvchi boshqa oila a'zolari ham kiradi. Shu bilan birga, O'zbekiston sud amaliyoti shuni ko'rsatmoqdaki, yuqorida ko'rsatilgan shaxslar tomonidan ruhiy va iqtisodiy zo'ravonlik holatlari ham sodir etilmoqda, biroq bu harakatlar huquqbuzarlik subyekti belgilarining formal jihatdan yo'qligi sababli jazosiz qolmoqda. Shu munosabat bilan "bir ro'zg'or asosida birgalikda yashayotgan shaxslar" tushunchasini keng talqin qilish, unga jabrlanuvchi bilan birga yashovchi yuqorida sanab o'tilgan shaxslarni ham kiritish taklif qilinadi. Bu esa mavjud huquqiy bo'shliqni bartaraf etish va oilaviy (maishiy) zo'ravonlikka qarshi kurashish samaradorligini oshirishga xizmat qiladi.

Kalit so'zlar: oilaviy (maishiy) zo'ravonlik, turmush orqali qarindoshlar, umumiy xo'jalik, voyaga yetgan farzandlar, huquqbuzarlik subyekti

ЮРИДИЧЕСКИЙ АНАЛИЗ СУБЪЕКТА СЕМЕЙНОГО (БЫТОВОГО) НАСИЛИЯ В УЗБЕКИСТАНЕ: ПРЕОДОЛЕНИЕ ПРАВОВОГО ПРОБЕЛА

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Аннотация. В статье рассматривается проблема определения круга субъектов семейного (бытового) насилия в Республике Узбекистан. Проведённое исследование показало, что перечень таких субъектов существенно ограничен разъяснениями, данными Пленумом Верховного суда Республики Узбекистан. Особые трудности вызывает толкование понятия «лица, проживающие совместно на основании общего хозяйства». На практике некоторые следователи и суды относят к этой категории свекровей, свёкров, невесток, взрослых детей

и иных родственников, что противоречит правовой позиции высшей судебной инстанции страны. Сравнительно-правовой анализ законодательства и правоприменительной практики зарубежных стран демонстрирует, что субъектами семейного (бытового) насилия признаются не только супруги и лица, состоящие в близких интимных отношениях, но также свекрови, свёкры, братья и сёстры супруга, а также иные члены семьи, совместно ведущие хозяйство с потерпевшим. При этом современная судебная практика Узбекистана показывает, что психологическое и экономическое насилие совершается и такими лицами; однако данные деяния зачастую остаются безнаказанными в силу формального отсутствия юридически признанного субъекта правонарушения. В этой связи авторы предлагают более широкое толкование понятия «лица, проживающие совместно на основании общего хозяйства» с включением вышеуказанных категорий лиц, проживающих совместно с потерпевшим. Такой подход позволит устранить существующий правовой пробел и повысить эффективность мер по противодействию семейному (бытовому) насилию.

Ключевые слова: семейное (бытовое) насилие, родственники, общее хозяйство, взрослые дети, субъект правонарушения

Introduction

On August 27, 2024, the Criminal Court of the Balikchi district reviewed a criminal case concerning the actions of U.A. (the daughter-in-law) against G.A. (the mother-in-law), which involved inflicting minor bodily harm. The investigator classified U.A.'s actions as family (domestic) violence under Article 126¹ of the Criminal Code and issued it to the criminal court. The Criminal Court agreed with this classification and rendered a verdict. However, following a prosecutor's protest, the criminal case underwent review by the cassation instance of the court for criminal cases of the Andijan region.

The judicial panel found that both the investigator and the trial court misinterpreted the term "individuals living together on the basis of a single household" in classifying U.A.'s actions. Consequently, the panel reclassified the offense under Article 109 of the Criminal Code, citing the absence of a legally recognized subject of family (domestic) violence [1].

Recent judicial practice indicates that such misclassifications are occurring with increasing frequency. Moreover, despite the recent criminalization of this offense, no dedicated legal research in Uzbekistan has analyzed the role of the "subject" element

in determining the proper classification of family (domestic) violence cases. This paper, therefore, represents the first comprehensive study devoted to this issue.

Nevertheless, substantial research on related matters has been conducted by foreign scholars. For example, M.R. Turaeva, Ch.M. Becker [5], M.N. Bogodirova, M.A. Goibzoda, F.S. Odinaeva [6], M. Ragavan, and K. Iyengar [7] have examined the role of in-laws as perpetrators of domestic violence, focusing primarily on emotional abuse. Similarly, M. Rew, G. Gangoli, and A. Gill have investigated instances of economic domestic violence committed by in-laws [11]. Moreover, V. Heydrich [19], J.R. Greenberg, M. McKibben, J.A. Raymond [20], B. Johnson, T. Richert, and B. Svensson [21] have examined domestic violence perpetrated by adult children, thereby expanding the scope of scholarly inquiry beyond spousal or in-law relationships. These studies are predominantly based on survey data collected within specific socio-cultural contexts, including India, Tajikistan, Afghanistan, and Pakistan.

By contrast, this paper approaches the issue of domestic violence through an analysis of judicial practice in Uzbekistan, drawing on criminal court decisions available

on the Supreme Court's open-access website (www.public.sud.uz) and enriched by a comparative review of relevant criminal legislation from selected foreign jurisdictions.

In light of the abovementioned case and recent judicial practice in Uzbekistan, this paper aims to achieve the following:

First, to analyze the legal meaning and scope of "individuals living together on the basis of a single household" within the context of domestic violence legislation.

Second, to examine whether in-laws as well as adult children can be held criminally liable for domestic violence under Uzbek law.

Finally, to assess whether the Supreme Court's clarifications inadvertently create a legal loophole, thereby preventing certain individuals from being held criminally liable.

Main body

The conducted research and analysis of judicial practices revealed that investigators and courts occasionally fail to classify the crime of family (domestic) violence due to the discrepancies between the codes that criminalize this crime (administrative offense) and the interpretation of the Supreme Court of Uzbekistan.

The provisions of Article 59² of the Code of Administrative Responsibility and Article 126¹ of the Criminal Code of the Republic of Uzbekistan establish that domestic violence is committed against four categories of individuals:

- 1) a spouse;
- 2) an ex-spouse;
- 3) a person who has a common child;
- 4) a person living together on the basis of a single household.

The individuals listed above are simultaneously victims and subjects of domestic violence. In other words, only these individuals can commit domestic violence against each other. For example, a husband intimidates his wife, isolating her from close relatives as a result of a quarrel. Alternatively, an ex-wife inflicts bodily harm

that results in a slight, permanent loss of ability to work for her former husband. Or, Azamat, who is a partner of Shakhnoza and lives together with her on the basis of a single household, obstructs her right to work, i.e., does not allow her to engage in employment or perform other actions that create such an obstacle.

From this, it should be understood that the circle of individuals who are subjects of domestic violence is strictly limited. Therefore, not any individual can commit this act, but only a limited group of individuals specified in Article 59² of the Code of Administrative Liability and Article 126¹ of the Criminal Code. That is, spouses, ex-spouses, individuals living together on the basis of a single household, and individuals who have a common child are considered special subjects.

Since the Code of Administrative Liability and the Criminal Code do not provide a legislative definition for the aforementioned individuals, it is deemed necessary to refer to the clarifications provided in the resolutions of the Plenum of the Supreme Court of Uzbekistan "On Amendments and Additions to Certain Resolutions of the Plenum of the Supreme Court of Uzbekistan on Administrative and Criminal Cases in Connection with Amendments and Additions to Certain Legislative Acts of Uzbekistan as a Result of Further Improvement of the System of Reliable Protection of Rights, Freedoms, and Legitimate Interests of Women and Children" No. 30 dated November 20, 2023, as well as "On Judicial Practice in Cases of Intentional Bodily Harm" No. 6 dated June 27, 2007.

These resolutions clarify these terms as follows:

1) *a spouse* – individuals whose marriage is registered with civil status authorities;

2) *an ex-spouse* – individuals whose marriage has been dissolved or declared invalid under the established legal procedure;

3) *individuals who have a common child* – a man and a woman who have children as a result of their relationship;

4) *individuals living together on the basis of a single household* – a man and a woman living in marital relations in a specific apartment or house, owning common property and financial resources.

The interpretation of the first three categories of individuals appears to be straightforward due to their clarity. For example, individuals who have a common child are those who do not have a registered marriage but have a child as a result of their relationship. In other words, the legislation refers to a man and a woman who have a common child outside of marriage.

Judicial practice shows that subjects classified as “individuals living together on the basis of a single household” often include not only a man and a woman in marital relations but also other family members who reside together. For instance, this can include a mother-in-law, father-in-law, husband’s sisters or brothers, adult children, parents, and so on.

This, in turn, leads to situations where, in the presence of signs and all elements of domestic violence (except the subject), the actions of a mother-in-law towards her daughter-in-law are classified by investigators as domestic violence. As a result, these cases create a criminal law error and represent a deviation from the clarifications provided by the Plenum of the Supreme Court. Notably, the clarifications from the Supreme Court are not recommendatory, as Article 25 of the Law “On Courts” states that the clarifications of the Plenum of the Supreme Court of Uzbekistan regarding the application of legislation are *mandatory* for courts and officials applying the legislation for which the clarification has been provided. Therefore, deviation from the clarifications of the Plenum of the Supreme Court is unacceptable.

The following cases illustrate the deviation from clarifications of the Plenum of the Supreme Court that resulted in incorrect classification of the crimes or administrative offenses.

Case 1 (mother – adult son). On August 2, 2024, the Zangiata District Court of Tashkent Region for criminal cases noted an error by the investigator in qualifying the actions of D.O. (adult son), which involved humiliating the honor and dignity of I.T. (mother). The court determined that the investigator had incorrectly classified this act as domestic violence. Taking into account that the offense was committed not between spouses but between a mother and her adult son, the court reclassified D.O.’s actions under Article 41 of the Code of Administrative Responsibility [2].

From this case, we can learn that family (domestic) violence cannot be committed by parents towards their adult children or by adult children towards their parents. At the same time, it was not until 2024 that the legislative body included a child as a victim of family (domestic) violence, making it possible for courts to hold parents liable for committing violence against their underage children.

Case 2 (father – daughter). On November 11, 2024, the Koson District Court for criminal cases, having reviewed the criminal case against the defendant (the father), who periodically inflicted beatings and tortured the victim (his underage daughter) from 2019 to 2024, noted that the investigator made an error in qualifying the defendant’s actions. In particular, he qualified the defendant’s actions (the father), which involved torture and beatings resulting in serious bodily harm to his daughter, under part 4 of article 126¹ and subparagraphs “a” and “b” of Part 2 of Article 110 of the Criminal Code. The court concluded that the investigator had overly qualified the defendant’s actions under subparagraphs

“a” and “b” of Part 2 of Article 110 of the Criminal Code, as this was already covered by Part 4 of Article 126¹ of the Criminal Code [3].

This indicates that the investigator did not take into account that the father of the victim could be a subject of domestic violence. In other words, although the father inflicted beatings and tortured his daughter, his actions should have been qualified under Part 4 of Article 126¹ of the Criminal Code, as special norms (in our case, these norms stem from the subject of the crime) always prevail in cases of norm competition. Thus, parents can commit family (domestic) violence and are subject to either administrative or criminal liability.

Case 3 (bride – sister-in-law). On August 1, 2024, the Yakkabog District Court for criminal cases classified the actions of E.M. (bride), which involved humiliating the honor and dignity of S.A. (younger sister of the husband) using coarse language, as domestic violence under Part 1 of Article 59² of the Code of Administrative Liability [4].

Under current legislation, E.M.’s actions do not meet the criteria for the subject of family (domestic) violence and, therefore, do not constitute an administrative offense. Her conduct should instead have been classified as an insult, as defined in Article 41 of the Code of Administrative Liability. Although E.M. shares a dwelling within a single household with the victim, she does not fall under the category of individuals recognized as subjects of family (domestic) violence, according to the clarifications issued by the Plenum of the Supreme Court. These clarifications define “individuals living together on the basis of a single household” as a man and a woman in a marital relationship residing in a specific apartment or house, jointly owning property and financial resources.

However, we contend that the Supreme Court’s interpretation creates legal gaps

in holding accountable those who openly perpetrate family (domestic) violence yet avoid legal consequences. Specifically, when parents-in-law, daughters-in-law, sons-in-law, or the husband’s siblings or adult children engage in conduct that constitutes family (domestic) violence, they are not held liable under Article 126¹ of the Criminal Code or Article 59² of the Code of Administrative Liability. Although they may be prosecuted under other provisions of these codes—typically for offenses that serve as alternatives to physical violence—emotional and economic forms of domestic abuse remain largely unaddressed and unpunished.

This issue is particularly salient in the context of patrilocal marriages, where a wife resides in her husband’s natal household—a common practice in Uzbekistan. As researchers M.R. Turaeva and Ch.M. Becker observe, women in such family structures are significantly more exposed to emotional abuse, particularly from their in-laws. For example, their research indicates that the presence of a mother-in-law is strongly associated with increased levels of emotional abuse within Tajik households [5].

Studies conducted by M.N. Bogodirova, M.A. Goibzoda, and F.S. Odinaeva revealed that out of 211 married women surveyed, 56 (26.5%) had separated from their first families and entered into a second marriage due to emotional domestic violence and abuse, primarily from their husbands or mothers-in-law [6]. Similarly, M. Ragavan and K. Iyengar postulated that in India, psychological abuse is frequently perpetrated by mothers-in-law against their daughters-in-law [7].

Research by F. Tasmin, M. Islam, M. Hasan, G. Mostafa, and M. Rahman demonstrated a clear correlation between various forms of domestic violence—particularly emotional abuse—and postpartum depression [8]. The study concluded that domestic violence committed by in-laws is highly prevalent

in Bangladesh and strongly associated with adverse maternal mental health outcomes, particularly postpartum depression.

R. Jewkes, J. Corboz, and A. Gibbs found that in Afghanistan, 14% of 932 women reported experiencing domestic violence from their mothers-in-law within a 12-month period. The same study also documented abuse perpetrated by fathers-in-law and siblings-in-law, highlighting the broader role of extended family members in domestic violence dynamics [9].

In addition to emotional abuse, economic domestic violence is also frequently perpetrated by in-laws. This form of violence often manifests in the restriction of a daughter-in-law's right to employment by her mother-in-law or father-in-law. A. Bentley reported that in Mumbai, following marriage, in-laws were the primary perpetrators of emotional or economic violence in 77% of cases, while husbands were the principal perpetrators of physical violence (86%) [10]. Similarly, M. Rew, G. Gangoli, and A. Gill observed that economic violence commonly involved limiting a daughter-in-law's autonomy over financial decisions, including earning income, accessing funds, and managing household expenditures [11].

In the context of traditional Uzbek families—where women often reside with their husband's extended family—domestic violence frequently arises from conflicts between daughters-in-law and mothers-in-law, as well as other cohabitants in the household. According to Sh. Sobirov, in 2021 alone, protection orders were issued in 1,559 cases to protect women from their mothers-in-law, 1,128 from their daughters-in-law, and 9,989 from other individuals such as former spouses, partners, fathers, and others [12].

India's *Protection of Women from Domestic Violence Act, 2005* includes in-laws and other relatives residing in a

shared household within the definition of a "domestic relationship," thereby recognizing in-laws as potential perpetrators of domestic violence [13]. A similar definition is adopted in Pakistan's *Domestic Violence (Prevention and Protection) Bill* [14].

In Turkey, in-laws are recognized as subjects of family (domestic) violence. Turkey's *Law on the Protection of Family and Prevention of Violence against Women* defines domestic violence as:

"Any physical, sexual, psychological, or economic violence between the victim and the perpetrator, and among family members or individuals regarded as family members, whether or not they live in the same household" [15].

Georgia's *Criminal Code* defines domestic violence as any act of violence committed by one family member against another [16]. Additionally, the *Law of Georgia on Combating Violence against Women and (or) Domestic Violence, Protecting Victims of Violence, and Providing Assistance to Them* provides an extensive definition of "family members." This includes mothers, fathers, grandmothers, grandfathers, spouses, children (including stepchildren and adopted children), guardians and their spouses, individuals involved in raising a child (e.g., adoptive parents), grandchildren, siblings, in-laws, former spouses, individuals in common-law marriages and their family members, as well as guardians or supporters living in the same household [17].

In Azerbaijan, the subjects of family (domestic) violence are explicitly defined as both close and distant relatives of the victim [18].

Adult children are also recognized as potential perpetrators of domestic violence in various legal and empirical frameworks. V. Heydrich found that adult children may commit physical violence against their parents due to financial stress [19]. J.R.Greenberg, M. McKibben,

and J.A. Raymond linked such violence to substance abuse, particularly involving drugs and alcohol [20]. Similarly, B. Johnson, T. Richert, and B. Svensson reported that nearly 20% of parents in Sweden had experienced physical violence from their adult children at some point in their lives [21].

Studies conducted by M. Klun, A. Rucman, and D. Frangez further revealed that domestic violence perpetrated by adult children against their parents often included physical, psychological, and social abuse [22].

The *United Kingdom's Domestic Abuse Act 2021* explicitly defines adult domestic abuse as:

“A behavior of a person towards another person is domestic abuse if both individuals are aged 16 or over and are personally connected to each other, and the behavior is abusive” [23].

Likewise, South Africa's *Domestic Violence Act No. 116 of 1998* recognizes adult family members as potential perpetrators of domestic violence [24]. The same principle is enshrined in Korea's *Act on Special Cases Concerning the Punishment of Crimes of Domestic Violence* (Act No. 19068, 2022) [25].

Accordingly, we argue that the term “*individuals living together on the basis of a single household*” warrants a broader interpretation and should encompass in-laws, adult children, and other members residing within the same household.

We propose that the category of subjects of family (domestic) violence be expanded to include other individuals who maintain a specific familial or household relationship with the victim—particularly mothers-in-law, fathers-in-law, daughters-in-law, adult sons and daughters, among others. Notably, we do not consider it necessary to amend Article 59² of the Code of Administrative Responsibility or Article 126¹ of the Criminal Code, as these provisions already afford investigators and courts sufficient discretion

to interpret the term “individuals living together on the basis of a single household” in an inclusive manner, thereby extending legal protection to a broader range of family members.

Instead, we recommend amending the Resolution of the Plenum of the Supreme Court of Uzbekistan “On Judicial Practice in Cases of Intentional Bodily Harm” No. 6 dated June 27, 2007. Such clarification would provide the judiciary with a more comprehensive and unified interpretative framework, ensuring that acts of domestic violence committed by extended family members do not go unpunished due to overly narrow definitions.

The following table presents a comparison between the currently recognized and the proposed subjects of family (domestic) violence under Uzbek law, highlighting the need for a more inclusive interpretation of the term “individuals living together on the basis of a single household.”

Table
The current and proposed subjects of family (domestic) violence in Uzbekistan

No	Current subjects of family (domestic) violence	No	Proposed subjects of family (domestic) violence
1	Spouses (husband and wife)	1	In-laws (mother-in-law, father-in-law, daughter-in-law, sister-in-law, brother-in-law, etc.)
2	Ex-spouses (ex-husband and ex-wife)	2	Adult children → adult parents
3	Individuals who have a common child (unmarried partners who have a child)	3	Adult parents → adult children
4	Individuals living together on the basis of a single household (only intimate partners, man and woman)	4	Other family members or relatives residing in a shared household (e.g. adult siblings)

Conclusion

The analysis of judicial practice and comparative legal frameworks demonstrates that the current interpretation of “individuals living together on the basis of a single household” under Uzbek law is unduly narrow and fails to capture the full spectrum of familial relationships in which domestic violence may occur. As shown, this restrictive approach—established in the Supreme Court’s existing clarifications—has led to misclassification of offenses, inconsistencies in judicial practice, and, in some cases, the avoidance of liability by perpetrators whose conduct clearly falls within the sociological and criminological reality of domestic violence.

While the Criminal Code and the Code of Administrative Responsibility already list the categories of potential subjects, their interpretative scope can and should be broadened without legislative amendment. Comparative jurisprudence from jurisdictions such as India, Pakistan, Turkey, Georgia, Azerbaijan, the United Kingdom, South Africa, and Korea illustrates that extended family members—including in-laws and adult children—are widely recognized as

potential perpetrators of domestic violence. Empirical research further underscores the prevalence of abuse perpetrated by these groups, particularly in patrilocal households, where hierarchical family structures can facilitate emotional, economic, and even physical abuse.

In light of these findings, it is both legally and socially imperative to revise the Resolution of the Plenum of the Supreme Court of Uzbekistan “On Judicial Practice in Cases of Intentional Bodily Harm” No. 6 (27 June 2007), so as to explicitly include in-laws, adult children, and other cohabiting relatives within the definition of “individuals living together on the basis of a single household.” Such reform would harmonize judicial practice, close existing interpretative gaps, and ensure that all victims of domestic violence—regardless of their precise familial relationship to the perpetrator—receive equal protection under the law. Only through an inclusive, contextually responsive interpretation can the legal system effectively address the realities of domestic violence in Uzbekistan and align domestic jurisprudence with international best practices.

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