

PROBLEMS OF CRIMINAL-LEGAL CHARACTERISTICS AND QUALIFICATION OF UNNATURAL SEXUAL ACTS PERFORMED WITH VIOLENCE

Aytimova Barshinay Mu'barrek qizi

3rd year student, Faculty of Jurisprudence, Karakalpak State University

Abstract: *This article provides a scientific analysis of the criminal law characteristics of unnatural sexual acts committed through the use of violence against sexual freedom and inviolability. In the course of the study, the structural elements of this type of crime, their differences from other crimes of sexual assault, and the problems associated with their qualification were highlighted. Current issues regarding the object, objective side, subject, and subjective side of the crime, as well as legal aspects related to the commission of a crime under aggravating circumstances, including by a group of persons or against close relatives, have also been studied in detail. The article was prepared based on current legislative norms, legal doctrine, and materials from judicial practice.*

Keywords: *unnatural sexual acts, rape, sexual freedom, elements of a crime, qualification.*

INTRODUCTION

Crimes against sexual freedom belong to the category of the most serious criminal acts that directly encroach on a person's personality, dignity, and physical integrity. Chapter IV of the Criminal Code of the Republic of Uzbekistan is titled "Crimes Against Sexual Freedom" and includes Articles 118–121, 128–129. Within this group of crimes, unnatural sexual acts committed with the use of violence are distinguished by their social danger, serious physical and psychological harm to the victim, and numerous qualification disputes. In the science of criminal law and judicial practice, there are problems in distinguishing this crime from the crime of rape under Article 118, correctly qualifying cases committed by a group of persons, as well as identifying aggravating signs when committed against a close relative. Recent legislative amendments specifically the provisions regarding ex-spouses, a person with a common child, and cohabitation require a theoretical revision. The purpose of this article is to systematically outline the criminal-legal characteristics of the crime of unnatural sexual acts committed with the use of violence and to identify qualification issues based on current legislation and scientific-theoretical literature.

Methods: In the course of the study, textbooks, judicial practice materials, and scientific articles on the criminal law of the Criminal Code of the Republic of Uzbekistan were analyzed. Comparative-legal, systematic analysis, logical inference and normative-dogmatic methods were used in the work. The article relies on the doctrine of criminal law of Uzbekistan, as well as the methodology of interpretation arising from the text and structure of the law.

Results: Object of the crime. The primary direct object protected by Article 119 of the Criminal Code of the Republic of Uzbekistan is the sexual freedom and sexual inviolability of the individual. Sexual freedom is understood as a person's right to organize their sexual life of their own free will, while sexual integrity is understood as the right to protection from such relationships, especially for minors and those with mental disorders.¹ While safeguarding the right to a different arrangement of voluntary sexual intercourse, this article primarily protects against coercion to an unnatural sexual act. The victim's physical health, honor, and dignity may be cited as an additional object. In cases provided for by part 4 of Article 119, committed against a person under the age of fourteen, the subject of protection also includes the normal sexual and mental development of minors as an additional object. The objective side of the elements of a crime

The disposition of Article 119 includes three types of action:

1) using force 2) by intimidation 3) sexual gratification in an unnatural manner by exploiting the vulnerability of the victim. In the absence of at least one of these three methods, the crime should be qualified under Article 120 homosexuality or Article 121 coercion rather than Article 119. The concept of "satisfaction in an unnatural way" is not specifically defined in the law. In criminal law theory and judicial practice, this concept is interpreted to include sexual acts distinct from sexual intercourse vaginal coitus anal coitus, oral sexual gratification, and other actions. The fact that this concept is not defined in the text of the law may create difficulties in qualification, and this circumstance indicates the need to improve the legislation. The crime has a "formal" content, and therefore it is considered completed as soon as the violence or threat begins, i.e., regardless of whether sexual intercourse is carried out. As noted in the textbook materials, in the crime of rape Article 118, actions stopped at the stage of violence or intimidation are evaluated as an attempt on the crime, and the crime is completed with the performance of sexual intercourse.² A similar approach applies to Article 119. Regarding the subject under Article 119, the law covers both men and women - this is a different aspect from Article 118, where the subject of rape was only a man. Rustamboev M.Kh. also notes that the subject of homosexuality under Article 120 of the Criminal Code of the Republic of Uzbekistan can only be a man. Article 119 covers a wide range of forced performance of unnatural sexual acts.

Discussion: Difference and relationship between Articles 118 and 119. The most pressing problem with Article 119 is to correctly differentiate it from Article 118.³ Article 118 covers the forced performance of sexual intercourse while Article 119 covers the forced performance of sexual acts in an unnatural manner. In practice, in cases where the perpetrator commits both crimes sequentially for example, first in an unnatural manner, then rape, it is necessary to qualify them as a combination of two

¹ Criminal Code of the Republic of Uzbekistan. - Tashkent, 1994 with amendments of 2026.

² Rustamboev M.Kh. Criminal Law. General part. -Toshkent, 2017.

³ Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated June 14, 2002, "On judicial practice in cases of hooliganism." -Toshkent, 2017.

separate crimes under Articles 118 and 119. As noted in the textbook and practical materials, paragraph "v" of part 2 of Article 118 and paragraph "v" of part 2 of Article 119 indicate the commission of a crime "by a group of persons" as an aggravating factor. In this case, one of the group members may act as an executor under Article 118, and the other under Article 119 in such cases, they are held liable under each article respectively. Qualification when committed by a group of persons

The practice example presented in the textbook materials shows that even if there is no prior conspiracy between the group members if one participant sees their actions being continued by the other but does not offer resistance it is recognized as a sign of group activity. ⁴According to paragraph "c" of part 2 of Article 119, based on the principle of not requiring a prior conspiracy to commit a group crime, both participants are liable under paragraph "c" of part 2 of Article 119. However, if one of the participants in a group crime directly performs an unnatural sexual act the perpetrator, and the other only uses violence or guards assistant, their role and participation in the crime should be evaluated separately depending on the subjective attitude of each. Specific issues in cases involving juvenile victims

Part 4 of Article 119 regarding a person under the age of fourteen provides for the most severe punishment imprisonment from fifteen to twenty years. In such cases, the issue of the perpetrator's ignorance of the victim's age is also of great importance. In the theory of criminal law, the question of how to assess the responsibility of a minor if the perpetrator was not aware of their status from a subjective perspective remains controversial at times.

Conclusion: Violent unnatural sexual acts constitute a socially dangerous crime that directly infringes upon sexual freedom and personal inviolability, and their proper criminal-legal characterization and qualification are associated with a number of theoretical and practical issues. First, the distinction between rape and violent unnatural sexual acts is determined by the method of committing the act, namely whether the sexual intercourse is natural or unnatural in form. In cases where both crimes are committed consecutively, they should be qualified cumulatively. Second, when such crimes are committed by a group of persons, the characteristic of group commission may be recognized even in the absence of prior conspiracy. This requires an accurate legal assessment of the actions and roles of each participant for proper qualification. Third, the absence of a clear legal definition of the concept of "unnatural" provides law enforcement authorities with broad interpretative discretion, but at the same time may lead to inconsistency in legal practice. Therefore, it is recommended to establish a normative definition of this concept in legislation. Fourth, the application of aggravating circumstances in crimes committed against close relatives or within marital relations remains a subject of theoretical debate. Although recent legislative reforms

⁴ Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated June 14, 2002, "On judicial practice in cases of hooliganism." -Toshkent, 2017.

have introduced certain improvements in this area, comprehensive solutions are still required.

In general, ensuring a consistent and comprehensive resolution of issues related to criminal-legal characterization and qualification requires further improvement of legislation, the adoption of clarifications in the normative resolutions of the Supreme Court, and enhancement of the professional competence of law enforcement practitioners.

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