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PROBLEM OF FORENSIC PSYCHOLOGICAL EXAMINATION OF DOMESTIC VIOLENCE IN MODERN SCIENTIFIC PSYCHOLOGICAL DISCOURSE

The article is devoted to the problem of forensic psychological evaluation of victims of domestic violence. Domestic violence has become one of the most urgent social problems of the modern Ukrainian family. It is emphasized that analysis of modern domestic expert practice testifies absence of the appropriate expert methodology developed and approved by the Ministry of Justice of Ukraine for performing psychological examination in the criminal implementations stipulated by article 126-1 of the Criminal Code of Ukraine.

The purpose of the article is to determine the outcomes of forensic expert activity in the context of the problem of forensic psychological evaluation of of domestic violence victims.

The necessity of optimization of methodical provision of expert activity concerning victims of domestic violence based on: determining domestic violence as a phenomenon with complex pluricausal nature; isolating the concepts of «quarrel», «conflict», «violence»; differentiating the types of domestic violence; understanding the immediate and remote consequences of domestic violence; analyzing individual-psychological characteristics of violence victims. The initial positions of the expert's work on the forensic psychological examination of victims of domestic violence based on the principles that in general determine the construction of a psychodiagnostic research are substantiated: methodical restriction; mutual verification and comparison of the results; necessity-sufficiency; interconnection of the capabilities of the diagnostic toolkit and the depth of sensing of psychic reality. It is noted that the considered problem is at the initial stage of theoretical research and practical implementation in modern expert activity.

The identified starting positions of expert activity in the context of the problem of forensic psychological examination of victims of domestic violence can be the basis for substantiating and implementing the relevant expert technique.

Keywords: domestic violence; forensic psychological evaluation; victims; outcomes of forensic expert activity.

Formulation of Research Problem. At the present stage of the country's development, the family institute has great difficulties due to the crisis in the economy, politics, culture, etc. Unfortunately, these

phenomena affect family relationships, living conditions of each family member, their psychological and emotional state. As a result, domestic violence is becoming one of the most pressing social problems of the modern Ukrainian family. The study of the legal aspects of the problem of domestic violence is conditioned by the legal necessity: identification of each specific situation, implementation of the principle of inevitability of punishment for the offender, orientation of justice to the needs of the victim.

On January 11, 2019, Law № 5294: *On Preventing and Combating Domestic Violence* entered into force in Ukraine. According to the law: «... domestic violence – acts (acts or omissions) of physical, sexual, psychological or economic violence perpetrated in the family or within the place of residence or between relatives or between former or current spouses or between other persons cohabiting (living) with one family but not (not) married or married, regardless of whether the abuser (s) lived in the same place as and the person as well as the threats committing such acts ...»¹.

In this context, the problem of improving the procedure of expert research, optimizing its content and form, validity of expert opinions on victims of domestic violence is becoming more urgent considering the requirements of reliable ensuring the fairness of court decisions.

Analysis of recent research and publications. Some aspects of the issue of domestic violence are covered in the publications:

- T. Honcharova, O. Kolomiets, O. Kochemyrovskaya, T. Safonova, E. Tsymbal and others;
- M. Asanov, N. Zinoviev, I. Malkin-Pykh, N. Mikhailova and others. (issues of emotional, psychological, physical, sexual abuse in the family);
- H. Hindin, M. Dogadin, O. Dukhova, L. Perezhogin, E. Cherepanova and others. (forms and methods of working with children who have experienced violence);
- K. Ilikchiieva, A. Kolesova, T. Matiushkova, T. Shevchuk (Violence against women) I. Bahadenko and others;
- T. Protsenko, O. Logvinenko, I. Bagadenko and others. (preventing domestic violence);
- L. Gauhman, I. Davidovich, K. Zadoya, V. Ivanov, R. Levertova, V. Navrotsky, M. Panov, L. Serdyuk, V. Simonov, O. Khramtsov, S. Shapchenko, S. Yatsenko, R. Sharapov and others. (violence in the science of criminal law);
- V. Bondarovskaya, O. Kochemyrovskaya, G. Laktionova, Yu. Onyshko, R. Haar, H. Hristov and others. (legal, social, psychological and medical aspects of domestic violence prevention);

¹ Pro zapobihannia ta protydiu domashnomu nasylstvu [On the Prevention and Countering of Domestic Violence]: Zakon Ukrainy «vid 07.12.2017 (zi zminamy vid 2018, № 5. St. 35). Vidomosti Verkhovnoi Rady Ukrainy, 2018. URL : <https://zakon.rada.gov.ua/laws/show/2229-19> [in Ukrainian].

– M. Khavroniuk, G. Khristov, H. Truchero Cuevas (correlation of Ukrainian legislation with the requirements of international standards on domestic violence), etc.

The unresolved issue in the legal space of Ukraine and the need for reliable provision of objective consideration of criminal proceedings provided for in Art. 126-1 of the Criminal Code of Ukraine («... domestic violence, i.e. intentional systematic committing of physical, psychological or economic violence against a spouse or former spouse or other person with whom the perpetrator is (has) been in a family or close relationship, which leads to physical or psychological suffering, health disorders, disability, emotional dependency or deterioration in the quality of life of the victim – punishable by community service for a period of one hundred fifty to two hundred forty hours, or arrest for up to six months in, or imprisonment for up to five years, or imprisonment for up to two years»¹) confirms the relevance of our research.

The **Article Purpose** is to determine the initial positions of forensic activities in the context of the problem of forensic psychological analysis of victims of domestic violence.

Main content presentation. The legal basis for conducting forensic psychological examination of victims of domestic violence is Art. 1.8, 3.3 Instructions on the appointment and conduct of forensics and expert studies № 53/5 of October 8, 1998, as amended, Law of Ukraine *On Judicial Examination*.

The Law of Ukraine *On Preventing and Combating Domestic Violence* defines the categories of persons who may be recognized as victims in this legal situation: spouses; former spouse; brides; mother (father) or children of one spouse (former spouse) and the other spouse (former spouse); persons who co-live with one family but are not married, their parents and children; parents (mother, father) and child (ren); grandfather (grandmother) and grandson (grandson); siblings; other relatives: uncle (aunt) and nephew (niece), cousins, cousin (grandmother) and cousin (grandson), etc. It should be noted that according to the Ministry of Social Policy of Ukraine, in 2013–2018, 90% were women, 8, 5–9% – men, and 1–1, 5% among those who approached state bodies for violence.

¹ Kryminalnyi kodeks Ukrainy [Criminal Code of Ukraine]: vid 2001 r. (zi zminamy vid 27.06.2019 roku, № 2747–VIII). Vidomosti Verkhovnoi Rady Ukrainy, 2019. № 25–26 URL : <https://zakon.rada.gov.ua/laws/show/2341–14> [in Ukrainian].

² instruktsiia pro pryznachennia ta provedennia sudovykh ekspertyz ta ekspertnykh doslidzhen [instruction on the appointment and conduct of forensic and expert investigations]: zatv. nakazom M-va yustytzii Ukrainy vid 08.10.1998 № 53/5 URL : <http://zakon2.rada.gov.ua/laws/show/z0705–98>; Pro sudovu ekspertyzu : Zakon Ukrainy vid 25.02.1994 № 4028–Khii. Vidomosti Verkhovnoi Rady Ukrainy. 1994. № 28. St. 232 [in Ukrainian].

The legal concept of *victim* in the legislative field is defined by an individual whose offense is caused by moral, physical or property damage.

To establish (or reject) the presence of harm caused by mental activity, the bodies of pre-trial investigation appoint a forensic psychological examination, the task of which is to establish the psychological factors of the personal characteristics of the victim, the degree of dependence on another person or certain life circumstances, manipulation of volition.

Appointment of a forensic investigation/court forensic psychological examination based on domestic violence is motivated by the fact that the victims of violence need to analyze such psychological characteristics as the individual-psychological characteristics of motivational, intellectual, emotional-volitional and behavioral personality.

The activity of an expert psychologist allows you to determine the mechanisms and nature of the degree of suffering of the victim, the presence of feelings of fear, anxiety, deformation of self-esteem, dependence on the offender.

The list of issues to be resolved by forensic examination involves an analysis of the psychological aspects of the situation of the case, the peculiarities of its perception and evaluation, the relation to the offender and to himself; adaptability and resilience to stress.

Methodology of expert research involves the use of scientifically sound methods and means of researching the object of forensic examination, the decision of expert task in the proposed expert situation¹. The need to optimize the methodological support of expert activities for victims of domestic violence is based on:

- defining domestic violence as a phenomenon of complex polyetiological nature;
- isolation of concepts *quarrel* (acute dispute, accompanied by mutual reproaches, insults; state, period of mutual enmity resulting from such dispute; breach of friendly relations), *conflict* (clash of conflicting interests and views, tension and extreme contention leads to active actions, complications, struggles, accompanied by complex conflicts, a special kind of interaction, which is based on opposite and incompatible goals, interests, types of behavior of people and social groups, which are accompanied by negatives psychological conflicts; this is a clash of oppositely directed, incompatible tendencies (needs, interests, values, social attitudes, plans, etc.) in the consciousness of a single individual, in interpersonal interactions and interpersonal relationships of people deliberate use of physical force or power, made or in the form of a threat directed against oneself, against another person, group of persons or community, which results in (or there is a high probability) bodily injury,

¹ Bondar' M. E. O ponjatii «jekspertnaja metodika» [On the concept of «expert methodology»]. Kriminalistika i sudebnaja jekspertiza : resp. mezhved. nauchn.-metod. sb. Kiev, 1990. Vyp. 40. S. 13–19 [in Russian].

death Psychological trauma, abnormalities in the development or various loss)¹;

-- differentiation of types of domestic violence: economic violence (a form of domestic violence involving deliberate deprivation of housing, food, clothing, other property, funds or documents, or the ability to use them, leaving without care or care, obstructing the provision of necessary treatment or rehabilitation services, prohibiting work, being forced to work, bans on studying, and other economic offenses); psychological violence (a form of domestic violence, including verbal abuse, threats, including against third parties, humiliation, harassment, intimidation, other acts aimed at limiting the will of the person, controlling in the reproductive sphere, if such acts or omissions caused the victim fears for their own safety or the safety of third parties, caused emotional insecurity, inability to protect themselves or harmed the mental health of the individual); sexual assault (a form of domestic violence involving any act of a sexual nature committed against an adult without his or her consent or with respect to the child regardless of his or her consent, or in the presence of a child, coercion to a sexual act with a third party, and other offenses against sexual freedom or sexual integrity of the person, including committed against or in the presence of the child); physical violence (a form of domestic violence involving slaps, kicks, pushing, pinching, tapping, biting, and unlawful imprisonment, beating, snorting, injuring persons of varying severity, leaving in danger, failing to assist a detained person life-threatening condition, causing death, committing other violent offenses)². We emphasize that these types of violence can occur in isolation or in combination;

-- understanding of the immediate and long-term effects of domestic violence: close (bruising, trauma, fractures, damage to internal organs – liver, kidney, spleen, etc.; impaired function of any organ; vomiting, headaches, loss of consciousness (concussion); apples; acute mental disorders of arousal, desire to go somewhere to hide, deep inhibition, outward indifference; fear, anxiety, anger; development of severe depression with feelings of self-infirmity, inferiority; death as a result of murder and / or attempt suicide); remote (disorders of the physical and mental state and / or development of the child; somatic diseases (respiratory system, nervous system, metabolic disorders);

¹ Shuklina N. H., Stefaniv N. S., Levchenko K. B. Osoblyvosti rozghliadu sprav, poviazanykh iz domashnim nasylstvom: navchalnyi kurs dlia suddiv [Features of consideration of domestic violence cases: a training course for judges]. Kyiv, 2018. 300 s. [in Ukrainian].

² Pro zapobihannia ta protydiiu domashnomu nasylstvu [On the Prevention and Countering of Domestic Violence]: Zakon Ukrainy vid 07.12.2017 (zi zminamy vid 2018, № 5. St. 35). Vidomosti Verkhovnoi Rady Ukrainy, 2018. URL : <https://zakon.rada.gov.ua/laws/show/2229-19> [in Ukrainian].

– analysis of individual-psychological features of victims of violence: passive-contemplative position, feelings of fear, anxiety, patience, reaching for sacrifice, rigidity of attitudes, low self-esteem, self-doubt, increased emotionality, vulnerability, aggressiveness, tendency to stereotypical behavior, expressiveness), low level of self-awareness, pronounced masochistic component, low educational and cultural level, ambivalence, impaired sexual identification, etc.

The initial positions of the expert on forensic psychological examination of victims of domestic violence are based on the principles that generally determine the construction of psychodiagnostic research¹:

1. The principle of methodological restriction implies that a method developed within one theoretical concept cannot be fully used to objectify that side of an object illuminated by another theory.

2. The principle of mutual verification and comparison of the results obtained² implies that any technique has more probing capabilities beyond its direct targeting.

3. The principle of necessity-sufficiency is that the set and number of diagnostic procedures must be minimally necessary, and at the same time quite enough for an objective study of mental reality. Most psychological techniques allow for a wider range of data at the expense of additional techniques. The expert psychologist should build a diagnostic algorithm so that, using the focus and additional possibilities of techniques, to make the necessary set of tools and techniques based on the diagnostic algorithm, which allow to conduct economically and sufficiently reliable research.

4. The principle of interconnecting the capabilities of diagnostic tools and the depth of sensing of mental reality implies that each specific technique investigates what it is aimed at, only at a certain level.

The basis for expert opinions and the verification of the expert hypothesis are the criminal case materials, which reflect the external factual side of the legally significant event; retrospective reconstruction of the psychological circumstances that preceded and accompanied the act of domestic violence; experimental research of the victim using techniques that are adequate to the tasks of the psychologist-expert.

In psychodiagnosis practice, the most widespread typology of diagnostic techniques for the intended purpose, within which they can be conditionally differentiated into three main groups:

– descriptive: observations, conversations, questionnaires, surveys, interviews, analysis of results of activity, content analysis;

¹ Bondar' M. E. O ponjatii «jekspertnaja metodika» [On the concept of «expert methodology»]. *Kriminalistika i sudebnaja jekspertiza* : resp. mezhved. nauchn.-metod. sb. Kiev, 1990. Vyp. 40. S. 13–19; Rubinshtejn S. Ja. Jeksperimental'nye metodiki patopsihologii [Experimental methods of pathopsychology]. Moskva : JeKSMO-Press, 1999. 448 s. [in Russian].

– evaluation and measurement, which allow to obtain relatively accurate quantitative and qualitative characteristics of the studied psychological properties: design, procedural, criterion-oriented tests, tests of states and properties, etc.;

– explanatory, which include the method of experimental research, qualitative and quantitative analysis of results and empirical data.

We believe that the implementation of a system-integrative approach to the selection of diagnostic tools will help to increase the objectivity and validity of expert opinions.

Conclusions from the research and prospects for further developments in this scientific area. To sum up, the problem of forensic psychological examination of victims of domestic violence relates to a wide range of tasks for the development of the rule of law. This problem is at the initial stage of theoretical study and practical implementation in modern expert activity. The initial points of expertise in the study in the context of the problem of forensic psychological examination of victims of domestic violence may be the basis for substantiation and implementation of appropriate expert methodology.

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**ПРОБЛЕМА СУДОВОЇ ПСИХОЛОГІЧНОЇ ЕКСПЕРТИЗИ
ПОТЕРПІЛИХ ВІД ДОМАШНЬОГО НАСИЛЬСТВА
У СУЧАСНОМУ НАУКОВОМУ ПСИХОЛОГІЧНОМУ ДИСКУРСІ**

Статтю присвячено проблемі судової психологічної експертизи потерпілих від домашнього насильства. Обґрунтовано вихідні позиції діяльності експерта щодо судовопсихологічної експертизи потерпілих від домашнього насильства на основі принципів, що взагалі визначають побудову психодіагностичного дослідження: методичного обмеження; взаємної перевірки та зіставлення отриманих результатів; необхідності – достатності; взаємозв'язку можливостей діагностичного інструментарію та глибини зондування психічної реальності. Зазначено, що розглянута проблема знаходиться на початковому етапі теоретичного вивчення та практичного впровадження в сучасну експертну діяльність.

Ключові слова: домашнє насильство; судова психологічна експертиза; потерпілі; вихідних позицій експертної діяльності.

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