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Liability for Neglect of Helpless

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some issues of the improvement of legislation

Abstract: *Current article devoted to analyse improving the norms for neglect of helpless. It considers essence of the deem in the form of neglect of helpless, the need for liability for that type of offences, and reasoned suggestions have been proposed due to improvement of legislation basis to prevent that sort of crimes.*

Key words: *rights of person, crimes against life and health, neglect of helpless, neglect of help, to put in the verge of threat, mediation.*

Today, the fundamental basis of reforms in all spheres of our country is to ensure the rights and freedoms of individuals and citizens. In turn, the lives, health and privacy of members of society are protected by law from any form of aggression, and this is one of the main objectives of criminal law. It is not accidental that the provisions on crimes against humanity and health are included in a separate section of the Special Part of the Criminal Code of the Republic of Uzbekistan. In addition to harming human life and health, it also poses a serious threat to social relationships, including harming someone who is in danger of life or health, including those that are harmful to life and health. Despite the fact that such a failure may not injure the victim's life or health, it violates the relationship of the security of certain categories and is not merely moral, but is inadmissible under certain circumstances.

At the moment lawmakers adhere to the principle of "harm" that is not enough to protect unique values such as human life and health. However, the principle of "helping someone" should be based on such norms. It concerns first of all crimes that endanger human life or health. It is one of the crimes committed under the threat provided for in Article 117 of the Criminal Code of the Republic of Uzbekistan.

According to Lora Flattum Hamp **"Neglect"** means the failure of a

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caregiver to provide food, shelter, clothing, medical services, or health care for the person unable to care for self; or the failure of person to provide these needs for self as result of mental or physical inability. **“Exploitation”** means expenditure, diminution, use of property, assets, or resources of protected person without the express voluntary consent of that person or that person's legally authorized representative. **“Adult in need of protective services”** means a person 18 years of age or older whose behavior indicates that he or she is mentally incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others, or who, because of physical or mental impairment, is unable to protect himself or herself from abuse, neglect, exploitation, sexual abuse, or emotional abuse by others, and who has no guardian, relative, or other appropriate person able, willing, and available to assume the kind and degree of protection and supervision required under the circumstances.**“Caregiver”** means an individual who has the responsibility for care of a protected person as a result of family relationship or who has assumed the responsibility for care of the person voluntarily by contract or as a result of the ties of friendship[1].

At present the comprehensive protection of personality is a priority of the right of the Republic of Uzbekistan. That is why it is natural that criminal liability for life-threatening endangerment is envisaged. This approach reflects the spiritual maturity of the modern society in Uzbekistan.The public has the right not only to prohibit certain activities based on the principle of "harm" for the purpose of maintaining its normal functioning and safeguarding the security of its citizens, but also to force them to take positive action to help endanger life. We agree that the lawmaker's responsibility to ensure the safety of individual persons can not be imposed on non-violent persons unless there is a legally binding obligation under Article 117 § 1 of the CC of Uzbekistan.

The person who is in danger of being in danger of being in danger of life or health of the Republic of Uzbekistan

and who is deprived of his or her own protection is obliged to assist a person in such a situation, and that the defendant himself has the criminal liability for not helping the victim in a state of danger. Norm is a criminal offense. Liability for it shall arise only for the person in respect of the act of the person who suffered damage to the victim or consciously assuming his death. In our view, it is required to introduce some amendments and additions to the nature of the offense to reflect more clearly the nature of the offense in Article 117 of the Uzbek Penal Code.

A person who has a legal obligation to care for a victim, not just any person aged 16 years, may be the subject of an offense set forth in article 117 of the Criminal Code. This obligation will exist before the obligation to provide assistance, that is, to a hazardous situation for the victim. There is a certain legal relationship between the victim and the person who is required to do so.

Obligation to care for this relationship is also lost. This obligation can also be voluntary, even if it is in the instruction of someone else. But at the risk of such offenses, such commitments may not have criminal law significance in the context of the offenses set forth in article 117 of the CC. Only a legal obligation to care makes the person a subject of that crime. In our opinion, the specific legal obligation of the subject to the victim should be more clearly outlined in the Article 117 of the CC. Otherwise, the term "care" can be groundlessly interpreted, which in turn creates certain difficulties in distinguishing threats from other similar offenses. As a general rule, the obligation to act in one or the same way in crimes committed through inertia is based on five bases. Some of them are mentioned in other norms specifically pertaining to Article 117 of the CC. For example, article 116 of the CC does not fulfill or improperly perform a duty due to negligence or ill-treatment of a person for his or her professional work, which may result in injury to the victim or the death of a victim, the failure to provide such assistance has been forbidden because of the above-mentioned consequences. In

the second and third parts of Article 207 of the Criminal Code, neglecting the official position, that is, non-performance or improper performance by an official of an irresponsible or irresponsible attitude to his or her duties, has resulted in a medium or serious bodily injury or criminal liability for causing death. As can be seen, the distinction between crimes committed by the offender under Article 117 of the Criminal Code is one of the most important problems of qualifying the offense.

In the process of studying the subjective side, there are often problems with the danger. In our opinion, hazardous situations can not be attributed to intentional harm to the health of the victim. The criminal law provides for such actions. In a different approach, any intentional intimidation to a person must be brought to account for Article 117 of the Criminal Code, if it has been accompanied with abnormal abandonment.

The issue of qualifying as a result of carelessness after being severely damaged requires a separate study. On the one hand, responsibility for the consequences is enshrined in the sanctions. On the other hand, if the person is in danger behind the negligence, the offender commits a deliberate offense by committing a dangerous situation, as a result of which death may be caused or the victim's body can be heavily damaged by the consequences of the abovementioned actions . In our opinion, when the health is damaged due to anxiety, the person who does not want the harmful consequences, but with the actions of the victim, is obliged to provide assistance. Actions to be taken in a dangerous situation are not intended to be deliberate, but should be qualified as a result of the link between the subject and the nature of the hazardous situation, the consequences of the act, and the nature of the threat.

The definition of "dangerous position" in the definition of Article 117 of the Criminal Code of the Republic of Uzbekistan is, on the one hand, the sign of the objective side of the offense, and on the other hand, acts as a condition for the subject to provide assistance in the

subject. The uncertainty of the subjective aspect of the risky situation leads to incorrect credibility in practice. Taking this into account, we consider it necessary to clarify the subjective aspect of the lawfulness of the lawmaker to put an end to the conflict in the practice of law enforcement and to state in the law that the person has not put the victim at risk. This qualification allows for a qualification under Article 117 of CC to distinguish it from intentional bodily harm and to the danger of killing.

The consequences of undermining the risk are within the scope of the offense, and additional elements - such as life or health - are harmed. It is clear that the consequences can be greatly reduced and that the practice actually exerts a variety of social relationships. Given the importance of health as a social value, it was completely justified that it was incorporated into another object - life security as well as an object of crime. However, this has increased the importance of the problem of qualifications for possible consequences and actual consequences. There is a direct indirect link between the risk of death and the inability to act. Intentional infliction of an offense involves a direct cause relationship between the action and the consequences. The consequences of the danger are determined by the indirect effects of the third forces. The subject is required to eliminate the impact of these forces on the victim. However, these consequences are determined by the inactivity of the subject. The real damage is that additional objects are brought to life or health that is reflected in the way we look in the form of material consequences.

In the risk of being exposed, the individual should have a clear understanding of the criminal nature of his / her inactivity, but should make an estimate of the consequences. A court must take into account the differentiation and individualization of the responsibility of persons guilty of intentional homicide because the possible effects of the criminal act may vary in the mind of the perpetrator. In our opinion, liability for risk should be differentiated depending on the results in practice.

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According to the results of the survey conducted among law enforcement and law enforcement agencies, "You "Do you consider the norms of Article 117 perfect?" 80.5% of the respondents noted that it is necessary to make changes and additions to the norms specified in Article 117 of the CC.

In view of the foregoing, we recommend that the first part of Article 117 of the CC be adopted in the following wording:

"To help a person whose life or health is in danger and who is deprived of his or her self-defense is obliged to assist a person in such a situation and, if this is the case, or the perpetrator himself is causing the victim to be in danger, when it comes to trauma. "

We encounter a problem at this point. As it is known, according to Article 661 of the Criminal Code of the Republic of Uzbekistan, there is an opportunity to apply the institute of reconciliation towards the offense, which is the cause of medium or serious bodily injury as envisaged in the first part of article 117 of the Criminal Code. According to Part 2 of Article 661 of the Criminal Code, it is incorrect to apply the institute of reconciliation to persons who committed grave or grave crimes. In the first part of this article, a list of crimes, which are nominated, is a category of non-social and non-grave crimes. It can be seen that applying the institute of reconciliation to less socially risky and less serious crimes would be more effective and effective. JK Article 117 of the Criminal Code provides that the possibility of using the institute of dismissal in connection with their reconciliation towards the parties is not less serious and the offense is envisaged by the law. Moreover, according to a survey conducted among 700 judicial and law enforcement officials during the study, 75.6% of respondents underline the need to introduce the norm on the application of the institute of reconciliation with regard to crimes envisaged in the second and third parts of article 117 of the CC. The reason for this conclusion is that this practice is usually done because of anxiety and has not assisted the victim since he was in a state of severe psychic

distress or anxiety. The reason for this conclusion is that this practice is usually done because of anxiety and has not assisted the victim since he was in a state of severe psychic distress or anxiety. Later, in many cases, the guilty persons admit their guilt and seek to reconcile with the victim and strive to eliminate the damage. "The findings of the Court's case study and the practice of reconciliation show that the introduction of this institution in criminal law was an effective tool for liberalizing criminal law. This institution has made it possible for the Institute to safeguard the rights of the victim, to reduce the criminal record and to release the criminal justice institution. " It would not be an exaggeration to say that such an amendment to the law would be a logical continuation of the ongoing reforms to liberalize the criminal law [2].

Section 20-7-50. **(A)** It is unlawful for a person who has the legal custody of a child or helpless person **or who resides in the home with or who has recurring access to a child or helpless person and who has been given responsibility to supervise or care for a child or helpless person**, without lawful excuse, to refuse or neglect to provide the proper care and attention, as defined in Section 20-7-490, for the child or helpless person, so that the life, health, or comfort of the child or helpless person is endangered or is likely to be endangered.

(B) A person who violates *the provisions of* this section is guilty of a felony and, upon conviction, must be fined *in the discretion of* **an amount to be determined by**the court or imprisoned not more than ten years, or both[3].

Moreover, in the UK the Care Act 2014 defines adult safeguarding as protecting an adult's right to live in safety, free from abuse and neglect. Wellbeing Personal dignity (including treating the individual with respect) Physical and mental health and emotional wellbeing Protection from abuse and neglect Control by the individual over day-to-day life (including over care and support provided and the way it is provided) Participation in work, education, training or recreation Social and economic wellbeing Domestic,

family and personal wellbeing Suitability of living accommodation The individual's contribution to society. In the Care Act 2014 'wellbeing' is described as relating to: All these aspects of wellbeing or outcomes are relevant to people with care and support needs and carers. There is no hierarchy, and all should be given equal importance when considering wellbeing. Hierarchy This is when something is arranged in a graded order so something at the top of the order is more important than something at the bottom. So in considering wellbeing there is no one area more important than another. Informed choices Being able to make a decision when they have been provided with all the information. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, Safeguarding balances the right to be safe with the right to make informed choices, while at the same time making sure that the adult's wellbeing is promoted including, taking into consideration their views, wishes, feelings and beliefs in deciding on any action. Health and social care organisations have particular responsibilities, but every worker has a part to play says the principles of safeguarding adults[4].

So, in our opinion, this is the Criminal Code Article 661 is amended to add the following wording:

"In the first part of article 117 (to be put in danger)" Replacing the words "Article 117 (Submission at Risk)".

In sum, it can be said that improving responsibility for risk, which envisages the possibility of applying effective mechanisms for bringing individuals in the spirit of respect for the law, in the prevention of crime in the country.

References:

1. Lora Flattum Hamp Analysis of Elder Abuse and Neglect Definitions Under State Law

2. The Collection of Decisions of Supreme Court of Uzbekistan #2. 1991-2006. T.2 – Tashkent "Adolat", 2006. P.126

3. South Caroline General Assembly's Bill #4670 to amend section 20-7-50, as amended, code of laws of south carolina, 1976, relating to unlawful neglect of children and helpless persons, so as to expand the categories of persons caring for children and helpless persons who are subject to this section.