



## Scientific Analysis of Some Tasks Related to Issuing a Protection Order

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### **Abstract**

The article provides a scientific analysis of some of the circumstances associated with the issuance of a protective order to women who have suffered from violence. The author highlights his views on the concept of “protective order” given by foreign and domestic scientists. An opinion is put forward about taking on a preventive record at the same time when issuing a protective order by involving representatives of the relevant authorities with the subsequent determination of the order of its strict supervision.

**Keywords:** *Protective Order; Violence; Women; Preventive Registration; Supervision*

### **Introduction**

Based on the crimes committed against women today, it is necessary to understand the meaning of the words “protection order”, taking into account the reasons and conditions of their actions against women.

The purpose of the Law of the Republic of Uzbekistan “On protecting women from oppression and violence”, adopted on September 2, 2019 (National Database of Legislation, 03.09.2019), it is also to regulate relations in the field of protection of women from all forms of oppression and violence.

According to the law, women are represented in a number of competent bodies - the Cabinet of Ministers, local government agencies, law enforcement agencies, labor agencies, public education authorities and educational institutions, the health care system and health facilities are intended to be protected in various forms by the Women’s Committee.

If we look at the statistics, then in 2019, a total of about 1,000 women suffered from domestic violence. The numbers, unfortunately, are even higher in reality, as it is not clear that everyone is under pressure (<https://kun.uz/news/2020/01/29/zoravonlikka-uchragan-ayollarga-himoya-orderi-qay-tartibda-berilishi-malum-qilindi>). In Tashkent in the first half of 2020, 709 protection orders were issued to women victims of violence and oppression, of which 639 orders were issued to protect against domestic violence (<https://kun.uz/news/2020/07/25/2020-yilda-zoravonlik-va-tazyiqqa-uchragan-ayollarga-709-ta-himoya-orderi-berilgani-malum-qilindi>).

In the first 10 months of 2020, about 8,500 women were placed under state protection. Among them were those who had been abused by their father or mother in the family.

### ***The Main Findings and Results***

In legal theory, a “protection order” is defined as an act (action or inaction) committed against women that is dangerous to society, and in another source, a “protection order” is defined as a violation of the law or the rules of social life in general (Legal encyclopedia: 2001, p. 652). Based on these definitions, offenses against women are divided into the following types based on the social risk and the area of law that determines the responsibility for their commission:

- a) civil;
- b) disciplinary;
- c) administrative;
- g) criminal types (Ismailov: 2015, pp. 54-66).

At this point, “When we say crime prevention, do we mean all four types of crime?” a reasonable question arises. This question is addressed in Article 3 of the Law of the Republic of Uzbekistan “On crime prevention” dated May 14, 2014, which states that “non-social” behavior - a lifestyle, actions or inactions of a person in violation of socially accepted norms and rules of behavior, as well as “The answer can be found in the context of the basic concepts of the offense (act or omission) (<https://kun.uz/news/2020/01/29/zoravonlikka-uchragan-ayollarga-himoya-orderi-qay-tartibda-berilishi-malum-qilindi>), which provides for administrative or criminal liability for the commission of an offense.

Thus, the Law of the Republic of Uzbekistan “On Prevention of Offenses” of 14 May 2014 regulates social relations in the field of prevention of antisocial behavior, as well as the prevention of criminal offenses (actions or omissions) for which administrative or criminal liability is provided.

This term is widely used not only in the theory and practice of law, but also in the daily service activities of prevention inspectors, and citizens (women) are issued a protection order for the purpose of protection.

Scientists who have conducted research on the fight against violence in our country, including Professors Z.S. Zaripov, I. Ismailov, K.R. Abdurasulova, in their scientific work provided for the issuance of protection orders to victims (Legal encyclopedia: 2001). It goes without saying that our scholars have focused on the precise translation of the order of protection through annotated dictionaries. This is why their research suggests that the word victim is more often used instead of the word victim.

It should also be noted that some criminologists in their research have applied the concept of victimology in a narrow sense, that is, only to victims of criminal behavior. There is no doubt that from the point of view of criminology it is possible to study only victims of crime. Because we all know that the science of criminology only studies the relationships of individuals who have been victims of a crime. It should be borne in mind that victimological prevention of offenses is aimed at preventing victims not only from crime but also from other types of offenses. Therefore, it is clear that this issue requires scientific clarity.

It should be noted that the “protection order” on the subject is being implemented in many countries. Also, in some countries, the protection order and the social relations associated with it are

being studied as a “terrible situation”. Therefore, it is expedient and appropriate to pay special attention to the study of violence against women.

In studies conducted by scientists from European countries, the United States, victimological prevention is divided into three areas, namely: a) the normalization of the objective conditions that lead to the victim status of individuals and social groups; b) explanatory work, legal advocacy among certain categories of persons; c) recognized that the provision of assistance to victims, in particular the state compensation system for damages, is divided into (Legal encyclopedia: 2001; Kvashis: 1999, p. 58).

The views and ideas of some legal scholars on victim prevention can be complementary or differ slightly in their content. Some of them consider victimological prevention as a system of criminological measures, while others describe it only as a set of measures aimed at preventing victims of crime. In particular, in the research of Russian scientists N.I. Bumajenko and V.D. Malkova it can be observed that the definition of victimological prophylaxis is as follows:

Victimological prevention is the elimination of negative conditions that are included in the social system of crime prevention, causing harm; accelerating the protection of potential victims of crime and ensuring their safety; as well as a subsystem of general and special criminological measures aimed at reducing individual and mass victims (Kvashis: 1999; Bumajenko: 2010, p. 102).

Victimological prevention of crime is the identification of the factors, circumstances and situations that constitute the behavior of the victim of these social institutions and lead to the commission of crimes; is a specific activity aimed at elimination and neutralization; identification of at-risk groups and high-level victims in order to restore or activate their protective properties; as well as the development or improvement of existing special means of protection of individuals and legal entities from crime (Bumajenko: 2010; Criminology: 2004).

It can be observed that the lawyer S.B. Khujakulov in his research has a unique new approach to the coverage of “Victimological prevention of offenses”. The scientist made an in-depth scientific analysis of the measures set out in the Law of the Republic of Uzbekistan “On crime prevention” for victimological prevention of offenses and tried to substantiate that on the basis of this analysis can be studied the following types of objects, their characteristics and signs:

1. In general;
2. Individually;
3. In a special order (Bumajenko: 2010).

In addition, S.B. Khojakulov tried to define the victim of crime prevention in terms of general, special and individual prevention based on today's requirements. However, in his research, the definition of victimological prevention of offenses is given in the same way as in Article 43 of the Law of the Republic of Uzbekistan “On crime prevention” of May 14, 2014. However, the law defines the concept of “Victimological prevention of offenses” as “the activity of the body or institution directly involved in the prevention of offenses to take preventive measures aimed at reducing the risk of a particular person becoming a victim of the offense”.

This definition should be further expanded based on today's requirements. Because it is logically wrong that victimological prevention of offenses is limited to specific individuals. It is also stipulated that victimological prevention of offenses should be carried out only by the bodies and institutions (*direct subjects*) directly involved in the prevention of offenses.

In our view, the need to carry out these activities by the bodies and institutions implementing and participating in the measures of victimological prevention of offenses has been overlooked. However, the

analysis of practice shows that the participation of the implementing and participating entities, in particular, the Ministry of Neighborhood and Family, non-governmental and non-profit organizations, as well as other civil society institutions in victim victimization in accordance with the Law of the Republic of Uzbekistan “Social partnership” intended.

Based on the above, it is expedient to state Article 43 of the Law of the Republic of Uzbekistan “On crime prevention” of May 14, 2014 in the following edition:

The bodies or institutions directly involved in crime prevention identify persons who are likely to be victims of offenses due to their antisocial behavior, as well as the victimizing factors, circumstances, situations and causes of the offenses and the conditions that allow them to eliminate the; it is a system of general, special, individual legal, social, organizational, psychological, medical, pedagogical and other measures of victimological prevention of offenses used to reduce the risk of injury.

Based on the above, it is better to issue a Protection Order for a period of one month.

Given the causes and circumstances of today's offenses, I do not think it is appropriate to apply the protection order to all victims of all types of offenses during this period.

This is because, based on the severity of the acts and events committed, it is logical to advance the issue of dividing their protection into the following categories.

In particular, the inevitability of separate liability for each act and action is established by law.

Therefore, it is expedient to divide the issuance of a protection order into the following categories:

- *First*, the initial stage of family disputes (spouse, parents, mother-in-law and daughter-in-law, close relatives and neighbors, etc.) is considered with the participation of representatives of the relevant agencies and implemented for a period of 1-3 months.

The reason is that in practice, the consequences of each offense committed and the explanatory work carried out are considered at the end of the advocacy work. For this reason, there will be sufficient time to monitor their lifestyle through appropriate agency representatives and the public.

- *Secondly*, for the purpose of protection for 3-6 months in case of recidivism committed by persons who did not conclude as a result of explanatory work or were previously convicted for negative consequences.

- *Thirdly*, in the case of a “*protection order*” in respect of minors, regardless of their actions, the term of their protection is 6 months, 1 year.

This, in turn, prevents the perpetration of malicious acts against the protected person and determines the inevitability of punishment.

It should also be categorized for each case that it is equally distributed in accordance with the requirements of the Convention on Human Rights and in accordance with our current laws, and to be protected and controlled during this period; I believe that there will be enough time to study a particular citizen and carry out appropriate preventive work.

Most importantly, given that the protection order is issued to women or other citizens who have suffered from a particular person, there is no clear system of preventive measures against the perpetrator of harassment or violence against these citizens, i.e. the Law of the Republic of Uzbekistan “On crime prevention” of 14 May 2014 In accordance with Article 206 of the Code of Administrative Offenses of

the Republic of Uzbekistan, only a protection order and a referral to administrative courts in accordance with Article 206 of the Code of Administrative Offenses of the Republic of Uzbekistan are included.

### **Conclusion**

Therefore, with the issuance of a protection order to the victim, it is expedient to establish a preventive registration of the “perpetrator” based on the above categories, a strict control procedure with the involvement of representatives of the relevant agencies. We hope that this, in turn, will be effective in preventing various inconveniences.

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