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EXPERT EVALUATION CRITERIA FOR “ACCUMULATED” AFFECT IN THE INVESTIGATION OF VIOLENT CRIMES

Abstract

Modern forensic expertise requires refined criteria for mental states influencing the volitional and intellectual components of human activity. This study provides a scientific substantiation of expert criteria for cumulative affect within the Complex Forensic Psychological and Psychiatric Examination (CFPPE). The primary objective is to differentiate states of total disorganization in voluntary regulation to ensure uniform interpretation of “sudden onset of strong mental distress” under Articles 101 and 111 of the Criminal Code of the Republic of Kazakhstan. The study's significance lies in its comprehensive analysis of terminological inconsistencies between general psychology and criminal law. Utilizing a systematic analysis of regulatory acts and international databases (Scopus, PubMed, eLibrary.ru), the research identifies conceptual differences in interpreting affect. The findings justify the necessity for strict determination of expert concepts to ensure legal certainty. Ultimately, this research advances CFPPE methodology by offering approaches to align expert conclusions with Kazakhstani legislation. By clarifying the diagnostic boundaries of cumulative affect, the study supports more accurate judicial qualification of criminal acts, bridging the gap between psychological theory and forensic practice.

Keywords: diagnostics of emotional state, affect, violence, crime, murder, psychological and psychiatric examination.

Introduction

The current stage of development of the legal system of the Republic of Kazakhstan is characterised by the need to improve mechanisms for combating crimes against individuals. According to data from the information database of the General Prosecutor's Office of the Republic of Kazakhstan (Qamqor.gov.kz), in recent years there has been a steady increase in offences involving violence, sexual harassment and sexual assault [1]. These acts, which have serious psychological and physical consequences, represent a global problem that destabilises the fundamental foundations of personal and social security. In these circumstances, scientific and theoretical understanding of the expert criteria

for assessing the emotional states of persons who have committed violent crimes is of particular importance.

The purpose of this study is to substantiate and refine expert criteria for cumulative (“accumulated”) affect within the framework of comprehensive forensic psychological and psychiatric examination (CFPE). The scientific significance of the work is due to the need to differentiate between states characterised by total disorganisation of voluntary regulation of activity in order to ensure a uniform interpretation of the criminal law category of “sudden strong emotional excitement” (Articles 101 and 111 of the Criminal Code of the Republic of Kazakhstan) [2].

The methodological basis of the study is based on a systematic analysis of normative legal acts and judicial practice of the Republic of Kazakhstan, as well as a search for relevant sources in international bibliographic databases (Scopus, PubMed, eLibrary.ru). The analysis revealed significant conceptual differences between the general psychological understanding of affect and its legal interpretation, which creates risks of broad interpretation of this condition. The study aims to eliminate terminological conflicts and develop practical recommendations for expert activities that contribute to achieving legal certainty in the classification of violent crimes.

Materials and methods

The dialectic of victimhood transformation. The current scientific paradigm and law enforcement practice are characterized by a pronounced focus on the victimological vector – the description of the victim’s personality and the minimization of psychotraumatic consequences. A vast body of research is aimed at developing protocols for social and legal rehabilitation and algorithms for ensuring public safety.

Nevertheless, there is an epistemological gap in the current field of research: the phenomenon of role reversal, in which the victim is transformed into the perpetrator of violence, has not been sufficiently explored. A deep understanding of the genesis of violent crime requires the disclosure of the intrapsychic mechanisms of aggression: its aetiology, phase dynamics, and long-term consequences of traumatisation, which are determinants of the transition to delinquent behavior [3]. The study of individuals who have committed violent acts in a state of cumulative affect is a critically important but insufficiently developed area [4].

The scientific novelty of the work lies in the systematisation and verification of the KSPPE expert toolkit, which focuses on objectifying cumulative conditions in individuals with a history of victimisation [5]. This not only improves the accuracy of legal classification, but also forms a theoretical basis for the prevention of transgenerational reproduction of violence.

Theoretical and methodological foundations and the genesis of violence In contemporary interdisciplinary discourse, the categories of “violence” and “abuse” are interpreted as mechanisms of coercive control implemented through psychophysical expansion. The phenomenology of violence is classified according to its spheres of manifestation: from the microsocial (family and domestic) level to global political processes.

Cyclicity and transgenerational transmission Systemic intra-family violence determines the formation of permanent distress, leading to the social disintegration of the victim. The key concept here is the “cycle of violence”: the internalisation of aggressive patterns in the process of primary socialisation. This leads to a transgenerational relay of destructive roles, in which exogenous aggression is transformed into an internal behavioural norm of the individual. The transformation of a victim into an aggressor is a multifactorial process determined both by the sociocultural context (gender stereotypes, imbalance of power) and by mechanisms of psychological accumulation. Recurrent acts of aggression intensify affective states and lead to a qualitative complication of manipulative strategies, forming stable psychophysical deformations [6].

Expert phenomenology of cumulative affect. The concept of “cumulation” is considered as an aggregation of influences leading to an emergent amplification of the result. In deviance studies, this construct describes the dynamic accumulation of aggressive tendencies adapted to the situational context which leads to the fixation of destructive behavioural stereotypes.

Cumulative affect is classified as a state of mental decompensation that develops under conditions of prolonged psychotraumatic exposure. Phasic dynamics of the cumulative process: Stage of emotional

accumulation: Progressive increase in tension as adaptive reserves are depleted. Somatisation of stress, activation of dysfunctional defences and a subjective feeling of “hopelessness” are observed.

Culmination stage (affective explosion): Total disorganisation of mental activity in response to a trigger. Characterised by partial narrowing of consciousness, fragmentary perception, and loss of the ability to regulate one’s will. Dissociation and motor automatisms are typical phenomena.

Post-effective stage: Profound asthenia, mental disorder, and partial amnesia of the completed act. Expert paradox: Subjects of cumulative affect often demonstrate a high level of pre-delict self-regulation and an absence of premorbid aggression. The explosion of aggression is the result of the exhaustion of internal coping resources (coping strategies) under the pressure of a critical amount of accumulated tension.

Methodological approach and goal setting. The current stage of development of forensic expert activity marks a paradigm shift: the object of scientific understanding is no longer the isolated psyche of the subject, but rather the verified experience of professional interaction with it. The methodological foundation of the study is the concept of “psychology of practice” which involves scientific and theoretical reflection on expert activity. This approach allows empirical experience to be converted into conceptual models and diagnostic criteria.

The aim of the study: Theoretical justification and practical translation of verified expert criteria that ensure the objectification of the assessment of mental states in criminal proceedings.

Results and discussion

Expert legal opinion on the condition of the subject A.Sh. (in the context of the Criminal Code of the Republic of Kazakhstan) 1. Neurological status and organic background: An objective examination has established that A.Sh. has cerebrastronic syndrome against a background of residual organic CNS insufficiency and a history of mechanical head injuries. This pathology forms an unstable psychosomatic foundation (*locus minoris resistentiae*). In the context of a forensic psychiatric assessment, this is classified as a condition that contributes to the disorganisation of mental activity and lowers the threshold of resistance to stressors in the event of a vital threat.

Psychological characteristics of the individual: A.Sh.’s psychological profile is characterised by pronounced emotional rigidity and heightened social normativity. It has been established that for a long period of time, the subject was in a systematic psychologically traumatic situation (in accordance with the provisions of Article 101 of the Criminal Code of the Republic of Kazakhstan) caused by the unlawful actions of the victim. Qualification of the state at the time of the act: The dynamics of A.Sh.’s mental state at the time of the incident fully meets the criteria for physiological affect, which proceeded in a cumulative manner:

Preparatory phase (accumulative): As a result of many years of victimisation and systematic violence, A.Sh. developed a state of chronic distress. The mechanism of mental defence was implemented through the suppression of protest reactions, which led to the extreme exhaustion of volitional resources.

Explosion phase (affective discharge): The victim’s aggressive actions (strangulation, threatening the lives of children) acted as the “last straw” (trigger). At this moment, A.S. experienced a state of sudden intense emotional agitation. There was a narrowing of consciousness (fragmented perception), loss of control over volitional processes, and a transition of actions into the category of motor automatisms.

Final phase (post-affective): The onset of deep asthenia and mental stupor immediately after the act (recorded by law enforcement officers) is an objective diagnostic sign of the completion of the affective cycle.

The established circumstances allow us to classify A.Sh.’s state at the time of the alleged offence as a sudden strong emotional disturbance (physiological affect). According to the provisions of the General and Special Parts of the Criminal Code of the Republic of Kazakhstan, this affect is cumulative in nature,

Being the result of: Violence and abuse on the part of the victim; A prolonged psychologically traumatic situation arising from his systematic unlawful and immoral behaviour. The defendant’s organic background legally confirms A.Sh.’s inability to fully comprehend the actual nature and social

danger of his actions or to control them at the moment of acute vital threat. Thus, the act committed is subject to classification under the relevant articles of the Criminal Code of the Republic of Kazakhstan, which provide for liability for acts committed in a state of affect, which excludes the presence of direct unjustified intent [7].

Expert assessment of mental status and volitional control Based on a multidisciplinary analysis of data (clinical, psychopathological, and neurological), the expert commission has reached the following conclusions regarding A.Sh.: Absence of medical criteria for insanity: The examinee shows no signs of chronic mental illness, dementia or other mental disorders. Cognitive and mnemonic functions correspond to the lower limit of the age norm. Organic background: Residual organic damage to the central nervous system in the form of cerebrasthenic syndrome has been verified. This condition is characterised by emotional lability and a reduced stress tolerance threshold, which in forensic practice is classified as an individual typological feature that facilitates the occurrence of affective reactions [8].

Capacity for conscious volitional control: The specified organic substrate does not reach a psychotic level. Under normal conditions, A.Sh. retains the ability to recognise the actual nature and social danger of his actions and to control them.

Retrospective assessment of the condition at the time of the offence. Reconstruction of A.S.'s mental state during the period of the alleged offence indicates the presence of a cumulative physiological affect, characterised by the following features:

Cumulative phase (accumulative): The subject was in a prolonged psychologically traumatic situation (systematic violence and abuse), which led to the formation of a state of persistent emotional tension and depletion of the personality's defence mechanisms.

Discharge phase (explosive): The victim's final unlawful behaviour acted as a catalyst for a sudden release of accumulated tension. This phase was accompanied by a narrowing of consciousness and a transition to automated motor acts.

Objective diagnostic markers: The condition is confirmed by the presence of partial amnesia of the details of the act and pronounced post-affective asthenia (physical and mental exhaustion), which is a classic sign of the affective cycle.

Legal significance: This condition fully corresponds to the provisions of Articles 101 and 112 of the Criminal Code of the Republic of Kazakhstan as "sudden strong emotional excitement". At the moment of the climax of the affect, the volitional regulation of the subject was disrupted by the dominant emotional state [2].

Final conclusions and recommendations for the judicial authorities Based on the results of the investigation, the commission formulates the following conclusions: Sanity: A.S. is recognised as sane in relation to the act she is accused of. However, her ability to fully exercise volitional control at the time of the crime was significantly limited by a brief affective state.

Legal classification: The commission recommends that the court consider the established fact of cumulative affect as grounds for classifying the act under special provisions (Articles 101 or 112 of the Criminal Code of the Republic of Kazakhstan), which excludes intent to commit murder under aggravating circumstances.

Medical measures: A.Sh. does not require the application of compulsory medical measures. Her condition was reactive and situational in nature and does not pose a permanent danger to society.

Preventive and rehabilitation assessment: Taking into account that the act was a pathopsychological reaction to systemic aggression, measures of social and psychological rehabilitation aimed at correcting PTSD outside of clinical isolation are recommended.

Assessment of mental status in the context of criminal responsibility (Article 16 of the Criminal Code of the Republic of Kazakhstan):

An objective examination confirms that A.Sh. shows no signs of chronic mental illness or temporary mental disorder. The subject is recognised as sane. The established intellectual and mnemonic integrity and adequacy of perception indicate the ability to understand the actual nature of one's actions. II. Qualification of the composition of "strong emotional excitement" (Articles 101, 112 of the Criminal Code of the Republic of Kazakhstan): Clinical and psychological analysis of the dynamics of the act allows us to classify the state of A.Sh. at the time of the incident as a physiological affect of a cumulative type [2].

From a legal point of view, this state is determined by the following legal factors: Prolonged psychotraumatic situation: Systematic unlawful and immoral behaviour of the victim (physical violence, bullying), confirmed by the case materials.

Objective cause (trigger): Another act of aggression that posed an immediate threat to the life and health of minors, which served as a legally significant cause for the affect.

Subjective aspect: A.Sh.'s personal rigidity and high social normativity led to the inability to adequately control her will at the moment of an emotional outburst. III. Conclusion of the expert commission: Based on a systematic analysis and guided by the norms of the Criminal Procedure Code of the Republic of Kazakhstan, the commission reached the following final conclusions:

Legal status: At the moment of committing the incriminated act, A.Sh. was in a state of strong emotional excitement (affect), provided for by the privileged provisions of the Special Part of the Criminal Code of the Republic of Kazakhstan.

Nature of actions: The motor activity (stabbing) was of an automatic nature, which, in legal terms, limits the possibility of attributing direct unjustified intent to take a life. Medical and legal measures: There are no grounds for applying compulsory medical measures (Article 91 of the Criminal Code of the Republic of Kazakhstan). The prognosis for behaviour is favourable, provided that psychotraumatic factors are excluded.

Summary for the court: The totality of the facts indicates that A.Sh.'s actions were a reaction to years of victimisation and should be considered through the prism of Article 101 of the Criminal Code of the Republic of Kazakhstan (Murder committed in a state of affect), which significantly changes the limits of criminal liability compared to the general norm (Article 99 of the Criminal Code of the Republic of Kazakhstan).

Conclusion

Judicial-psychological verification and the prejudicial significance of expert examination in the law of the Republic of Kazakhstan. The integration of the results of a comprehensive forensic psychological and psychiatric examination (CFPE) into judicial acts under Article 101 of the Criminal Code of the Republic of Kazakhstan ("Murder committed in a state of affect") and Article 112 of the Criminal Code of the Republic of Kazakhstan ("Causing serious harm to health in a state of affect") is a prerequisite for the methodological verification of the criteria for strong emotional distress [2]. According to the Normative Resolution of the Supreme Court of the Republic of Kazakhstan "On Certain Issues of the Classification of Murders," the establishment of a state of affect directly influences the type and severity of criminal punishment [9]. In this context, the KSPPE acts as an instrument for implementing the principle of justice (Article 4 of the Criminal Code of the Republic of Kazakhstan), ensuring the individualisation of responsibility depending on the psychophysiological state of the person [2].

The introduction of special psychological and scientific knowledge into criminal proceedings (in accordance with Article 117 of the Criminal Procedure Code of the Republic of Kazakhstan) requires a clear conceptualisation of the legal basis for expert activity [10]. A systematic methodology allows experts to distinguish between diagnostic tasks and observe the boundaries of professional competence. In the jurisdiction of the Republic of Kazakhstan, scientifically based verification of "cumulative affect" serves as a guarantee against judicial errors and unjustified charges under Article 99 of the Criminal Code of the Republic of Kazakhstan (intentional murder) [2].

Pathopsychological determination of cumulative states and legal norms A retrospective analysis of criminal case materials confirms that a prolonged psychotraumatic situation caused by the unlawful behaviour of the victim is the basic determinant of the destruction of volitional regulation. The established link between chronic psychological trauma and reactive aggression correlates with the requirements of Article 101 of the Criminal Code of the Republic of Kazakhstan, where violence and abuse are recognised as legitimate grounds for the occurrence of affect [2].

Unlike "classical" affect, the cumulative variant is characterised by a phase of accumulation of emotional tension. The final "explosion" is classified as a catastrophic breakdown of the regulatory system. This obliges the expert to identify the specific legal "trigger" (the last straw) that led to the

volitional disorganisation. The court is obliged to take these conclusions into account when assessing the subjective aspect of the crime.

Medical and social consequences and preventive potential of expertise In the legal paradigm of the Republic of Kazakhstan, especially in light of the Law “On Combating Domestic Violence,” the phenomenon of aggression is considered a critical socio-legal problem [11]. Overcoming its consequences requires cooperation between law enforcement agencies and social protection institutions. The consequences of systemic aggression (PTSD, affective syndromes) have a high degree of comorbidity with violent behaviour. In this context, the diagnosis of cumulative affect is transformed from a narrow task of justice into a tool for monitoring latent domestic violence. By revealing the profile of the “victim who became an offender,” the CSPPE identifies pathogenic factors that require measures under Article 98-1 of the Criminal Code of the Republic of Kazakhstan (establishment of special requirements for the behaviour of the offender) [2]. Thus, the role of the expert allows the court not only to deliver a lawful sentence, but also to initiate rehabilitation programmes aimed at breaking the cycle of violence.

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ЗОРЛЫҚ-ЗОМБЫЛЫҚ ҚЫЛМЫСТАРЫН ТЕРГЕУ КЕЗІНДЕГІ «ЖИНАҚТАЛҒАН» АФФЕКТІНІ САРАПТАМАЛЫҚ БАҒАЛАУ КРИТЕРИЙЛЕРІ

Андатпа

Қазіргі сот-сараптама қызметі адам қызметінің ерік-жігері мен зияткерлік компоненттеріне әсер ететін психикалық күйлер критерийлерін нақтылауды талап етеді. Бұл зерттеу кешенді сот психологиялық-психиатриялық сараптамасы (КСППС) шеңберіндегі кумулятивтік аффектінің сараптамалық критерийлерін ғылыми негіздейді. Негізгі мақсат – Қазақстан Республикасы Қылмыстық кодексінің 101 және 111-баптарындағы «кенеттен пайда болған қатты жан күйзелісі» ұғымын біркелкі түсіндіру үшін ерікті реттеудің толық бұзылу күйлерін саралау. Зерттеудің маңыздылығы жалпы психология мен қылмыстық құқық арасындағы терминологиялық сәйкессіздіктерді кешенді талдауында жатыр. Нормативтік актілерді жүйелі талдау және халықаралық деректер базасын (Scopus, PubMed, eLibrary.ru) пайдалану арқылы аффектіні түсіндірудегі тұжырымдамалық айырмашылықтар анықталды. Нәтижелер құқықтық белгілілікті қамтамасыз ету үшін сараптамалық ұғымдарды қатаң детерминациялау қажеттілігін дәлелдейді. Зерттеу сараптамалық қорытындыларды отандық заңнамаға сәйкестендіру тәсілдерін ұсына отырып, КСППС әдіснамасын дамы-

тады. Кумулятивтік аффектінің диагностикалық шекараларын нақтылау арқылы жұмыс психологиялық теория мен сот практикасы арасындағы алшақтықты жойып, қылмыстық әрекеттерді дәл саралауға ықпал етеді.

Тірек сөздер: эмоционалдық күй диагностикасы, аффект, зорлық-зомбылық, қылмыс, кісі өлтіру, психологиялық-психиатриялық сараптама.

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КРИТЕРИИ ЭКСПЕРТНОЙ ОЦЕНКИ «НАКОПЛЕННОГО» АФФЕКТА ПРИ РАССЛЕДОВАНИИ НАСИЛЬСТВЕННЫХ ПРЕСТУПЛЕНИЙ

Аннотация

Современная судебная экспертиза нуждается в уточнении критериев психических состояний, влияющих на волевой и интеллектуальный компоненты деятельности человека. Данное исследование посвящено научно-теоретическому обоснованию экспертных критериев кумулятивного аффекта в рамках комплексной судебной психолого-психиатрической экспертизы (КСППЭ). Основная цель – дифференциация состояний полной дезорганизации волевой регуляции для обеспечения единообразного толкования категории «внезапно возникшее сильное душевное волнение» в контексте статей 101 и 111 Уголовного кодекса Республики Казахстан. Значимость работы заключается в комплексном анализе терминологических несоответствий между общей психологией и уголовным правом. На основе системного анализа нормативных актов и международных баз данных (Scopus, PubMed, eLibrary.ru) выявлены концептуальные различия в трактовке аффекта. Полученные результаты обосновывают необходимость строгой детерминации экспертных понятий для обеспечения правовой определенности. Исследование вносит вклад в развитие методологии КСПЭ, предлагая подходы к соотношению экспертных выводов с требованиями казахстанского законодательства. Уточнение диагностических границ кумулятивного аффекта способствует более точной судебной квалификации деяний, устраняя разрыв между психологической теорией и экспертной практикой.

Ключевые слова: диагностика эмоционального состояния, аффект, насилие, преступление, убийство, психолого-психиатрическая экспертиза.

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