

Domestic Violence Crimes in Uzbekistan: Restorative Justice and Importance of Cultural Factors

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Abstract:

This article explores the complexities of domestic violence (DV) in Uzbekistan, highlighting the interplay of cultural norms and the challenges of implementing restorative justice (RJ) in this context. Through an analysis of legal literature and empirical research, we identify a recurring pattern of violence, often exacerbated by societal expectations that pressure victims, particularly women, to prioritize reconciliation over their safety. Our findings reveal that RJ, while promising in theory, poses significant challenges due to existing power imbalances that limit women's agency. The current legal framework inadequately addresses these dynamics, necessitating comprehensive support systems that prioritize victim safety and empowerment, including access to counseling and legal assistance. We advocate for further research into the experiences of DV victims to inform more culturally sensitive policies. Ultimately, this study underscores the need for a multifaceted approach to effectively address domestic violence in Uzbekistan.

Keywords: domestic violence, restorative justice, cultural norms, victim empowerment, Uzbekistan.

In Uzbekistan, over the past two years, the issue of domestic violence has gained increasing relevance and become a subject of significant debate, both among the general population and within academic and legal circles. Central to these debates is the question of the effectiveness and balance between punitive and restorative justice measures in addressing domestic violence.

According to judicial statistics, in 2023, a total of **421** cases were heard under Article 126.1 of the Criminal Code. Importantly, out of these 421 cases, only 170 (40%) resulted in convictions[1], while the remaining **251** (60%) were resolved through **reconciliation**, in accordance with Article

66.1 of the Criminal Code, reflecting the application of restorative justice principles. Regarding the types of punishments applied, the most common were restrictions on liberty in 64 cases, corrective labor in another 64 cases, imprisonment in 43 cases, suspended sentences in 9 cases, fines in 6 cases, along with other forms of punishment. This statistical distribution raises important questions about the reliance on restorative justice and the effectiveness of current punitive measures in deterring and addressing domestic violence in Uzbekistan.

The nature of domestic violence criminal cases in Uzbekistan reveals that violence is often occurring at least a second time in an official capacity. Under the Uzbek Criminal Code, domestic violence crimes are treated with administrative prejudice, indicating that every instance of domestic violence is typically a manifestation of repeated violence[2]. This suggests that prior incidents of violence—whether officially documented or not—have likely occurred, often resulting in informal reconciliations at home. Victims may prefer cooperation with their abusers rather than pursuing punitive measures, indicating a complex interplay of cultural, social, and familial pressures that discourage victims from seeking formal justice. This cycle of violence and reconciliation highlights the urgent need for a more effective approach to addressing domestic violence that empowers victims and challenges existing power dynamics.

This data also highlights a broader societal and legal challenge: the increasing trend toward reconciliation and non-punitive resolutions, which may reflect cultural pressures for maintaining family unity, but could also raise concerns about the adequacy of protection and justice for victims. The debate among legal scholars in Uzbekistan revolves around whether the legal system should prioritize restorative outcomes or impose stricter punitive measures to prevent recidivism and protect victims in cases of domestic violence[3].

Restorative justice (RJ) in the context of domestic violence (DV) is an evolving and often debated concept. Traditional RJ focuses on repairing harm caused by criminal behavior through dialogue and agreement between victims and offenders. However, applying this approach to DV requires careful consideration of power dynamics, safety, and accountability. Restorative justice, as widely supported in the literature, can often prove more effective than traditional retributive justice, which focuses on punishment and sanctions[4]. Braithwaite emphasizes the importance of offenders taking responsibility for their actions by expressing genuine remorse, seeking forgiveness from both the victim and the broader community, and offering meaningful restitution for the harm caused. When implemented effectively, restorative justice not only addresses the wrongs committed but also promotes healing and reconciliation, making it a commendable alternative to purely punitive measures. Scholars like Joan Pennell and Gale Burford critique traditional restorative justice approaches in domestic violence cases, arguing that power imbalances can make these processes unsafe for victims[5]. They advocate for models that incorporate gender-sensitive approaches and prioritize victim safety. Sally Engle Merry[6] explores how RJ interacts with local cultural norms, particularly in non-Western societies. Her work is critical for understanding how RJ can be adapted to cultural contexts like Uzbekistan, where family honor and community pressures may influence victim-offender dynamics.

While restorative justice has potential benefits for addressing domestic violence, it requires careful adaptation to ensure that victims are protected and empowered, rather than pressured into reconciliation. Cultural factors, power imbalances, and the specific dynamics of domestic violence must be at the center of any RJ process. Scholarly critiques and emerging models emphasize the importance of placing victim safety and autonomy first, especially in contexts where traditional gender roles and societal expectations influence reconciliation outcomes.

Based on an analysis of judicial practices, legal literature[7] and our qualitative research on domestic violence, we have identified several key theoretical challenges of implementing restorative justice in cases of domestic violence. These challenges highlight the complexities and

risks associated with applying restorative justice in such cases, particularly in the context of power imbalances, the potential for revictimization, and the influence of cultural norms on justice outcomes.

1. **Power Imbalances.** Domestic violence is characterized by inherent control and coercion, which are often deeply embedded in the victim-offender relationship. These power dynamics can be exacerbated in restorative justice settings, where victims may be placed in vulnerable positions, having to negotiate with their abusers. This risks reinforcing the control already exerted by the perpetrator, undermining the safety and autonomy of the victim.
2. **Risk of Revictimization.** Without rigorous safeguards, restorative justice in domestic violence cases may unintentionally lead to further harm. Victims may feel pressured or coerced into reconciliation, especially in cultural contexts where forgiveness and family unity are highly valued. This can result in retraumatization, as victims are not only asked to confront their abuser but may also face societal pressure to forgive, even when it is not in their best interest.
3. **Cultural Sensitivities.** In contexts like Uzbekistan, where strong cultural norms around family unity and reconciliation prevail, restorative justice faces additional challenges. Such cultural expectations may complicate the implementation of RJ in domestic violence cases, as the emphasis on restoring familial harmony often takes precedence over ensuring the protection and empowerment of the victim. In these settings, restorative processes risk prioritizing social harmony and traditional values over the individual safety and justice needs of the victim, potentially perpetuating cycles of abuse.

Even though Uzbek society is not entirely homogenous, there are widely shared cultural and social norms, particularly regarding family structures and gender roles. Research consistently shows that women often hold less power in family relationships, and judicial practices reflect this imbalance. Women are frequently expected to obey not only their husbands but also other members of the husband's family, reinforcing patriarchal authority within the household.

For instance, in case number 1-1816-2402/72, a wife lived with her husband's family, including his mother and father. The couple had a 3-year-old child. One day, when the child had a fever, the wife wanted to call a pediatrician. However, her mother-in-law opposed this, forbidding any medical intervention. Despite this, the wife called the doctor, which enraged her mother-in-law, who accused her of trying to harm the child by involving a doctor. The mother-in-law's reaction likely stemmed from a distrust of modern medicine or alternative beliefs. The husband reacted similarly, physically assaulting his wife, kicking and hitting her, which resulted in minor injuries.

In case number 1-1414-2401/102, the husband came home intoxicated and asked his wife for food. When she responded that the food would be ready soon and asked him to wait, he interpreted this as disrespect, much like the famous phrase from a movie, "showing no respect." In his anger, the husband violently assaulted his wife, inflicting severe injuries that led to her losing consciousness.[8]

These cases highlight the deeply rooted gender power imbalances and the normalized violence against women in family settings, further complicating the application of restorative justice. In these instances, cultural expectations regarding obedience and subservience exacerbate the challenges women face in asserting their autonomy and seeking justice, often resulting in the continuation of harmful dynamics.

Such cases, along with the cultural meanings attached to domestic violence, demonstrate that women in these situations often lack equal opportunities, particularly in cases involving reconciliation. The significant cultural and social pressures placed on women create imbalances that can directly influence the restorative justice process. These norms, which expect women to be

obedient to their husbands and extended family members, place them in vulnerable positions, limiting their ability to fully assert their rights and autonomy. As a result, restorative justice in such contexts may not be effective or equitable, as it risks reinforcing existing power dynamics rather than addressing the underlying issues of domestic violence.

Drawing from the legal literature and empirical research, we can identify several theoretical and practical implications. These insights not only enhance our understanding of domestic violence dynamics but also inform the development of more effective interventions and policies. By synthesizing existing knowledge, we aim to bridge the gap between theory and practice, ensuring that the responses to domestic violence are both grounded in rigorous scholarship and responsive to the lived experiences of victims.

1. **Recurrent Nature of Domestic Violence.** The analysis of domestic violence cases in Uzbekistan indicates a systematic pattern of recurrence. Given the administrative prejudgment associated with domestic violence in the Uzbek Penal Code, it is evident that each reported incident is often the culmination of prior unaddressed violence. This underscores the necessity of recognizing domestic violence as a chronic issue requiring comprehensive intervention rather than isolated punitive responses.
2. **Cultural and Social Norms.** The pervasive cultural and social norms surrounding family dynamics in Uzbekistan significantly influence the experiences of women in domestic violence situations. These norms often compel women to prioritize family harmony and reconciliation over their own safety and well-being. Consequently, victims may choose to cooperate with their abusers rather than seek justice, perpetuating a cycle of violence that is difficult to disrupt. This cultural context must be taken into account when designing interventions and restorative justice processes.
3. **Limitations of Restorative Justice.** The application of restorative justice in cases of domestic violence may be inherently problematic due to the existing power imbalances between victims and perpetrators. Women, often positioned within a framework of subservience and obedience, may not have equal agency in the reconciliation process. This dynamic can lead to further victimization and trauma, as the restorative justice approach may inadvertently reinforce existing hierarchies rather than empower victims.
4. **Need for Comprehensive Support Systems:** Empirical evidence from judicial practices suggests that the current legal framework inadequately addresses the complexities of domestic violence. There is a pressing need for integrated support systems that prioritize victim safety, including access to counseling, legal assistance, and shelter services. These systems should aim to empower victims, allowing them to make informed decisions about their paths to justice and reconciliation.
5. **Future Research Directions:** Further research is warranted to explore the nuances of domestic violence in Uzbekistan, particularly the impact of cultural norms on victims' choices. Qualitative studies focusing on victims' experiences and perspectives could provide deeper insights into the motivations behind reconciliation and the barriers to seeking justice. Additionally, comparative analyses with other contexts that have successfully implemented restorative justice in domestic violence cases could yield valuable lessons for reforming practices in Uzbekistan.

In conclusion, addressing domestic violence in Uzbekistan requires a multifaceted approach that acknowledges the cyclical nature of abuse, the influence of cultural norms, and the limitations of restorative justice. By prioritizing victim empowerment and integrating comprehensive support systems, it is possible to create a more just and equitable framework for addressing domestic violence.

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