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Analysis of the Objective Elements of the Crime of Adminstrative Forced Labor

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Annotation: This article analyzes the objective elements of the crime of administrative forced labor under the criminal law of Uzbekistan. It explores the general, special, specific, and direct objects of this crime, emphasizing its infringement on the constitutional right to freely choose or refuse labor. Drawing on various scholarly approaches and international legal standards, particularly ILO Convention No. 29, the study reveals that the narrow concept of "administrative forced labor" in national legislation does not cover forced labor committed in the private sector or by individuals outside state authority. This terminological limitation creates risks of impunity for significant forms of forced labor. The author proposes amending the Criminal Code and Code of Administrative Liability by removing the word "administrative" to align national legislation with international norms, strengthen enforcement, and ensure comprehensive protection of labor rights.

Key words: forced labor, administrative forced labor, labor rights, International Labour Organization (ILO), criminal liability, human rights, pedagogical employees, legislative reform.

One of the most crucial hallmarks of a modern, democratic, and legal state is the supremacy of human rights and freedoms and their practical implementation. The human right to free labor, the ability to choose a profession and place of work at will, and protection from forced labor are recognized as fundamental values not only at the national but also at the international legal level. Specifically, paragraph 8.7 of the United Nations (UN) Sustainable Development Goals of the 2030 Agenda for Sustainable Development, adopted by the UN General Assembly, sets out tasks for member states to take immediate and effective measures to end forced labor, modern slavery, and human trafficking, and to prohibit and eliminate the worst forms of child labor [1].

The Constitution of the Republic of Uzbekistan, in Article 42, stipulates that "Everyone has the right to decent work, to freely choose a profession and type of activity, to work in safe and hygienic conditions, to receive fair remuneration for their labor without any discrimination and not below the established minimum wage, and also to be protected from unemployment in the manner prescribed by law". Article 44 further enshrines that "Forced labor is prohibited, except as a form of punishment imposed by a court sentence or in other cases provided for by law".

Therefore, to prevent forced labor and bring perpetrators to justice, we must analyze and develop existing legal norms, including examining the objective elements of the crime of administrative forced labor.

In criminal theory, the object of a crime is the social relationship targeted by the criminal act, which can be harmed as a result. According to the theory of criminal law, it is accepted to divide the object of a crime into four categories: general, specific, special, and direct. From this perspective, an analysis of the object of the crime of administrative forced labor reveals the following: the general object of the crime is the totality of all social relationships protected by the criminal law of the Republic of Uzbekistan; the special object is the social relationships that ensure the interests of the individual; and the specific object consists of the social relationships that arise during the implementation of the constitutional rights and freedoms of individuals and citizens.

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Before analyzing the direct object of this crime, it is expedient to consider its specific object, as there are disagreements among scholars regarding its definition.

For instance, Ye.V. Yevstifeyeva argues that the specific object of this crime is a person's right to freedom [2].

Conversely, M.Yu. Buryak points out that this crime provides for liability not for a person's unlawful detention but for directing them toward illegal labor. For this reason, he states that the specific object of this crime should be defined as social relationships related to the constitutional rights and freedoms of individuals and citizens [3].

According to E.S. Akhyadov, the use of human labor has an economic orientation and is more related to an infringement on the freedom of labor than a limitation of personal freedom. The freedom of labor for an individual means not only the freedom to choose the type of labor activity, the organizational and legal form of exercising their abilities, and the place of work, but also the option to refuse any labor activity altogether. The use of forced human labor implies the perpetrator's ownership, use, and disposal of the results of that labor [4].

In our opinion, the views of M.Yu. Buryak and E.S. Akhyadov are well-founded. The freedom of labor—the ability of every individual to choose their labor activity at will, voluntarily determine their place of work, or completely refuse to work—is one of the fundamental constitutional freedoms. Administrative forced labor is a direct infringement on and violation of these freedoms, resulting in the deprivation of a person's right to freely choose their work or labor activity. Therefore, the specific object of the crime of administrative forced labor constitutes the social relationships that arise during the implementation of the constitutional rights and freedoms of individuals and citizens.

Regarding the direct object of the crime of administrative forced labor, there are three main perspectives:

1. A person's physical liberty and the right to dispose of their life at will [5].

2. A person's right to free labor [6].

3. The security of a person's honor and dignity [7].

According to A.V. Khabarov, the direct object of this type of crime is a person's personal liberty, which cannot be the object of another person's property rights (or other property rights), as well as the freedom of labor and the prohibition of forced labor [8].

The legal nature of forced labor stems from the fact that it is always compulsory, and the victim performs it against their will. Therefore, forced labor infringes upon values more important than a person's honor and dignity.

Based on the above, B.D. Zavidov asserts that the direct object of forced labor is the social relationships that ensure a person's right to free labor [9].

M.Kh. Rustambayev states that the direct object of this crime is the constitutional rights and freedoms of citizens, as well as the social relationships related to a person's right to freely dispose of their life and health, their ability to work, and the right to fair remuneration for their labor [10].

Rustambayev's views are correct in that the direct object of administrative forced labor is the constitutional rights and freedoms of citizens, as well as the social relationships connected with a person's right to freely choose their labor activity and the right to fair remuneration for their labor.

The corpus delicti of the crime is formal, and the mere fact of using forced labor is sufficient to recognize the crime as completed, regardless of the duration of the exploitation. The crime is a continuing offense, typically characterized by the uninterrupted performance of forced labor.

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The objective side of Part 1 of Article 148² of the Criminal Code is committed through the administrative compulsion of labor in any form, after an administrative penalty has been imposed for a similar act, except in cases provided for by law.

For a proper qualification of the act under this article, we must first clarify the concept of "administrative forced labor".

Former ILO Director-General Juan Somavia, in his report Global Alliance Against Forced Labour, identified two common global problems: first, the absence of a clear statutory definition of "forced labor" in many national legal systems, which significantly complicates detection and prosecution; and second, the very low level of criminal enforcement against perpetrators of forced labor worldwide [11].

According to Article 2 of the ILO Forced Labour Convention, 1930 (No. 29), the term "forced or compulsory labour" means all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

In this case, the term "any work or service" applies to any type of activity, including all work, services, and types of employment belonging to the informal economy. The nature and legality of the employment relationship are not taken into account in the context of forced labor.

As we can see, the Uzbek translation of this Convention uses the term "zo'raki yoki majburiy mehnat" (forced or compulsory labor). The explanatory dictionary of the Uzbek language notes that the word "zo'raki" means "done against one's will, involuntary, compulsory; fake, artificial, while the word "majburiy" means "work that must be done, whether voluntarily or involuntarily" [12].

Based on these explanations, "zo'raki mehnat" (forced labor) can be interpreted as a person being made to perform some work or service against their will through external force or coercion. The term "majburiy mehnat" (compulsory labor) refers to labor that is required by law and must be performed regardless of a person's wishes [13].

During the drafting of ILO Convention No. 29, the tripartite participants agreed to adopt a broad definition of "forced labor" instead of setting a list of prohibited circumstances. The Convention does not contain any provisions that restrict its application to specific categories, and the document is designed to protect all segments of the population from forced labor. Therefore, the Convention applies to all potential forms of forced labor and all workers in both the state and private sectors [14]. The ILO Committee of Experts emphasizes that countries that have ratified Convention No. 29 should create a comprehensive legal and policy framework to end all forms of forced labor.

However, the unified approach in the current legislation of the Republic of Uzbekistan, namely the term "mehnatga ma'muriy tarzda majburlash" (administrative forced labor) in the Code of Administrative Liability and the Criminal Code, violates the requirements of the aforementioned convention and does not cover all aspects of forced labor.

According to S. Abbosov, administrative compulsion is a narrow concept that implies the application of coercive measures against a citizen only by subjects with state authority, i.e., state bodies or their officials [15].

M.Kh. Rustambayev also states that administrative compulsion is a method of state administration based on norms of administrative law, a set of intellectual, physical, or other means of influence used to involve people in labor [16].

Therefore, under our current criminal legislation, we cannot consider the issue of bringing to justice individuals for forced labor that occurred in a private organization (non-state sector) or in cases where the coercion resulted from the illegal actions of another private individual.

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Thus, the term in the Code of Administrative Liability and the Criminal Code is narrow, creating a risk that forms of forced labor in the private sector or between individuals will be left outside the scope of administrative and criminal liability. This, in turn, necessitates the elimination of gaps in law enforcement practice by ensuring terminological uniformity in legislation.

Based on the above, it is proposed to change the term “administrative forced labor” to “forced labor” by removing the word “administrative” from Article 51 of the Code of Administrative Liability and Article 148² of the Criminal Code.

According to Part 2 of Article 148², criminal liability arises when the acts specified in Part 1 of this article are committed against a minor.

According to Part 3 of Article 148², liability arises if forced labor is committed against a pedagogical employee of an educational organization, after an administrative penalty has been imposed for a similar act, except in cases provided for by law.

This norm was introduced to eliminate numerous cases of pedagogical employees being forced to participate in tasks not included in their job duties, such as landscaping and beautification (community work days, cleaning), agricultural work (cotton picking, etc.), construction or repair work, or mandatory participation in various events.

Therefore, demanding work from a pedagogical employee of an educational organization that is not specified in the Law “On Education”, the Law “On the Status of a Pedagogical Employee”, the Labor Code, internal labor regulations, or other legislative acts can be a basis for criminal liability.

The phrase “except in cases provided for by law” in the disposition of this article is included by the legislator as an exception to situations listed in Part 5 of Article 5 of the Labor Code that are not considered forced labor.

Specifically, forced labor does not include:

- Performing work of a military nature or work related to alternative service under the Law of the Republic of Uzbekistan “On Universal Military Duty and Military Service”.
- Work necessitated by the declaration of a state of emergency or martial law.
- Work performed as a form of punishment under a court decision that has entered into legal force, under the supervision of state bodies responsible for compliance with legislation.

Based on the above, we can draw the following conclusions:

First, the special object of the crime of administrative forced labor is the social relationships that ensure the interests of the individual; the specific object is the social relationships that arise during the implementation of the constitutional rights and freedoms of individuals and citizens; and the direct object is the social relationships related to the constitutional rights and freedoms of citizens, as well as a person's right to freely choose their labor activity and the right to fair remuneration for their labor.

Secondly, the current narrow interpretation of the term “administrative forced labor” in the criminal and administrative codes of the Republic of Uzbekistan does not comply with the requirements of the International Labour Organization (ILO) conventions. As a result, there is a risk that cases of forced labor in private organizations (non-state sector) or forced labor resulting from the illegal actions of private individuals will remain outside the scope of criminal liability.

Therefore, to eliminate this terminological gap, it is appropriate to remove the word “administrative” from Article 148² of the Criminal Code and change the norm to “forced labor”. Such a change would harmonize legislative terminology with international standards, expand the ability to combat all forms of forced labor, and increase the effectiveness of protecting citizens’ rights.

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Thirdly, the establishment of separate criminal liability for committing this crime against a minor and a pedagogical employee increases the social significance of the legislation and demonstrates its focus on protecting the most vulnerable segments of society.

References:

1. Employment, decent work for all and social protection // https://sdgs.un.org/ru/goals/goal8. (murojaat qilingan sana: 24.06.2021).
2. Employment, decent work for all and social protection // https://sdgs.un.org/ru/goals/goal8. (murojaat qilingan sana: 24.06.2021)
3. Евстифеева Е. В. Указ. соч. С. 165. (Evstifeeva, E. V. (n.d.). Op. cit., p. 165.)
4. Буряк М. Ю. Торговля людьми и борьба с ней (криминологические и уголов-но-правовые аспекты): Дисс... канд. юрид. наук. Владивосток, 2005. С. 171, 172. (Buryak, M. Yu. (2005). Human trafficking and the fight against it (criminological and criminal law aspects): Dissertation for the degree of Candidate of Legal Sciences (pp. 171–172). Vladivostok.)
5. Ахъядов Э. С. Рабский труд: основной объект преступления // Молодой ученый. 2016. № 7. С. 459-461. (Akh'yadov, E. S. (2016). Slave labor: The main object of the crime. Young Scientist, (7), 459–461.)
6. Комментарий к Уголовному кодексу Российской Федерации / Под общ. ред. В. М. Лебедева. М., 2007. С. 297 (автор - Г. Н. Борзенков); Громов С. В. Не-которые вопросы квалификации преступлений – торговля людми и использо вание рабского труда / / Росс. следователь. 2005. № 3. С. 26; Мизулина Е. Б. Указ. соч. С. 202; Клименко Т. М. Некоторые вопросы квалификации деяний, связанных с торговлей людьми / Предупреждение и пресечение торговли людьми: Сб. материалов междунар. семинара. М., 2005. С. 93. (Borzenkov, G. N. (2007). In V. M. Lebedev (Ed.), Commentary on the Criminal Code of the Russian Federation (p. 297). Moscow.; Gromov, S. V. (2005). Some issues of qualification of crimes: Human trafficking and the use of slave labor. Russian Investigator, (3), 26.; Mizulina, E. B. (n.d.). Op. cit. p. 202.;Klimenko, T. M. (2005). Some issues of the qualification of acts related to human trafficking. In Prevention and suppression of human trafficking: Collection of materials of the international seminar (p. 93). Moscow.)
7. Гаджиев С. Н. Теоретические и практические аспекты квалификации похищения человека: Дисс. ... канд. юрид. наук. Махачкала, 2005. С. 100; Комментарий к Уголовному кодексу Российской Федерации, Отв. ред. А. И. Рарог. 5-е изд., перераб. и доп. М., 2008. С. 289 и др. (автор -- Д. А. Семенов). (Gadzhiev, S. N. (2005). Theoretical and practical aspects of the qualification of kidnapping: Dissertation for the degree of Candidate of Legal Sciences (p. 100). Makhachkala.; Semenov, D. A. (2008). In A. I. Rarog (Ed.), Commentary on the Criminal Code of the Russian Federation (5th ed., rev. and suppl., p. 289 ff.). Moscow.)
8. Шарапов Р. Д. Физическое насилие в уголовном праве. СПб., 2001. С. 87. (Sharapov, R. D. Physical Violence in Criminal Law. St. Petersburg, 2001, p. 87.)
9. Хабаров А.В. Уголовное право Российской Федерации. Особенная часть. Ч. 1. - Тюмень, 2015. - С. 151. (Khabarov, A. V. (2015). Criminal law of the Russian Federation. Special part. Part 1 (p. 151). Tyumen.)
10. Завидов Б.Д. Уголовно-правовой анализ преступлений против конституционных прав и свобод человека и гражданина. – М., 2014. - С. 56. (Zavidov, B. D. (2014). Criminal law analysis of crimes against the constitutional rights and freedoms of man and citizen (p. 56). Moscow.)

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http://journals.academiczone.net/index.php/jiphr

11. Rustambayev M.X. O‘zbekiston Respublikasining Jinoyat kodeksiga sharhlar. Umumiy qism/M.Rustambayev. – Toshkent: “Yuridik adabiyotlar publish”, 2021. – 784 b. (Rustambayev, M. Kh. Commentary on the Criminal Code of the Republic of Uzbekistan. General Part / M. Rustambayev. – Tashkent: “Legal Literature Publish”, 2021. – 784 p.)
12. A global allianceagainst forced labour. Global Report under the Follow-up to the ILO Declarationon Fundamental Principles and Rights at Work. International Labour Conference. 93rd Session, 2005. International Labour Office, Geneva // https://www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/rep-i-b.pdf.
13. Ўзбек тилининг изоҳли луғати. А.Мадвалиев таҳрири остида (2006-2008). Ўзбекистон Республикаси Фанлар академияси Алишер Навоий номидаги тил ва адабиёт институти. “Ўзбекистон миллий энциклопедияси” давлат илмий нашриёти. Тошкент // https://ziyouz.uz/durdona-toplamlar/uzbek-tilining-izohli-lugati/ (Madvaliev, A. (Ed.). (2006–2008). Explanatory dictionary of the Uzbek language. Institute of Language and Literature named after Alisher Navoi, Academy of Sciences of the Republic of Uzbekistan. State Scientific Publishing House “Uzbekistan National Encyclopedia.” https://ziyouz.uz/durdona-toplamlar/uzbek-tilining-izohli-lugati/)
14. Расулов Ж. А. Мажбурий меҳнатни тугатиш бўйича халқаро ва минтақавий стандартларнинг шаклланиши // Юрист ахборотномаси – Вестник юриста – Lawyer herald. №5 (2020), // https://www. yuristjournal.uz/index.php/lawyer-herald/article/view/125 (Rasulov, J. A. (2020). The formation of international and regional standards on the elimination of forced labor. Jurist Bulletin – Vestnik Yurista – Lawyer Herald, (5). https://www.yuristjournal.uz/index.php/lawyer-herald/article/view/125)
15. Аббосов, Самандар. 2022. «Совершенствование правового регулирования запрещения принудительного труда в Республике Узбекистан». Ежегодник трудового права 12: 239–246. https://doi.org/10.21638/spbu32.2022.119 (Abbosov, S. (2022). Improving the legal regulation of the prohibition of forced labor in the Republic of Uzbekistan. Yearbook of Labor Law, 12, 239–246. https://doi.org/10.21638/spbu32.2022.119)
16. Rustambayev M.X. O‘zbekiston Respublikasining Jinoyat kodeksiga sharhlar. Umumiy qism/M.Rustambayev. – Toshkent: “Yuridik adabiyotlar publish”, 2021. – 784 b. (Rustambayev, M. Kh. Commentary on the Criminal Code of the Republic of Uzbekistan. General Part / M. Rustambayev. – Tashkent: “Legal Literature Publish”, 2021. – 784 p.)