ABSTRACT

of the doctoral dissertation on the topic: "Stalking(prosecution):problems of legal protection against encroachment on non-property relations in a person's personal space", submitted for the degree of Doctor of Philosophy (PhD) in the specialty 6D030100 – Jurisprudence, by Ordayeva Aigul Zhumaberdiyevna

General Description of the Research Work. Stalking (harassment): the dissertation examines issues of legal protection against infringements of non-property relations within an individual's personal space and proposes solutions to the identified problems based on analytical findings. Within the framework of the dissertation topic, mechanisms of prevention, legal regulation, and mitigation of the consequences of infringements upon non-property relations in an individual's personal space are studied.

Relevance of the Research Topic. The right to privacy is a fundamental human right protected by numerous national and international legal instruments. However, the development of digital technologies has increased the risk of unlawful collection and processing of personal data, as well as information constituting family confidentiality. As a result of such activities, the risk of intrusion into an individual's private life and personal data has significantly increased.

In modern conditions, combating violent crime is one of the most important tasks of any state. The implementation of this task is carried out through various mechanisms, including the application of criminal law provisions. It should be acknowledged that criminal legislation does not provide a clear algorithm for the criminal-law assessment of certain forms of psychological violence, and in some cases it entirely overlooks particular types and methods of such conduct. One of these under-recognized forms of psychological violence is stalking.

Only on 16 July 2025, following amendments and additions to the current Criminal Code of the Republic of Kazakhstan, actions related to unlawful stalking of a person (pursuit/harassment) began to be treated as an independent criminal offence. Prior to the criminalization of stalking, the concept itself was relatively new. In domestic criminal-law doctrine, issues related to defining the psychological and legal characteristics of stalking, as well as the consequences of psychological impact on a person – its criminal-law significance, its role and place within the structure of a criminal offence, its essence, and other related aspects – had not been sufficiently determined. These current difficulties in classifying psychological violence raise a number of challenging issues for human rights advocates and legal practitioners, since many key questions – such as determining the moment when a socially dangerous act is completed, establishing the duration of psychological violence, and legally qualifying such acts – often remain unanswered.

The development of modern technologies has led to the emergence of new forms of psychological influence that pose a threat to the individual. This, in turn, has contributed

to the widespread expansion of remote communication, the shift of social interaction into virtual space, and the increasing complexity of interpersonal relations. Such circumstances are largely explained by the fact that legal scholarship has paid insufficient attention to the issues of criminal-law protection against socially dangerous acts committed through psychological pressure, including inducement to suicide, sexual harassment, and other manifestations of psychological violence.

Therefore, examining how criminal legislation interprets stalking under contemporary conditions is highly relevant and important. Thus, the above facts and specific arguments confirm the overall relevance of the research topic.

The relevance of the research topic is further supported by the existing problems and facts related to the legal protection of personal non-property rights arising from violations of an individual's personal space by a stalker (pursuer).

First, there is a need to improve special national legislation aimed at combating stalking (harassment). At present, the country lacks a comprehensive legal mechanism for regulating this issue. Therefore, the adoption of special national legislation is necessary.

Second, there are acts of cyberbullying that are similar in nature to stalking (harassment). Accordingly, it is necessary to adopt legislation aimed at combating both stalking (harassment) and cyberbullying.

Third, in addition to issues concerning the legal protection of personal non-property rights arising from violations of an individual's personal space, it is necessary to conduct a comprehensive study of other grounds and mechanisms of protection. A comparative study would help clarify the prospects and effectiveness of such measures. Thus, the set of facts presented above further substantiates the relevance of the research topic.

Degree of Scientific Development of the Topic. In the Republic of Kazakhstan, issues related to stalking (harassment) as a legal phenomenon and the legal protection of personal non-property rights arising from violations of an individual's personal space have not yet been comprehensively studied at the scientific and theoretical level within the framework of specific legal regulation. Although this issue has attracted considerable attention and is of interest to legal professionals, it still lacks an in-depth academic analysis.

In general, within the territory of the former Soviet Union, specialized scholarly studies on stalking have been conducted mainly in the Baltic states. In other countries, it can be stated that such specialized research has largely been absent. It should also be noted that Kazakhstan lacks domestic researchers who have carried out fundamental specialized studies on these issues.

In European countries and the United States, stalking has been the subject of academic research in various fields since the 1940s.

Studies conducted by foreign scholars aimed at understanding the legal nature and characteristics of violations of an individual's personal space have been analyzed. Among the researchers who have made a significant contribution to the development of scholarly

knowledge in this field are Alejandra P.P., Aizpurúa G.E., Antonyan Yu.M., Guldan V.V., Gaukhman L.D., Sabanin S.N., Kozachenko I.Ya., Lebedev V.E. Special mention should also be made of Gorinov V.V. and other scholars.

The works of Grebenkin F.B., Levertova R.A., Kostrov G.K., Serdyuk L.V., Shtefan E.F., Ryzhova O.A., Kornishina Yu.S. formed the theoretical basis for research on psychological violence in legal science in the second half of the twentieth century. Certain aspects of this topic are also reflected in the studies of Gorinov V.V., Storublyonkova E.G., Samutkin V.L., Nesterova E.V., Nikitina E.M., Onishchenko O.R., Ratinova N.A., and other researchers. In these works, stalking (harassment) is typically analyzed in the context of the elements of a criminal offence, as a form of coercion, threat, and other related legal constructs.

Object of the Research. The object of the dissertation research is stalking, the prevention of threats arising from violations of an individual's personal space, and the legal regulation of social relations resulting from such conduct.

Subject of the Research. The subject matter of the dissertation includes scholarly works addressing the legal protection of personal non-property rights infringed through interference with an individual's personal space; legal norms applied in regulating matters related to stalking (including provisions of domestic legislation, international legal instruments, and the legislation of foreign states); as well as relevant statistical data.

Purpose and Objectives of the Dissertation Research.

Purpose of the Research. The purpose of the dissertation is to develop effective scientific conclusions and legal recommendations aimed at improving the understanding of the historical and legal determinants and causes of stalking, its practical manifestations, as well as national legislation, through a comprehensive study of legal protection issues arising from infringements upon non-property relations within an individual's personal space.

Research Objectives.

To achieve the stated purpose, the following objectives are set:

1. To identify the general and specific historical and legal aspects of the phenomenon of stalking (harassment).
2. To determine the psychological and legal foundations of stalking (harassment).
3. To examine the phenomenological perceptions of courts, attorneys, and victim-support specialists regarding the victim of stalking.
4. To analyze the criminal-law and criminological aspects of stalking.
5. To consider issues of improving legislation aimed at preventing interference with an individual's personal space associated with stalking (harassment).

Methodological Framework of the Dissertation Research. The methodological framework of the dissertation is based on the use of general scientific and special legal methods aimed at ensuring scientifically grounded knowledge in the field of protecting an individual's personal space. The study includes the development of a sectoral concept of

legal protection, identification and discussion of relevant issues, historical and legal differentiation of stalking, and a comparative legal analysis of stalking behavior. In addition, hermeneutical and analytical approaches are applied to the works of foreign researchers and to the text of national legislation.

Empirical Basis of the Dissertation Research. In the process of preparing the dissertation, empirical research was conducted using survey-based methods (questionnaire and responses) and control/monitoring techniques. Statistical data from law enforcement agencies and authorized state bodies of the Republic of Kazakhstan were effectively utilized. The empirical basis of the study also includes analysis and differentiation of national legislation norms and international treaties, as well as the examination of practical foundations and legal protection mechanisms related to stalking (harassment) as infringements affecting non-property relations within an individual's personal space.

Scientific Novelty of the Dissertation Research. This dissertation constitutes the first specialized scientific study conducted in Kazakhstan addressing the prevention of offences related to stalking (harassment). In addition, the scientific novelty of the research is determined by the provisions submitted for defense.

The Following Provisions Are Submitted for Defense

1. The main features of stalking (harassment) include:

The first key feature is the presence of intent (motive/pretext) to commit socially dangerous acts and offences that infringe upon an individual's personal space, including the right to freedom of movement.

The second key feature is the existence of contradictions and gaps within national legislation regarding the legal qualification and application of norms related to stalking (harassment).

The third key feature is the systematic repetition of socially dangerous acts, where the offender's guilt in stalking (harassment) has been established.

The fourth key feature is the punishability of socially dangerous acts for which the offender's guilt in stalking (harassment) has been proven.

2. A stalker. A stalker is an individual who has developed a stalker's mentality and consciousness, has formed deviant behavioral patterns, and intends to commit stalking-related actions, including for the purpose of satisfying sexual desires.

3. Causal structure of stalking (harassment). The first component of stalking (harassment) is referred to as a "general causal factor". This factor includes the following circumstances. In Kazakhstan, national legislation exists to protect an individual's personal space and contains provisions that provide general legal protection. However, there are no specific statutory provisions that explicitly define and regulate actions constituting stalking (harassment). Therefore, if this causal factor is eliminated – i.e., if relevant provisions are adopted – the problem may be reduced and prevented. This factor, in turn, creates legal grounds for developing and adopting such provisions, thereby

enabling prevention and suppression measures and supporting the establishment of effective mechanisms within an anti-stalking system.

The second component may be described as the "primary causal factors". These include circumstances of a psychopathological nature that serve as the driving force behind the emergence, formation, and further development of stalking-related behavior. In other words, psychopathological concepts and behavioral patterns constitute the principal causal condition of stalking (harassment). In particular, the stalker's deeply negative internal psychological state may be considered one of the key causes of malicious intentions, with goal-directed conduct based on personal impulses that may be pleasurable to the offender but harmful and distressing to others. In short, the offender's emotional state represents a decisive specific causal factor.

4. Definition of stalking (harassment). Stalking (harassment) constitutes a socially and psychologically harmful as well as a legal phenomenon, characterised by a set of punishable socially dangerous acts, the guilt for which is established through systematic repetition of unlawful behaviour contrary to national legislation, and which unlawfully restricts an individual's right to freedom of movement, having motives (pretexts) and specific methods of offending.

5. Interdisciplinary approach to legal protection. The results of the dissertation research clearly demonstrate that the protection of personal non-property rights arising from violations of an individual's personal space requires safeguards not only within civil-law mechanisms, but also through criminal, administrative, disciplinary, moral-psychological, and other approaches. Therefore, this scientific and practical problem must be addressed in a subject-specific, interdisciplinary, and comprehensive manner. For example, in developing a draft law, the first stage of research should involve philologists and hermeneutics specialists. The second stage should be continued by historians and legal scholars specializing in the history of state and law. The third stage should involve specialists in the philosophy of law using logical assessment, followed by experts in legal psychology applying psychological and legal analysis. The fourth stage should integrate systematic differentiation by all the above specialists and other relevant experts. The final stage should be completed by legal professionals who formulate final conclusions, provide a "legal diagnosis", and propose the adoption of final legal decisions.

Theoretical and Practical Significance of the Dissertation Research. The practical significance of the research is determined by the possibility of applying its findings to improve legislative norms and legal regulation aimed at protecting personal non-property rights that are infringed as a result of violations of an individual's personal space. In addition, the results of this dissertation may be used in developing an academic course programme entitled "Stalking (Harassment): Prevention of Violations of an Individual's Personal Space" for relevant higher education institutions, as well as specialized educational institutions of law enforcement agencies. The scientific

conclusions of the dissertation may serve as a model and foundation for further research in this field.

Approbation of the Dissertation Results. The research findings, scientific articles, and reports related to the dissertation topic have been published in international journals and scientific publications recommended by the Committee for Quality Assurance in Science and Higher Education of the Republic of Kazakhstan, and have been presented in 21 scientific publications at international scientific-theoretical and practical conferences. In addition, one article has been published in a foreign scientific journal indexed in the Scopus and Web of Science databases.

Structure and Scope of the Dissertation. The dissertation consists of an introduction, three chapters, a conclusion, and references. The total volume of the dissertation is 145 pages.