



DISTINGUISHING BETWEEN KIDNAPPING AND FORCED UNLAWFUL IMPRISONMENT

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Article history:	Abstract:
Received: 20 th November 2024 Accepted: 14 th December 2024	At the beginning of the article, the concept of human freedom is revealed, and what types of freedoms exist in jurisprudence. The article distinguishes between two related compounds that infringe on human freedoms: kidnapping and forced unlawful imprisonment. The definition of kidnapping is given. Signs of human abduction are revealed. The signs of forced unlawful imprisonment are revealed. The opinion of various authors on the distinction between kidnapping and forced unlawful imprisonment is given. The article provides a polemic.
Keywords: Human freedom, physical freedom of a person, tasks of criminal legislation, kidnapping, forced illegal imprisonment, objective side, social environment, capture, displacement, retention	

INTRODUCTION

Freedom is given to everyone from birth. This right is an inalienable right. The criminal policy of the Republic of Uzbekistan is aimed at ensuring human freedom. The Criminal Code of the Republic of Uzbekistan has the task of protecting individuals, their rights and freedoms, the interests of society and the state, property, the natural environment, peace, the security of mankind, as well as preventing crimes, educating citizens in the spirit of observing the Constitution and laws of the republic. Thus, one of the tasks is to protect the freedom of the individual. "Freedom in the legal aspect is multifaceted: freedom can be personal, social, political, economic, cultural, etc. Personal freedoms include freedom of movement, choice of occupation, the ability to act at your discretion and your will, the right and freedom to dispose of yourself (this includes, among other things, the right to work, namely the right, not the obligation). Political freedom is the freedom of active and passive suffrage (the right to elect and be elected is precisely the right, not the obligation), the ability to be a member of political parties and public associations and freedom in choosing such a party and association. Social freedoms include, first of all, the right to work (the right to work and freedom in choosing a profession), economic freedoms - freedom of entrepreneurial activity " [1]. To protect personal freedom of a person, which, first of all, provides for physical freedom, there is criminal liability in criminal law for acts that infringe on human freedom. These are: human trafficking, kidnapping, forced illegal imprisonment and others. This article will distinguish between two related compositions: kidnapping and violent illegal imprisonment.

METHODS

To sort out, to study any sphere of life, any subject, you need a methodology. Methodology is the study of scientific activity based on different methods. In the course of writing the article, such methods as historical, system-structural, comparative-legal, logical, method of complex research of scientific sources, induction and deduction, analysis of statistical data are applied. Comparison method – when distinguishing between two compounds: kidnapping and forced unlawful imprisonment, the comparison method was used. Methods of analysis and synthesis. These methods are used in all scientific papers when a phenomenon is separated and studied separately (analysis) and when the results are combined (synthesis).

RESULTS

Nowadays, the word "freedom" is found everywhere, especially in jurisprudence, ranging from constitutional law to narrower legal institutions. The concept of freedom is very complex and multifaceted. Freedom in jurisprudence is found in different concepts and interpretations.

"Freedom is an absolute value, an inalienable right of the individual, but it can also be significantly limited by the state. In turn, absolute freedom is the absence of violence against the will of one person by other persons and circumstances. Probably the only absolute freedom that cannot be limited is freedom of conscience and religion, freedom of thought (in the philosophical aspect, free reason) and beliefs. Even free speech can be restricted in some cases (such as calls for extremism). And for some acts, a person may be deprived of freedom of movement, location and place



of residence. At the same time, a person always has the opportunity and freedom of choice: choosing his profession, choosing among friends, choosing to do one way or another, including the choice between law-abiding and deviant behavior. Certain freedom of choice remains even in conditions of physical restriction of freedom (refuse to eat or eat, execute other people's commands under pain of punishment or not, etc.)" [2]. In the criminal legislation of the Republic of Uzbekistan, there are many articles with related compositions. One of these is kidnapping and forced illegal imprisonment.

The abduction of a person should be understood as the capture of a face, its movement and subsequent retention. Abduction can be committed for the purpose of committing another crime, for example, for murder, extortion, and so on. The purpose of kidnapping is irrelevant to the qualification of the act under article 137 of the Criminal Code. When a person is abducted, the perpetrator encroaches on freedom, and the object protected by criminal law is harmed.

Kidnapping differs from violent illegal imprisonment, first of all, by the objective side. Retention is included in the concept of "abduction." Once captured and moved, a crime such as kidnapping already involves holding the victim. Retention is forcible deprivation of liberty. It does not matter how long the victim is held. It can be several hours, days, months. The duration of imprisonment does not mean that the abduction of a person must be qualified in conjunction with another article involving violent imprisonment. There is no capture and movement in violent deprivation of liberty, there is only the retention of the victim at the place of his stay.

DISCUSSION

Consider the opinions of various authors on the difference between kidnapping and forced illegal imprisonment:

"Unlawful deprivation of liberty on its objective grounds is a crime narrower than kidnapping, which involves only keeping the victim in a certain place against his will. This means that the victim was voluntarily in this place. It turns out that illegal deprivation of liberty is, as it were, part of the act constituting the abduction of a person and, in other words, the retention of the victim, constituting the main content of illegal deprivation of liberty, and at the same time is an integral part of the abduction of a person " [3].

"Unlawful deprivation of liberty is the retention of a person, his forced isolation in a place where he ended up of his own free will, of his own free will. This refers to the actual manifestation of one's will and desire, and not related to his misunderstanding of the actual situation caused by the deliberate misleading of the

victim by the perpetrator. Such a situation, as mentioned earlier, is possible with the abduction of a person using deception" [4].

"Unlike kidnapping, unlawful deprivation of liberty does not capture the victim, does not remove him from his environment, does not abduct, but remains in the place where he was, but is limited in freedom of movement. The victim is illegally, against his will, forcibly held in the place where he himself voluntarily was before (for example, an apartment, a study, etc.)" [5].

"The objective side of the abduction of a person is formed by signs characterizing him from the outside. These include secret or open or through deception taking possession of a person, removing him from the usual microsocial environment against his will and moving him from his place of permanent or temporary stay, followed by his retention against his will in another place. As a rule, the abduction of a person is a combination of three sequentially performed actions - seizure (capture), movement and subsequent retention of the victim. At the same time, these elements, making up the factual side of the act in question, separately have their own special criminal legal significance.

The seizure (seizure) of a person should be understood as illegal intentional active actions of the culprit committed secretly, openly, with the help of deception or breach of trust, aimed at forcing the victim to move to the place of his subsequent detention. One of the most commonly used methods of capturing a victim is to lure the victim out of a place of permanent or temporary stay (usually from work or home) under various pretexts.

A secret method of kidnapping should be understood as such actions of a criminal when the removal of the victim from the place of his permanent or temporary stay occurs in the absence of unauthorized persons or in their presence, but when they are not aware of what is happening (for example, the perpetrator misleads others about the legality of his actions).

Open seizure of a person should be understood as the unlawful actions of the perpetrator, when he realizes the open nature of the abduction and understands that his actions are realized by unauthorized persons. This method indicates an increased public danger of the actions of the perpetrator, who ignores the will of the victim or unauthorized persons, often showing a willingness to use violence to achieve a criminal goal" [6].

CONCLUSION

With violent illegal deprivation of liberty, the fact of the removal of a person from the location is absent. The objective side of violent unlawful deprivation of liberty is characterized only by the retention of the victim.



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