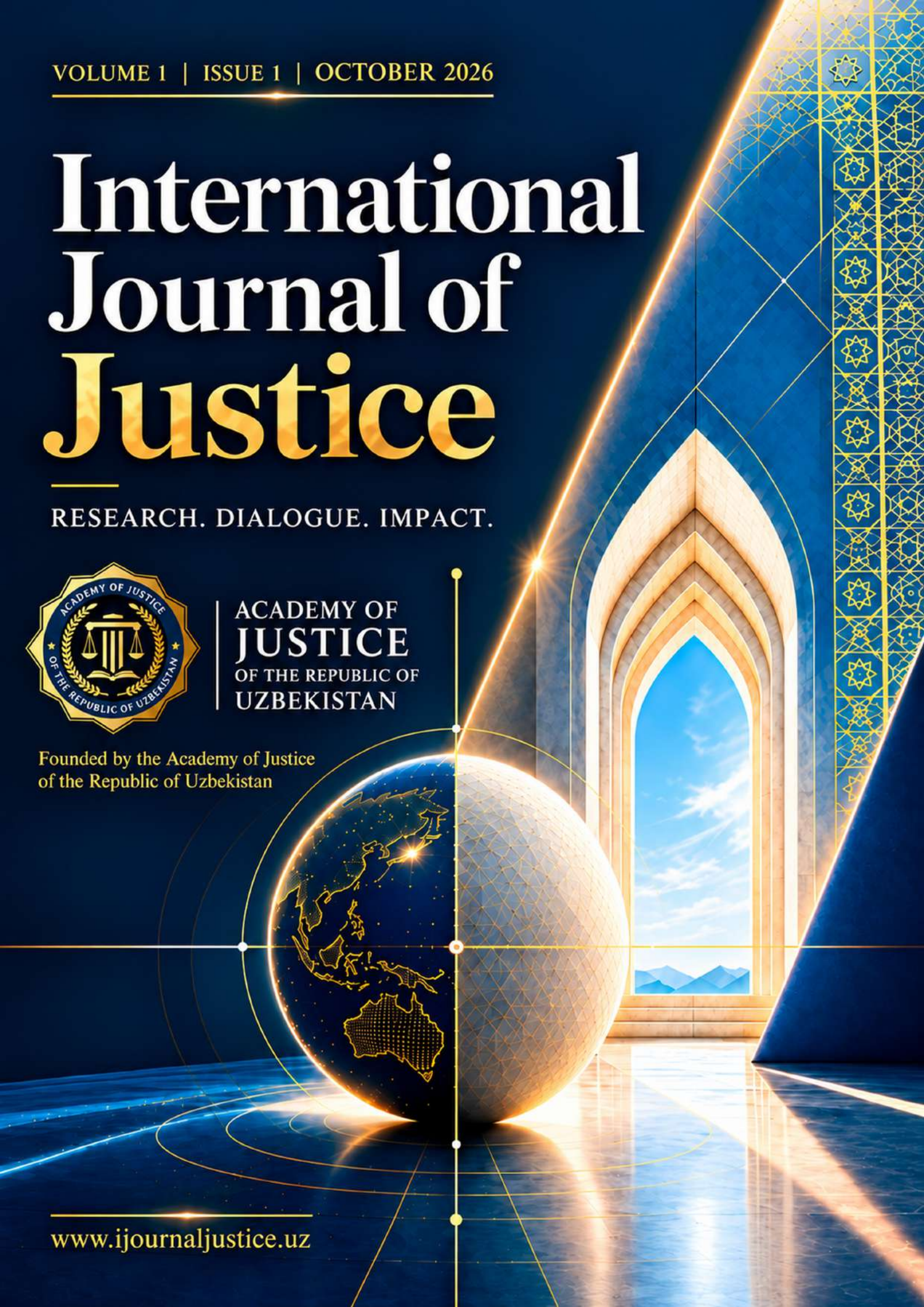
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DISTINGUISHING OFFENCES AGAINST SEXUAL FREEDOM FROM RELATED OFFENCES IN UZBEKISTAN

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Abstract. *The article examines the criteria for distinguishing offences against sexual freedom, coercion through dependence and related offences involving minors under Uzbek criminal law. It develops a sequence for assessing the means of obtaining sexual participation, the ages of the persons involved and the completion of the offence. Doctrinal analysis, systematic interpretation and comparison of scholarship are applied to legislation and Supreme Court guidance. Reported judicial examples are examined with attention to the limitations of secondary accounts. The analysis distinguishes dependence from its coercive exploitation and the provision of benefits from threats to a dependent person's protected interests. It clarifies the role of age thresholds and helplessness, including the offender's age and the law applicable to each episode. Supplementary judicial guidance is proposed to identify the facts requiring proof without expanding the statutory methods of commission. The findings provide criteria for criminal investigations, judicial classification and further legal research.*

Keywords: *criminal law; sexual freedom; legal classification; coercion; dependence; helplessness; age thresholds; material benefits*

Introduction

Distinguishing offences against sexual freedom requires assessment of the act, the means used to obtain participation and the victim's age. Under Uzbek criminal law, violence, threats of physical violence, exploitation of helplessness and coercion through dependence have different legal consequences. A sexual relationship, financial support or formal subordination alone does not identify the applicable offence.

S. S. Niyozova relates sexual freedom to the individual's ability to determine participation in sexual relations and examines the additional interests protected where children are involved [1, pp. 13-14]. M. Kh. Rustambaev distinguishes exploitation of dependence from violence and the provision of benefits, and examines voluntariness at the boundary of Articles 118-119 and Article 128 [2, pp. 195-198, 222-223]. These propositions require reassessment after the amendments of 2023, particularly regarding the victim's sex, the structure of Article 121 and the significance of knowledge of age.

International research cautions against treating consent as self-explanatory. Muehlenhard and colleagues review difficulties in defining consent and how students negotiate it [3, pp. 457-487]. Darden and colleagues distinguish desire, assertiveness and reported consent, showing that participation may coexist with low desire [4, pp. 220-235]. These findings identify questions for assessing evidence; they do not establish the elements of an offence under Uzbek law.

The article examines the boundaries between Articles 118, 119, 121, 128 and 128[1], with reference to Article 129 where the act requires that distinction. It aims to formulate a consistent sequence of classification and

identify matters requiring supplementary judicial guidance. Articles 118, 119 and 121 belong to Chapter IV on offences against sexual freedom; Articles 128, 128[1] and 129 appear in Chapter V on offences against the family, youth and morality. Their comparison does not imply identical immediate objects of protection.

Materials and Methods

The study applies doctrinal analysis, systematic interpretation and a focused comparison of legal scholarship. The normative basis is the Criminal Code of the Republic of Uzbekistan, approved by the Law of 22 September 1994 No. 2012-XII, and the Law of 11 April 2023 No. LRU-829 "On amendments and additions to certain legislative acts of the Republic of Uzbekistan in connection with further improvement of the system for reliable protection of the rights, freedoms and legitimate interests of women and children". Judicial interpretation is examined through Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan of 29 October 2010 No. 13 "On judicial practice in cases of rape and satisfaction of sexual needs in an unnatural form", including the amendments introduced by Resolutions No. 30 of 20 November 2023 and No. 39 of 16 December 2024. The legal texts were checked against the national legislation database on 10 September 2026.

The provisions were compared by the protected interest, objective elements, the offender's characteristics and completion. Articles 9, 13, 17, 25 and 33 were examined for culpability, temporal application, the age of responsibility, attempt and multiple offences. "Satisfaction of sexual needs in an unnatural form" translates the statutory expression.

Literature was selected for its treatment of dependence, coercion, consent or age. Cases reported in dissertations were examined as secondary accounts, preserving their factual and chronological limitations. They are not an independently collected or representative sample. International studies provide conceptual comparisons; their prevalence estimates and legal classifications are not transferred to Uzbekistan. The results are interpretative propositions and proposals for judicial guidance.

Results

Physical violence and exploitation of dependence

Articles 118 and 119 distinguish the form of the act while sharing alternative means of commission: violence, threats or exploitation of the victim's helpless state. Paragraphs 2-5 of Resolution No. 13 explain that the relevant threat conveys a real intention to use physical violence to overcome resistance. Violence or threats must serve as a means of obtaining the act and may be directed at the victim or at the other persons specified in paragraph 5. A threat made afterwards to prevent disclosure requires a separate assessment and cannot retrospectively supply a missing means of commission.

Article 121 concerns a different mechanism. The offender uses an existing employment-related, financial or other dependence to compel intercourse or satisfaction of sexual needs in an unnatural form. Its current wording protects a person of either sex. Paragraph 7[1] of Resolution No. 13 already distinguishes this coercion from the psychological violence involved in Articles 118 and 119: the threatened harm concerns property or other personal rights and is connected with the offender's power arising from the relationship of dependence. Consequently, a proposal merely to introduce

this basic distinction would duplicate existing guidance. The remaining question is how that power and its coercive use should be established in a particular case.

Dependence is relevant only when it provides the means of coercion. Rustambaev identifies employment subordination, reliance on maintenance or housing, and situations in which a significant decision rests with another person [2, pp. 196-198]. Dyachenko's account of the historical case against K. likewise distinguishes the existence of dependence from its use to obtain sexual relations [5, pp. 156-157]. That case illustrates a doctrinal distinction; it does not constitute authority for applying the present Uzbek Code. Friendship, kinship, cohabitation or emotional attachment cannot automatically establish the dependence required by Article 121. Conversely, the absence of a formal employment relationship does not exclude a factually established dependence.

The evidence must identify the interest controlled by the accused, the adverse consequence communicated to the victim, and the link between that consequence and the demand for sexual participation. Threatened dismissal, deprivation of essential support, loss of housing or obstruction of education may be relevant where the accused actually has the corresponding power. A demand need not take a particular verbal form: its conditional and coercive meaning may be established from messages, conduct and the surrounding circumstances. The victim's account must be assessed together with the available evidence, without treating either formal subordination or a feeling of obligation as conclusive by itself.

Poddubnaya distinguishes threats of physical violence from pressure directed at other interests under Russian law [6, pp. 172-173]. This comparison helps differentiate the interests threatened. Blackmail or threats to property must nevertheless be assessed under Uzbek statutory elements, including proof of the dependence required by Article 121.

An employer, teacher or cohabiting partner may use different means on different occasions. Physical violence or its threatened use to obtain the act engages the inquiry under Article 118 or 119 even where dependence exists. Pressure through control of employment, maintenance or another significant interest concerns Article 121. The content and function of the pressure determine the boundary.

The completion of the offence must be considered separately. On the construction of Article 121(1), the offence is completed when coercive conduct using dependence is carried out; obtaining the demanded sexual act is unnecessary. Part 2 concerns grave consequences, whereas part 3 concerns coercion accompanied by the specified sexual act. The circumstances in part 4 qualify the conduct described in part 3, including its commission against a person under eighteen. Earlier commentary assigning attainment of the offender's purpose to part 2 must therefore be read in its historical context. For Articles 118 and 119, paragraph 8 of Resolution No. 13 identifies completion with the commencement of the relevant act; an uncompleted assault requires assessment under the rules on attempt, including Article 25 of the Code.

Age and the legal significance of consent

Age performs different functions in the provisions under examination. Article 128 criminalises the specified sexual acts with a person under sixteen. Paragraph 7 of Resolution No. 13 confines its application to

acts committed without violence or threats, with the agreement of a victim who understood their nature and significance. The same paragraph expressly treats children under fourteen as helpless and directs classification under Article 118(4) or Article 119(4). Read together, these explanations place consensual conduct within Article 128 in the fourteen-to-under-sixteen age group. An appearance of agreement does not make such conduct lawful; it distinguishes the applicable offence.

The distinction also explains why the older doctrine requires qualification. Rustambaev's 2018 account discusses individual assessment of a child's ability to understand the act [2, pp. 222-223]. Stepanova argues that a young child's agreement cannot be treated as legally effective where the child lacks that understanding [7, p. 189]. The latter is a comparative doctrinal position, not a source of an age threshold for Uzbekistan. Under the current Plenum guidance, the under-fourteen category is expressly identified. N. G. Jumaniyozov discusses the resulting boundary with Article 128 and proposes adjusting its wording to refer to persons aged fourteen to under sixteen [8, pp. 67-68]. That proposal illustrates the difference between the broad statutory wording and its interpretation; it should not be presented as an amendment already enacted.

Paragraph 6 of Resolution No. 13 contains an express exception for victims under fourteen to its requirement that the offender be aware of helplessness. The current age-related wording of Articles 118 and 119 also omits the former qualification that the age be known to the offender. An analysis of current law must therefore distinguish the Plenum's express rule from earlier formulations in the literature. The general requirement of culpability under Article 9 remains relevant to the establishment of the offence; its relationship with the special age-related wording requires careful interpretation and should not be concealed by reproducing the superseded knowledge requirement.

For victims aged fourteen to under sixteen, the absence of physical resistance is insufficient to settle the classification. The inquiry concerns the means used and the victim's actual ability to understand the act or protect themselves. Evidence of coercion through dependence must also be considered: an apparent agreement obtained by such coercion should not be treated as voluntary merely because no physical violence occurred. Psychological or psychiatric expertise may clarify matters requiring specialist knowledge, while the legal classification remains for the competent authority. Findings about capacity must concern the victim and the relevant episode, rather than a general assumption about all persons of the same age.

The age of the offender is an additional, distinct condition. Article 17 establishes responsibility from fourteen for Articles 118 and 119; the general threshold of sixteen applies to Articles 121 and 128. Article 128^1 is among the provisions for which the offender must have reached eighteen. The victim's age of sixteen to under eighteen is thus insufficient by itself to establish Article 128^1. Nor does reaching sixteen render every sexual interaction lawful: it removes the age element of Article 128, while other applicable prohibitions and circumstances retain their significance.

Both the date of birth and the date of each alleged act must therefore be established. A description such as “minor” or “under

sixteen" may conceal a distinction decisive for the applicable provision. Where conduct extends across an age threshold, each episode requires assessment in its temporal setting. Article 13 also requires attention to the version of the criminal law applicable when the act occurred. The year in which a case was heard cannot substitute for the date of the conduct, and a later increase in criminal liability cannot be applied retrospectively merely because the trial took place after the amendment.

Benefits and coercion through dependence

The provision of money, property or another benefit does not establish the same mechanism as a threat to withdraw essential support. Article 128(2) covers the specified acts with a person under sixteen through the provision of material valuables or property-related or other benefits. Article 128[1] addresses such conduct with a person aged sixteen to under eighteen, subject to the offender's age requirement. Within the distinction examined here, the benefit operates as the means of obtaining participation. Under Article 121, the legally significant mechanism is coercive use of dependence.

The difference cannot be reduced to whether money changed hands. Providing a gift to obtain participation by a person aged fourteen to under sixteen, without violence, helplessness or coercive use of dependence, engages Article 128, including its applicable qualifying circumstances. Threatening to withhold maintenance, accommodation or another interest on which the victim depends may engage Article 121. Where the conduct described in Article 121(3) is committed against a minor and no grounds for Articles 118 or 119 intervene, paragraph (a) of part 4 must be considered. The under-fourteen rule must be assessed before this branch of the analysis; a general reference to minority cannot override it.

Rustambaev's distinction between worsening a dependent person's position and offering advantages remains useful [2, p. 197]. Nevertheless, neither the label "gift" nor the label "assistance" determines the outcome. The inquiry must establish whether an offer represented an additional benefit or whether the accused used control over an existing essential interest to make refusal materially detrimental. The mere existence of dependence does not exclude Articles 128 or 128[1] if it was not exploited coercively. A rule requiring the complete absence of a dependent relationship would therefore be too broad. Qualifying circumstances concerning family relationships, care or education must be assessed separately under the relevant provision.

Deception also requires attention to the actual means and form of conduct. Paragraph 8 of Resolution No. 13 excludes Articles 118 and 119 where persuasion by deception or similar means occurred without violence, threats or exploitation of helplessness. It does not declare every such act lawful. Depending on age and the act committed, Article 128 or Article 129 may remain relevant. Article 129(2)(a) specifically addresses indecent acts involving deception or abuse of trust. These offences cannot be distinguished solely by the presence of deception: the act described in the disposition must also be identified.

Discussion

The proposed sequence of assessment explains the importance of separating episodes within a continuing relationship. Samoylenko reports case No. 1-183/10 from the Adler District Court, in which a woman described longstanding financial dependence and earlier

psychological pressure, followed by an episode of physical violence and a threat to kill [9, pp. 55-56]. The account supports examination of changing methods within one relationship. Applied comparatively to Uzbek law, the earlier episodes would require proof of coercive exploitation of dependence, while the later episode would require assessment under Article 118 or 119 according to the act committed. The dissertation's description does not replace the evidence needed to establish each constituent element.

Jumaniyozov describes a Kokand case involving conduct in 2022 and a girl born in 2007, while referring to Article 118(4) [8, p. 68]. Those years place her at fourteen or fifteen during 2022 and cannot substantiate the under-fourteen classification. Without the judgment and precise dates, it is impossible to determine whether the discrepancy concerns the reported facts or the legal reference. The secondary account requires verification before any conclusion about judicial error.

Garrido-Macías and colleagues found that tactics of sexual pressure and partner dependence affected participants' attribution of responsibility and assessment of leaving a relationship [10, pp. 53-60]. Depireux and Glowacz examine associations between dimensions of consent and sexual coercion in intimate relationships [11, pp. 2689-2710]. These studies help explain perceptions of conduct; emotional dependence and survey categories must still be distinguished from the elements of Article 121.

Rollero, Moyano and Roccato found associations between attitudes toward establishing consent and attitudes supportive of rape [12, p. 1352]. For legal analysis, the relevant implication is that assumptions about how a partner or a financially supported person ought to behave should not replace examination of the evidence. Darden and colleagues' distinction between desire and reported consent also cautions against treating those concepts as interchangeable [4, pp. 220-235]. A person may participate without desire, while an outward expression of agreement may arise from coercion. Classification requires the particular facts to be tested against the statutory elements, including age and capacity.

The treatment of overlapping conduct needs the same precision. Separately completed episodes involving distinct acts and criminal intentions may raise the issue of multiple offences under Article 33. It does not follow that every interaction containing both dependence and physical violence automatically warrants cumulative classification. Equally, an abstract prohibition on “double assessment” is insufficient to conclude that Article 121 is invariably absorbed. The temporal relationship, independence of the coercive act, subsequent intent and the elements of each offence must be examined. Paragraph 10 of Resolution No. 13 provides guidance on continuing and repeated conduct, but it does not by itself resolve every combination involving Article 121.

The sequence developed here separates the act, the means of obtaining participation, age, the offender's characteristics and completion. It requires an explanation of which constituent element is established by dependence, a benefit or apparent agreement. Supplementary guidance should clarify that connection within the boundaries fixed by the Code.

Conclusion

The boundary between Articles 118-119 and Article 121 turns on the means used in each

episode. For Article 121, both dependence and its coercive use require proof. Completion of the coercive act and commencement of the demanded sexual act must be assessed separately under the current parts of that article.

The ages of the victim and offender must both be established. Apparent agreement cannot override the under-fourteen rule in Resolution No. 13. For persons aged fourteen to under sixteen, capacity and the means used remain decisive. Article 128¹ additionally requires an offender aged eighteen or older. Each episode must be assessed under the temporally applicable law.

It is proposed to supplement paragraph 7¹ of Resolution No. 13 with the following guidance: "In establishing coercion through dependence, courts should identify the property-related or other personal interest controlled by the accused, the adverse consequence connected with refusal, and the use of that consequence to compel sexual participation. Dependence alone, without its coercive use, does not establish Article 121. Where physical violence or a threat of physical violence is used as the means of obtaining the act, Articles 118 or 119 and the rules on completion or attempt shall be assessed irrespective of the existence of dependence."

A further clarification should address benefits: "In distinguishing coercion through dependence from the provision of material valuables or property-related or other benefits, courts should establish whether the accused offered a benefit to obtain participation or exploited dependence by making refusal detrimental to the victim's protected interests. The existence of dependence without its coercive use does not, by itself, exclude Articles 128 or 128¹. The relevant age thresholds, qualifying circumstances and the rule concerning victims under fourteen shall be assessed in every case." These additions would develop the existing guidance by identifying the facts requiring proof, rather than creating new methods of commission beyond the statutory dispositions.

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