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CRIMES

AGAINST THE SEXUAL INTEGRITY OF MINORS IN KYRGYZSTAN
AND KAZAKHSTAN

DELITOS CONTRA LA INTEGRIDAD SEXUAL DE MENORES EN KIRGUISA Y KAZAJSTÁN

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ABSTRACT

This article is dedicated to the study of crimes against the sexual integrity of minors, using the examples of Kyrgyzstan and Kazakhstan. Legal mechanisms and statistical data are presented, along with theoretical-methodological approaches and recommendations for preventing the sexual abuse of minors.

Keywords: Law, justice, punishment, minors, court, criminal responsibility, legality, code, legislation, prevention of legal violations.

RESUMEN

Este artículo está dedicado al estudio de los delitos contra la integridad sexual de menores, utilizando los ejemplos de Kirguistán y Kazajstán. Se presentan mecanismos legales y datos estadísticos, junto con enfoques teórico-metodológicos y recomendaciones para la prevención del abuso sexual de menores.

Palabras clave: Derecho, justicia, pena, menores, tribunal, responsabilidad penal, legalidad, código, legislación, prevención de violaciones legales.

INTRODUCTION

Socially dangerous encroachment on sexual integrity and sexual freedom of a person is one of the types of crimes against human rights. Such a phenomenon harms the moral relationship between a man and a woman and involves sexual acts, especially against minors. That's why they're called sex crimes.

Sexual inviolability is one of the main components of human rights and freedoms guaranteed by the Constitution of the Kyrgyz Republic. Article 23 of the Constitution of the Kyrgyz Republic proclaims: "Human rights and freedoms are inalienable and belong to everyone from birth. They are recognized as absolute, inalienable and protected by law and the court from encroachments by anyone. Human rights and freedoms are among the highest values of the Kyrgyz Republic. They act directly, determine the meaning and content of the activities of all state bodies, local governments and their officials". (Supreme Council of the Kyrgyz Republic, 2021a)

In the Republic of Kazakhstan, these provisions are reflected in Article 12, which states that "human rights and freedoms belong to everyone from birth, are recognized as absolute and inalienable, determine the content and application of laws and other normative legal acts" (Parliament of the Republic of Kazakhstan, 1995).

Sexual integrity is a component of sexual freedom, which means a violation of sexual freedom.

At the same time, the sharp decline in the standard of living of the majority of the population is particularly alarming. The deterioration of the socio-economic situation of most families, the reduction in funding for educational, cultural and educational institutions, social services, insufficient state support for public youth and children's associations, increased migration of the population in recent years, primarily from socially and economically unstable countries to more prosperous states, have a particularly adverse effect on the social well-being of minors and all they often lead them to disorientation and adaptation (Bahteeva et al., 2021; Leal-Palazón et al., 2022; Cho & Agbor, 2022).

MATERIALS AND METHODS

In this article, we consider the methodology and existing tactics of investigative and criminological measures in the investigation of crimes of sexual integrity of minors.

The danger of this act is to cause harm to public relations, which is protected by criminal law. It is the public danger of rape of minors that encroaches on personal integrity and affects the physical and mental health of young

people. Illegality, as a socially dangerous act, is protected by criminal law.

In the theory of criminal law, the "corpus delicti" is used in three different senses:

- a) As a legislative model;
- b) As a combination of legal facts;
- c) As a category of the science of criminal law.

Thus, the most serious crimes, both by minors and against children, are associated with violations of public morality, and are severely punishable by criminal law. Juvenile crimes violate the established way of social relations and sexual integrity.

The study of the criminological features of a juvenile offender, the degree of danger and assessment of the personality of a teenager, the characteristics of the personality, will allow you to know the behavior and causes of criminal behavior of a teenager.

Speaking about the personality of a teenager, we note that social factors play a huge role in the commission of serious crimes committed by minors: lack of funds, problems at home and in the family, peculiarities of the mental character of a teenager, increasing imbalance of minors, aggressiveness in behavior, isolation, conflict, deviant behavior, etc., play a special role in the commission of a crime.

Consideration of these circumstances is very important in the prevention of juvenile delinquency.

This characteristic is used and developed to improve the quality and effectiveness of the investigation, disclosure and prevention of serious crimes committed by minors. Serious crimes committed by minors are persons who, at the time of the commission of the crime, had turned fourteen but had not turned eighteen years old.

The criminalistic characterization of serious crimes committed by minors includes elements such as the place of the murder, time, methods of committing crime, concealment, motives for the crime, etc.

Based on the conducted research, it was found that: the most dangerous manifestation is criminal violence - murder. Murders committed as part of a group of persons, for hire, contract killings, with direct intent, with the use of firearms, etc. Let's

Highlight the conditions and causes of murders committed by minors:

- Conditions and causes of a general nature, in the field of politics, economics, morality, and social relations;

- Specific conditions and causes. This includes shortcomings in educational work in the family, labor collectives, educational institutions, in the leisure facilities of minors and in the preventive work of the relevant authorities;

- personal shortcomings and qualities of minors themselves; these are the level of education, mental abnormalities, life experience, cruelty, aggressiveness, violence, anger, rudeness, addiction to drugs and alcoholic beverages, etc.

DEVELOPMENT

Chapter 17 of the Criminal Code of the Kyrgyz Republic (CC KR), as mentioned earlier, includes two components: rape (Article 154), violent acts of a sexual nature (article 155). Article 154 "Rape" Part 3. Paragraph 2 reads; "committed against a child aged fourteen to eighteen years" and Article 155 "Violent acts of a sexual nature" Part 3. Paragraph 2 reads; "against a child aged fourteen to eighteen years ... shall be punishable by imprisonment for a term of eleven until the age of fifteen."

Article 155 of the "Violent acts of a sexual nature" also implies sodomy, lesbianism, in particular, it reads "sodomy, lesbianism or other sexual acts in a perverted form committed with the use of violence that is not dangerous to life and health, or with the threat of its use to the victim (victim) or to other persons, or using the helpless state of the victim (victim)". (Supreme Council of the Kyrgyz Republic, 2021b)

"Coercion to acts of a sexual nature means inducing the victim (victim) to have sexual intercourse, sodomy, lesbianism or commit other acts of a sexual nature by blackmail, threats of destruction, damage or seizure of property or using material or other dependence of the victim or the victim. (Borzenkov et al., 2009, p. 237).

Attacks on the sexual integrity of minors and punishments for other crimes committed in the Criminal Code of the Kyrgyz Republic are concentrated within the framework of article 28 of the age at which criminal liability begins: "A person who turned sixteen years old before committing a crime is subject to criminal liability". In terms of scope, this article 28 includes: A child who turned fourteen years old before committing a crime is subject to criminal liability in accordance with this Code for murder (Article 122), causing serious harm to health (Article 130), causing less serious harm to health (Article 131), rape (Article 154), violent acts of a sexual nature (article 155), kidnapping (article 165), human trafficking (article 166), theft (article 205), robbery (article 206), robbery (article 207), extortion (article 208), theft of a motor vehicle (Article 211), destruction or damage to other people's property (parts 2, 3

of Article 216), an act of terrorism (parts 2 and 3 of Article 252), hostage-taking (Article 257), theft or extortion of firearms (Article 271), hooliganism (part 2 of Article 280), illegal manufacture narcotic drugs, psychotropic substances and their analogues for the purpose of sale (Article 282), theft or extortion of narcotic drugs or psychotropic substances (Article 286), disrepair of vehicles or communication routes (Article 314), also Chapter 17 includes articles 96-113 (Supreme Council of the Kyrgyz Republic, 2021b).

Victims of sexual crimes are both capable and incapacitated persons (insane, minors). A mentally ill person who did not realize the nature of the action is considered under article 25. "Insanity", where part 1 of this Article reads:

A person who, at the time of committing an act provided for by this Code, was in a state of insanity, that is, could not realize the actual nature and harm of his action (inaction) or direct it due to chronic mental illness, temporary mental disorder, dementia or another painful state of mind. (Supreme Council of the Kyrgyz Republic, 2021b).

Criminal law strictly punishes sexual crimes against minors.

A minor victim is an individual who, at the time of the harm or threat caused by the crime, was under 18 years old, article 96 recognizes that "children are recognized as persons who were under eighteen years old at the time of the commission of the crime", as Nagaev (1998), writes in more detail. The increased public danger of sexual crimes against minors can be explained by the fact that they grossly violate the sexual integrity of the latter, have a corrupting effect on them, and pose a danger to the premature involvement of adolescents in sexual life. This contradicts both the laws of nature and the existing institutions in society, threatens the proper physical, mental and moral development and upbringing of minors.

In the scientific literature, various definitions of the concept of "sexual crimes" are given, for example, Revin (2010), defines sexual crimes as "intentional actions that encroach on the sexual integrity, moral and physical development of minors and minors, as well as on the sexual freedom of adults, protected by criminal law". (p. 331)

In this regard, the scientific literature defines a number of points of view on the classification of sexual crimes, so Lublinsky (1925) identifies the following groups of sexual relations: "1) crimes related to the violation of established forms of marriage, 2) crimes against the sexual integrity of individuals, 3) crimes that violate the healthy sexual development of childhood and youth, 4) crimes related to sexual perversion, 5) persecution of prostitution, 6) criminal

assistance to someone else's debauchery, 7) restriction of sexual relations dictated by eugenic motives". (p. 27)

A peculiar classification was proposed by N. D. Durmanov and M. I. Kovalev, who distinguished: "1) crimes encroaching on the health and honor of a woman, 2) crimes encroaching on the normal development of minors, 3) sodomy. T.V. Kondrashova, I.Ya. Kozachenko propose to classify sexual crimes into violent and nonviolent. In any case, we must subdivide this type of crime into the sexual integrity of an adult and the sexual integrity of minors.

CONCLUSIONS

Thus, the result of solving the problems of preventing serious crimes by minors is the prevention of crime:

- Early prevention, in pedagogical education and the involvement of parents in this process;
- Placement of difficult children in boarding schools and re-education groups;
- Referral of children for medical, psychological examination and, if necessary, treatment, etc.;
- Identification of dysfunctional children in families, long before the commission of crimes;
- providing assistance to children in difficult financial conditions, etc.

When preventing sexual crimes against minors, special attention should be paid to the moral and psychological state of society and various segments of the population, especially minors and young people, who are persons potentially capable of committing the crimes in question. That is why the preventive work of sexual crimes against minors should have educational and educational functions aimed at blocking and neutralizing sexual crimes, as well as conditions conducive to them, and the main task is to form a moral position in society and focus on basic universal values. This type of work can be carried out directly in the form of educational programs in school and preschool institutions.

Success in the fight against crimes against the sexual integrity of minors will be achieved only if a whole range of measures is applied, which is possible with the joint interaction of all institutions of society.

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