

A.A. Koichubekova^{1*} , B.M. Smatlaev¹ , A.R. Yensebayeva¹ ¹ L.N. Gumilov Eurasian National University, Astana, 010000, Kazakhstan*e-mail: aarhatova@bk.ru**INDECENT ASSAULT AGAINST MINORS: LEGAL DEFINITION, TYPES, AND QUALIFICATION ISSUES****Abstract**

During the last ten years, the number of crimes against the sexual integrity of juveniles in the Republic of Kazakhstan has increased dramatically. However, very little research has been conducted to analyse the distinctive signs of nonviolent sexual crimes. The purpose of this study is to study the concept of «lewd acts» in the current legislation and to give an author's definition. It is planned to use qualitative methods of research, in particular, to analyse the experience and practice of applying these types of criminal offences in the Republic of Kazakhstan and foreign countries, as well as assessing the research of colleagues from neighbouring countries on the issues of criminal offences that infringe on the sexual integrity of minors and juveniles. As a result, the article offers the author's definition of «indecent assault», the main signs of physical and mental abuse, an analysis of the types of indecent assault (intellectual and physical, contact and non-contact), all sexual acts included in the objective side of the corpus delicti provided for in Article 124 of the Criminal Code of the Republic of Kazakhstan, an analysis of the aim side of violent sexual acts, also infringing on the sexual integrity of juveniles, as well as recommendations for improving legislation in the Republic of Kazakhstan.

Keywords: sexual inviolability, qualification of crimes, physical and mental abuse, vulnerability, juveniles, minors.

Introduction

Every year, over 50,000 children and adolescents in the Republic of Kazakhstan are documented as victims of crimes. This alarming figure exists amidst a backdrop of high latency in detecting such offenses [1]. The spectrum of crimes against minors continues to widen, encompassing acts such as child trafficking, their sexual exploitation, and involvement in the porn industry. Ultimately, there has been a noticeable rise in offenses targeting the sexual integrity and freedom of minors and juveniles.

The criminal law of the Republic of Kazakhstan provides for liability in cases of both non-consensual and consensual sexual acts, as well as coercion to engage in such acts, while distinctly addressing indecent assault through Articles 121, 122, 123, and 124 of the Criminal Code [2]. According to Borchashvili I.Sh., indecent assault encompasses a range of actions aimed at violating the moral and psychological well-being of minors. Among such actions, one may note discussions of an improper nature concerning sexuality, the demonstration of materials containing pornography or explicit content to minors, as well as physical interactions occurring without consent and affecting intimate zones of both boys and girls. Additionally, such behavior may involve exposing oneself to minors, encouraging them to participate in or observe sexually explicit activities, or even engaging in sexual acts in the presence of children. These actions exploit the inherent vulnerability of minors, inflicting substantial emotional and psychological harm while jeopardizing their development and sense of security. Manifestations of deviant conduct can be classified into two principal categories: physical and intellectual. The physical dimension includes acts with an explicit sexual connotation, such as inappropriate physical contact, for instance, touching intimate body parts (e.g., stimulation of the genital region) or encouraging self-stimulating behaviors. In contrast, the intellectual form is characterized by indecent conversations that center around sexual themes, exposure to pornographic materials, and other morally corrupting behavior [3].

However, the lack of a legislative definition of the relevant categories makes it difficult to distinguish between these acts, resulting in problems in imposing a fair and justified punishment. Moreover, the science of national criminal law does not have studies on various forms of sexual violence, such as sodomy, lesbianism, indecent assault, and other sexual acts.

The primary aim of this research is to establish a comprehensive and precise definition of indecent assault, identifying the specific actions that should be classified under this category.

Specific Objectives:

- to characterise the object, objective, and subjective signs of the analysed actions;

- to investigate the qualified types of these corpus delicts;
- to assess the foreign experience of criminalization of indecent assault and other acts of a sexual nature;
- to develop the main directions for improving the domestic criminal legislation on liability for the analysed actions.

This study aims to expand and refine existing scientific concepts regarding the objective and subjective elements, as well as the legal qualification, of indecent assault. It seeks to analyze current theoretical frameworks, identify gaps in legal definitions and practices, and propose a more nuanced approach to interpreting and applying the law in cases involving indecent acts. Furthermore, the research explores the challenges encountered in the qualification of these criminal offenses within law enforcement. The presence of numerous conflicting perspectives on identifying the defining elements of such crimes complicates their consistent interpretation and understanding. By conducting a thorough examination of the current legal framework and considering both domestic and international trends in criminal policy, this study aims to resolve these ambiguities.

The research outcomes will aid in refining the criteria for identifying the key components of such offenses, ultimately forming a foundation for enhancing legal frameworks governing societal relations in this sphere, with a particular emphasis on criminal legislation. Furthermore, this study will integrate perspectives from academic discourse to develop actionable recommendations aimed at strengthening legal provisions concerning liability for indecent acts. These proposals aim to align legal standards with contemporary challenges, thereby ensuring greater consistency and effectiveness in addressing these offenses.

Materials and methods of research

The methodological basis of the study is grounded in the application of a systematic approach to knowledge, encompassing dialectical, historical, statistical, and formal-logical methods. The information base of the study is formed from the results of analyzing and generalizing practical materials, including case files and court decisions.

The research relies on statistical data, including reports on the performance of first-instance courts in addressing criminal cases concerning the sexual integrity of minors (Table 1).

Table 1 - Advantages and disadvantages of statistical data

Advantages	Disadvantages
1. The precise number of cases reviewed that resulted in sentencing is analyzed. 2. Trends indicating either positive or negative dynamics are examined.	The significant underreporting of this category of criminal offenses leads to statistical figures that fail to accurately represent the true extent of violations against the rights of minors and juveniles.
Note: compiled by authors	

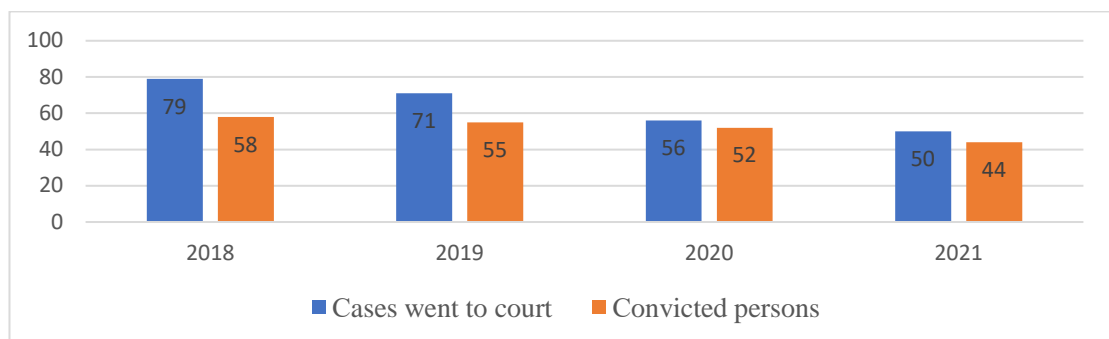


Fig.1. The work of the courts of the first instance in consideration of criminal cases, 2018-2021

Note: compiled by authors

At first glance, we see a regression in dynamics; every year, there are fewer and fewer cases with sentencing, but considering the country in which we live, with its way of life and mentality, it is not difficult to figure out that statistics do not show the accurate picture of what is happening in the Republic of Kazakhstan.

Offenses in this category are characterized by a significant degree of underreporting, attributed mainly to the victimological characteristics of the affected individuals, including their age, psychological vulnerability, and fear of stigma or retribution. Secondly, their occurrence demonstrates instability, influenced by a combination of subjective and objective factors related to the operations of law enforcement bodies and social oversight institutions. These fluctuations can also be linked to society attitudes, variations in reporting practices, the level of public awareness about the issue, and the effectiveness of preventive measures implemented within communities. As Datsko stated: «Latency varies from 'low'—when the victim and the perpetrator were not acquainted, to 'high'—when the victim and the perpetrator were acquainted». These characteristics also highlight another notable aspect of the criminal offenses under consideration: they are frequently perpetrated within the family environment. Such circumstances not only intensify the susceptibility of victims but also establish considerable obstacles to identifying and reporting incidents, as individuals affected may encounter psychological, societal, or financial pressures that compel them to remain silent. If a father or stepfather commits violent acts of a sexual nature, then they do not always become known to law enforcement agencies. Consequently, the figures do not reflect an accurate picture of infringements on the rights of minors.

Although legislative measures are in place to combat such offenses, the challenge of detecting and investigating these crimes remains significant. In many instances, victims either fail to recognize the unlawful nature of the acts committed against them or find themselves in circumstances where seeking help is hindered by the perpetrator's influence. Furthermore, the lack of independent witnesses and tangible evidence often complicates the prosecution of offenders. Given these challenges, preventive strategies play a crucial role in raising awareness among the public regarding available legal protections and reporting mechanisms. Strengthening the legal framework alone is insufficient; it is equally important to implement early detection programs, particularly by equipping educators, healthcare professionals, and social workers with the tools to identify and respond to signs of child exploitation and abuse at an early stage.

Further study of the literature concerning the issues of indecent assault. First, the study of books, monographs, colleagues' dissertations from neighbouring countries, articles, and journals.

The extent of its academic investigation largely determines the importance of the chosen research topic. Within the Russian Federation, considerable attention in scholarly literature has been given to various aspects of sexual offenses. Scholars have explored the fundamental principles of sexual integrity and personal sexual autonomy, while also examining different classifications of crimes, such as sexual assault, including rape, sexual assault, coercion into sexual acts, and unlawful sexual relations or activities involving individuals below the age of sixteen. These studies provide a solid foundation but highlight the need for further analysis and refinement of legal and practical approaches in addressing such offenses.

However, cultural prejudices and stereotypes have left this issue largely unaddressed in the Republic of Kazakhstan. The research topic is vulnerable, as it touches on issues of the sexual integrity of children.

Turning to the Commentary to the Criminal Code of the Russian Federation by Ignatov A.N., he considers that only physical actions committed against the victim (both contact – touching the genitals of a teenager and non-contact - exposing the genitals in the presence of a minor) belong to indecent assault [4]. In another commentary from Mozyakov V.V., it is noted that it is necessary to qualify as indecent assault and conversations on relevant topics, showing the victim pornographic products (including actions committed using the Internet) [5].

Both cognitive and physical activities that prematurely provoke sexual awareness and instincts in minors contribute to the formation of distorted and cynical attitudes toward gender relations among adolescents. Numerous scholars highlight that indecent assault encompasses physical conduct of a Sexual nature, including the exposure of a minor's private body parts, inappropriate physical contact, or other sexual actions that exclude conventional sexual intercourse, sodomy, or homosexual acts. Intellectual manifestations of indecent assault are equally detrimental and involve exposing minors to pornographic or sexually explicit content,

introducing them to inappropriate reading materials, recounting narratives of a morally corrupting nature, or persuading them to engage in improper sexual interactions with their peers. Moreover, such behaviors have a detrimental effect on the emotional and psychological stability of minors, disrupting their typical developmental process and fostering a flawed understanding of social and personal relationships. These effects often lead to lasting consequences that are difficult to mitigate over time.

However, this perspective is not universally accepted. For example, Osokin R. B. does not attribute the demonstration of eroticism to depraved actions [6].

Korobeev A.I. names the following types of indecent assault: «adult actions against the victim; inducement or coercion of a person under 16 to commit sexual acts against the perpetrator or another adult; inducement or coercion of persons under 16 to commit sexual acts among themselves» [7].

According to Sarkisova E. A., «indecent assault is any action of a sexual nature that can have a corrupting effect on persons under the age of 16. The author refers to such actions, in particular, the commission of sexual acts with the victim, including touching his genitals, inducing or forcing the victim to perform sexual acts with the victim or among themselves, and the commission of sexual acts in the victim's presence» [8].

Babiy N.A. defines «indecent assault as any actions aimed at arousing sexual desire in adolescents (committing sexual acts in the presence of the victim, exposing the genitals, showing them audio and visual products of a pornographic nature, or providing analogous literature, stories of a sexual nature) [9].

Bimbimov A.A. categorizes indecent assault based on whether there are manipulations involving the victim's body. He identifies two types: contact, which may involve penetration or not, and non-contact. These can further be classified as intellectual or physical forms of indecent assault [10].

From a legal perspective, a key characteristic of the offense outlined in Article 124 of the Criminal Code is the absence of direct physical sexual interaction. This provision covers actions including sexual relations, sodomy, homosexual acts, or other forms of sexual conduct. At first glance, the legislator appears to have precisely delineated the scope of criminal actions addressed under Article 124, setting clear criteria for its enforcement. Despite the wide range of human behaviors within intimate relationships, it can often be challenging to determine the boundary between indecent assault and sexual contact. This differentiation gains particular importance when distinguishing between 'other sexual acts' as outlined in Article 121 of the Criminal Code and indecent assault involving physical conduct. Experts in this field generally interpret 'other sexual acts' as including practices such as oral and anal intercourse between a male and a female, inter-femoral contact, the penetration of external objects into the vaginal cavity, simulated sexual activities, and cases where a woman against a man coercively initiates conventional sexual intercourse.

Bezverkhov A.G.: «defines such acts as any actions that arouse or fulfill sexual desire, excluding heterosexual intercourse, sodomy, and lesbianism. These acts typically involve physical contact with the victim, which may include sexual penetration of the body cavity by the victim, the perpetrator, or a third party, or the simulation of sexual intercourse using the genitals of the victim, the perpetrator, or another individual» [11].

Izotov N.N. also assumes: «that other sexual actions should include only actions related to sexual penetration: the introduction of a sexual organ and other objects into the natural cavities of another person to obtain sexual satisfaction» [12]. This is how the issue is resolved in Article 179 of the Criminal Code of Spain [13].

Some authors take a similar perspective on the classification of «other sexual acts». For instance, Popov A.: «Defines these acts as including variations of sexual intercourse beyond the traditional form. Specifically, he identifies anal intercourse (with a woman), oral intercourse, vaginal intercourse where the victim is a man, as well as other sexual acts such as frictional movements performed without the insertion of the penis into the woman's body» [14]. Kotelnikova E.A.: «Characterizes the actions in question as «methods of satisfying sexual desire between individuals of different sexes that infringe upon the bodily integrity of the victim. These acts involve either exposure of the genital area or penetration into the natural cavities of the body by at least one participant in the sexual contact [15].

Other authors, Konyakhin V. and Oberemchenko A.: «Expend the list of these actions, including frottage, sadism, fetishism, heterosexual violent act on the part of a woman, anilingus (stimulation of the anus with the tongue or lips). Nevertheless, these should only be contact actions» [16].

Poddubnaya E. V.: «Interprets other sexual actions in a very general way – as ways of satisfying sexual passion that do not fall under the definition of «homosexual contacts» [17]. Dyadyun K.V., on the

other hand, «refers to these actions as intellectually depraved behaviors, such as showing pornographic films, exposing genitals, or performing sexual intercourse in the presence of the victim» [18].

Results and its discussion

Nevertheless, the standpoint outlined above raises specific concerns. Although it remains undeniable that exposing individuals to sexual content, akin to other non-contact indecent behaviors, constitutes a significant social threat, treating such behaviors as equivalent to contact forms of indecent conduct appears unjustified. As highlighted, «Non-violent violations of the sexual integrity of minors through non-contact indecent actions should not be categorized as rape or acts of sexual violence». Additionally, acts of a sexual nature should be limited to those involving direct physical contact and should exclude the exhibition of erotic or pornographic materials or descriptions of sexual acts. Furthermore, conflating non-contact indecent actions with physically intrusive offenses risks diluting the legal distinctions necessary for an objective assessment of criminal liability. While the psychological impact of exposure to explicit content on minors cannot be disregarded, equating such offenses with direct physical violations undermines the fundamental principles of proportionality in legal classification. A nuanced approach is essential, one that considers the varying degrees of harm inflicted by different forms of indecent conduct. Legal frameworks should not only differentiate between these categories but also establish proportionate sanctions that reflect the severity and consequences of each offense. Without such distinctions, there is a risk of overcriminalization, which could potentially lead to disproportionate sentencing and legal ambiguity in judicial practice.

Despite extensive research by many prominent experts in the field, challenges in the accurate classification of sexual offences persist. These challenges remain unresolved, resulting in numerous ambiguities and often contradictory interpretations, which complicate the practical application of the law. One of the primary issues contributing to this complexity is the evolving nature of social and cultural perceptions of indecent conduct. As societal norms shift and digital platforms facilitate new forms of exposure to explicit content, traditional legal definitions struggle to keep pace with these developments. This creates inconsistencies in judicial rulings, where similar cases may yield vastly different outcomes based on subjective interpretations of intent, harm, and the impact on the victim. Moreover, the absence of a unified standard for distinguishing between non-contact and contact offenses exacerbates discrepancies in legal enforcement, leaving room for judicial discretion that can sometimes result in inconsistent sentencing. To address these concerns, legal scholars and policymakers must engage in ongoing dialogue to refine statutory provisions, ensuring that legislative frameworks remain adaptable yet precise in delineating the scope and severity of various forms of sexual misconduct.

Work in the archive of the courts of the first instance - the study of already considered cases with sentencing.

In July 2023, A.A. Ivanov (name changed) was convicted of a criminal offence under Art. 124, P. 1 of the CC (lewd acts) and sentenced to 10 years of imprisonment. Additionally, he was permanently prohibited from holding teaching roles or any positions involving work with minors.

According to the materials of the criminal case, Ivanov committed indecent acts without the use of violence against the minor Smirnova A.A. (name changed). The actions perpetrated by Ivanov correspond to the objective elements of the criminal offence outlined in Article 124 of the Criminal Code of the Republic of Kazakhstan (CC RK). In particular, such acts are recognized as indecent assault committed without the application of force, intended either to satisfy the offender's sexual urges or to provoke sexual instincts in a minor under the age of 14. Importantly, these actions do not encompass sexual intercourse, sodomy, or homosexual acts involving the victim. This situation highlights the clear legal distinctions outlined in Article 124 of the Criminal Code of the Republic of Kazakhstan, which explicitly differentiates indecent conduct from more physically invasive sexual offenses, while emphasizing the need for stringent protection of minors from all forms of sexual exploitation.

In the spring of 2021, Ivanov opened an archery section in one of the schools in Almaty, where Smirnova was his student. Ivanov A.A., having established friendly relations with Smirnova A.A., an 8th-grade student, conducted cynical conversations of a sexual nature via correspondence on WhatsApp Messenger with Smirnova A.A., a young acquaintance known to him. Then Ivanov A.A. asked to throw off photos of a sexual nature to him, explaining that he, as a coach, needed to

see the structure of his ward's body, Smirnova, without realizing Ivanov's motives, sent him photos of obscene content.

At the same time, A.A. Ivanov, to satisfy his basic physiological needs while conducting classes in this section, behaved courteously and was correct as a demanding coach who achieves high achievements from his students in sports. Simultaneously, A.A. Ivanov, under the guise of showing personal concern for the minor, began subtly influencing her behavior.

Without employing violence, he influenced her actions in a way that corrupted her moral values, disrupted her normal physical and psychological development, and infringed upon her sexual integrity. Such conduct not only disrupts the natural trajectory of a minor's personal growth but also constitutes a profound breach of their inherent rights to safety and dignity, as protected under applicable legal frameworks. This highlights the critical need for robust legal measures to address and prevent non-violent yet highly damaging forms of exploitation.

Consequently, Ivanov qualifies as the subject of a criminal offence under P. 1 Art. 124 CC RK, where the protected object was the sexual inviolability, moral development, and physical well-being of Smirnova A.A.

The subjective aspect of the crime is defined by intent. Fully aware of Smirnova A.A.'s age, Ivanov intentionally engaged in indecent actions and willfully aimed to carry out such behavior. The subject of the crime was A.A. Ivanov, born in 1963, a sane individual (male) who had reached the age of 16.

The crime is deemed complete as soon as the depraved acts are carried out. For this offence, it is irrelevant whether the victim has reached puberty or possesses any prior sexual experience. Similarly, the victim's consent or lack thereof does not influence the qualification of the act. There are no qualifying signs in this case; even though A.A. Ivanov worked as a coach at one of the schools, according to the case materials from the trial, it was revealed that he was not part of the school staff. He performed his duties as a sports archery coach on an informal basis, without a formal employment contract. The absence of formal employment documentation raises significant questions about oversight and accountability, potentially hindering the legal and ethical assessment of his involvement in the incident.

In addition, the court found that at the time of the crime, A.A. Ivanov, as a whole, had no right to engage in coaching with young children, as he did not possess the appropriate qualifications. It follows that the established procedure did not assign A.A. Ivanov responsibilities for the upbringing of minors, since he temporarily and informally replaced the physical education teacher A.A. Petrov.

Considering the circumstances of the case, the court determined that A.A. Ivanov's actions fall under the provisions of Article 124, Paragraph 1 of the Criminal Code, classifying them as indecent acts committed without violence against a minor known to the perpetrator. The legal classification demonstrates a clear recognition of the depraved character of the actions, grounded in several key factors. Firstly, the acts were performed without the application of physical violence, thereby eliminating the presence of overt coercion. Second, they were characterized as non-contact, intellectual actions, aimed at corrupting the moral and psychological development of the minor. Third, the victim was knowingly a minor, emphasizing the perpetrator's awareness of their vulnerability and the heightened duty of care owed to them. These findings leave no doubt regarding the qualification of the acts as depraved actions under the applicable legal framework (Archive of the Specialized Interdistrict Criminal Court of Almaty, 2023) [19].

Let us examine another case: in May 2023, Akhmetov A.A. (name changed), born in 1982, was found guilty of committing a criminal offence under Part 4 of Article 121 of the Criminal Code of the Republic of Kazakhstan, which pertains to sexual violence. As a result, he was sentenced to 20 years of imprisonment. This severe penalty reflects the gravity of the offence and underscores the legislative intent to impose stringent sanctions for crimes of such a nature.

According to the materials of the criminal case, Akhmetov A.A., being in one of the parks of the city of Almaty, having seen two young girls walking alone, decided to satisfy his sexual needs. He bought various sweets in the store and followed the children, then after talking to them,

he offered them sweets; the children took sweets, then they walked together and Akhmetov A.A., seeing that there were many people in the park, forcibly took the girls by the hands and led them to a secluded place where there were no people. Then, Akhmetov A.A. began to kiss the girls on the lips in turn, moistening his fingers with saliva, and began to shove them into the genitals of the girls. After some time, the girls managed to get out and immediately reported the incident to their mother.

During the trial, Akhmetov A.A.'s actions were confirmed according to the testimony of victims, witnesses, and forensic medical examination. Akhmetov A.A. was sentenced to 20 years in prison for other sexual acts committed repeatedly against two or more minors by p. 4, Art. 121 of the Criminal Code of the Republic of Kazakhstan.

In this case, the actions of Akhmetov A.A. were qualified as other actions of a sexual nature since they used violence against minors. However, without considering the use of violence, the actions of Akhmetov A.A. fall under depraved actions, namely contact depraved actions [20].

Sexual offenses that involve direct physical interaction require bodily contact between the perpetrator and the victim. Such acts are generally committed to fulfil the offender's sexual urges, induce arousal in the victim, or foster premature sexual awareness. These offenses may include both penetrative and non-penetrative forms of misconduct, falling under a broad spectrum of legally punishable acts. Penetrative crimes typically refer to, but are not strictly limited to, oral intercourse, anal intercourse between a male and a female, as well as the introduction of external objects or body parts—other than the penis—into the vaginal or anal cavities. The inclusion of such diverse acts highlights the multifaceted nature of sexual offences, necessitating precise legislative definitions to ensure clarity in legal interpretation and application. Moreover, the inherent violation of bodily integrity in these acts underscores their profound psychological and physical impact on victims, further justifying their severe legal consequences.

Consequently, taking into account the aforementioned legal interpretations, the inclusion of the phrase 'without violence' in the disposition of Part 1 of Article 124 may create a paradoxical scenario in which depraved acts involving the use of force or threats would instead be classified under Article 121 of the Criminal Code of the Republic of Kazakhstan. A more precise legal approach would involve substituting the wording 'without the use of violence' in Article 124 with the phrase 'in the absence of elements constituting crimes described in Articles 120 and 121 of this Code.' A comparable legislative amendment was adopted in Belarus, as evidenced by the phrasing of Part 1, Article 169 of the Criminal Code of the Republic of Belarus. Indecent assault perpetrated by an individual who has attained the age of eighteen against a minor knowingly under the age of sixteen, provided that elements of the offenses outlined in Articles 166 (rape), 167 (violent sexual acts), and 168 (sexual intercourse and other sexual acts with a minor under sixteen) of this Code are absent, shall be subject to penalties ranging from arrest to imprisonment for a period of one to three years [21].

Conclusions

The criminal-legal response to offenses targeting the sexual integrity of minors remains a critical priority for the state. Children and adolescents possess unique psychological traits characteristic of their age. These traits include suggestibility, naivety, curiosity, and a lack of orientation in conflict situations. Minors are inherently vulnerable to the authority of adults, with limited ability to resist offenders or navigate independently in dangerous circumstances. These factors make this age group particularly prone to victimization, as they are more likely to become crime victims under certain conditions, primarily when targeted by adults.

Accordingly, it is essential to intensify measures aimed at countering such offenses, given their considerable societal threat, covert nature, grave repercussions, and overall impact on the community.

These crimes infringe upon sexual integrity and disrupt the normal moral and physical development of adolescents. The victims of such unlawful acts include both boys and girls who have not yet reached the age of 14.

From an objective standpoint, indecent assault encompasses depraved actions carried out without the use of force. These acts are committed with the intent to fulfill the perpetrator's sexual urges or to provoke sexual curiosity in a minor under 14 years of age, while explicitly excluding sexual intercourse, sodomy, or homosexual acts involving the victim.

The mental element of indecent conduct is defined by intentionality. Being fully aware of the minor's age, the perpetrator deliberately partakes in depraved actions and purposefully strives to carry them out. The underlying motives for the crime do not affect its legal qualification.

The perpetrator of indecent assault must be a mentally competent individual, regardless of gender, who has attained the age of 16.

Qualifying signs of child abuse or neglect are provided for in Parts 2 and 3 of Article 124 of the Criminal Code of the Republic of Kazakhstan. Part Two: This legal provision pertains to the execution of depraved actions against a minor without resorting to violence by a parent, educator, or any other person entrusted with the child's upbringing under the legislation of the Republic of Kazakhstan. Part Three: This clause covers offenses specified in either Part One or Part Two of Article 124 of the Criminal Code, given that they are perpetrated on multiple occasions.

Taking into account the points as mentioned earlier, it can be inferred that while depraved acts encompass both physical-contact and non-contact forms, 'other sexual acts,' constituting the objective element of the offense outlined in Article 121 of the Criminal Code of the Republic of Kazakhstan, are exclusively confined to physical interactions.

Consequently, intellectually depraved actions, even when executed through coercion or by exploiting the victim's vulnerable condition, do not fall under the classification established in Article 121 of the Criminal Code.

In contrast, indecent assault should be recognized as behavior that does not involve sexual intercourse, sodomy, or homosexual acts but is committed with the intent to gratify the sexual urges of the perpetrator, the victim, or both.

These actions are carried out in the victim's presence, with their attention intentionally focused on the perpetrator's behavior. A key characteristic of indecent assault is its non-contact and non-violent nature.

Moreover, the current domestic criminal law does not establish liability for intellectually depraved acts involving the use of violence against persons under the age of 14. Legislative action is required to address this legal gap. Part 1 of Article 124 of the Criminal Code of the Republic of Kazakhstan should distinguish between two forms of depraved acts: contact and non-contact. Additionally, there is a need to establish a precise definition distinguishing between contact and non-contact depraved actions, explicitly clarifying that intellectual non-contact sexual behaviors do not fall under the category of other sexual acts.

Moreover, it would be advisable for legislators and judicial bodies to assess the broader implications of such legal distinctions, particularly in situations where psychological coercion or manipulative influence plays a significant role. Expanding the scope of protection under Article 124 of the Criminal Code of the Republic of Kazakhstan to account for these nuances would not only strengthen the legal system's response to sexual offences but also affirm the state's commitment to upholding the dignity and integrity of minors in all circumstances. Furthermore, addressing these legal nuances requires a multidisciplinary approach that integrates insights from psychology, criminology, and child protection services. The development of preventive strategies should be prioritized alongside legal reforms to ensure that minors are equipped with the necessary awareness and resources to recognize and report inappropriate behavior. Additionally, law enforcement agencies and judicial bodies should receive specialized training to handle cases involving minors with heightened sensitivity, ensuring that investigative procedures do not further traumatize victims. By reinforcing both legal and institutional frameworks, the state can create a more comprehensive and effective response to offenses threatening the sexual integrity of minors.

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КӘМЕЛЕТКЕ ТОЛМАҒАНДАРҒА ҚАТЫСТЫ АЗҒЫНДЫҚ ӘРЕКЕТТЕР: ҚҰҚЫҚТЫҚ АНЫҚТАМАСЫ, ТҮРЛЕРІ ЖӘНЕ САРАЛАУ МӘСЕЛЕЛЕРІ

Аңдатпа

Соңғы он жылда Қазақстан Республикасында кәмелетке толмағандар мен жасөспірімдердің жыныстық қол сұғылмаушылығына қарсы қылмыстар саны күрт өсті. Алайда, зорлықсыз жыныстық қылмыстардың айырмашылық белгілерін талдайтын зерттеулер өте аз жүргізілген.

Зерттеудің мақсаты қолданыстағы заңнамадағы «бұзылған әрекеттер» ұғымын зерттеу және авторлық анықтама беру болып табылады. Зерттеу барысында сапалы әдістер қолданылып, Қазақстан Республикасында және шетелдерде осы қылмыстық құқық бұзушылық түрлерін қолдану тәжірибесі талданады, сондай-ақ көрші елдердегі әріптестердің кәмелетке толмағандар мен жасөспірімдердің жыныстық қол сұғылмаушылығына қол

сұғатын қылмыстар туралы зерттеулері бағаланады. Нәтижесінде, мақалада «азғындық әрекеттер» ұғымына авторлық анықтама беріледі, физикалық және психологиялық зорлық-зомбылықтың негізгі белгілері, азғындық әрекеттердің түрлері (интеллектуалдық және физикалық, байланыстық және байланыссыз), қылмыстың объективтік жағына кіретін барлық жыныстық әрекеттер, Қазақстан Республикасының ҚК 124-бабында көзделген қылмыстың объективтік жағына талдау жасалады, сондай-ақ кәмелетке толмағандардың жыныстық қол сұғылмаушылығына қол сұғатын сексуалдық сипаттағы зорлық әрекеттердің объективтік жағы талданады. Қазақстан Республикасының заңнамасын жетілдіруге қатысты ұсыныстар да беріледі.

Негізгі сөздер: жыныстық қол сұғылмаушылық, қылмыстарды саралау, физикалық және психологиялық зорлық-зомбылық, осалдық, жасөспірімдер, кәмелетке толмағандар.

РАЗВРАТНЫЕ ДЕЙСТВИЯ В ОТНОШЕНИИ НЕСОВЕРШЕННОЛЕТНИХ: ПОНЯТИЕ, КЛАССИФИКАЦИЯ И ПРОБЛЕМЫ КВАЛИФИКАЦИИ

Аннотация

За последние десять лет количество преступлений против половой неприкосновенности несовершеннолетних и малолетних в Республике Казахстан резко возросло. Однако было проведено очень мало исследований анализирующих дифференцирующие признаки ненасильственных половых преступлений.

Целью данного исследования является изучить понятие «развратные действия» в действующем законодательстве и дать авторское определение. Планируется использовать качественные методы исследования, в частности, проанализировать опыт и практику применения данных видов уголовных правонарушений в Республике Казахстан и зарубежных странах, а также оценить исследования коллег из соседних стран по вопросам уголовных преступлений, посягающих на сексуальную неприкосновенность несовершеннолетних и малолетних. В результате в данной статье представлено авторское определение термина «развратные действия», детализированы ключевые характеристики физического и психологического насилия, проведён всесторонний анализ разновидностей развратных действий (интеллектуальных и физических, контактных и бесконтактных), а также всех форм сексуальных правонарушений, входящих в объективную сторону преступления, предусмотренного статьей 124 УК РК. Кроме того, исследуется объективная сторона насильственных сексуальных действий, которые также затрагивают половую неприкосновенность малолетних, и выдвигаются предложения по совершенствованию законодательства Республики Казахстан

Ключевые слова: половая неприкосновенность, квалификация преступлений, физическое и психическое насилие, уязвимость, малолетние, несовершеннолетние.

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