



InterAcción y Perspectiv

Revista de Trabajo Social

ISSN 2244-808X
D.L. pp 201002Z43506

Octubre-diciembre 2024
Vol. 14 No. 3



Universidad del Zulia
Facultad de Ciencias Jurídicas y Políticas
Centro de Investigaciones en Trabajo Social

Interacción y Perspectiva
Revista de Trabajo Social
Vol. 14 N°3 728-737 pp.
Octubre-diciembre

Dep. Legal pp 201002Z43506
ISSN 2244-808X
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ARTÍCULO DE INVESTIGACIÓN

Abordar la delincuencia juvenil: Teoría, práctica y estrategias de prevención

DOI: <https://doi.org/10.5281/zenodo.11155846>

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Resumen

Este artículo explora las complejidades que rodean la teoría y la aplicación de la prevención de la delincuencia juvenil en los marcos jurídicos de la República Kirguisa y la República de Kazajstán. A través de un examen de datos estadísticos, el artículo subraya la gravedad de los diversos tipos de delitos perpetrados por menores, iluminando la naturaleza apremiante de la cuestión. La discusión abarca perspectivas teóricas y metodológicas, ofreciendo ideas sobre enfoques multifacéticos para abordar y mitigar la delincuencia juvenil. Además, el artículo ofrece recomendaciones destinadas a desarrollar medidas preventivas en los sistemas jurídicos de estos países. Este artículo contribuye a una comprensión más profunda de los retos y estrategias inherentes a la lucha contra la delincuencia juvenil en la República Kirguisa y la República de Kazajstán.

Palabras clave: derecho, responsabilidad penal, legislación, prevención de delitos

Abstract

Addressing juvenile delinquency: Theory, practice, and prevention strategies

This article explores the complexities surrounding the theory and application of preventing juvenile delinquency within the legal frameworks of the Kyrgyz Republic and the Republic of Kazakhstan. Through an examination of statistical data, the article underscores the gravity of various types of crimes perpetrated by minors, illuminating the pressing nature of the issue. The discussion encompasses theoretical and methodological perspectives, offering insights into multifaceted approaches to addressing and mitigating juvenile delinquency. Additionally, the article provides recommendations aimed at developing preventative measures within these nations' legal systems. This article contributes to a deeper understanding of the challenges and strategies inherent in curbing juvenile delinquency in the Kyrgyz Republic and the Republic of Kazakhstan.

Keywords: law, criminal responsibility, legislation, prevention of offenses.

Recibido: 29/02/2024 Aceptado: 22/03/2024

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1. Introduction

There are specific features involved in the prevention of juvenile delinquency, characterized by unique specificity among crimes involving multiple actors and legal norms. In particular, the Constitution of the Kyrgyz Republic establishes that "the rights and freedoms of a person 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" (Jogorku Kenesh of the Kyrgyz Republic, 2021a, Art. 23, para. 1). The Constitution of the Republic of Kazakhstan asserts that the republic is a "...democratic, secular, legal, and social state, the highest values of which are a person, his life, rights, and freedoms" (Parliament of the Republic of Kazakhstan, 1995, Art. 23, para. 1).

Another significant document in our view is the Convention on the Rights of the Child, where the preamble states,

"... recalling that the United Nations, in the Universal Declaration of Human Rights, proclaimed that children are entitled to special care and assistance, convinced that the family, as the fundamental unit of society and the natural environment for the growth and well-being of all its members, especially children, must be provided with necessary protection and assistance so that it can fully assume its responsibilities within society, recognizing that, for the full and harmonious development of the child's personality, it is necessary for the child to grow up in a family environment, in an atmosphere of happiness, love, and understanding, considering that the child should be fully prepared for an independent life in society and educated in the spirit of the ideals proclaimed in the Charter of the United Nations, especially in the spirit of peace, dignity, tolerance, freedom, equality, and solidarity..." (United Nations General Assembly, 1989).

2. Methodology

In this case, we are considering the methodology and existing tactics of investigative measures when dealing with crimes involving minors. According to the Criminal Procedure Code of the Kyrgyz Republic, there is a special procedure for handling criminal cases involving the following specific category:

"When questioning a victim or witness under the age of 18, their parents or legal representatives are summoned; in their absence, an employee of the authorized state body for the protection of children is summoned. When a child under the age of 14 is questioned as a witness or victim, a psychologist or educator is also summoned" (Jogorku Kenesh of the Kyrgyz Republic, 2021b, Art. 329, para. 1).

Based on Article 203, during their activities, an investigator or interrogator is obliged to take into account the following:

"1. When a child is questioned as a witness or victim, parents or legal representatives are summoned; in their absence, an employee of the authorized state body for the protection of children is summoned. When a child is questioned as a witness or victim under the age of 14, a psychologist or educator is also summoned.

2. Witnesses and victims who are children under the age of 16 are not warned about the responsibility for refusing to testify and for giving deliberately false testimony. When explaining procedural rights and obligations to such witnesses and victims, they are informed of the necessity of speaking only the truth. The child is informed of the right to refuse to testify, accusing themselves or close relatives. An explanation of rights and obligations is noted in the protocol, certified by the signature of the witness or victim, as well as by persons representing their interests.

3. Those present during the interrogation, as mentioned in parts 1 and 2 of this article, are informed of the right to make remarks on violations of the rights and legitimate interests of the interrogated, and with the investigator's permission, to question the person being interrogated. The investigator has the right to dismiss a question but must record it in the protocol and state the reason for dismissal" (Jogorku Kenesh of the Kyrgyz Republic, 2021b, Art. 203).

According to Article 76 of the Criminal Procedure Code of the Republic of Kazakhstan, the summons of a minor suspect or accused not in custody are carried out as follows:

"To protect the rights and legitimate interests of victims who are minors or do not speak the language of legal proceedings or, due to their physical or mental condition, are unable to independently defend their rights and legitimate interests, their legal representatives are mandatory participants in the process" (Parliament of the Republic of Kazakhstan, 2014, Art. 76).

The Law of the Republic of Kazakhstan "On the Prevention of Domestic Violence" establishes the fundamental principles of domestic violence prevention:

"legality; guaranteeing the observance of the rights, freedoms, and legitimate interests of the individual and citizen; the impermissibility of causing physical and/or mental suffering to the individual and citizen; support and preservation of the family; confidentiality; an individual approach to each person and citizen in a difficult life situation; the priority of preventive measures for preventing domestic violence over repressive measures; complexity and systematicity" (Parliament of the Republic of Kazakhstan, 2009).

3. Results

To enhance the effectiveness of preventing juvenile delinquency, the following steps are needed:

- The government should preserve and expand social protection institutions for minors in difficult situations.
- Implement rehabilitation programs for adolescents returning from places of deprivation of liberty.
 - Implement quotas and create job opportunities.
 - Intensify efforts in working with children in families.
- Expand the network of children's clubs and establish cooperation between the juvenile affairs inspector at the Department of Internal Affairs (OVD) and operational units, district police officers at OVD, exchange information, and rational use of resources and methods of operational-search activities in places of residence.
- Moreover, professional and technical educational institutions should be preserved and increased to provide a quantitative characterization of the victims' personalities and their behavior.

Based on statistical data on victims, a "unified crime registry" is required during inspections of juvenile affairs, reflecting information on the recognition of victims and individuals whose death resulted from crimes committed against them.

According to the statistical data of the Ministry of Internal Affairs of the Kyrgyz Republic for the year 2022, 2088 pretrial proceedings were registered for crimes committed against minors: Bishkek, 971; Osh, 169; Chui region, 423; Issyk-Kul region, 149; Osh region, 97; Jalal-Abad region, 164; Talas region, 38; Batken region, 50; and Naryn region, 27.

A total of 615 pretrial proceedings were sent for court consideration; 596 cases were terminated, including 482 terminated for nonrehabilitative reasons (points 7, 9, and 11-13 of part 1 of Article 27 of the Criminal Procedure Code of the Kyrgyz Republic); 114

cases were terminated for rehabilitative reasons (points 1-6 and 8 of part 1 of Article 27 of the Criminal Procedure Code of the Kyrgyz Republic); 618 cases were suspended; 32 cases were consolidated; 17 pretrial proceedings were transferred to other authorities; and 210 cases are in progress.

According to the statistical data of the Prosecutor's Office of the Republic of Kazakhstan for the Jambyl region, 9067 individuals were involved only in December 2019, and in 2020, administrative practice units conducted complex measures aimed at increasing the efficiency of preventing offenses and crimes among minors, with a total of 8899 individuals involved in the region.

Law enforcement agencies recorded 3959 minors involved in various offenses in public places and on the streets throughout the region. Of these, 235 teenagers and 169 from disadvantaged families were registered. For repeated offenses, 8 minors were sent to a special school for children and adolescents with deviant behavior, and parental rights were deprived of 48 parents or their substitutes. A total of 241 adolescents were registered.

During raids, 3959 minors were identified and held accountable: 106 under Article 127 of the Administrative Offenses Code of the Republic of Kazakhstan for not properly fulfilling duties related to child upbringing; 125 under Article 132 of the Administrative Offenses Code of the Republic of Kazakhstan for allowing minors to be in entertainment establishments during nighttime; 191 under Article 442(1) of the Administrative Offenses Code of the Republic of Kazakhstan for allowing their children to be in entertainment establishments during nighttime; 6 under Article 133 of the Administrative Offenses Code for selling tobacco products to minors; 2 under Article 423-1 of the Administrative Offenses Code for selling tobacco, hookah products, and electronic cigarettes to individuals under 21 years old; and 3191 under Article 442(2) of the Administrative Offenses Code for minors being outside without legal representatives during nighttime.

In general, despite some challenges associated with certain parameters, there was a trend toward a reduction in 2019 compared to that in 2018. However, the information provided and the statistical data included the registration of individuals seeking assistance from relevant institutions. The study of victimological factors committed by minors at the statistical level provides a true picture of crime and its social consequences.

4. Discussion

Information support and statistical data, in turn, require the creation of separate corresponding services and the allocation of specialists, including psychologists, in cases of victimization, as emphasized by Yu V. Chufarovski (2007: 203).

In his opinion, this involves personnel specializing in working with minors, taking into account the physiological and psychological characteristics of adolescence, applying pedagogical knowledge to protect the lawful interests and rights of the child, exploring effective forms of prevention and interaction with the population, and providing means

of protection for adolescents. Specialization introduction in law enforcement agencies and educational institutions, the study of the psychological and age characteristics of adolescents, and the specifics of working with them are crucial.

However, common training is insufficient. Attention is required for the development of a specific scheme where practitioners must pay attention to which adolescent should be considered an interesting figure from a victimological perspective. The methods of identifying victims and organizing preventive work require advances in science, among psychologists, educators, etc.

Individual prevention includes several stages, with V.N. Burlakov highlighting early prevention, direct prevention, penitentiary prevention, and postpenitentiary prevention (Burlakov et al., 2008: 82).

V.N. Kudryavtsev and V.E. Eminov (2009: 286-287) particularly emphasize early prevention, direct prevention, which influences the individual, their behavior indicating negative qualities, the criminal environment determining the likelihood of committing a crime, and the prevention of recidivism.

The law establishes duties, powers, and main directions for the prevention of offenses among minors and neglects commissions on juvenile affairs and the protection of rights, social protection management authorities and institutions of social services, specialized institutions for minors in need of social rehabilitation, education management authorities and open and closed type educational institutions, guardianship and custody authorities, education, employment services, law enforcement, etc.

The main task of individual prevention is to shape one's personality and develop law-abiding behavior from the perspective of the activities of law enforcement agencies, social institutions, and public organizations; identify individuals who constitute a group at risk; and apply preventive measures to them.

Preventing crimes, as shown in the Russian language dictionary, means "stopping immediately, ceasing abruptly". Kudryavtsev suggested contacting the offender before committing a crime to interrupt this action, gathering information before committing a crime, and arresting the criminal to prevent further crimes.

The main directions for preventing socially significant crimes include eliminating and identifying conditions and causes of homicides committed by teenagers; developing and maintaining the mental and physical health of children; reducing drug addiction and alcoholism among teenagers; and eliminating family problems related to minors as one of the reasons for criminal behavior. In this regard, family support, improvement of the family's financial situation, and development and maintenance of a foster family system for adolescents without parents are necessary.

According to scientists, this includes "measures of general and special social prevention, measures of general and individual prevention; the desire to cover all the main spheres of life and institutions of socialization of minors; the use of interconnected and complementary measures of economic, ideological, cultural, legal, organizational and managerial nature; a combination of measures of direct prevention and activities to

prevent impending crimes; interaction and coordination of the activities of all subjects of prevention; coverage of the entire set of objects requiring preventive impact; and impact on the totality of causes and conditions conducive to criminal and other antisocial behavior".

5. Conclusions

Thus, the investigation authorities are responsible for dealing with criminal manifestations concerning minors, working in cooperation with other state authorities, local self-government bodies, public associations, organizations, and other relevant entities.

Special attention is given to preventing juvenile crime by law enforcement agencies. Internal affairs agencies (OVDs) carry out a significant amount of work to prevent crimes, directly fulfilling functions related to the rehabilitation and correction of juvenile offenders. The preventive activities of OVD involve the participation of various stakeholders.

To prevent juvenile delinquency, OVDs must identify the conditions and reasons for elimination and neutralization. In this regard, OVDs organize cooperation among public, governmental, and other institutions and organizations in preventive activities through comprehensive, targeted inspections, operations, raids, and other measures.

Moreover, there should be pedagogical and psychological diagnoses of the personalities of minors. Various techniques and methods of influencing the feelings, consciousness, and will of juvenile offenders are applied, including direct engagement by individuals involved in organizational and tactical forms using various techniques and methods. These include conversations by OVD personnel and involvement in activities of a social, labor, cultural, sports, and other nature.

In our view, there is a need to improve certain aspects of the organization of OVD work, such as conducting operational activities of units; disbanding groups of minors engaged in unlawful activities; improving OVD activities in combating crime among adolescents; providing information to prevent crimes among minors; and analyzing the situation in the city, district, and populated areas. During the analysis, the most problematic areas for group crimes, quantitative and qualitative composition, place, time, conditions, and reasons for crimes, as well as objects of criminal encroachment, are determined. Furthermore, sources and information gathering are identified.

To improve legislation, it is necessary to:

Eliminate contradictions and collisions in legislation, particularly in the placement of children in foster families, and take measures to protect the rights of minors.

State support for the activities of the Child Protective Services in providing guardianship and care was ensured.

In connection with this, a number of tasks need to be addressed: forming a legal culture in society for lawful behavior; improving the activities of relevant authorities in supporting children in difficult life circumstances; establishing anti-drug and anti-alcohol prevention agencies among adolescents; providing assistance to low-income families, taking into account the social sphere; and promoting a healthy lifestyle and constructive policies.

Crime prevention is carried out by law enforcement agencies and the state as a whole, which "perform a significant amount of work in preventing such social phenomena as crime and juvenile delinquency, in particular". Crime prevention is associated with preventing minors from becoming criminals.

"Despite certain disagreements among scholars regarding the definitions and the system of crime prevention, the aggregate of the most essential, specific requirements, compliance with which can ensure a comprehensive approach to crime prevention and other negative phenomena, has been defined in the scientific literature" (Varygin & Grigoryan, 2013: 96-99).

In this direction, family support is necessary; improving living conditions; and allocating funds for children's upbringing, which should be regarded as "not charity, but the state's duty to pay, reimburse physical, intellectual, and other costs 'for the production of the human being'—the main productive force of society" (Lunev, 2008: 123).

A family in a socially dangerous position is a family with children, where parents or other legal representatives of minors fail to fulfill their duties in their upbringing, education, and/or maintenance and/or negatively influence their behavior or treat them cruelly.

For this, it is necessary "regional authorities - to provide families in need with residential space; courts - at the initiative of guardianship and custody authorities, prosecutors on issues of depriving parental rights, living with a child in the same residential area, to adequately solve these problems; guardianship and custody authorities, together with law enforcement agencies, to conduct inspections of living conditions for children, pay special attention to improving conditions and upbringing in families; implement and develop through juvenile affairs commissions after their return from special educational institutions; and commissions on juvenile affairs, when considering the issue of directing offenders to special educational institutions, determine the possibility and expediency of returning minors to the same families after their correction (stay) in the specified institutions."

In this regard, it is advisable to create centers for psycho-pedagogical correction and rehabilitation, and the functions of these centers include organizing group activities with additional programs for minors experiencing difficulties in general educational institutions and their social adaptation; counseling parents and their children; educational institution staff on overcoming difficulties in development and learning; the socialization of teenagers; the correction of learning and developmental disorders in children; providing assistance to minors in crisis situations; anonymous counseling for

minors on helplines; providing assistance to teenagers from foster and guardianship families and boarding institutions; providing organizations engaged in educational activities with scientific-methodical literature; organizing and implementing general educational programs; upbringing; and training; and organizing the placement of children in need of care in families.

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