

Increasing Responsibility for Crimes on Involvement of Non-Social Actions Non-Social Actions

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ABSTRACT

The article examines the concept and meaning of a crime - lecherous actions against a person under sixteen years of age, issues of responsibility for this type of crime, improvement of responsibility in the criminal legislation of the Republic of Uzbekistan.

Only for enticing a minor to commit a crime a sane individual who has reached the age of 18 can be the subject of a crime. In this case, it is important to determine whether the culprit has reached the age of 18 based on the rule of the age limit, because if a person commits a crime before reaching the legal age, then he is not considered a subject of a crime and cannot be held criminally liable. N. O. Djuraeva started that the age of the subject is defined as 18 years old, which was introduced in the Criminal Code in 2003 [1, 105] on the subject of attracting a minor to antisocial behavior. This is not true, because we know that when the Criminal Code was adopted on September 22, 1994, the age of the subject of this crime was set at 18 years.

At the same time, it should be noted that a person is considered to be of legal age not from the day of his birth, but from the day of his birth, that is, from the zero hour of the next day [2].

The analysis of organized crime cases show that most of the persons who attract minors to commit crimes

18-20-year-old persons. According to a number of scientists

An attractor who has reached the age of 18 should not be held liable for attracting a minor who is a few months younger than him to commit a crime [3].

According to criminological studies, 57.9% of the age difference between the attractor and the attracted minor does not exceed 5 years. In most cases, there are no significant differences between the culture, education and level of development of the person involved in the crime and the juvenile involved in the crime.

The analysis of the legislation of a number of countries, including the Russian Federation, shows that, taking into account the committed act and the identity of the criminal, the court may retain the provisions contained in the chapter on the characteristics of criminal liability of minors against persons aged 18 to 20 years. In this case, in accordance with the Criminal Code of the Russian Federation (Articles 90, 92), persons between the ages of 18 and 20, who lured a minor to commit a crime by promise, deception, threat or other means, committed this crime for the first time. can be exempted from criminal liability if they are committed repeatedly, if it is possible to morally correct them with educational measures [4].

The subjective signs of each crime are the signs describing the subject and the subjective side of the crime. The correct classification of the crime requires the correct identification of all the signs of the committed crime, in which certain difficulties arise in determining the signs of the subjective side. Because the subjective side describes the mental content of the crime, and it is closely connected with the external appearance of the crime, that is, the objective side. If the objective side of the crime is its appearance, then the subjective side is the inner content [5, 164].

The subjective aspect represents an important element of the crime structure. The absence of a subjective side excludes the recognition of the act as a crime, while the correct definition of the subjective side ensures the correct and reasonable qualification of the actions of the guilty party. According to the general rule, the subjective side of the crime is understood as "the internal mental processes of the guilty mind and will expressed in the guilt, motive, purpose and feelings of the guilty party" [6, 6]. As a unique manifestation of the objective side of the crime in the psyche of the subject, the subjective side of different crimes can have different content and form [7, 147]. Determining the form of the crime and its content is the main task of law enforcement agencies, and compliance with many principles of criminal and criminal procedural law depends on the complete and correct performance of this task.

In criminal law, depending on the character of the mental attitude of the guilty party to his deed, the subjective side of the crime structure includes signs such as guilt, motive, purpose, and emotion.

Guilt is a mandatory sign of the subjective side of all types of crimes. Guilt is seen in the mental attitude of a person towards his socially dangerous act (action or inaction) and the result of this socially dangerous act [8, 164].

Since attracting a minor to commit a crime is a formal crime, it is committed only intentionally. In this regard, in the Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 15, 2000 "On Jurisprudence in Cases of Juvenile Crimes", in this regard. If an adult engages a person in antisocial behavior and does not know or cannot know that he is a minor, in this case it is not possible to bring him to criminal responsibility under Article 127 of the Criminal Code [9, 301].

In this case, the sentence means that this crime is committed in the form of intent, and the actions committed behind carelessness do not lead to the recognition of the act as a crime. In addition, the same expression in the Plenum Decision means that the involvement of a minor in a crime can be done both with the right intention and with the wrong intention.

When involving a minor to commit a crime, whether or not a person realizes the social danger of

his actions is determined based on the following criteria, i.e., first, by the age of the person involved, and second, the description of the actions of the person who committed the crime; thirdly, with a description of the actions in which the minor is involved. These signs, expressed in the mind of the guilty person, constitute the subjective side of the crime provided for in part 3 of Article 127 of the Criminal Code.

Based on the above, it can be said that in order to prosecute the culprit under part 3 of Article 127 of the Criminal Code of the Republic of Uzbekistan, he must know that the person involved is under 18 years of age.

The analysis of organized cases shows that Article 127

When qualifying with part 3, the court and investigative bodies are based on the fact that the culprit was aware of the minor of the involved person in most cases. Based on this recommendation, many legal scholars have expressed an opinion that the culprit can be prosecuted at any stage of understanding the age of the person involved. In particular, G.M. Minkovsky and G.Z. In Bruskin's opinion, if an adult person knows that the involved person is a minor, or if he does not know, but he is a minor, he should be liable for this crime, and in possible cases, they put forward the opinion [10, 14]. Also, F.V.Ivanov states that an older person should not be intentional about the age of the person being attracted, but should pretend that he is under the age of 18 due to carelessness or carelessness, and should be held accountable in possible cases [11, 85].

For example, N. Babiy and K. K. Speransky mention the need for the attracting adult person to know exactly the age of the attracted person. According to K. K. Speransky, the characteristic feature of the subjective side of involving a minor to commit a crime is that an adult chooses a minor as the object of criminal aggression, and this situation should be covered by the intent of the guilty person [12, 116].

The same approach can be seen in the Decision of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 15, 2000 "On Jurisprudence in Juvenile Crime Cases" and based on it... if it is not possible, in this case it is not possible to bring criminal responsibility under Article 127 of the Criminal Code" [13].

It should be noted that the issue of determining the age of the person involved in the crime is solved in different ways in court practice. In most cases, the courts support the view that it is necessary to establish that the offender was aware that the person involved was a minor, not that he knew the age of the person involved.

From the above, it became clear that the issue of the need for the culprit to know the age of the involved person (in general, whether he is a minor or his exact age) remains open in the theory of criminal law. If we explain our approach to this point of view, in our opinion, the carelessness of the person guilty of the analyzed crime in relation to the age of the involved person, i.e. careless attitude, should not lead to qualification of his act under part 3 of Article 127 of the Criminal Code of the Republic of Uzbekistan. Because the necessary condition of the subjective aspect of this crime is that the guilty person realizes that the actions of the perpetrator are not attracting any person, but a minor to commit the crime, and he wants to do so. In this case, it is not necessary to know the exact age of the person, or to be aware that he is a minor, that is, a person under 18 years of age, based on his biological characteristics or some information he has (he is a college student, a school student). In the legislation, not the exact age, but the need to be aware of the fact that he is a minor is defined as the primary criterion for qualifying the actions of the perpetrator as involving a minor in committing a crime.

In practice, the understanding of the age of the person involved in the following cases is important for the correct qualification of the crime:

An adult involves a minor in a crime, assuming that he is an adult;

An adult, mistakenly assuming that he is a minor, entices an adult to commit a crime.

In the first case, the correct classification of the crime can be based on the recommendations given in the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 15, 2000, "On Juvenile Practice in Cases of Juvenile Crimes". That is, if an adult engages a person in antisocial behavior, but does not know or cannot know that he is a minor, in this case, it is not possible to bring him to criminal responsibility according to Article 127 of the Criminal Code, according to the provision of Article 127, Part 3 cannot be qualified with However, it should be noted that crime is not an antisocial act, but a socially dangerous act. Based on this, with the addition of paragraph 7 of the same decision ... if an adult involves a person in committing antisocial behavior or a crime, and does not know or cannot know that he is a minor, in this case criminal liability is brought under Article 127 of the Criminal Code it is necessary to fill in that it is not possible.

Encouraging a minor to commit a crime is done only with the right intention, that is, the subject understands the socially dangerous nature of his or her act. When involving a minor to commit a crime, whether or not a person realizes the social danger of his actions is determined based on the following criteria, i.e., first, by the age of the person involved, and second, the description of the actions of the person who committed the crime; thirdly, with a description of the actions in which the minor is involved. These signs, expressed in the mind of the guilty person, constitute the subjective aspect of attracting a minor to commit a crime.

The current legislation does not specify the procedure for qualifying the act when an adult, mistakenly assuming that he is a minor, involves an adult in committing a crime.

Resolution of the Plenum of the Supreme Court of September 15, 2000 "On Jurisprudence in Cases of Juvenile Crimes"

There is only one point in Decision No. 21 on the issue of involving a minor to commit a crime, and when considering the case of crimes committed by minors with the participation of adults, it is necessary to carefully determine the nature of the relationship between an adult and a teenager, because this is information may be important in determining the role of an adult in engaging a minor in committing a crime or antisocial act.

Clause 7 of this Decision instructs the courts to clarify that only persons who have reached the age of 18 and committed the crime intentionally can be held criminally liable for engaging a minor in antisocial behavior. Also, it should be determined that an adult knowingly attracts a minor to anti-social behavior by his little actions or allows such an idea. Article 127 of the Criminal Code states that if an adult engages a person in antisocial behavior and does not know or cannot know that he is a minor, in this case it is not possible to bring him to criminal responsibility. Although this norm does not directly indicate that a minor is involved in committing a crime, the name of Article 127 is derived from the fact that a minor is involved in antisocial behavior and the analogy of the legal norm. these explanations can also be applied to attracting a minor to commit a crime.

In the legal analysis of any crime, the object of the crime is important as its necessary component. In the theory of criminal law, the criminal activity of the guilty person is focused on, and as a result of this, social relations that cause damage or risk of damage are recognized as objects of crime. Although social relations are recognized by most scientists as the only content of the object of crime, recently different approaches can be found in the theory regarding the concept of the object of crime. In particular, analyzing the general and related object of this crime, N. O. Djuraeva stated that the related object of the crime of involving a minor in antisocial behavior is the interests of the family and minors, the direct object of which is a person who is physically fit and healthy. defines social relations in the field of spiritual development [1,

101]. In our opinion, the concept of the object of crime is not clearly defined in this given definition. Because the object of the crime is not the interests protected by the criminal law, but the social relations protected by the criminal law.

Within the framework of the theory of the object of crime, it is important to group the concept of the object according to its type. The specific structure of the Criminal Code allows to classify objects of criminal aggression. According to Kondalangi, the criminal object is divided into general, special, which is a component of the general, related and direct objects, which is a component of the special.

The common object is the social relations taken separately and to which all crimes are directed.

A special object is a type of social relationship that is the focus of criminal aggression, provided for in the section of the special part of the Criminal Code.

A kindred object is a type of social relationship that is targeted by criminal aggression provided for in certain chapters of the Criminal Code. In other words, a similar object is a type of object that is close to each other in terms of the nature of the crimes.

The direct object of the crime refers to the social attitude towards which direct aggression is directed during the commission of the crime.

It is expedient to separate crimes against family and morals from the content of Chapter V of the special part of the Criminal Code of the Republic of Uzbekistan and to leave in its content substances that cause harm or risk of harm to minors. In this case, social relations that ensure the normal development of minors are a special object of attracting a minor to commit a crime. It can be said that the normal development of a minor is primarily their normal social development, i.e. recognition as an independent and full-fledged member of society, secondary development is not only the observance of laws, but the use of minor rights and interests and the fulfillment of the obligations assigned to him. also requires Therefore, it should be recognized that the normal upbringing and development of a minor includes compliance with laws, as well as respect for a person's rights and interests, and other similar values.

Based on the above, as a special object of the crime of attracting a minor to commit a crime, the normal, physical, mental, social and moral development of a person under the age of 18 in the spirit of compliance with the Constitution and the laws of the Republic of Uzbekistan, the rights and interests of society and the individual, and the minor social relations that ensure the recognition of a person as an independent and full-fledged subject exercising the few rights and freedoms of social relations without any restrictions are understood.

A group of scientists recognize the social relations that ensure the normal development of a minor as the direct object of the crime of involving a minor in crime. This cannot be agreed with scientists. Because this approach separates the involvement of a minor in committing a crime from other crimes that prevent the normal development of a minor, such as solicitation of a minor, consumption of alcohol, drugs that are not considered narcotic or psychotropic, but affect a person's intelligence and does not allow to distinguish from the object of the crime of attraction to consumption of substances. After all, attracting a minor to antisocial behavior, consumption of narcotics or psychotropic substances, and crime constitutes a separate crime. Therefore, in the legislation of a number of foreign countries, each of these crimes is regulated by a separate norm.

In particular, in the Criminal Code of the Russian Federation, attracting a minor to commit a crime is regulated by Article 150, and the responsibility for this crime is the method of committing the crime (deception, promise, threat or other method); the subject who commits the crime (parent, pedagogue, or other person who is legally responsible for educating a minor); using force or threatening to detain him; the degree of social danger of the crime involving the

minor (serious or serious crimes) or the involvement of the minor in a criminal group is aggravated. Involvement of a minor in antisocial behavior and the consumption of narcotic drugs or psychotropic substances is regulated by separate articles (Articles 151, 152 of the Criminal Code of the Russian Federation), and the same aggravating circumstances are stated for these crimes as above. The Criminal Code of the Republic of Belarus also specifies aggravating circumstances as above. However, unlike the Criminal Code of the Russian Federation, the criminal legislation of this state does not include the use of force or the threat of force to attract a minor to commit a crime as an aggravating factor. In addition, in the Criminal Code of the Republic of Belarus, attracting a minor to antisocial behavior and consumption of narcotic drugs or psychotropic substances is regulated by separate articles, as in the Criminal Code of the Russian Federation.

Involvement of a minor in committing a crime can be done objectively in 3 different ways:

It is carried out in the form of unspecified attraction and promotion of minors to a criminal lifestyle, recruiting them into the ranks of the criminal world;

Determined attraction, in which an adult attempts to form the intention to commit a crime against a minor, and this can be assessed as encouraging a minor to commit a crime;

Determined involvement, in which an adult recruits a minor as an executor or accessory to a crime planned by him. In practice, there are many cases of involvement of a minor in the third form of crime.

Analysis of the legislation of foreign countries shows that the criminal codes of a number of countries (the Russian Federation, Belarus, Kazakhstan, Tajikistan, Armenia, Azerbaijan, etc.) , cheating, use of physical violence, use of mental violence, etc.) are noted, and they appear as a necessary sign of the structure of this crime. Certain methods of committing a crime (for example, using violence or threats of violence) are described as aggravating circumstances.

It is known to those who participated in the survey conducted during the research that Article 127 of the Civil Code provides for the responsibility for involving a minor in antisocial behavior, as well as for involving a minor in committing a crime. In your opinion, when asked the question "Is it appropriate to impose legal responsibility for involving a minor to commit an administrative offense?" answered that it is expedient, while 62.5% expressed the opinion that it is not expedient to establish legal responsibility for involving a minor to commit an administrative offense.

In our opinion, some methods of involving a minor in a crime are characterized by a high level of social danger, and it is appropriate to define them in the Criminal Code of the Republic of Uzbekistan as a basis for aggravating responsibility for this crime.

According to the criminal legislation of the Republic of Uzbekistan, the subject of the crime of attracting a minor to commit a crime can be any sane individual who has reached the age of 18. The characters describing the subject, problems related to the description of the subject of crime are always in the focus of researchers. Because they are inextricably linked with determining the basis of criminal responsibility and determining the punishment of an act. The subject of the crime is part of the structure of the crime and requires a separate organization.

In conclusion, it should be noted that Article 127 of the Criminal Code of the Republic of Uzbekistan, which provides for the involvement of a minor in antisocial behavior and crime, needs to be improved in terms of theoretical and practical aspects. In particular, the social danger of engaging a minor in antisocial behavior and committing a crime was not taken into account as a result of the fact that the social danger of these actions was stated in one article.

Also, the Criminal Code of the Republic of Uzbekistan

Part 1 of Article 127 envisages engaging a minor only in anti-social behavior, begging, drinking

alcohol, consuming drugs and substances that are not considered narcotic or psychotropic, but affect a person's intelligence. criminal liability is provided for involvement. There can be no administrative responsibility for these antisocial behaviors. Therefore, it is necessary to liberalize the criminal responsibility for this act.

Article 127 of the Criminal Code of the Republic of Uzbekistan

Part 2 provides criminal responsibility for attracting a minor to use narcotic drugs or psychotropic substances. The fact that Chapter XIX of the Criminal Code of the Republic of Uzbekistan has a separate chapter for the crimes of illegal dealing with narcotics or psychotropic substances makes it possible to differentiate these acts and to individualize the same punishment. Article 274 of Chapter XIX of the Criminal Code of the Republic of Uzbekistan provides a separate article for attracting the consumption of narcotic drugs or psychotropic substances.

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