

законодавчого закріплення прав і свобод людини і громадянина в Україні, складність завдання адміністративно-правового забезпечення та встановлення гарантій права на здоров'я громадян, засуджених до позбавлення волі, потребує більш детального вивчення. Стан забезпечення реалізації засудженими свого права на охорону здоров'я та належне медичне обслуговування останнім часом був вкрай несприятливим. Основними недоліками в організації охорони здоров'я, на думку прокурорів, є нестача кадрів, відсутність необхідних медикаментів та невідкладної медичної допомоги, несвоєчасне виявлення, діагностика та профілактика захворювань, особливо хронічних, а також неможливість забезпечити належне лікування в слідчих ізоляторах. Конкретно слід визначити систему закладів охорони здоров'я, які можуть надавати медичну допомогу загального та спеціального порядку, оскільки ці аспекти досить хаотично врегульовані у кримінально-виконавчому законодавстві. Крім того, основною проблемою недосконалості функціонування програми гарантування права засудженого на охорону здоров'я є недостатнє матеріальне та фінансове забезпечення установ виконання покарань, оскільки більшість із них перебувають у вкрай незадовільному стані та об'єктивно не можуть забезпечити нормальне життя. умови.

Ключові слова: *забезпечення, право на здоров'я, правовий статус, засуджений, адміністративне забезпечення правового забезпечення, охорона здоров'я населення, позбавлення волі в Україні.*

UDC 343.97

DOI 10.31733/2078-3566-2021-5-165-171



Anastasiia FILIPP[®]

Ph.D in Law ,
Associate Professor
(Dnipropetrovsk State
University of
Internal Affairs,
Dnipro, Ukraine)

FACTORS RELATED TO CRIMINAL OFFENSES AGAINST SEXUAL FREEDOM AND SEXUAL INTEGRITY OF A PERSON IN UKRAINE (EMPIRICAL RESEARCH)

Abstract. The article deals with the current state of crimes against sexual freedom and sexual integrity of a person in Ukraine. The perception of factors related to crimes against sexual freedom and sexual integrity of a person and some moments in social life, which are closely related to the sexual sphere of relationships by young people, is analyzed. The research is based on the results of the poll of youth aged 18 to 25 years.

Keywords: *current state of crime, sexual freedom, sexual integrity, rape, sexual violence, culture of sexual relations.*

Relevance of the study. At the present stage, Ukraine is undergoing radical changes in socio-economic, political and other spheres of society. However, at the same time, there is a decline in living standards of a certain part of the population, the destruction of moral ideals, which has an extremely negative impact on the formation of consciousness of modern society. Of particular concern is the fact that these serious negative changes are manifested in the consciousness and stereotypes of sexual behavior in society, the deformation of sexual morality as one of the spheres of human life. Satisfaction of sexual needs is increasingly carried out in illegal ways.

Sexual freedom and sexual integrity are inalienable natural rights of the individual. The sexual integrity of any person is protected by the state, and encroachment on it and on a

© A. Filipp, 2021

ORCID iD: <https://orcid.org/0000-0001-5468-9585>

anastasia.f1012@gmail.com

person's sexual freedom is one of the most socially dangerous crimes.

Sexual crime is a set of crimes against sexual freedom or sexual integrity, which are committed with the use of physical, mental violence or using the helpless state of the victim to satisfy sexual needs in a natural or perverted form [1, p. 201].

Recent publications review. The topic of this research is quite relevant and has always been of great interest among scientists. Over the past 10 years, a number of dissertations have been defended, which covered criminal law and criminological aspects of rape and other crimes against sexual freedom and sexual integrity of a person: Kosenko S., Sineoky O., Lukash A., Gubanova O., Lysko T., Larchenko M., Dzhuzha A.

The article's objective is to analyze the results of a survey of young people aged 18 to 25, their perception of criminal offenses against sexual freedom and sexual integrity in general, as well as individual moments in public life that are closely related to sexual relations. And also definition of the basic measures of crime prevention in this sphere.

Discussion. It is undeniable that crime is closely linked to society. More precisely, it cannot exist without society and manifests itself only in it. The famous Ukrainian scientist-criminologist A. Zakaliuk pointed out that crime is a phenomenon of public life in the form of unacceptable and dangerous for society mass, relatively stable, multifaceted criminal activity of some members of this society [2, p. 139]. Other scholars, both domestic and foreign, almost unanimously point out that crime exists in a certain society, in a certain territory and at a certain time. Thus, when we talk about crime, we certainly mean that it exists in a certain society, at a certain time, in a certain territory. This means that the study of the "state" of society, which exists in a certain area at a certain time, allows us to establish a link between the peculiarities of its development and functioning, and crime in certain areas.

This view is confirmed, but in fact not refuted in the criminological literature, for example, in the field of criminal offenses against property (theft, robbery, fraud, etc.), researchers often point out the presence of correlated (and sometimes direct) connection, between the level of wealth of citizens, their well-being, and the number of criminal offenses against property committed in the state. Unfortunately, the current situation in Ukraine clearly shows the fairness of this point of view - in recent years the level of welfare of the population has significantly decreased, and at the same time the level of criminal offenses against property has increased.

Given the existing patterns of occurrence and existence of crime in society, we conducted a study of individual factors of perception of young people, the problem of criminal offenses against sexual freedom and sexual integrity in general, as well as individual moments in public life that are closely related to sexual relationships. The influence of modern technologies (in particular, the Internet, social networks, etc.) on the perception of young people in the sexual sphere in general, and relationships between people in this area were also studied. The research was conducted through an anonymous survey of young people aged 18 to 25 years who have an active social life. The research involved both females and males (in the ratio of 47.3% to 52.7%, respectively). In the structure of the study, separate blocks of information that intersect with each other were identified.

It should be noted that the study of young people's opinion on this type of crime is promising, because it is at this stage that the foundations and certain "patterns" of behavior are laid, which in the future may lead, including to the fact that a number of actors will become criminals, or a victim. Moreover, according to our recent research in this area, minors and juveniles account for up to 14% of all victims, and persons aged 18 to 25 years – almost a third of the total [3, p. 185].

First of all, it should be noted that the awareness of members of society of the state of crime in the relevant field and the assessment of the activities of the competent authorities in the field of combating the relevant crimes is of great importance. It is clear that the negative attitude to the activities of law enforcement agencies in the relevant field, and the actual perception of crime by citizens is directly related to both the number and quality of crimes committed. The expectations of members of society on a particular occasion to some extent determine and determine the commission of relevant crimes. Among the respondents, only 3.7% believe that the current state of crime can be considered satisfactory, but it is not a cause for concern. At the same time, almost 41.3% of respondents believe that the level of crime in the field of sexual freedom and inviolability is not very high, moderately increasing, in turn, 37.6% of respondents indicate that crime in this area is average and increasing. According to 17.4% of respondents, the state of crime in the field of sexual freedom and sexual integrity is

seriously increasing and is a cause for concern. In fact, 1/6 of the respondents expresses serious concern about crime in this area, which in our opinion is quite large and has a negative impact on consciousness. At the same time, this indicator indirectly indicates the level of latency of these crimes (the issue of latency will be examined below).

At the same time, the vast majority of respondents are convinced that these crimes are those that have a high level of public danger. Thus, among all respondents, 32.1% believe that criminal offenses against sexual freedom and sexual integrity have an average level of public danger (mostly, this is the point of view of males), while 49.5% indicate that these crimes have a high level of public danger, and 18.3% are convinced that these crimes have a very high level of public danger. These data indicate a serious attitude of young people to crime in this area. This means that the relevant actions resonate in the minds of the vast majority of people in the country, and therefore the delay and failure to take measures to prevent and detect them clearly has a negative impact on crime in general and in the field in particular.

At the same time, young people are aware of the state of crime, the vast majority of respondents "do not see" the active and effective activities of the state and, in particular, law enforcement agencies in combating crimes against sexual freedom and sexual integrity. Only 13.9% believe that normal preventive work is being done in this area, and 45.4% of respondents indicate that there is currently no noticeable result of such activities (although they believe that prevention, in general, is carried out). At the same time, 34.3% of respondents believe that the state and law enforcement agencies do not carry out prevention, in general, they assess the efforts of competent authorities in this area negatively, and 6.5% of respondents believe that the situation is deteriorating, there is state inaction. In addition, of all respondents - 56.9% believe that the state does not actually take any measures to combat crimes in this area.

The results obtained from the respondents in relation to the level of latency of criminal offenses against sexual freedom and sexual integrity of a person look interesting. Only 6.4% of respondents believe that the level of registered criminal offenses in this area coincides with their real number. No more than 29.9% of respondents believe that there is currently a low level of latency, and only a small number of such criminal offenses are not registered. All other respondents are convinced that the level of latency in this area is significant, while 44.9% believe that a significant proportion of such crimes are not registered, and 25.7% are convinced that the vast majority of such criminal offenses are not registered at all. These results look even more interesting in terms of information obtained about the personal awareness of respondents, about the facts of criminal offenses against sexual freedom and sexual integrity of a person, and the facts of law enforcement response to them.

According to the results of the survey, it was found that along with the dominant position (76.1%) on whether the respondent is aware of the facts of sexual violence (or attempts to commit them) against relatives, friends or acquaintances, a significant proportion (almost 24%) indicates that it has the relevant information. Thus, 4.6% of respondents guess about such actions, although the relevant subjects did not tell them about it, 9.2% of respondents know for sure about the facts of attempts to commit these actions against relatives, friends or acquaintances, and 10.1% know about facts of sexual acts against this category of persons. At the same time, despite the fact that 84.3% of respondents are unaware of the facts of improper response of law enforcement agencies to citizens' appeals regarding the facts of committing criminal offenses against sexual freedom and sexual integrity, almost 16% know about such facts. Of these - 12.9% - in the words of third parties, and 2.8% - personally and authentically. The latest data are confirmed by the control question, according to which only 7.9% of respondents attribute the refusal of registration by law enforcement agencies to the reasons for the latency of criminal offenses of this type.

According to the respondents, the main reasons for the latency of criminal offenses against sexual freedom and sexual integrity of a person include: a) refusal of victims to apply to law enforcement agencies out of shame – 68.3%; b) refusal of the victims to appeal to law enforcement agencies for fear of reprisals, revenge – 22.2%; c) victims are denied registration of the fact of committing a crime in law enforcement agencies – 7.9%. In addition, 1.6% of respondents believe that victims simply do not realize the fact of committing a criminal offense against them. The latter point of view, however absurd it may seem, correlates in some way with the other results of the study, which will be presented below.

Given the appropriate attitude of young people to criminal offenses against sexual freedom and sexual integrity of a person, attention is also drawn to their current awareness

of the "guilt" of victims of rape and other crimes related to sexual freedom and sexual integrity. Among all respondents, only 13% (although this is not a small number) believe that a victim of a sexual crime cannot be found guilty under any circumstances. On the other hand, only 6.5% of respondents are convinced that the victim of a sexual crime is personally guilty of assault (in other words, the victim herself provoked the assault), and 32.4% indicate that the victim is hardly possible to be found guilty, even because of misconduct (that is, they quite consciously assume that the victim's behavior may be the cause of the assault). At the same time, the majority of respondents agree that a significant proportion of victims behave incorrectly in one way or another, which ultimately determines, in part, the assault on them. According to updated data, the view on the full or partial "guilt" of victims of sexual crimes (men/women) is supported by approximately 63.7% of men. It is immediately noteworthy that 36.3% of women surveyed also agree that some of the responsibility "lies" on the victim of the crime.

Data on the "guilt" of victims could be interpreted to some extent "conditionally" and questioned, but the specification of information about the behavior of victims indicates that the information is sufficiently valid. Thus, of all respondents, 87.2% of respondents believe that they have never been in potentially dangerous situations (at certain events, in companies, etc.), where they could, in their opinion, be sexually abused. At the same time, 9.2% of respondents indicate that they have been in a potentially dangerous situation once or twice (i.e. they were aware that in a certain course of events, a sexual crime could be committed against them), 1.8% believe that they were in such situations. more than twice.

In addition, 1.8% could not clearly answer this question, noting that they did not have a clear idea of the possible course of events and consequences (apparently, this answer indicates that such situations were potentially possible). On the other hand, the vast majority of respondents (almost 75%) are convinced that in practice it is possible that potential partners may misjudge each other's actions (as an example, a situation was simulated where a woman does not resist very much and a man does not accept rejection and considers it part of the "game"). At the same time, out of the total number of respondents - 59.3% believe that such situations are possible in some cases, and 16.5% indicate that they are quite real. However, 23.9% of respondents are convinced that such situations are far-fetched and untrue.

It is important to note that when considering this question by gender, we can see approximately the following indicators - the vast majority of men (up to 70% of all answers) believe that such misunderstandings are possible, while only a third of women point to such situations as possible. This means that in certain "borderline" situations, men are much more likely than women to misunderstand events and assess the situation from their own, subjective point of view, which is completely untrue, not fully aware that the encroachment is taking place. on objects that are under the protection of criminal law. It is obvious that such situations arise due in part to the low level of culture of the relationship between men and women, especially at a young age, which will be discussed below.

In addition to general issues related to the perception of the state of crime in the field of sexual freedom and sexual integrity, as well as assessing the effectiveness of combating these crimes and "guilt" of the victim in their commission, we also examined a number of issues indirectly related to the determination of criminal offenses. offenses. It is known that a person implements certain patterns of behavior, which he learns through personal experience and the social environment in which he is. It is obvious that the current attitude of young people to sexual relations in general, their vision of this area, the order of gaining experience, the culture of relations between men and women in society through the prism of their views and modern culture in general, are definitely associated with crime in this area. There is no doubt that the negative trends in this area will be reflected over the years in the area of crime against sexual freedom and sexual integrity. The experience, the ideas that are fixed in the minds of modern youth will directly affect how they will behave, how they will perceive appropriate actions and what assessment they will give them.

Taking into account the above, in the framework of the research, we studied the question of their own "experience" of establishing relationships and contacts with persons of the opposite sex. In the vast majority of respondents (73.8%), there have never been situations in their lives in which their actions towards people of the opposite gender were improperly understood (for example, simulated situations in which at the suggestion of acquaintance - accused of harassment, or in the case of wearing a beautiful dress addressed

to the respondent - obscene suggestions were made, etc.). However, 8.4% of respondents found it difficult to answer this question, and 11.2% said that they had been in such situations several times. In turn, another 6.5% indicated that this was the situation with them at least once.

Among all respondents, only 4.3% believe that, on average, nowadays, sexual intercourse begins after the age of 18, 4.3% found it difficult to answer this question. On the other hand, 45.3% of respondents are convinced that sexual intercourse begins between the ages of 14 and 16, and 42.7% believe that such intercourse begins between the ages of 16 and 18. A small proportion (4.3%) of respondents also note that sexual intercourse now begins before the age of 14. The above data actually reflect the respondents' own experience and their ideas based on the words of their peers, friends, comrades, etc. Of course, there is a real, correlated link between the age at which young people's sexual life begins and the number and quality of criminal offenses against sexual freedom and sexual integrity in the future.

Interesting are the statistics on the possibility of using minor violence against a partner during sexual intercourse (a situation was simulated in which it was indicated that minor violence is used as a "game", etc.). Thus, 27.8% of respondents (both men and women, and we did not find significant differences between points of view on this issue) believe that the use of such violence is unacceptable. At the same time, 51.9% of respondents believe that the use of this kind of violence is quite acceptable if they do not cross a certain border. At the same time, 11.1% of respondents consider the use of minor violence during sexual intercourse to be perfectly normal, and another 9.3% find it difficult to answer this question. Not surprisingly, a significant proportion of men are ultimately unable to clearly define how their potential partner perceives the situation.

A separate group in the research raises questions about the sources of information about sexual intercourse, the formation of a culture of relationships between men and women in adolescence. The survey shows that currently only 5.6% of respondents indicate that they have never seen pornographic films (with scenes showing sexual intercourse), and 2.8% of respondents say that it is "difficult" for them to answer about it. However, almost 90% of respondents say they have seen pornographic films at least once. If we give more accurate data, we can say that 36.1% of respondents have seen such films at least once, 43.5% of respondents have seen such films repeatedly, and 12% watch them periodically.

As for the sources of information received by young people in the field of sexual relations, today, based on the results of the survey, the most noticeable dissemination of such information is through social networks (Instagram, Facebook, etc.) and averages 33.2% of all sources. Next, (19.6%) in "popularity", is the dissemination of information through acquaintances, friends and comrades. In 18% of cases, respondents point to "adult" films as a source. In about 16.4% of cases, such information "reaches" teenagers through television, 13.9% receive information from "adult" magazines, 3.6% through other print media, and only (!) 1.6% of parents or relatives. It is clear that given the "quality" of individual sources that are at the top of the ranking, we cannot talk about the normal formation of a clear idea of the culture of sexual intercourse in adolescents. The vast majority of these "sources" are not controlled by anyone, there is no filtering at all, both the information itself and the way it is presented. Undoubtedly, this creates a general unfavorable background for crime in the area of sexual freedom and sexual integrity in general.

Among all the possible factors that contribute most to the spread of sexual crimes, the majority of respondents point to the following: a) distribution of pornography, free access to relevant information on the Internet – 26.4% (hereinafter - of the total); b) low culture of relations between men and women in society – 21.6%; c) provocative behavior of victims of sexual crimes – 20.1%; d) improper education of adolescents in this area – 12.6%; e) improper response by law enforcement agencies to the facts of appeals of victims - 10.8%; f) improper state of public order protection – 5.9%. In addition, respondents also personally noted that among the main factors that contribute to crime in the field of sexual freedom and inviolability are the following: a) the negative (general) impact of the environment on young people; b) prohibition of legal prostitution; c) a certain "impunity" for most sexual crimes, and some others. Thus, the study of the modern perception of young people of the main issues of crime in the field of sexual freedom and sexual integrity of the person allows us to draw some conclusions. First of all, it should be noted that modern ideas of young people about the sexual sphere of relationships between people are changing to some extent. In our opinion, it is

impossible, however, to state unequivocally that such changes are exclusively negative, as is done in some sources. Of course, some of the current trends in this area, in particular with the participation of adolescents, are negative, however, we believe that it is unacceptable to try to justify a direct link between the "liberalization" of young people's views on certain aspects of sexual intercourse with crime in this area.

The results obtained from the study of adolescents' views on crime in the field of sexual freedom and sexual integrity of a person show a fairly high level of concern of young people in this regard. The vast majority believe that the situation with such crimes as rape, sexual violence, molestation of minors and others getting worse every year. The presence of negative "potential" expectations in this regard is very high. In addition, the majority of young people do not feel or see any "efforts" of the state to combat these crimes.

The negative expectations of young people, unfortunately, are supported to some extent by the known facts of improper response of law enforcement agencies to the relevant appeals. It should be noted the critical need for a quality response to all facts of crimes in the field of sexual freedom and sexual integrity of a person by law enforcement agencies, especially units of the National Police.

According to our research, the vast majority of young people experience impunity for these acts, which undoubtedly has a negative impact on the state of crime in general and crime in the field of sexual freedom and sexual integrity in particular. In addition, a large number of respondents reliably indicate that they have information about the facts of sexual violence (or attempts to commit them) against relatives, friends or acquaintances (almost 24% of respondents!). The obtained data clearly confirm the thesis about the high level of latency of these crimes. It is obvious that the state and law enforcement agencies need to take certain steps to reduce the latency of these crimes.

The above-mentioned features of youth perception of the current state of crime in the field of sexual freedom and sexual integrity of a person lead to the fact that the vast majority (more than 70% of respondents) do not consider it necessary to apply to law enforcement agencies, and a significant proportion of respondents (including women) are perceived as a "proper" point of view, according to which the victim of a sexual crime in many cases is personally "guilty" of the assault committed against her. The data obtained also allow us to state with a high probability that the modern information environment is aggressive towards adolescents. No control and supervision over the content and especially the quality of information is actually carried out. The vast majority of surveyed adolescents personally note that the main factor in the spread of crime in the field of sexual freedom and sexual integrity of a person is the dissemination of pornographic information, free access to it through the Internet and social networks.

Conclusions. In conclusion, it is necessary to note the main directions and measures that today, based on the views of young people (according to the survey) are critical in preventing crime against sexual freedom and inviolability: a) forming a holistic and modern view of youth sex education, starting with 16 years (and given the sexual activity of adolescents - from 14 years), its implementation in a decent and accessible form that meets moral standards; b) urgent action in the field of interaction between law enforcement agencies and citizens, clarification of the need and effectiveness of appeals for protection of violated rights; c) urgent measures to control the information disseminated on the Internet (in most countries there has long been a system of blocking the site – IP addresses with malicious content, especially pornographic), blocking government agencies sites, groups on social networks and other communities with malicious content; d) introduction of free short-term, free courses/trainings for the purpose of victimological prevention of sexual criminal offenses.

We believe that the solution of a number of outlined urgent problems will be able to significantly positively affect the state of crime in the field of sexual freedom and sexual integrity of a person over the next 5-10 years.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

References

1. Holina V. V., Holovkin B. M., Valuiska M. Iu. Kryminolohiia: pidruchnyk [Criminology: textbook] Kharkiv: Pravo. 2014. 440 p. [in Ukr].
2. Zakaliuk A.P. Teoretychni zasady ta istoriia ukrainskoi kryminolohichnoi nauky [Theoretical foundations and history of Ukrainian criminological science]. Kyiv: Vydavnychi Dim "In Yure". 2007. 424 p. [in Ukr].
3. Filipp A. V., Kyselov I. O. Rol zhertyvy statevoho zlochynu v mekhanizmi zlochynnoho posiahannia [The role of victim of sexual crime in the mechanism of committing criminal assault] Porivniialno-analitychne pravo (electronic journal). 2016. Vol. 2. No. 56. Pp. 184-186. URL: http://www.pap.in.ua/2_2016/56.pdf [in Ukr].

Submitted: 01.12.2021

Анастасія ФІЛІП ФАКТОРИ, ПОВ'ЯЗАНІ З КРИМІНАЛЬНИМИ ПРАВОПОРУШЕННЯМИ ПРОТИ СТАТЕВОЇ СВОБОДИ ТА СТАТЕВОЇ НЕДОТОРКАНОСТІ ОСОБИ В УКРАЇНІ (ЕМПІРИЧНЕ ДОСЛІДЖЕННЯ).

Анотація. Досліджено окремі фактори сприйняття молоддю, проблеми кримінальних правопорушень проти статевої свободи та статевої недоторканості особи в цілому, а також окремих моментів у суспільному житті, що тісно пов'язані зі статевою сферою взаємовідносин. Також проаналізовано вплив сучасних технологій (зокрема, Інтернету, соціальних мереж та ін.) на сприйняття молоддю статевої сфери в цілому, та взаємовідносин між людьми в даній сфері. Дослідження було проведене шляхом анонімного анкетування молоді у віці від 18 до 25 років, які ведуть активне соціальне життя (навчаються у ВНЗ, спілкуються з товаришами тощо). У дослідженні прийняли участь особи як жіночої, так і чоловічої статі (у співвідношенні 47,3% до 52,7% відповідно). В структурі дослідження було виділені окремі блоки інформації, які перетинаються між собою.

Визначено основні напрямки та заходи, які сьогодні, виходячи з поглядів молоді (за результатами анкетування) мають критичне значення в сфері запобігання злочинності проти статевої свободи та статевої недоторканості особи. А саме: формування цілісного та сучасного погляду на статево освіту молоді, починаючи принаймні з 16 років (а з огляду на сексуальну активність підлітків – починаючи з 14 років), її впровадження в пристойній та доступній формі, яка відповідає нормам моралі; термінове вжиття заходів у сфері взаємодії правоохоронних органів та громадян, роз'яснення необхідності та ефективності звернення за захистом порушених прав; вжиття заходів стосовно контролю інформації, що розповсюджується у мережі Інтернет; запровадження безкоштовних короткострокових, безкоштовних курсів/тренінгів з метою віктимологічної профілактики статево кримінальних правопорушень.

Ключові слова: сучасний стан злочинності, статева свобода, статева недоторканість, зґвалтування, сексуальне насильство, культура сексуальних відносин.