



LEGAL GROUNDS FOR CRIMINAL LIABILITY ESTABLISHED IN NATIONAL LEGISLATION FOR INVOLVING MINORS IN ANTISOCIAL BEHAVIOR

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Annotation:

This article outlines the issues concerning criminal liability for involving a minor in antisocial behavior as stipulated by the Criminal Legislation of the Republic of Uzbekistan. Furthermore, the article analyzes the opinions and views of scholars who have studied certain aspects of involving minors in antisocial actions.

Keywords:

Minor, child, individual, group, antisocial behavior, national legislation, administrative prejudice, crime, punishment, involvement in crime, liability.

Currently, there is a significant increase worldwide in cases of adults involving minors in various illegal activities, particularly begging, alcohol consumption, drug abuse, prostitution, and child pornography. This situation is extremely dangerous not only because it disrupts the physical and mental development of these individuals, but also because it encroaches upon universal and national values in society, leading to a weakening of legal awareness and culture.

Such crimes, committed by involving minors in antisocial behavior, create the foundation for the commission of serious and especially serious crimes in the future.

From this perspective, the issue of responsibility for involving minors in antisocial behavior is important not only for legal reasons but also for ensuring socio-spiritual stability. The clear and appropriate establishment of grounds for liability for this type of act in our national legislation plays an important role in strengthening the legal immunity of society, especially in ensuring the involvement of adolescents in lawful and beneficial activities in the future.

The legislative system of the Republic of Uzbekistan establishes both administrative and criminal liability for involving minors in antisocial behavior.

Article 188 of the Code of Administrative Offenses of the Republic of Uzbekistan, entitled "Involvement of a Minor in Antisocial Behavior," establishes liability for involving a minor in antisocial behavior, such as the consumption of alcoholic beverages, narcotic drugs, their analogues, or substances or means that are not considered psychotropic but affect a person's intellect and will, with a fine ranging from 10 to 20 times the basic calculation amount (BCA) [1].

In addition, part 2 of Article 188-3 of this Code stipulates a fine of 5-10 times the Basic Calculation Amount (BCA) or administrative arrest for up to 15 days for involving a minor in begging. Part 2 of Article 191 prescribes a fine of 5-10 times the BCA for involving a minor in gambling and other risk-based games. In the aforementioned cases, administrative liability is

provided as special norms separate from Article 188 for involving minors in various forms of antisocial behavior[2].

The current Criminal Code establishes liability in several provisions related to involving a minor in antisocial behavior, including the commission of crimes.

Furthermore, the current Criminal Code contains numerous provisions that define acts committed against minors as aggravating circumstances. For example:

Paragraph "b" of part two of Article 103 (driving to suicide) of the Criminal Code;

Paragraph "a" of part two of Article 103-1 of the Criminal Code (incitement to suicide);

Paragraph "a" of part two of Article 110 (Torture) of the Criminal Code;

Paragraph "b" of part three of Article 113 of the Criminal Code (Spread of venereal disease or HIV/AIDS);

Paragraph "a" of part three, part four of Article 118 (rape) of the Criminal Code;

Paragraph "a" of part three, part four of Article 119 of the Criminal Code (forcible satisfaction of sexual needs in an unnatural manner);

Paragraph "b" of part seven of Article 126-1 (Family (Domestic) Violence) of the Criminal Code;

Article 128 of the Criminal Code (sexual intercourse with a person under the age of sixteen);

Article 128-1 of the Criminal Code (sexual intercourse with a person aged sixteen to eighteen by providing material assets or property benefits);

Article 129 of the Criminal Code (committing indecent acts against a person under sixteen years of age);

Article 122 of the Criminal Code (evasion of material support for minors or incapacitated persons);

Paragraph "a" of part four of Article 131 of the Criminal Code (pimping or maintaining a brothel);

Paragraph "a" of part three of Article 135 (human trafficking) of the Criminal Code;

Paragraph "a" of part two of Article 137 (kidnapping) of the Criminal Code;

Article 148-1 of the Criminal Code (violation of the requirements on the inadmissibility of using minors' labor);

Part two of Article 148-2 of the Criminal Code (administrative coercion to labor);

Paragraph "d" of part two of Article 235 of the Criminal Code (application of torture and other cruel, inhuman or degrading treatment or punishment);

Paragraph "a" of part two of Article 245 of the Criminal Code (taking a person hostage).

The commission of socially dangerous acts stipulated in these criminal acts against a minor is defined as an aggravating circumstance. At the same time, a number of articles of the Criminal Code establish liability for certain forms of crimes committed for the exploitation of minors. These articles include:

Article 127-1 of the Criminal Code (begging);

Article 130 of the Criminal Code (production, import, distribution, advertising, demonstration of pornographic products);

Article 131 of the Criminal Code (pimping or keeping a brothel);

Article 145 of the Criminal Code (violation of freedom of conscience);

Article 244-2 of the Criminal Code (formation, leadership, and participation in religious extremist, separatist, fundamentalist, or other prohibited organizations);

Article 278 of the Criminal Code (organization and conduct of gambling and other games based on risk).

These articles establish liability for involving minors in various antisocial acts.

According to Sh.Berdiev, there are two approaches to the concept of regulating social relations with minors in the Criminal Code:

a) it is established that minors are the object of a crime, aimed at protecting their rights and legitimate interests from criminal encroachments, and also that a minor is protected as a victim of material and moral damage.

According to this approach, minors are defined in Articles 118-119, 122-125, 127-131, 135 of the Criminal Code as the object of a crime, as well as in part 2 of Article 145, paragraph "g" of part 2 of Article 245, paragraph "d" of part 2 of Article 273, parts 3 of Article 278 of the Criminal Code, their rights and interests are protected on the basis of the idea of humanism, which demonstrates that their rights and legitimate interests are protected by the legislator on the basis of the idea of humanism.

b) the minor who committed the crime is a necessary element of the corpus delicti - the subject of the crime[3].

Sharing these views of Sh.Berdiev, the study examines minors as an object of social relations protected by criminal law.

As is known, part 1 of Article 127 of the Criminal Code provides for a fine from one hundred to two hundred times the basic calculated value, or compulsory community service for up to three hundred and sixty hours, or correctional labor for up to two years, or restriction of liberty from one year to three years, or imprisonment for up to three years.

This socially dangerous act falls under the category of crimes of administrative prejudice and, at the request of the legislator, for the act provided for in part 1 of this article to be qualified as a crime, it must have been committed after the application of administrative penalties.

In our country, a number of scientists have conducted research on crimes related to administrative prejudice, and Doctor of Science Kh.A. Karimov noted that a crime with administrative prejudice is a crime for which an administrative penalty is established when the act provided for in the Special Part of the Criminal Code is committed for the first time, Article 127 of the Criminal Code "Involvement of a minor in antisocial behavior" and a number of other crimes are included in the chapter "Crimes against the family, youth and morality," Article 188 of the Code of Administrative Offenses "Involvement of a minor in antisocial behavior," Article 188-3 of the Code of Administrative Offenses "Pilgrimage" and a number of other offenses are included in the category of "Offences encroaching on public order," which indicates the presence of a discrepancy in the placement of codes according to the object of offenses for crimes with administrative prejudice, as well as the naming of chapters according to the object of offenses is not the same in most cases, and, taking into account the fact that administrative prejudice is provided for in the current Criminal Code,

In our opinion, it is also necessary to eliminate the discrepancies in these codes and place offenses according to the object, otherwise this may lead to inconsistency in the legal approach and, in turn, lead to incorrect qualification for law enforcement agencies, disrupting the balance of punishment. For example, internal affairs bodies, considering the above offenses as a violation of public order, may overlook the need to protect the rights of young people.

Also, part 2 of the article under study establishes that for involving a minor in the use of narcotic drugs, their analogues, or psychotropic substances, along with alternative types of punishment, a measure of punishment in the form of imprisonment for up to five years is applied.

The crime provided for in part 2 of Article 127 of the Criminal Code is considered completed from the moment the perpetrator commits actions aimed at involving a minor in the consumption of narcotic drugs, their analogues, or psychotropic substances, regardless of whether the victim consumed the narcotic drugs, their analogues, or psychotropic substances[5].

Involvement of a minor in a crime provided for in part 3 of this article, as well as the actions provided for in part two of this article, are punishable by:

- by a person who previously committed any crime related to the illegal circulation of narcotic drugs or psychotropic substances;
- in relation to two or more minors;
- committed in educational institutions or in other places where pupils, students hold educational, sports or public events, is punishable by imprisonment from five to ten years.

Researcher N. Ashurova, who conducted research on this topic, proposed to change the title of Article 127 of the Criminal Code of the Republic of Uzbekistan to "Involvement of a minor in the commission of a crime," to transfer the first part of this article to the Code of Administrative Offenses, as well as to integrate paragraphs "b" and "c" of the second and third parts into Article 274 of the Criminal Code depending on the subject of the crime[6].

In contrast, in our opinion, given the high degree of social danger of the act of involving a minor in the commission of a crime, it is advisable to introduce this crime into the Criminal Code as a separate article - for example, as a new article 127.2. In this article, taking into account the various forms and aggravating circumstances of the act, the corpus delicti should be consolidated by dividing it into parts and clauses.

Analysis of the legislation of a number of CIS countries and other foreign countries shows that they establish criminal liability through separate articles for involving minors in antisocial behavior or committing crimes. For example, Article 150 of the Criminal Code of the Russian Federation is called "Involvement of a minor in the commission of a crime," and Article 151 is called "Involvement of a minor in antisocial behavior"[7]. Also, Article 132 of the Criminal Code of the Republic of Kazakhstan establishes criminal liability for involving a minor in committing a crime, and Article 133 - for involving them in antisocial behavior[8].

In addition, if we take our national legislation as an example, the Code of Administrative Offenses of the Republic of Uzbekistan establishes liability for involving minors in committing an administrative offense under a separate article (Article 188.1) [9], however, in the Criminal Code, in the disposition of Part 3 of Article 127, it is generally indicated as "Involving a minor in a crime"[10], while the name of this article is called involving a minor in antisocial behavior.

A comprehensive analysis of the features of the corpus delicti and their reflection in the disposition of the article will serve to reduce disputes in law enforcement practice. Currently in force, Article 127 expresses in general terms the acts related to the involvement of minors in crime, but does not sufficiently cover the circumstances complicating the corpus delicti - such as violence, deception, coercion, recidivism, or the commission of a crime as part of a criminal group.



Therefore, it is advisable to organize the crime of "Involving a minor in the commission of a crime" as a new separate article in the Criminal Code, to divide its disposition into parts and clauses, to clearly define aggravating circumstances of the crime (for example, committed in a group, committed by a relative or a manager, committed under physical or psychological pressure, etc.) and to establish proportionate types of punishment.

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