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On the question of the historical and legal aspect of studying of extremism

Annotation. In the article are considered the basic concepts of the study of extremism, considered in the interdisciplinary field of scientific knowledge. The historical and legal analysis of extremism makes it possible to identify the main causes and consequences of the emergence and functioning of the phenomenon of extreme manifestations, to formulate concrete practical recommendations on countering the threat of extremism expressed in legislative regulation and the activities of law enforcement agencies. Especially important is the prevention of extremist and terrorist phenomena, which consists not only in ideological and propaganda impact on the population.

Key words: extremism, historical and legal analysis, society, state, acts of violence, national security.

Extremism as a social and legal phenomenon is at the intersection of the study of various disciplines, such as the theory of state and law, criminal law, sociology, social psychology, etc. In the modern humanitarian theory, there is a variety of way to the study and interpretation of this definition, developing scientific and legal concepts for determining extremist manifestations.

A typical example of the international definition of the definition of «extremism» was given the Shanghai Convention of June 15, 2001 «On Fighting against terrorism, separatism and extremism».

In it, as «extremism» is "any act aimed at the forcible seizure of power or the forcible retention of power, as well as the violent change of the constitutional order of the state, as well as violent encroachment on public security, including the organization of the above-mentioned illegal armed groups or participation in them» [i, 3947].

The resolution of the Parliamentary Assembly of the Council of Europe, adopted in 2003, contains the following definition: «Extremism is a form of political activity that explicitly or subordinately denies the principles of parliamentary democracy and is based on the ideology and practice of intolerance, alienation, xenophobia, anti-Semitism and ultra nationalism» [ii].

The concept of extremism has already been defined in Kazakh legislation.

In accordance with Clause 5) of Article 1 of the Law of the Republic of Kazakhstan «On Countering Extremism» of February 18, 2005, extremism — organization and (or) committing:

- extremism — organization and (or) commission:
- physical and (or) legal person, association of physical and (or) legal persons of actions on behalf of the organizations recognized in the established order as extremist;
- physical and (or) legal person, association of physical and (or) legal persons of the actions pursuing following extremist purposes:
 - violent change of the constitutional system, violation of the sovereignty of the Republic of Kazakhstan, integrity, inviolability and inalienability of its territory, undermining the national security and defense capability of the state, forcible seizure of power or forcible retention of power, creation, leadership and participation in illegal paramilitary formation, organization of armed rebellion and participation in it, incitement of social, class strife (political extremism);
 - the incitement of racial, national and clan hatred, including those related to violence or calls for violence (national extremism);
 - incitement of religious enmity or discord, including those related to violence or calls for violence, and the use of any religious practices that threaten the safety, life, health, morals or rights and freedoms of citizens (religious extremism) [iii].

As we see under the legislation of the RK, types of extremism are distinguished: political, national and religious.

Extremism is the premeditated and prepared illegal use of violence or the likelihood of such action against the person or her property, in order to force the government (society, state) to make a decision that meets the requirements of unlawful forces.

Some authors understand by extremism «activities to disseminate such ideas, currents, doctrines that are aimed at: the elimination of the very possibility of legal pluralism, free circulation and the exchange of ideas; the establishment of a single ideology as a state ideology; the division of people according to class, property, race, national or religious grounds; the denial of the absolute value of human rights» [iv, 23]. In our opinion, the use of this definition is questionable, because extremism still includes not only the dissemination, but also the implementation of destructive ideas in practice.

An example is the radical manifestations of religious extremism, which is expressed not only in the dissemination of extremist literature, materials and ideas, but also in involving people in acts of violence, attacks on government officials and law enforcement agencies. The moral psychological aspect of extremism points to such features as special cruelty, a high degree of immorality, illegibility in means, uncontrollability. Extremism denies the basic human right — to life, denies any restrictions when choosing a place, time, and ways of attack. It does not take into account such circumstances as age, gender and other characteristics of potential victims. Children, women, old people, hospitals, schools, maternity homes, children's institutions, apartment houses, vital facilities for the population, etc., can become targets of the attack. The main thing is to produce an intimidating effect, to cause maximum resonance, to exert psychological pressure, to declare oneself and achieve the set aims.

From the standpoint of the political approach, extremism is defined as «a multidimensional and complex social phenomenon that acts as both an ideology (philosophy) and as a practice, as a mechanism for ethno social and religious mobilization, and as a principle and instrument of political life» [v, 11]. One can agree with this definition, but we should add that it does not take into account a significant historical and legal component that determines the study of manifestations of extremism.

When considering the social aspect of extremism, it is asserted that «extremism» is a social phenomenon of a destructive activity character, which in various models of social order has special prerequisites for the emergence and characteristic conditions of existence. The author differentiates between extremism and patriotism, nationalism, racism. In his opinion, individuals with no strong social and economic status tend to be addicted to this phenomenon, namely young people [vi, 7].

In this definition, in our opinion, the ideological aspect of extremist activity is not fully taken into account, since ideology is the pivotal regulator of manifestations of extremism. The socio-political conditioning of extremist manifestations is taken into account in the concept in which extremism is viewed as a socio-political phenomenon consisting in the desire of certain active groups of society or individuals to achieve immediate destruction of the existing state system and build a more just society on the ideological basis of concrete political concepts and doctrines [vii, 212-214].

From another point of view, extremism is the personification of a certain kind of negative manifestations, aimed at generating from the members of the world community doubts about the possibility of maintaining stability in the world on the principles of democracy, respect for human and citizen's rights and freedoms [viii].

Thus, it can be concluded that extremism is a historically established practice of destructive protest of extreme groups of the population, a dangerous form of expressing protest views and radicalism in society. Extremism throughout the history of mankind has undermined the foundations of the state system and public life, carried destabilization and numerous victims not only among the objects of extremist manifestations, which, as a rule, were representatives of government and law enforcement bodies, but also among innocent citizens. The historical and legal analysis of extremism makes it possible to identify the main causes and consequences of the emergence and functioning of the phenomenon of extreme manifestations, to formulate

concrete practical recommendations on countering the threat of extremism expressed in legislative regulation and the activities of law enforcement agencies. Especially important is the prevention of extremist and terrorist phenomena, which consists not only in ideological and propaganda impact on the population, but also in educational work, as well as in raising the standard of living of the population, thus preventing the emergence of a threat of extreme manifestations.

Түйін

Мақалада автор кәмелетке толмағандардың және кәмелетке толмағандарға қарсы жасалған күштеу емес жыныстық қылмыстардың қысқаша криминологиялық талдауын қылмыстық істер материалдарының статистикалық деректері талдауының негізінде жасады. Жасы кәмелетке толғанға дейін жыныстық қылмыс жасаған адамдардың бірі — қоғамның неғұрлым осал бір бөлігіне бағытталған сексуалдық зорлық-зомбылықтың ең қауіпті көріністерінің бірі болып табылады және кішкентай балалар мен кәмелетке толмағандардың моральдық, дене және ақыл-ой дамуының төнген үлкен қаупі. Мұндай келеңсіз құбылыстар болдырмауы қазақстан қоғамы үшін негізгі және басым міндет болып табылады.

РЕЗЮМЕ

На основе анализа статистических данных, материалов уголовных дел автор сделал краткий криминологический анализ ненасильственных сексуальных преступлений, совершенных против несовершеннолетних. Сексуальные преступления против несовершеннолетних лиц являются одними из наиболее опасных проявлений сексуального насилия, направленного на наиболее уязвимую часть общества, и представляют собой серьезную угрозу для морального, физического и умственного развития несовершеннолетних и маленьких детей. Предотвращение этих негативных явлений является приоритетной задачей для казахстанского общества.

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