

OBQUBA VRZ NEMO}NO LI CE, KRI VI ^NO PRAVNI , SOCI JALNI I TERMI NOLO[KI ASPEKTI

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Rezi me

Obquba vrz nemo}no li ce vsu{ nost, e naslovot na ~lenot 187 od KZ na Republi ka Makedonija. Toa e del od golemi ot nau-no-i stra`uva~ki proekt za seksual na ta del inkvencija vo na{ata dr`ava. Pri marna cel na proektot be{ e da se opi {at karakteristiki te na stori telite na seksual ni te zlostavuvawa, koi so pravosi lna sudska presuda bea smesteni vo kaznenopopravni te ustanovi. Za taa cel bea ispi tani 59 stori teli, koi vo kriti ~ni ot vremenski period bea na izdr`uvawe kazna zatvor. Pokraj analizata na sudskite dosieja, be{ e upotreben intervju, pra {alnik i baterija na testovi. Ne bea detektirani zna~ajni otstupuvawa od normalnata populacija, vo site segmenti na ispi tani te crti na li ~nosta, na ispi tani te stori teli na ova kri vi ~no delo. Vo celo st bea potvrdeni rezul tati te od sli ~ni i stra`uvawa vo svetot. I pokraj objektivni te te{ kotii za ispi tuvawe na posledicite od ova delo vrz `rtvite, se zakl u~i deka toa ima dl aboka travmatska di menzi ja. O~i gledna be{ e potrebata od ponatamo{ ni ispi tuvawa so vkl u~uvawe na pogole m broj eksperti od razli ~ni nau ~ni di sci pli ni.

Klu-ni zborovi: seksual no zlost avuvawe, nemo}no li ce, obquba, kri vi ~en zakon

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CRIMINAL, LEGAL, SOCIAL AND TERMINOLOGICAL ASPECTS SEXUAL INTERCOURSE WITH A DISABLED PERSON

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Abstract

Sexual intercourse with a disabled person, in fact, is the title of Article 187 from the Criminal Law of the Republic of Macedonia. This is a part of the large scientific and research project on sexual delinquency in our country. The main aim of the project is to describe the characteristics of the doers of sexual abuse, who with the court sentence going into effect were put in the Houses of correction. For that aim, 59 doers were interviewed, who at the critical period were executing a sentence. Besides analysis of court files, interviews, questionnaires and battery of tests were used. There were no detected significant deviations from the normal population in all segments of the examined personal characteristics of the doers of criminal act. Results of world wide similar researches compared to this research have been confirmed. Although the objective difficulties in investigating the consequences of this act on the victims, it has been concluded that it has a deep traumatic dimension. The need for further investigation including a large number of experts from different scientific disciplines was obvious.

Key words: sexual abuse, disabled person, sexual intercourse, criminal act

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Voved

I pokraj tendencijata na krivi~noto pravo da se povlekuva od inkriminacii { to navleguvaat vo intimnata sfera na ~ovekovoto opstojuvawe, kako { to be{ e kaznuvaweto na **homoseksualizmot, onanijata, promiskuitetot**, koi vo minatoto bea rigorozno sankcionirani, krivi~nite dela, kako na primer, **siluvaweto, obqubata vrz nemo}ni lica i dr.** sekoga{ bile locirani od drugata, kaznivata strana na zakonot.

Ako pojavata i delata na Sigmund Frojd go ozna~uvaat po~etokot na seksualnata revolucija { to, od druga strana, zna~i otvorenost i glasnost na temite za seksot, kako prirodna ~ovekova potreba, koja vo minatoto bila potiskuvana, duri i kaznuvana, ovie na{ i prostori bea obremeneti so patrijarhalnost i tabua za seksualnosta, kade { to mo{ ne malku se zboruva, a u{ te pomalku se pi{uva. Edna od tie temi, sekako, e zlostavuvaweto, i toa ona, seksualnoto zlostavuvawe, na edna posebna kategorija lu|e, ako lu|eto mo` e taka da gi kategorizirame.

Naj~esto pra{ awe na koe bi trebalo da se dade odgovor, e koj e toj ~ovek ili koi se pri~inite { to gi motiviraat ovie lu|e da izvr{at vakvo krivi~no delo, za koe, najblago mo` e da se ka`e deka ne e ~oveko? Koi se tie lu|e koi, zloupotrebuvaj}i ja svojata mo}, izvr{uvaat obquba vrz lica koi se **du{ evno bolni, du{ evno rastroeni, zaostanati vo du{ evniot razvoj, invalidi i drugi?**

Zlostavenite lu|e se lu|e koi ne bile vo sostojba ili ne mo`ele da se sproti vstavat na ova nedelo; lu|e koi, mo`ebi, i ne go znaat zna~eweto na ova zlodelo; lu|e koi ne mo`e da odberat so kogo, kade i zo{ to gi pri nudile na ovoj akt. Kaj nekoj od niv, kako { to se, fizi~kite invalidi, kaj koi mentalnite funkcii se za~uvani, tie ne se vo sostojba da se sproti vstavat poradi invaliditetot, osven normalno glaso~no-so povi kuvawe i barawe pomo{ .

Introduction

Besides the tendency of criminal legislation to withdraw from incriminations that enter the intimate sphere of human existence, such was punishment of **homosexuality, onanism and promiscuity**, which were rigidly sanctioned, the criminal acts, for example, **rape, sexual intercourse of disabled person** etc; they have always been located on the other side, the punishment side of the law.

If the works of Sigmund Freud mark the beginning of sexual revolution, which, on the other side, means openness and distinctness towards topics on sex as a normal human need that was suppressed and even punished in the past, our environment was burdened by patriarchal issues and taboo for sexuality, which was not talked or written about. One of these topics, certainly, is abuse, i.e. sexual abuse of a specific category of people, if people can be categorized in such a manner.

The most frequent question that has to be answered is who that person was or what the reasons were those people to commit such criminal acts, which can be considered inhuman. Who are those people who misusing their power commit sexual intercourse with **mentally ill, mentally disturbed, mentally undeveloped, disabled and others?**

The abused people are people who are in no condition or cannot resist against this crime: people who, perhaps do not know the meaning of this crime; people who cannot choose with whom, where and why they have been forced to do this act. Some of them, such as physically disabled people where mental functions are preserved, are not able to resist due to their disability, except the normal sound calling and asking for help.

A { to e so drugi te, oni e { to mo` ebi i ne go znaat visti nskoto zna~ewe na seksualnosta i krajni te ef ekti od eden seksual en akt, kako { to e nesakanata bremenost ili, u{ te pote{ koto, nekoja zarazna, a mo` ebi i nei zle~i va bol est?

Najilustrativen na~in za da se sogleda zna~eweto i posledici te na ova a krimi nal na aktivnost e taa da se sporedi so **krivi~noto delo "siluvawe#**.

Op{ to e prifateno misleweto deka obqubata vrz nemo}no lice (formulacija { to e prifatena vo Kri vi ~ni ot zakon na Republika Makedonija) e eden povisok stepen na ~ovekova i op{ testvena degradacija, osobeno vo odnos na kri vi ~noto delo "siluvawe#. Od ~isto teoriski aspekt gledano, i vo dvete krivi~ni dela ima identi~ni formulacii na seksualni te dejani ja koi se zabraneti, i toa: nesakanata obquba i drugite polovi dejstvi ja. **Pod poimot "obquba#** se podrazbira soedinuvawe na polovite organi na dve lica od razli~en pol. **Pod sintagnata "drugi polovi dejstvi ja#** se podrazbiraat { irok spektar na drugi seksualni aktivnosti, kako { to se na primer: dopi rawe, fa}awe na delovi od teloto (se misli na gradi, polovi organi) i dr.

Krivi~noto delo "siluvawe# e smesteno vo ~lenot 186 od KZ, dodeka krivi~noto delo "obquba vrz nemo}no lice# e smesteno vo ~lenot 187. **Pokraj ovie dve dela vo ova a glava se i sledni ve dela: polov napad vrz dete; obquba so zlo upotreba na polo`-bata; zadovoluvawe na polovi strasti pred drug posreduvawe vo vr{ewe prostitucija; podveduvawe i ovozmo`uvawe polovi dejstvi ja; prika`uvawe na pornografski materijal na dete; i rodoskvernavewe.**

Sive ovie krivi~ni dela, smesteni vo devetnaesettata glava od KZ se opf ateni so naslovot Kri vi ~ni dela protiv pol ovata sl oboda i polovi ot moral.

Za razlika od krivi~noto delo "siluvawe# kade { to so prisilbata (silata i zakanata) se kr{ i odporot na `rtvata i kade { to se pretpostavuva deka `rtva mo` e

What about others, who actually do not know the real meaning of sexuality and the final effects of sexual act, such as pregnancy or even worse, contagious disease or terminal illness.

The most illustrative way to recognize the meaning and the consequences of this criminal activity is to compare it to the **criminal act "rape"**.

It is generally accepted that sexual intercourse with a disabled person (term accepted in the Criminal Law of the Republic of Macedonia) is a higher level of human and social degradation, especially in relation to the criminal act "rape". From theoretical aspect, for both criminal acts, identical formulation of the forbidden sexual activities is used undesirable sexual intercourse and other sexual acts. **The term "sexual intercourse"** means unity of sexual organs of two people of different sex. **The syntagm "other sexual acts"** means a wide range of other sexual activities: touching, petting different body parts (breasts, sexual organs) and so on.

The criminal act "rape" is stated in the Article 186 of the Criminal Law, while the **criminal act "sexual intercourse with a disabled person"** is stated in the Article 187. Besides these two acts, this chapter also includes child sexual abuse; sexual intercourse with misusing one's position; satisfying sexual passions in front of others; intervening in the act of prostitution; seducing and enabling sexual activities; showing pornography material to a child and committing incest.

In general, all these criminal acts stated in the nineteenth chapter of the Criminal Law under the title Criminal Acts against Sexual Freedom and Sexual Moral.

In the criminal act "rape", the victim's resistance is broken with force and threats and the victim is supposed to be psychic sound person

da e samo psihofizi~ki zdravo lice i koe treba da e postaro od ~etirinaeset godini, lice koe na određen način može da se sprotivstavi, kaj krivi~noto delo { to e predmet na interes vo ovoj trud, `rtva na krivi~noto delo e nemo}no lice kaj koe e zloupotrebena du{ evnoto zaboluvawe, du{ evnata rastroenost, nemo}ta, zaostanatiot du{ even razvoj ili druga sostojba poradi koja toa lice ne e vo sostojba da mu se sprotivstavi na stori telot.

Za razlika od krivi~noto delo "siluvawe# kade { to e neophodna upotrebata na sila ili zakana, kako po~etocite za izvr{ uvawe na ova delo, kaj krivi~noto delo "obquba vrz nemo}no lice#, kako osnoven element za izvr{ uvawe na ova delo e zloupotrebata na mo}ta vrz nemo}no lice. **Vo tekstot na Zakonot, zakonodavecot ne celosno gi definira, odnosno gi nabrojuva licata { to se nemo}ni, ta veli: lica so du{ evni zaboluvawa, du{ evno rastroeni, nemo}ni, so zaostanat du{ even razvoj i lica vo drugi sostojbi vo koi tie ne se sposobni da dadat otpor.** Pri eventualnata upotreba na sila ili zakana deloto }e se okvalifikuva kako "siluvawe#.

Ako za licata koi se so du{ evno zaboluvawe, du{ evna rastroenost i nemo}ni mo`e da se ka`e deka donekade mo`e da ja razberat seksualnosta i obqubata kako specifi~en akt, toga{ licata so zaostanat du{ even razvoj samo delumno gi sfaj`aat ovie kategorii i, mo`ebi, samo funkcioni raat na nagonisko ni vo.

I za ova krivi~no delo, kako i za drugi te od ova glava, kaznite se mo{ ne visoki i tie dostignuvaat do op{tiot zakonski maksimum, kazna { to predviduva mo`nost za izrekuvawe do`ivoten zatvor, vo soglasnost so stavot 2, ako poradi navedenoto delo nastapila te{ ka tel esna povreda, smrt ili druga te{ ka posledica ili pak, deloto e storeno od pove}elica na osobeno surov ili poni`uva~ki na~in.

Sepak, krivi~noto delo "obquba vrz nemo}no lice# ima i specifi~nosti { to ja potenci raat kriminalnata zadnina, koja

older than fourteen years of age. The victim of the criminal act, this paper is interested in, is abused disabled person, mentally ill, mentally disturbed, mentally undeveloped or any one who due to the disability cannot resist the act.

Contrary to the criminal act "rape", where force or threat is necessary during the act, the criminal act "sexual intercourse with a disabled person", as a basic element of the act, is the abuse and power over disabled person. **In the text of the law, the legislator partially defines and lists the disabled people: people with mental illness, mentally disturbed, disabled, mentally undeveloped people and or any one who due to the disability cannot resist the act.** In eventual use of force or threat, the act can be qualified as "rape".

If we say that people with mental illness, mentally disturbed or disabled people can somehow understand the sexuality or sexual intercourse as specific act, then mentally undeveloped people can partially understand these categories and they perhaps function only on the level of sexual instinct.

For this criminal act, as other acts from this chapter, the punishments are very high and they reach the general law maximum. The punishment anticipates a sentence to life imprisonment, according to paragraph 2, if severe physical injury, death or any other severe consequence occur due to the quoted act, or more people commit the act in severe and humiliating manner. However, the criminal act "sexual intercourse with a disabled person" has specifics that point out the criminal background that can that the

slobodno mo`e da go zazeme mestoto na zlostor so nesogledlivi posledici kako vrz `rtvata na samoto delo taka i vrz negovoto semejstvo.

Licata so invalidnost se lica { to mnogu ~esto se socijalno i fizi~ki, delumno ili celosno nemo}ni. Tie, vo odnos na drugi te mnogu ~esto zavise od pomo{ta vo sekoj-dnevni te aktivnosti i shranata, dvi`ewe-to, medicinska nega, higienata i dr. Mnogu ~esto na oni e na koi ovie lica im se dovereni da bidat starатели (vo naj-razli~ni institucii i ustanovi), a ne taka retko i vo sami te semejstva, tie lu|e vo toj odnos gledaat "ubava mo`nost# za nekazneto izvr{uvawe na seksualni zloupotrebi.

Obemi dinamika na krivi~noto delo "Obquba vrz nemo}no lice#, izrazeni preku statisti~ki podatoci vo na{ata zenja

Mnogu e interesen pregledot na statisti~kite podatoci, koi mo`e da se dobijate vo na{ite oficijalni institucii za obemot i dinamikata na ovie krivi~ni dela. Vo godi{nite izve{tai na Dr`avniot zavod za statistika na Republika Makedonija ne mo`e da se dobijate relevantni brojki na prijaveni, obvineti i pravosilno osudeni lica za krivi~noto delo-"obquba vrz nemo}no lice#. Vo nivnite tabeli ova delo so nekolku drugi se staveni pod grafata-ostanati. Od tuka, ne mo`e da se sogleda oficijalnata statistika za ovie dela. Vo tabelata {to sledi se dadeni podatoci te za 2000, 2001 i 2002 godina.

Bez nikakva namera da se {pekulira so ovie podatoci, potrebno e da se istaknat nekolku zabele{ki i pra{awa vo vrska so ovie podatoci. Neophodno e striktno da se davaat podatoci te za brojot na prijavenite, obvinetite i osudeni te lica za ova krivi~no delo. Od vkupno devet krivi~ni dela od ovaa glava, re~isi sekoga{se davaat podatoci samo za ~etiri, imaj}igi predvidi prethodnite godini, a ne samo ovie {to se dadeni vo na{ite tabeli.

position of crime with unforeseeable consequences for the victim of this act and for the victim's family.

Disabled people are those socially, physically, partially or totally disabled. They, compared to others, are often dependant on the assistance in everyday activities, nutrition, movements, medical care and hygiene and so on. People to who disabled are committed as their guardians (in different institutions and often in their own families), see in that relationship "good possibility" for unpunished committing sexual abuse.

Quantity and dynamic of the criminal act "sexual intercourse with disabled person" shown through statistical data in our country

The survey on statistical data, received from our official institutions on quantity and dynamics of these criminal acts, is very interesting. The annual surveys of the State Institute of Statistics in the Republic of Macedonia do not provide relevant figures of registered, accused and sentenced in effect people for the criminal act "sexual intercourse with a disabled person". In their tables, this act is put with several other acts in the graph "others". Thus, we can not get official statistics of these acts. The Table 1 shows the data for the years 2000, 2001 and 2002.

Without any intention to speculate with these data, it is necessary to point out several remarks and issues. It is necessary to have data of the number of registered, accused and sentenced people due to this act. Out of the total number of nine criminal acts of this chapter, data for only four are shown, having in mind the previous years and not only those of our table.

Tabela 1. Obemi dinami ka na krivi~ni t e del a od Glava XIX od KZ na RM

Table 1. Quantity and dynamic of the criminal acts in Chapter XIX of Criminal Law of the Republic of Macedonia according to the registered, accused and sentenced people

Krivi~ni dela Criminal acts	2000	2001	2002
	prijavi/obivenija/presudi registered/accused/sentenced	prijavi/obivenija/presudi registered/accused/sentenced	prijavi/obivenija/presudi registered/accused/sentenced
Siluvawe rape	39 / 40 / 19	47 / 25 / 19	49 / 29 / 23
Polovnapad vrz dete Child sexual abuse	30 / 17 / 16	25 / 25 / 18	35 / 26 / 26
Posreduvawe vo vr{ ewe prostutucija Intervening in act of prostitution	27 / 16 / 15	27 / 12 / 9	25 / 14 / 9
Prika` uvawe pornograf ski materijal na dete Showing pornographic material to a child	- / - / -	- / 1 / -	- / - / -
Rodoskvernavewe Incest	4 / 1 / 1	- / 1 / 2	1 / - / -
Drugo Others	19 / 4 / 3	9 / 7 / 4	9 / 13 / 8

Objavuvaj}i gi poedine~no ovie egzaktni podatoci za site krivi~ni dela, se ovozmo` uva realno da se sogleda ni vnata zastapenost, a so toa bi mo` elo da se prezmata soodvetni preventivni aktivnosti za nivnoto spre~uvawe. Ne e ni kakvo opravduvawe navodnata "mala zastapenost", poradi faktot { to e op{ to prisutna pojavata za neprijavuvawe na site krivi~ni dela od ovaa glava vo KZ, za { to }e stane zbor podolu vo tekstot.

Koise karakteristiki te na seksualnite zlopotrebi vrz licata so invaliditet, analiziraj}i gi pogolemi te svetski istra`uvawa vo ovaa oblast koi, za `al, vo na{ ata zemja se napraveni mo{ ne mal ku:

1. Mnogume mal procentot na seksualno zlostaveni lica so invaliditet od ma{ -ki ot pol, { to zna~i deka najgol emi ot procent `rtvi seli ca od `enski ot pol.
2. Mnogupogoleme procentot na seksualno zlostavuvawe kaj tel esno i nval idni te otkol ku kaj mentalno i nval idni te lica.

Announcing of these individual exact data of criminal acts, enables us to perceive their representation, and according to this to undertake preventive activities. It is no excuse for supposed "small representation", because it is obvious that the criminal activities, from this chapter of Criminal Law, are not reported. This is given below in the text.

What are the characteristics of sexual abuse of disabled people, analyzing the greater worldwide researches and unfortunately a few researches carried out in our country:

1. The percentage of sexually abused disabled males is very small which means that a great number of victims are females.
2. The percentage of sexually abused physically disabled people is greater than of mentally disabled ones.

3. Invaliditetot sigurno nikogo ne go pravi poseksi pilen, poatraktiven ili povozbudljiv, no pretstavuva fizi~ki problem koj zna~i op{ testvena izolacija, zavisnost i nemo}, koja mnogumi na ja smetaat kako "zeleno svetlo# za izvr{ uvawe na seksualni zlostavuvawa.

4. Mnogu ~esto fizi~ki ot invaliditet se tretira kako mentalen { to pretstavuva motiv za stori tel i te na ova del o.

5. Koga se vo pra{ awe ` enski te lica so invaliditet, tie pomalku ili pove}e se smetaat za op{ testveni paraziti, poradi { to se smeta "normalno# ili baram pre}utno pri f at livo, tie na nekoj na~in da im slu` at na oni e koi za niv se gri` at, duri i koga toa pretstavuva i seksualno iz` i vuvawe.

Edna od zna~ajnite karakteristiki na krivi ~ni te del a od ova a oblast e ni vnoto neprijavuvawe ili temnata brojka na kriminalitetot. Vistinskata brojka na nekoj vidovi kriminal re~isi i da ne e mo` no da se doznae. Ova tvrdewe e op{ to pri f at eno nasekade vo svetot. Taka, spored edno istra` uvawe, napraveno vo SAD, od FBI na sekoe edno prijavuvawe i mame po deset neprijavuvawa. So ova tvrdewe se soglasuva i Sla|ana Taseva. Golem broj se pri ~ini te za neprijavuvawe. Seksot u{ te e tabu-tema na ovi e na{ i prostori koi, vo osnova, se obremeneti so tradici onalni vrednosti i zabrani da se zboruva za seksot, od edna strana, a od druga, sramot za semejstvoto od okolinata, ~uvstvoto na nesi gurnost i nedoverbata vo insti tucii te na sistemot, dol gotrajnosta na postapkata za doka` uvawe i presuduvawe, neinformiranost, otpu{ tawe od rabota (mislime kaj za{ titnite rabotilnici) i dr. Vo osnova, navedeni te pri ~ini se op{ ti za site krivi ~ni dela, povrzani so seksualnata delinkvencija. Osven toa, ima i nekoj specifi ~ni pri ~ini koi direktno se povrzani so prijavi te podneseni od licata so invaliditet ili od ni vni te starateli, a toa se: nedoverbata i neserioznosta vo pri f a}aweto na ni vni te izjavi,

3. The disabled people are not more sexy, attractive or exciting, they have only a physical problem that means social isolation, dependence and powerlessness and many see it as a "green light" for sexual abuse.

4. Physical disability is very often treated as mental one, which is the motive for those who commit such acts.

5. When female disabled people are in question, they are treated more or less, as social parasites and it is assumed as normal thing or is silently accepted that they, in some way, serve to those who take care of them, even when sexual abuse occurs.

One of the most significant characteristics of criminal acts in this field is not registering and it is a dark number of criminality. The real number of some types of criminal acts is impossible to get to know. This assumption is worldwide generally accepted. According to one research carried out in the USA by FBI, there are ten non-registered to every one registered case. Sex is still taboo for our regions. It is burdened with traditional values and bans for talking about it on one side, and on the other side, the family's embarrassment, feelings of uncertainty and non-confidence in institutions of the system; long duration of the procedure for prove and judgment, lack of information, job loss (at shelter workshops) and others. The quoted reasons are common for all criminal acts connected to sexual delinquency. There are some specific reasons, directly connected to submitted reports by disabled people or by their guardian. They are as follows: non-confidence and non-seriousness in accepting their statements,

6. Zavisnosta, učenite i zakanite od rakovodni lica vo institucii te da ne se obelodenuvaat vo javnosta ovie nastani, `el bata "sramot# da ostane vo ramkite na semejstvoto-vo slu~aj da e stori tel ~len na potesnoto ili po{ i rokoto semejstvo i dr.

7. Od fenomenolo{ki aspekt gledano, brojot na la`nite prijavi e relativno mal, spored site soznanija { to se dostapni. Edna od pri~inite, sekako, e i malata mo`nost za materijalen nadomestok vo slu~aj na presuduvawe, za razlika od nekoj zapadni zemji, kade { to obe{ tetuvawata se relativno visoki, duri i za obi dite.

8. I pokraj faktot deka oficijalnite statisti~ki podatoci poka`uvaat mala zastapenost na ova zlodelo, tie se pak alarmiraat za edna sostojba na koja po{ i rokata javnost, a sigurno i eksperti te, bi trebalo poseri ozno da ja prou~ati da í obrnat pogol emo vni mane.

Koi se storit elite na ova krivi~no delo

Pra{awe na koe se obiduale da odgovorategolem broj lu|e od najrazli~ni struki i profesii, laici i eksperti. Dalise toa normalni lu|e ili bolni psihijatriki slu~ai, koi seksualniot poriv sakaat da go zadovolat so lice koe so ni{ to ne go predizikal ovoj akt? Kakov e mentalniot sklop na ovie lica? - Sigurno e deka eden fizi~ki invalid ne lice koe so izgl edot i povedeni eto go predizikal o stori tel ot za da go stori ova krivi~no delo. Mo`ebi, so nekojku potvrdni re~enici }emo`e da se prezentiraat pri~inite za storuvawe na ova krivi~no delo.

1. Ni koj nejze nema da í veruva za ona { to go zboruva.
2. Taa vo sekoj pogl ed zavis i od mene. Taa znae deka ako me nema, nema da ima da jade, da se oblekuva, da mo`e da odi na lekar, na rabota i dr.

6. Dependency, blackmails and threats by managers in institutions trying to hide such accidents from publicity and the "embarrassment" to stay within the family – in case the doer is next of kin or a member of the family.

7. From phenomenon point of view, the number of false reports is relatively small according to all available information. One of the reasons is a small possibility for material compensation in case of verdict, contrary to some western countries where the compensations are relatively high, even for the attempts.

8. Besides the fact that official statistical data show small presence of this crime, they still alarm for a situation that the publicity and the expert should study more seriously and should pay greater attention.

Who are the doers of such a crime

This is a question that a great number of people of various professions (laymen and experts) tried to answer. Are they normal or sick, psychiatric cases who want to satisfy their sexual instinct with person who does not cause this act? – What is these people's mental integrity like? – It is for sure that one physically disabled person is not one who challenged the doer with appearance and behavior to commit such crime. The reasons for such crime can be presented with several sentences.

1. Nobody believes her talking.
2. She depends on me, in any case. She knows that if I am not at home, she will not have anything to eat, dress, see doctor, work.

3. Jas sum op{ testveno priznata li~nost (tatko, staratelj, u~itelj, vospituvac, lekar, negovatelj, rabotodavac i dr.), da í vetvam, la`am, i mam pravo da pravam so nea { to sakam. Jas sum nejzi n gospodar.

Dali se ovie tvrdewa na normalni psihofizi~ki zdravi lica, lica koi rabotat, sozdavaat semejstva, rakovodatel i, sepak, se lica so te{ ki psihiki naru{ uvawa? Ne mo`e da se smeta za zdrava li~nost ~ovek koj, koristej}i ja ulogata na staratelj, negovatelj, lekar, a vo nekoj slu~ai i roditelj, da ima seksualen odnos so nekoj { to toa ne go saka ili ne e svesen za seto toa, i pokraj faktot deka e svesen deka za ova delo mo`e da bide kaznet. Lesno e so zloupotreba na pol o`bata na zavistosnost da se izvr{ i obqubana`ensko lice { to e postojano vo invalidska kolicika, { to e slepo, { to e nepodvino, lice { to, mo`ebi, gi nema gornite ekstremiteti, { to ~eka da mu se pri nese jadewe, da mu se pomogne vo nekoj osnovni higijenski potrebi, da se odnese na lekar i dr., a pri toa so seriozni zakani deka seto toa ako bide obelodeneto ili ako eventualno bide prijaveno na nadle`nite organi, si te "beneficii" e mu bi dat onevozm`eni. O~igledno e deka toa se lu|e bez nikakvo moral. Lu|e koi ne izbiraat sredstva i na~ini za da si go zadovoljat seksualni otpori v koj, verojatno, e na`i votinsko ramni{ te.

Prof. Arnaudovski i prof. Stojanovski velat deka toa se nevrotsko sociopatski li~nosti-lu|e koi voop{ to ne se ili nedovolno se adaptirani na socijalnata sredina.

Drugi pak, od oblasta na psiholo{ ko-psihijatrikite struki velata deka toa se te{ ki mentalni naru{ uvawa koi se narekuvaat "psihopatii". Verojatno, mo`nata vistina e deka toa e nekakva kombinacija na golem broj patogeni faktori { to gi imaat oddelni li~nosti i koi, za`al, mnogu te{ ko se otkri vaat. Dosega{ ni te istra`uvawa ka`uvaat deka tie ne mo`e da se dijagnostici raat, taka { to celata situacija ja pravi u{ te pokompl icirana.

3. I am socially recognized person (father, guardian, teacher, educator, doctor, nurse and employer) and I have the right to promise, cheat her, to do anything with her. I am her master.

Are these statements of normal psychophysical healthy people, people who work, form families, manage or they are people with severe psychological disturbances? A human being cannot be treated as healthy one who, using his role as guardian, nurse and doctor and, in some cases, a parent, has sexual intercourse with one who does not like it or is not aware of it besides the fact that he will be prosecuted. It is easy to misuse the dependent position and commit sexual crime on female in a wheelchair or blind, motionless, maybe without arms, who needs to be fed and assisted in common hygiene, who needs to be taken to the doctor's and, at the same time, to be banned to talk about the abuse, threatened that if he is reported to the authorities, she would lose all the "benefits". These people obviously are without any moral. People who do not chose means and ways to satisfy their sexual instinct that is probably at level of animals.

Prof. Arnaudovski and Prof. Stojanovski state that these are neurotic and sociopath people – people who are not or not enough adapted to social environment. Others, in the field of psychological-psychiatric professions, say that these people are with severe mental disabilities called "psychopaths". Probably, the truth is that it is a combination of large number of pathogenic factors of certain people and, unfortunately, they are not easily detected. So far, the researches have shown that they cannot be diagnosed, which makes the whole situation even more complicated.

Tie se nevp~atli vi koi vo osnova, dobro funkcioniraat vo drugi segmenti na op{ testvenoto `iveewe. Tie lu|e nas né opkru`uvaat, sé do momentot na nivnoto otkrivawe i eventualno kaznuvawe. Vo nivni te izjavi pred sudovite tie re~isi nikoga{ ne si ja priznavaat vi nata. I zjavite na o{ teteni te i na svedoci te gi smetaat za la`ni-sé so edinstvena cel, spored nivno mislewe, tie da bidat kazneti, poni`eni, diskvalificirani, isfrleni od rabotnoto mesto i dr.

Obidite za klasifikacija na stori telite na ova krivi~no delo zavisat od nau~nata oblast so koja se zanimavale ekspertite. Za `al, kako {to e ka`ano i porano, se~uvstvava izvesna praznina vo nau~nite prou~uvawa vo ova isklu~itelno osetli va oblast kako kaj nas taka i vo svetot.

Posledici

Vo osnova posledicite mo`e da se klasificiraat vo dve osnovni grupi i edna kako kombi nacija na dvete osnovni grupi.

Prvata se fizi~kite povredi koi, eventualno, nastanale pri fizi~ko maltretirawe pred da se izvr{ i seksualni ot akt, odnosno obqubata. Toa se povredite vo predelot na glavata, naj~esto naneseni so {lakanci i tupanci so edinstvena cel eventualno da se skr{ i otporot na `rtvata, pri {to naj~esto vo vakvi slu~ai se kvalificira kako "siluvawe". Vo grupata na fizi~ki povredi spa|a i defloracijata koja, pak, od krivi~no-praven aspekt se smeta za te{ka telesna povreda i ako i za prethodnite mo`e da bide donesena i takva klasifikacija vo oddelni slu~ai. Fizi~kite povredi bi mo`ele da se наре~ati "polesni #, za razlika od vtorite, t.e. psihi~kite. Vo ovoj del povtorno mora da se spomenat mo`ni te posledici od samata obquba, odnosno od nasilni ot seksualen odnos. Ne e retko `rtvata da zabremeni ili vo oddelni slu~ai da í bide prenesena nekoja veneri~na bolest, koja mo`e da bide i od najte`ok vi d.

They are not noticeable and they function well in other segments of social life. These people are around us until the moment they are discovered and eventually punished. In court, they almost never confess their guilt. They consider the statements of victims and witnesses faulty, and according to their opinion, this is done only to punish, humiliate and disqualify them in order to lose their job.

The attempts for classification of the doers of these criminal acts depend on the scientific field the experts are involved. Unfortunately, there is a gap in scientific studies in this exclusively sensitive area here and worldwide.

Consequences

The consequences can be classified in two basic groups and one that is a combination of two basic ones.

The first group includes physical injuries that eventually occurred at physical abuse before the sexual act, i.e. sexual intercourse. The injuries are on the head, most frequently done with fists and slaps in order to break the victim's resistance, which in such cases most frequently is classified as "rape". This group of physical injuries includes defloration, which according to criminal and legal aspects is considered as severe physical injury, although some of the previous cases can be included in the same classification. Physical injures can be called "less severe", contrary to the psychic ones. In this part, the consequences of sexual intercourse, i.e. violent sexual act must be mentioned. The victim often gets pregnant or even worse, gets contagious disease or terminal illness.

Psihi~ki te povredi mnogu pote{ ko se saniraat i tie mo`e da ostanat kaj `rtvata i do krajot na `ivotot. Psihi~ki te povredi te{ ko zarasnuvat. Kako tie se prezentiraat: naj~esto so oscilacii na ~uvstvata, pre`ivuvawe na nastanot, poti{tenost, gubewe na samopo~it, no}ni mori, fobii, netrpenie, nekoi fizi~ki bolesti koi di rektno se odraz na psihi~kata sostojba, kako { to e stresot i mo`nite posledici od nego (kardiolo{ki problemi, ~irevi i dr.), gubewe apetit, glavobolki i dr. Vo ova pri goda se naglasuva deka samo del od `rtvite mo`e da gi po~uvstvuvaat ovi e posledici od razbirli vi pri~ini.

Sepak, edna od najte{ki te posledici koja, najverojatno, ostanuva do krajot na `ivotot na `rtvite od ovoj akt e ako aktot e izvr{en od roditel vo slu~aj toj da bil kontinuiran. Koga se zboruva "kontinuiran", se smeta deka deloto po~nalo od rana mladost i trae ili traelo do podcne`nite godini. Kaj `rtvite od vakvoto zlostavuvawe naj~esto doaja do multiplicirawe na li~nosta ili dlaboko povlekuvawe od `ivotnite tekovi, od koi i taka se ve}e izdvoeni. Ne retko vakvite slu~ai zavr{uvaat i tragi~no.

Otkrivawe

Prvenstveno, {to mo`ebi e i sutinsko, e seriozni ot pristap kon izjavi te {to gi davaat o{ tetenite lica od razgovorot so roditelite, a i so staratelite i drugite lica so koi tie komuniciraat ili imaat doverba. I meno, mala e verojatnosta roditelite dobro da ne gi poznavaat najbliskite koga zboruvaat vistinai ili koga izmisluvaat.

Vo sekoj slu~aj zaradi delikatnosta i subtilnosta na problemot, izjavi te vo podcne`nata eventualna faza bi trebalo da gi zemaat ve{taci~specijalisti za medicina (psihijatri), psiholozi, defektolozi vo site segmenti na postapkata pred istranite organi i pred pravosudnite organi.

Psychic injures can be repaired with lots of difficulties and they can last until the end of the victim's life. Psychic injuries heal hard. How can they be presented? Mostly with oscillations of feelings, endurance of the act, depression, loss of self-respect, nightmares, phobia, impatience, some physical diseases directly reflecting psychic condition, such as stress and its possible consequences (cardiologic problems, ulcers etc), loss of appetite, headaches etc. In this paper, only some of the victims can suffer these consequences.

However, one of the hardest consequences of this act, which probably stay until the end of victims' lives, is in case it was done by a parent and if it was a continuous one. "Continuity" means that the act started in adolescence and it lasted or lasts. The victims of such abuse suffer of personality multiplication or deep retreat from life they have already been separated. Such cases, very often end tragically.

Discovering

It is very important that it should require a very serious approach towards the statements given by the abused people in conversation with their parents or guardians and others they communicate with or have confidence in them. It is obvious that parents know their next of kin when they tell the truth or lie.

In any case, due to the delicacy and subtleness of the problem, the statements in eventually later stage should be taken by experts – specialists in medicine (psychiatrists), psychologists and special teachers in all segments of the procedure before the investigating and judicial organs.

Go istaknuvame zna~eweto na def ektol ozi te, koi po op{ to mi sl ewe mora da bi dat vkl u~eni vo si te f azi na postapkata, po~nuvaj}i od samoto prijavuvawe vo MVR, s{ do raspi tot vo sudovi te. Ni vnata prakti ~na obu~enost za rabota so ova a kategorija lu|e mnogu mo` e da pri donese za dobi vawe relevantni podatoci za sekoj poedi ne~en slu~aj.

I ma pove}e signali ili znaci { to pretstavuvaat deka edno vakvo delo e storeneno:

- Najnapred se gleda i zmenetata psi hi ~ka sostojba na `rtvata.
- Sledat vidlivi te ili mo` ni te fizi ~ki povredi, pokrieni so obleka { to eventualno i se nanese na `rtvata od ovoj bezumen akt.
- I na kraj, kako ekstrem, e mo` nata bremenost ili nekoja veneri~na bolest { to mo` e da se utvrdi so op{ t medi cinski ili specijalisti~ki gi nekol o{ ki pregl ed.

Preporaki i zaklu~oci

Op{ to e pri f aten stavot deka osnovni ot vid prevencija e podi gnuvaweto na svesta kaj lu|eto deka ovoj vi d kri mi nal i kaj nas go i ma i deka sekoj stori tel na ova kri vi ~no delo bi trebal o da bi de kaznet. Zna~i, kako pri meren f aktor vo prevencijata na ova delo i na drugi te srodni kri vi ~ni dela e ni vnoto prijavuvawe. Neprijavuvaweto zna~i prodol`uvawe so kri mi nal ni aktivnosti na onie stori teli koi to a go stori le. Odl ukata za prijavuvawe e iskl u~itelno te{ ka ako se raboti za rodi tel ili za bl izok od semejstvoto (sramot, ma terijal nata zavisnost, zakani te, uceni te, razvodot, neveruvawe na izjavi te na `rtvata i dr.).

Podednakva e i odgovornosta od neprijavuvawe na kri vi ~noto delo "obquba vrz nemo}no lice# i na lu|eto koi se vraboteni vo institucii te na sistemot ako se od dr`aven karakter ili eventualno vo idni na i privatni.

We point out the importance of special teachers who, according to general opinion, should be included in all stages of the procedure, starting from registering in Ministry of Internal Affairs until court hearing. Their practical training to work with such a category of people can contribute in getting relative data for each case.

There are more signals or signs indicating that such act has been done.

- Firstly, victim's changed psychic condition is taken into consideration.
- Then, noticeable or possible physical injuries, covered by cloths, which might have been done on the victim during this mindless act.
- Finally, as an extreme, a pregnancy or some sexual disease is possible that can be found through general medical or specialist gynecology examination.

Recommendations and Conclusions

Generally accepted attitude, that the basic type of prevention is raising people's awareness that this criminal act is present in our environment and each doer of this crime should be punished. The exemplary factor in prevention such an act and similar criminal acts is their registering. If not registered, such criminal activities mean continuing criminal activities of abusers. The decision for registering is exclusively difficult if a parent or relative is in question (embarrassment, financial dependency, threats, blackmails, divorce, questioning the victim's statements etc).

The same responsibility refers to non-registering the criminal acts "sexual intercourse with a disabled person" and the employees in the institutions of the system or eventually private ones in future. Non-registering means a partner in crime and there is a possibility of prosecution.

Neprijavuvaweto, zna~i sou~esni { tvo i vo sekoj slu~aj i kaj ni v i ma mo`nost za krivi~na odgovornost.

Isto taka, mnogu va`na uloga vo preveni-raweto na ovi e dela e seriozni ot pristap i specijalna ostru~enost na organi te za progon (MVR), vo otkrivaweto na storitelite, sobiraweto soodvetni dokazi, efikasno i brzo predavawe na organi te na obvinitelstvoto. Op{to e poznat faktot deka kaj ovi e dela re~isi sekoga{ se raboti za poznat storitel.

Ogromno e zna~eweto na pravosudni te organi, koi so stru~nosta i efikasnosta preventivno bi dejstvuvale vo odnos na generalnata prevencija, a so toa bi si go zajaknale moralni ot i eti~ki ot kredibilitet {to bi trebalo da go imaat vo op{testvoto. Kazni te bi trebalo da bi dat soodvetni na nedeloto {to e storeno.

Tuka e i va`nosta na nevladinite organizacii vo ova oblast. Vo na{ata zemja i manekolku organizacii koi so svojata serioznost i rabota mnogu go svrtija vni manieto vrz sebe. Nivnata osnovna cel e da im se pomogne na `rtvite na seksualnite nasilstva, preku nivna soodvetna resocijalizacija i rehabilitacija.

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A very important role in preventing such acts is a serious approach and special training of investigating organs (Ministry of Internal Affairs) in finding the doers, collecting evidence and their efficient and fast delivering to the prosecuting organs. The generally acknowledged fact is that the doers are always known.

The significance of the judicial organs is enormous that, with their professionalism and efficiency, would act in general prevention and in such a way they would strengthen their moral and ethical credibility in society. Punishments should be appropriate to the criminal act.

Herewith, we have to point out the importance of non-governmental organizations in this field. There are several organizations in our country, which called the public's attention with their seriousness. Their basic aim is to help the victims of sexual violence through appropriate re-socialization and rehabilitation.

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