

A.Zh. Zhanalieva*¹, **B.T. Tleulesova²**, **A.S. Koshkinbaeva³**

¹M. Auezov South Kazakhstan University, Kazakhstan, Shymkent

²Aktobe Regional University named after K. Zhubanov, Kazakhstan, Aktobe

³University "Turan", Kazakhstan, Almaty

*e-mail: Rasuli-77@mail.ru

ON THE ISSUE OF IMPROVING THE MECHANISM FOR PROTECTING THE INTERESTS OF THE CHILD IN CYBERSPACE

The relevance of the topic is associated with special attention to the topic of bullying of children, including through social networks. The amendments and additions to the current legislation are aimed at punishing bullying, as Kazakh statistics show an unprecedented increase in harassment and bullying, leading to mental trauma and suicide among children and adolescents.

The choice of the research topic was due to the need to analyze the norms introduced into the legislation on cyberbullying of children and to predict their effectiveness. It was necessary to critically analyze the domestic approach in comparison with the most effective foreign practice.

It is concluded that most countries have already taken appropriate measures at the end of the twentieth century and actively counteract the harassment of children and adolescents in the networks. The interest is also due to the fact that Kazakhstan has updated a number of state programs regarding the rights of the child. At the same time, the analysis of these documents shows the insufficiency of the state response.

The subject of the study is the norms of the legislation of the Republic of Kazakhstan and countering and punishing child harassment through social networks.

The aim is to critically analyze the amendments and additions made to the legislation of the Republic of Kazakhstan on the rights of the child in the field of cyberbullying and make recommendations on improving state response measures.

The significance of this study is the justification of the need to distinguish between the concepts of cyberbullying and cyberstalking and the need to analyze the latter as a common phenomenon in modern realities.

Key words: children's rights, protection of children's rights, cyberbullying, bullying, cyberstalking.

А.Ж. Жаналиева*¹, Б.Т. Тлеулесова², А.С. Кошкинбаева³

¹М. Әуезов атындағы Оңтүстік Қазақстан университеті, Қазақстан, Шымкент қ.

²Қ. Жұбанов атындағы Ақтөбе өңірлік университеті, Қазақстан, Ақтөбе қ.

³«Тұран» университеті, Қазақстан, Алматы қ.

*e-mail: Rasuli-77@mail.ru

Киберкеңістікте бала мүддесін қорғау механизмін жетілдіру мәселесі жайлы

Тақырыптың өзектілігі балаларды қорлау тақырыбына, соның ішінде әлеуметтік желілер арқылы қорлауға ерекше назар аударумен байланысты. Қолданыстағы заңнамаға енгізілген өзгертулер мен толықтырулар қорлауды жазалауға бағытталған, өйткені қазақстандық статистика балалар мен жасөспірімдер арасында психикалық жарақат пен суицидке әкеліп соқтыратын қудалау мен қорлаудың бұрын-соңды болмағанын, өскенін көрсетеді.

Зерттеу тақырыбын таңдау заңнамаға енгізілген балалар кибербуллингке қатысты нормаларды талдау және олардың тиімділігін болжау қажеттілігімен байланысты. Ең тиімді шетелдік тәжірибемен салыстырғанда отандық тәсілді сыни талдау қажет болды.

Көптеген елдер ХХ ғасырдың аяғында тиісті шараларды қабылдап, желілерде балалар мен жасөспірімдерді қорлауға белсенді түрде қарсы тұрды деген қорытынды жасалды. Сондай-ақ Қазақстанда бала құқығына қатысты бірқатар мемлекеттік бағдарламалардың жаңартылғандығы да қызығушылық тудырды. Сонымен қатар аталған құжаттарды талдау мемлекеттік жауаптың жеткіліксіздігін көрсетеді.

Зерттеу пәні – Қазақстан Республикасы заңнамасының нормалары және әлеуметтік желілер арқылы балаларды қорлаудың алдын алу және жазалау.

Зерттеу мақсаты – Қазақстан Республикасының кибербуллинг саласындағы бала құқықтары туралы заңнамасына енгізілген өзгерістер мен толықтыруларға сыни тұрғыдан талдау жасау және мемлекеттік ден қою шараларын жетілдіру бойынша ұсыныстар енгізу.

Бұл зерттеудің маңыздылығы кибербуллинг пен киберталкинг ұғымдарының аражігін ажырату қажеттілігін негіздеу және соңғысын қазіргі заманғы шындықтағы жалпы құбылыс ретінде талдау.

Түйін сөздер: бала құқықтары, бала құқықтарын қорғау, кибербуллинг, қорқыту, киберталкинг.

А.Ж. Жанаалиева*¹, Б.Т. Тлеулесова², А.С. Кошкинбаева³

¹Южно-Казахстанский университет им. М. Ауэзова, Казахстан, г. Шымкент

²Актюбинский региональный университет им. К. Жубанова, Казахстан, г. Актюбе

³Университет «Туран», Казахстан, г. Алматы

*e-mail: Rasuli-77@mail.ru

К вопросу о совершенствовании механизма защиты интересов ребенка в киберпространстве

Актуальность темы связана с особым вниманием к теме буллинга детей, в том числе и посредством социальных сетей. Внесенные изменения и дополнения в действующее законодательство направлены на наказание травли, так как казахстанская статистика показывает небывалый рост преследований и буллинга, приводящий к психическим травмам и суициду среди детей и подростков.

Выбор темы исследования был обусловлен необходимостью анализа внесенных в законодательство норм о кибербуллинге детей и прогнозирования их эффективности. Необходим был критический анализ отечественного подхода в сопоставлении с наиболее эффективной зарубежной практикой.

Делается вывод о том, что большинство стран уже в конце XX века приняли соответствующие меры и активно противодействуют травле детей и подростков в сетях. Интерес также обусловлен тем, что в Казахстане произошло обновление целого ряда государственных программ в отношении прав ребенка. Вместе с тем, анализ этих документов показывает недостаточность государственного реагирования.

Предметом исследования являются нормы законодательства Республики Казахстан по противодействию и наказанию травли ребенка через социальные сети.

Целью является критический анализ внесенных изменений и дополнений в законодательство РК о правах ребенка в области кибербуллинга и внесение рекомендаций по усовершенствованию мер государственного реагирования.

Значением данного исследования является обоснование необходимости разграничения понятий «кибербуллинг» и «киберсталкинг» и анализа последнего как распространенного явления в современных реалиях.

Ключевые слова: права ребенка, защита прав ребенка, кибербуллинг, травля, киберсталкинг.

Research methods

The research methods are dictated by the theme and purpose, which is to assess the public danger of cyberbullying and cyberstalking as potentially dangerous forms of modern violence, and primarily against children, as the least protected.

To determine the opinion of potential and real victims regarding the public danger of these phenomena, a survey method was used. The survey was conducted in writing on the territory of the South Kazakhstan region and the city of Chimkent. The survey was conducted in relation to the children themselves and their parents.

In addition, a comparative analysis of the legislation of a number of countries with the legislation of the Republic of Kazakhstan was carried out regarding the forms and methods of counteracting such negative manifestations.

Due to the fact that the understanding of the forms of cyberviolence differs not only for each person, but also in the legislation of different countries, the following definitions are used in this article and in the survey. Cyberbullying refers to insults, bullying, bullying and other similar behavior on the Internet. Cyberstalking refers to the obsessive and persistent stalking by another person online.

Introduction

Ensuring and protecting the rights of the child remains one of the most urgent problems, which is caused by a number of negative factors, including:

– an increase in crime as against children – for 1 month of 2021, according to the Ministry of Internal Affairs of the Republic of Kazakhstan, 940 offenses were registered – 29.8% more than a year earlier. Of these, 45 cases were misdemeanors, 895 were crimes. Among the crimes, 191 cases were immediately classified as serious, 193 – as especially serious. Another 405 cases were classified as crimes of medium gravity, 106 – as crimes of minor gravity.

Already in January 2022, according to the Committee of Legal Statistics and special records, there were registered: 20 cases of rape of minors (Art. 120), 30 cases of violent sexual acts (Art. 121), 11 cases of corruption of minors (Art. 124). In general, 172 cases have already been registered in January 2022 (<https://qamqor.gov.kz/portal/page/portal/POPageGroup/Services/Pravstat>).

– an increase in juvenile delinquency – in January 2022 alone, 115 offenses were committed by minors or with the complicity of minors, of which 107 crimes: especially grave – 59; moderate – 38; 10

– low severity (<https://qamqor.gov.kz/portal/page/portal/POPageGroup/Services/Pravstat>);

- the number of suicides – 1.3% of child suicidality per 1000 people. A special UNICEF report was devoted to this problem, which emphasized that: “International comparisons show that in Kazakhstan, when compared with other developing and developed countries of the world, not only the overall suicide rate is higher, but also the suicide rate among children aged 5 to 14 years old and young people aged 15 to 24 years” (<https://www.unicef.org/kazakhstan/media>). It is emphasized that the vast majority of cases occur between the ages of 15 and 17.

That is, the safety of children, their right to a decent existence and development continue to be one of the painful topics for modern Kazakhstan. Resonant examples that have become widely known to the public in the light of the activation of more public organizations than special state bodies allow us to say that, despite a huge range of legal, social and other measures, children remain the most poorly protected category of citizens. Threats to life, physical integrity, lack of social protection continue to persist, and in some aspects are exacerbated despite the efforts made.

The Republic of Kazakhstan, as an active participant in international relations, having signed obligations, the fulfillment of which is an important priority of the country’s domestic and foreign policy, has developed a whole block of normative acts in all areas of ensuring the rights of the child. In the current legislation of the Republic of Kazakhstan on the rights of children, the fundamental rights and freedoms of the child are enshrined, the protection mechanism is still in the process of improving – this is recognized by various international organizations.

An analysis of the legislation shows that the main emphasis in the policy on the interests of children, the main emphasis is on ensuring social aspects, while other rights of the child, namely the right to life, the right to physical integrity, the right to choose a religion, the right to spiritual and personal development, the right to express his opinion on issues relating to his rights and legitimate interests (in addition to the right to express an opinion with which of the parents he remains during a divorce) and many others, even despite their consolidation at the level of the Law “On the Rights of the Child”, do not have a mechanism for direct implementation and, accordingly, the protection mechanism.

This is largely determined by the approach that is the basis of state policy. Domestic policy to pro-

tect the interests of children continues to be built according to the old system, which does not recognize the child as an independent subject of law with special rights and freedoms corresponding to his age.

However, the current realities return the legislator to the realities and everyday reality, namely the protection of the child as an independent subject. This category of the object of protection, in our opinion, includes:

1. The child as an individual, requiring the provision of his physical integrity, life, health. At the same time, physical integrity should be understood in the broadest sense. Although here there is a difference in theoretical positions. So, the Russian scientist I.L. Petrukhin, giving the concept of personal inviolability, especially emphasizes “prevention of encroachment on bodily integrity, sexual freedom and moral integrity” (Petruhin 1985: 35). At the same time, the International Network for the Rights of the Child (Child Rights International Network, CRIN) refers to the principle of physical integrity the right of every person, including children, to autonomy and control over their own body. Deciphering this principle, they give a definition: “The concept of a violation of the physical integrity of a child includes all forms of physical abuse, from corporal punishment to forced treatment, sometimes against the will of the child. Non-therapeutic and non-consensual surgeries are also violations of physical integrity, such as practices such as ‘corrective’ genital surgery performed on intersex children, sex reassignment surgery, female genital mutilation (“female circumcision”), traditional circumcision male and male infants, sterilization of persons with disabilities” (<https://archive.crin.org/ru/glavnaya/nasha-rabota/strategii-provedeniya-kampaniy/fizicheskaya-neprikosnovennost.html>).

2. The child as an individual requiring psychological protection. There was such a thing as psychological integrity, which, in fact, is the freedom of the individual from psychological, also emotional or moral violence, which can lead to psychological trauma, depression and post-traumatic stress disorder, undermining a person’s self-esteem and self-esteem.

It should be noted that in modern conditions of exacerbation of international destabilization, real hostilities and the real threat of famine and the recurrence of the pandemic, the first component of child protection comes to the fore. However, this in no way negates the problem of ensuring the psychological integrity of the child. In addition, this problem is exacerbated due to the expansion of the

possibilities of psychological influence, namely the possibility of open and immediate influence on the child's psyche through the use of the Internet, which has received the concept of cyber-impact in the scientific and practical environment.

Main part

Cyber impact, or in other words, uplifts on consciousness (education, psyche, etc.) through various tools, programs, social networks, etc. This impact can be divided into positive and negative. If positive, this is education, development, finding and getting a job in a remote format, and more. other. While the negative impact is considered as an impact on the mind of the child, which can harm his psyche, psychology, stable worldview, the formation of principles of behavior that are contrary to moral, ethical, religious and other norms, etc. For example, pushing for suicide, self-harm, terrorism, adherence to extremist movements, violence against other members of society, loosening the psyche, etc. In addition, as experts note: "Most medical workers share the opinion that the main factor in mortality in modern society is stress. Left untreated, stress can have an extremely detrimental effect on both the physical and mental health of a person and cause diseases such as cardiovascular disease, insomnia and depression" (<https://www.un.org/ru/chronicle/article/21893>).

According to the Bureau of National Statistics of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan, the share of children using information and communication technologies aged 6 to 15 years already in 2020 was above 85% [6]. And this number is gradually growing. Also, as the number of people who are subjected to any influence from the outside, including a negative one, is growing.

Such a negative impact is diverse and the number of possibilities for influencing the human psyche is constantly growing. Cyberbullying occupies a special place among such influence. The concept of "cyberbullying" is often considered as a separate phenomenon, but, in fact, it is a kind of such an age-old problem as bullying. Bullying is fueled by a society's predisposition to prejudice and discrimination, and it often affects people with protected characteristics such as race, religion, sexual orientation and disability most of all. But at the same time, it should be taken into account that intimidation carried out through electronic media, which significantly expands opportunities, has no territorial boundar-

ies and creates an opportunity for instant communication and unlimited dissemination of information. Which actually adds to the pressure.

In particular, cyberbullying among children and adolescents can be characterized as deliberate and repeated harm by one or more peers in cyberspace, caused by the use of computers, smartphones and other devices. In recent years, new forms of cyberbullying have emerged, such as cyberstalking and online dating abuse.

Such events could not but lead to a corresponding reaction among the world community and at the state level. But at the same time, it should be noted that this problem was first noticed at the national level, and so far the tactics of the international community are inclined precisely towards the use of national law.

A number of states have developed special programs, among which the experience of Norway should be noted, where the first Olweus Anti-bullying Program was developed, which started back in 1983. It provides for the fulfillment of four goals: achieving a common understanding of this phenomenon, the active involvement of parents and teachers in the program, the development of clear rules against school violence, and the support and protection of victims of bullying (https://www.violencepreventionworks.org/public/olweus_bullying_prevention_program.page). Other countries have developed more or less effective programs and introduced special laws on the prevention, prevention and counteraction of such illegal phenomena.

Based on the experience of these countries, Kazakhstan has made some progress in solving this problem. Only in 2022, a Pilot Program was proposed to protect children from bullying in educational institutions of the Republic of Kazakhstan. With regard to cyberbullying, measures have been taken at the legislative level. And there were significant reasons for this.

Thus, according to UNICEF, in Kazakhstan, 63% of children witnessed violence and discrimination, 44% were victims and 24% committed acts of violence and discrimination against other children at school. According to the Ministry of Education and Science of the Republic of Kazakhstan, every third student is bullied and becomes a victim of harassment. In 2021 alone, 105 suicides were registered in the country (<https://mk-kz.kz/social/2020/11/13/bolshinstvo-kazakhstanskikh-detey-stalkivayutsya-so-shkolnym-nasiliem.html>). According to the National Center for Public Health, 12 percent of schoolchildren are subject to harassment and bul-

lying. Children aged 11-15 participated in or were subjected to cyberbullying on social networks in 11 percent of cases. Over the past year, 78,000 reports of cyberbullying have been recorded (<https://mk-kz.kz/social/2022/03/25/kiberbulling-realnaya-problema-ili-povod-dlya-uzhestocheniya-cenzury.html>).

At the same time, the approach of the Kazakh legislator to the term cyberbullying is interesting.

The term “bullying” in the Anglo-Saxon version denotes psychoterror, which translates as “to mock, intimidate, harass and tyrannize”, and the prefix “cyber” means “associated with computers, information and other technologies” (Kolodej 2007: 16).

The very concept of “bullying” is deciphered in the modern sense as “social behavior, which includes a discrepancy between strength and power, which leads the victim to a state in which she is unable to effectively protect herself from negative influences from outside and manifests itself in relatively stable groups”, while cyberbullying is “a phenomenon of Internet communication, which is currently actively developing and is characterized as a type of psychological bullying, committed through information technology, with the help of which a deliberate aggressive action is carried out against the victim” (<https://cyberleninka.ru/article/n/razvitie-fenomena-kiberbulling-analiz-podhodov-k-opredeleniyu>).

UNICEF defines cyberbullying as “spreading false information or posting embarrassing photos of someone on social media”, “sending hurtful messages or threats in messengers”, “impersonating someone else and sending inappropriate messages to others on their behalf” (<https://www.unicef.by/press-centr/328.html>).

An analysis of the legislation of a number of countries around the world shows that bullying has a complex legal nature. So, in fact, it includes insulting the honor and dignity of a person and often slanderous actions, that is, the dissemination of knowingly false information that discredits the honor and dignity of another person or undermines his reputation, as well as the threat of murder or causing serious bodily harm, and as well as other serious violence against a person or destruction of property by arson, explosion or other generally dangerous method.

Insulting the honor and dignity of a person is carried out, among other things, by disseminating information about the private life of a person that constitutes his personal or family secret – this is the fact of communicating them to at least one person without the consent of the victim, regardless of the method (orally, in writing, by phone, on the Internet

or other communication channels). It is this method that is the most common and its use can lead to the most negative consequences, up to bringing to suicide (suicide).

In all likelihood, it is this nature that leads to the fact that the laws of a number of countries do not use such a concept as bullying in their legal acts, including cyberbullying.

Thus, all CIS countries have such articles as incitement to suicide or attempted suicide, coercion to act of a sexual nature, which is committed by blackmail or other methods described in the law, insult, violation of a person’s privacy. This provides protection against certain forms of bullying, harassment and persistent harassment.

Of particular note is the prohibition on collecting or distributing information about the private life of a person constituting his personal or family secret, without his consent, or distributing this information in a public speech, publicly demonstrating a work or in the media, as provided for in Art. 137 of the Criminal Code of the Russian Federation (http://www.consultant.ru/document/cons_doc_LAW_10699/). Thus, cyberstalking is being prosecuted – a type of harassment in the form of stalking, searching for or tracking a victim, which has become increasingly common in the cyber world, and then spills into reality.

Domestic legal realities do not have such an article, which is a certain flaw in the legislator, since in reality such actions take place. In fact, in domestic practice, persecution can only be punishable under Art. 73 “Illegal actions in the sphere of family and domestic relations” (<https://online.zakon.kz/>), but only if the persecutor is a close relative of the persecuted. And if the persecution is carried out by an unfamiliar person, then the violators become subjects of Art. 434 Hooliganism, which provides for offensive harassment of individuals.

However, real cases from the lives of teenagers and children indicate that in life and in cyberspace there are many cases of persecution, which in fact cannot be qualified as a violation of family and domestic relations and as hooliganism. So, “the stalker can use a wide range of tactics and approaches in his harassment and surveillance of the victim. For example, regular and e-mails, calls, messages and other actions in social networks, installation of monitoring software on the victim’s devices. Stalking causes a range of negative emotions in the victim, the main of which are fear and a feeling of loss of control over life” (<https://www.company.rt.ru/social/kids-safety>).

In many countries, stalking was recognized as a crime back in the 90s and early 2000s (USA, Great Britain, Canada, Germany, France, Italy, Japan, India). Stalkers are fined heavily or sent to jail for up to 14 years. In some countries, the stalker receives a “restraining order” and is also referred to individual or group coercive therapy.

Whereas in domestic practice there is not a single real case of bringing the persecutor to justice, except for cases when it ended with a crime.

Studies by foreign authors show that in many EU member states stalking and cyberstalking are prohibited under the threat of criminal punishment. The exceptions are Bulgaria, Cyprus, Denmark, Estonia, Greece, Latvia and Lithuania (Van der Aa 2017). Whereas, intrusive and persistent electronic harassment is not prohibited in several EU member states and in most CIS member states.

In Kazakhstan, special attention should be paid to counteracting cyberstalking due to the fact that the number of such situations (cases) is growing. Thus, a survey conducted by our group among students and schoolchildren of the university and schools of the South Kazakhstan region and Shymkent showed that among 1056 (559 girls and 497 boys aged 13 to 18) respondents over the past 5 years, 345 people were subjected to harassment through gadgets, which is 32%, and persecution in the realities of 115 people – just over 1%. At the same time, the respondents point out that their peers and younger sisters and brothers are increasingly faced with such phenomena, which indicates the progression of such. In addition, they stated in the miscellaneous paragraph that the younger the child, the more often he is subjected to this kind of persecution.

Accordingly, cyberstalking violates the rights and freedoms of citizens, but does not have such a high danger, entailing the obligation of criminal law protection. Based on the opinions of the respondents, we believe it is necessary to recognize cyberstalking as a tort, but without the use of criminal law measures. However, when cyberstalking escalates into crimes of a sexual nature or acts that infringe on legally protected secrets, criminal law protection is needed.

The domestic legislator, almost only in 2022, was concerned about the need to introduce special rules. The Law of the Republic of Kazakhstan “On the Rights of the Child” and the Law “On the Mass Media” introduced the concept of bullying – systematic (two or more times) actions of a humiliating nature, harassment and (or) intimidation, including those aimed at coercion to commit or refuse to com-

mit any action, as well as the same actions committed publicly or using the media and (or) telecommunications networks (cyberbullying) (https://online.zakon.kz/Document/?doc_id=1032460&doc_id2=1032460#pos=9;-188&pos2=187).

That is, in fact, the legislator combined all types of negative impact on the mind of a minor through the use of social networks. But such an approach is not expedient with a clear use of concepts in the prosecution and punishment of violators. The classification of the wrongful act and the definition of the composition of the offense will depend on this.

At present, we can only state that, in accordance with paragraph 1 of Art. 18-4 of the Law “On Mass Media” “a citizen or legal representative of a child, in case of detection of facts of cyberbullying against a child, has the right to apply in writing or in the form of an electronic document to the authorized body with a statement about the facts of cyberbullying committed against a child, indicating the name of the Internet resource where illegal activities take place. Such an application must be considered by an expert group created by the Ministry of Information and Public Accord within three working days from the date of its receipt.

It should be especially noted that the application is refused consideration if the content of the application does not indicate the Internet resource on which the facts of cyberbullying against the child are committed. That is, in fact, the procedure of proof falls on the injured party. And thus, the logic and content of paragraph 1 of Art. 10 of the Law “On the Rights of the Child”, according to which the state ensures the personal integrity of the child, protects him from physical and (or) mental violence, cruel, rude or degrading treatment, harassment (bullying) of the child, acts of a sexual nature, involvement into criminal activity and committing antisocial acts and other activities that infringe on the rights and freedoms of a person and citizen enshrined in the Constitution of the Republic of Kazakhstan (<https://online.zakon.kz>).

As a result of serious discussions between state bodies, representatives of the public and the media, norms were adopted according to which, upon confirmed facts of cyberbullying against a child, the authorized body, based on the decision of the expert group, immediately sends an order to the owner and (or) legal representative of the Internet resource. The owner and (or) legal representative of the Internet resource, within twenty-four hours after receiving an order from the authorized body, takes measures to remove information recognized as cyberbullying

in relation to the child. Based on the results of consideration of the application on the facts of cyberbullying against the child by the authorized body, no later than three working days from the date of its receipt, the applicant is provided with a response in the Kazakh language or the language of appeal (<https://adilet.zan.kz/rus/docs/V2200029469>).

Compared with the legislation of a number of foreign countries, Kazakhstani legislation is distinguished by significant loyalty. For example, under the German law *Netzwerkdurchsetzungsgesetz* (NetzDG) of 09/01/2, social media providers who have not established an effective complaints management system at all or have configured it incorrectly can be fined up to 50 million euros. In the event that the violation is of the nature pursued by criminal law, the content must be deleted and closed within 24 hours (<https://www.gesetze-im-internet.de/netzdg/BJNR335210017.html>). This practice has gained some distribution in other countries.

At the same time, practice shows that in more than 90% of cases, parents of cyberstalked children do not apply to law enforcement agencies. Some of them explain this by distrust of law enforcement agencies, some do not consider such actions to be serious and harmful to the child's psyche.

Such an attitude of adults, in our opinion, is dangerous and harms the child no less than the very fact of bullying, causing a state of insecurity and uselessness, and thus ensures the progression of psychological disorders (https://psyjournals.ru/files/126256/psylaw_2021_n4_mosechkin.pdf).

Accordingly, we consider it necessary to continue the systematic work of the legislator to identify the main trends in the development of violations of the rights of the child in the cyber environment.

Such violations are of a different nature and have a negative impact on the child and are implemented in various ways and means, the number of which is growing in direct proportion to the development of IT technologies.

Conclusions

At the end of the scientific work, we consider it necessary to draw the attention of the scientific community and the legislator to the need to:

1. Cyber violence is an object of legal regulation and the legislator has different positions in different countries of the world;

2. It is necessary to distinguish between the concepts of cyberbullying and cyberstalking. Since cyberbullying should be understood as actions that offend the honor and dignity of a person, while cyberstalking is harassment through social networks or other Internet opportunities;

3. Cyberstalking is a less dangerous type of cyber violence, so it cannot be classified as a criminal offense. However, its consequences can be different up to suicide, inciting ethnic or other hatred, etc. Accordingly, such a concept should be introduced into the current legislation and the elements of violations should be determined, and first of all, in an administratively compulsory manner;

4. It is necessary to draw the attention of the legislator to the fact that: a) the state response measures are too liberal and do not correspond to the actual damage caused; b) the legislation is formulated in such a way that the injured party is forced to actually provide the evidence base itself, which does not comply with the principles of either criminal or administrative proceedings.

Литература

- Статистика // <https://qamqor.gov.kz/portal/page/portal/POPPageGroup/Services/Pravstat>.
Суицид среди детей в Казахстане // <https://www.unicef.org/kazakhstan/media>
Петрухин И.Л. Свобода личности и уголовно-процессуальное принуждение. – М., 1985. – С. 35.
Физическая неприкосновенность // <https://archive.crin.org/ru/glavnaya/nasha-rabota/strategii-provedeniya-kampaniy/fizicheskaya-neprikosновенность.html>
Лайам Хэккет. Киберзапугивание и его воздействие на права человека // <https://www.un.org/ru/chronicle/article/21893>
Доля детей в возрасте 6-15 лет – пользователей информационно-коммуникационными технологиями // <https://bala.stat.gov.kz/dolya-detej-v-vozhaste-6-15-let---polzovatelej-informatsionno-kommunikatsionnymi-tehnologiyami>
The Olweus Bullying Prevention Program (OBPP) is the most researched and best-known bullying prevention program available today // https://www.violencepreventionworks.org/public/olweus_bullying_prevention_program.page
Большинство казахстанских детей сталкиваются со школьным насилием // <https://mk-kz.kz/social/2020/11/13/bolshinstvo-kazakhstanskikh-detej-stalkivayutsya-so-shkolnym-nasiliem.html>
Кибербуллинг – реальная проблема или повод для ужесточения цензуры // <https://mk-kz.kz/social/2022/03/25/kiberbulling-realnaya-problema-ili-povod-dlya-uzhestocheniya-cenzury.html>

Колодей К. Моббинг. Психотеррор на рабочем месте и методы его преодоления. Харьков: Гуманитарный Центр, 2007. – 368 с.

Путинцева А.В. Развитие феномена «кибербуллинг»: анализ подходов к определению // <https://cyberleninka.ru/article/n/razvitiye-fenomena-kiberbulling-analiz-podhodov-k-opredeleniyu>

Кибербуллинг: что это такое и как это прекратить? // <https://www.unicef.by/press-centr/328.html>

Уголовный кодекс Российской Федерации от 13.06.1996 N 63-ФЗ от 13 июня 1996 года N 63-ФЗ // http://www.consultant.ru/document/cons_doc_LAW_10699/

Кодекс Республики Казахстан об административных правонарушениях от 5 июля 2014 года № 235-V // https://online.zakon.kz/document/?doc_id=31577399&doc_id2=31577399#pos=5;-98&pos2=7039

Исследование «Технологии защиты детей в интернете» // <https://www.company.rt.ru/social/kids-safety>

Van der Aa S. New Trends in the Criminalization of Stalking in the EU Member States // *European Journal on Criminal Policy and Research*. – 2017. № 24. – Pp. 315-333. doi:10.1007/s10610-017-9359-9

Закон Республики Казахстан от 8 августа 2002 года № 345-III о правах ребенка в Республике Казахстан // https://online.zakon.kz/Document/?doc_id=1032460&doc_id2=1032460#pos=9;-188&pos2=187

Закон Республики Казахстан от 8 августа 2002 года № 345-III «О правах ребенка в Республике Казахстан» // https://online.zakon.kz/Document/?doc_id=1032460&doc_id2=1032460#activate_doc=2&pos=9;-188&pos2=187;-102

Правила создания экспертной группы, а также рассмотрения заявления по фактам кибербуллинга в отношении ребенка *Приказ Министра информации и общественного развития Республики Казахстан от 6 сентября 2022 года № 365. Зарегистрирован в Министерстве юстиции Республики Казахстан 8 сентября 2022 года № 29469* // <https://adilet.zan.kz/rus/docs/V2200029469>

Gesetz zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken (Netzwerkdurchsetzungsgesetz – NetzDG) // <https://www.gesetze-im-internet.de/netzdg/BJNR335210017.html>

Дистанционное психическое насилие: перспективы совершенствования уголовного законодательства Мосечкин И.Н. // https://psyjournals.ru/files/126256/psylaw_2021_n4_mosechkin.pdf

References

Statistika [Statistics] // <https://qamqor.gov.kz/portal/page/portal/POPPageGroup/Services/Pravstat>

Suicid sredi detej v Kazahstane [Suicide among children in Kazakhstan] // <https://www.unicef.org/kazakhstan/media>

Petruhin I.L. (1985) Svoboda lichnosti i ugovolno-processual'noe prinuzhdenie [Personal freedom and criminal procedural coercion.] – М. – S. 35

Fizicheskaja neprikosnovennost' [Physical inviolability] // <https://archive.crin.org/ru/glavnaya/nasha-rabota/strategii-provedeniya-kampanii/fizicheskaya-neprikosnovennost.html>

Lajam Hjekket. Kiberzapugivanie i ego vozdejstvie na prava cheloveka [Cyberbullying and its impact on human rights] // <https://www.un.org/ru/chronicle/article/21893>

Dolja detej v vozraste 6-15 let – pol'zovatelej informacionno-kommunikacionnymi tehnologijami [The proportion of children aged 6-15 years – users of information and communication technologies] // <https://bala.stat.gov.kz/dolya-detey-v-vozraste-6-15-let--polzovatelej-informatsionno-kommunikatsionnymi-tehnologiyami>

The Olweus Bullying Prevention Program (OBPP) is the most researched and best-known bullying prevention program available today [The Olweus Bullying Prevention Program (OBPP) is the most researched and best-known bullying prevention program available today] // https://www.violencepreventionworks.org/public/olweus_bullying_prevention_program.page

Bol'shinstvo kazahstanskih detej stalkivajutsja so shkol'nym nasiliem [The majority of Kazakhstani children face school violence] // <https://mk-kz.kz/social/2020/11/13/bolshinstvo-kazahstanskih-detey-stalkivayutsya-so-shkolnym-nasiliem.html>

Kiberbulling – real'naja problema ili povod dlja uzhestochenija cenzury [Cyberbullying is a real problem or a reason to tighten censorship] // <https://mk-kz.kz/social/2022/03/25/kiberbulling-realnaya-problema-ili-povod-dlya-uzhestocheniya-cenzury.html>

Kolodej K. Mobbing. (2007) Psihoterror na rabochem meste i metody ego preodolenija. Har'kov: Gumanitarnyj Centr [Psychoterror in the workplace and methods of overcoming it. Kharkiv: Humanitarian Center] – 368 s.

Putinceva A.V. Razvitie fenomena «kiberbulling»: analiz podhodov k opredeleniju [Development of the phenomenon of “cyberbullying”: analysis of approaches to definition] // <https://cyberleninka.ru/article/n/razvitie-fenomena-kiberbulling-analiz-podhodov-k-opredeleniyu>

Kiberbulling: chto jeto takoe i kak jeto prekratit' [Cyberbullying: what is it and how to stop it] // <https://www.unicef.by/press-centr/328.html>

Ugolovnyj kodeks Rossijskoj Federacii ot 13.06.1996 N 63-FZ ot 13 ijunja 1996 goda N 63-FZ [Criminal Code of the Russian Federation of 13.06.1996 N 63-FZ of June 13, 1996 N 63-FZ] // http://www.consultant.ru/document/cons_doc_LAW_10699/

Kodeks Respubliki Kazahstan ob administrativnyh pravonarushenijah ot 5 ijulja 2014 goda № 235-V [Code of the Republic of Kazakhstan on Administrative Offences dated July 5, 2014 No. 235-V] // https://online.zakon.kz/document/?doc_id=31577399&doc_id2=31577399#pos=5;-98&pos2=7039

Issledovanie «Tehnologii zashhity detej v internete» [Research “Technologies for protecting children on the Internet”] // <https://www.company.rt.ru/social/kids-safety>

Van der Aa S. New Trends in the Criminalization of Stalking in the EU Member States // European Journal on Criminal Policy and Research. 2017. № 24. Pp. 315-333. doi:10.1007/s10610-017-9359-9

Zakon Respubliki Kazahstan ot 8 avgusta 2002 goda № 345-II O pravah rebenka v Respublike Kazahstan [Law of the Republic of Kazakhstan dated August 8, 2002 No. 345-II On the rights of the child in the Republic of Kazakhstan] // https://online.zakon.kz/Document/?doc_id=1032460&doc_id2=1032460#pos=9;-188&pos2=187

Zakon Respubliki Kazahstan ot 8 avgusta 2002 goda № 345-II «O pravah rebenka v Respublike Kazahstan» [Law of the Republic of Kazakhstan dated August 8, 2002 No. 345-II “On the rights of the child in the RK”] // https://online.zakon.kz/Document/?doc_id=1032460&doc_id2=1032460#activate_doc=2&pos=9;-188&pos2=187;-102

Pravila sozdaniya jekspertnoj gruppy, a takzhe rassmotreniya zajavleniya po faktam kiberbullinga v otnoshenii rebenka Prikaz Ministra informacii i obshhestvennogo razvitiya Respubliki Kazahstan ot 6 sentjabrja 2022 goda № 365. Zaregistrovan v Ministerstve justicii Respubliki Kazahstan 8 sentjabrja 2022 goda № 29469 [Rules for the creation of an expert group, as well as consideration of a statement on the facts of cyberbullying against a child Order of the Minister of Information and Public Development of the Republic of Kazakhstan dated September 6, 2022 No. 365. Registered with the Ministry of Justice of the Republic of Kazakhstan on September 8, 2022 No. 29469] // <https://adilet.zan.kz/rus/docs/V2200029469>

Gesetz zur Verbesserung der Rechtsdurchsetzung in sozialen Netzwerken (Netzwerkdurchsetzungsgesetz – NetzDG) // <https://www.gesetze-im-internet.de/netzdg/BJNR335210017.html>

Distancionnoe psihicheskoe nasilie: perspektivy sovershenstvovaniya ugolovnogo zakonodatel'stva Mosechkin I.N. [Remote mental violence: prospects for improving criminal legislation Mosechkin I.N.] // https://psyjournals.ru/files/126256/psylaw_2021_n4_mosechkin.pdf