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TOPICAL ISSUES OF PROTECTING CHILDREN FROM CYBERBULLYING

In this article, the author raises the problems of countering cyberbullying against children. Minors are active users of various communication Internet networks. Today, children's leading communication and socialization processes are moving to the Internet space, where they can hide their identity behind fictional avatars – anonymous masks. In many ways, this possibility of hiding your identity and sending anonymous messages increases the level of aggression in communication. Bullying in the Internet space manifests itself in the form of insults and the spread of slanderous rumours. Children who have become victims of bullying receive severe mental trauma and hard going through exclusion from society of their peers. Inattention to the problem of cyberbullying on the part of adults and failure to provide timely assistance and support can lead to severe consequences such as the suicide of a child. Prevention of bullying and cyberbullying, elimination of the contributing causes and conditions, bringing to justice those responsible in case of committing acts that violate the law – all this requires combining the actions of psychologists, representatives of law enforcement agencies, educational and other social organizations, parents and legal guardians of minors. Abroad, where the problem of bullying has long been recognized, there are specialized programs to counteract this negative phenomenon. The author refers to the results of such programs, examines foreign experts' research, and draws conclusions about the motives of aggressive behaviour and specific types of bullying. Based on the analysis, the author substantiates his proposals on ways to counter cyberbullying against children and improve law enforcement activities aimed at ensuring children's information security.

Key words: information security, Internet space, bullying, child bullying, cyberbullying, social networks.

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Балаларды кибербуллингтен қорғаудың өзекті мәселелері

Бұл мақалада автор балаларға қатысты жасалған кибербуллингке қарсы тұру мәселелерін көтереді. Кәмелетке толмағандар – әртүрлі коммуникациялық интернет-желілердің белсенді пайдаланушылары. Шын мәнінде, бүгінде балалардың қарым-қатынасы мен әлеуметтенуінің негізгі процестері интернет-кеңістікке көшуде, онда олар өздерінің жеке басын жалған аватарлардың – жасырын маскалардың артында жасыра алады. Көптеген жағдайларда бұл – адамның жеке басын жасыру, анонимді хабарламалар жіберу мүмкіндігі қарым-қатынастағы агрессия деңгейін арттырады. Интернет кеңістігінде қорқыту, қорлау, жала жабу қауесеттерінің таралуы түрінде көрінеді. Қорқытудың құрбаны болған балалар ауыр психикалық жарақат алады, құрдастарының ортасынан қатты шеттетіледі. Ересектер тарапынан кибербуллинг проблемасына немқұрайлы қарау, уақытылы көмек пен қолдау көрсетпеу баланың өз-өзіне қол жұмсауы сияқты ауыр зардаптарға әкелуі мүмкін. Буллинг пен кибербуллингің алдын алу, ықпал еткен себептер мен жағдайларды жою, заңды бұзатын әрекеттер жасалған жағдайда кінәлілерді жауапқа тарту – осының бәрі психологтардың, құқық қорғау органдары, білім беру және өзге де әлеуметтік ұйымдар өкілдерінің, кәмелетке толмағандардың ата-аналары мен заңды қамқоршыларының іс-қимылдарын біріктіруді талап етеді. Қорқыту мәселесі бұрыннан танылған шетелде осы жағымсыз құбылысқа қарсы арнайы бағдарламалар бар. Автор мұндай бағдарламалардың нәтижелеріне жүгінеді, шетелдік мамандардың зерттеулерін қарастырады, агрессивті мінез-құлықтың себептері, қорқытудың нақты түрлері туралы өз тұжырымдарын жасайды. Жүргізілген талдау негізінде автор балаларға қатысты кибербуллингке қарсы іс-қимыл тәсілдері негізінде, сондай-ақ балалардың ақпараттық қауіпсіздігін қамтамасыз етуге бағытталған құқық қорғау қызметін жетілдіру бойынша өз ұсыныстарын негіздейді.

Түйін сөздер: ақпараттық қауіпсіздік, интернет-кеңістік, қорлау, балалар буллингі, кибербуллинг, әлеуметтік желілер.

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Актуальные вопросы защиты детей от кибербуллинга

В данной статье автором поднимаются проблемы противодействия кибербуллингу, совершаемому в отношении детей. Несовершеннолетние являются активными пользователями различных коммуникационных интернет-сетей. Фактически сегодня основные процессы общения, социализации детей перемещаются в интернет-пространство, где они могут скрывать свою личность за вымышленными аватарами – анонимными масками. Во многом именно эта возможность сокрытия своей личности, отправления анонимных посланий усиливает уровень агрессии в общении. Буллинг в интернет-пространстве проявляется в форме оскорблений, распространения клеветнических слухов. Дети, ставшие жертвой травли, получают серьезные психические травмы, тяжело переживая исключение из общества сверстников. Невнимание к проблеме кибербуллинга со стороны взрослых, неоказание своевременной помощи и поддержки может привести к таким тяжким последствиям, как суицид ребенка. Предупреждение буллинга и кибербуллинга, устранение способствовавших причин и условий, привлечение к ответственности виновных в случае совершения действий, нарушающих закон, – все это требует объединения действий психологов, представителей правоохранительных органов, образовательных и иных социальных организаций, родителей и законных опекунов несовершеннолетних. За рубежом, где уже давно была признана проблема буллинга, действуют специализированные программы по противодействию этому негативному явлению. Автор обращается к результатам работы таких программ, рассматривает исследования зарубежных специалистов, делает собственные выводы относительно мотивов агрессивного поведения, конкретных видов буллинга. На основе проделанного анализа автор обосновывает свои предложения по способам противодействия кибербуллингу в отношении детей, а также по совершенствованию правоохранительной деятельности, нацеленной на обеспечение детской информационной безопасности.

Ключевые слова: информационная безопасность, интернет-пространство, травля, детский буллинг, кибербуллинг, социальные сети.

Introduction

Aggressive communication, unfortunately, is quite common among minors. As a result, many schoolchildren are the object of bullying, bullying by their peers. Cyberbullying, which has become widespread with the development of Internet networks, is the same harassment carried out in the Internet space. Insults and humiliations can be subjected to any Internet user. The reasons may be any personality traits (appearance, race, nationality, hobby, occupation, etc.), but sometimes an unsuccessful statement, an act, or a curious case can become a reason for harassment. This confirms that no child can be immune from becoming a victim of cyberbullying. Considering that the child's psyche is very vulnerable, cyberbullying should be regarded as a severe threat to the younger generation's physical and mental health and even a danger to life. Recently, the connection between cyberbullying and child suicides has become more transparent. Realizing the scale of the threat, society should unite its efforts to counter cyberbullying by developing various programs implemented jointly by government agencies and civil society institutions.

The main part

A student is being bullied or victimised when he or she is exposed, repeatedly and over time, to negative actions on the part of one or more other students (Olweus 1973: 261).

Thus, D. Olweus believes that bullying can be described as:

- aggressive behaviour or intentional «harming»;
- carried out repeatedly and over time;
- realized in interpersonal relationships characterized by an actual or -perceived imbalance of forces;
- what happens in many cases without apparent provocation on the part of the person who became the target.

According to the researcher, such characteristic signs of bullying make it possible to fully attribute it to one of the forms of abuse, i.e. to consider it an abuse of peers (Olweus 2010).

Bullying is defined as an “intentional unlawful physical impact on another person, encroaching on his bodily integrity, health or life, restricting or excluding his freedom, as well as the intentional un-

lawful impact on the psyche of another person to suppress his will or force him to certain actions or inaction, as well as actions characterized by a real possibility of harm to protected the interests of the law, accompanied by a mental impact on the victim” (Bezruchko E.V., 2015: 41).

Bullying and cyberbullying can lead to serious consequences, forcing the victim to commit suicide. This even led to the formation of a special term “bullycide” or “cyberbullied”, i.e. suicide as a result of a collision with direct or indirect online aggression (Payyz 2021: 183).

Bullying, insults, and threats addressed to a child can plunge him into a deep depression and despair. The child is not ready for such a level of aggression and cannot resist it in any way, which is why leaving life seems to him the only way out of this situation. The situation is aggravated by the fact that many children cannot trust anyone. They have no one to discuss possible options with.

The problems of bullying among children and adolescents have been raised and widely discussed since the 70s of the last century. Foreign researchers who have gained worldwide fame, such as D. Olveus, H. Lehman, and P. Heinemann, and outstanding contributions to the development of this problem.

It should be noted that the researchers used different terms concerning the same phenomenon, namely group bullying among minors – mobbing and bullying. However, we currently see that these terms are widely used in specialized literature.

In the Scandinavian countries, where the study of this phenomenon began, and in German-speaking countries, the term “mobbing” has remained more common. In contrast, the term “bullying” is mainly used in the English-speaking professional community (Krivtsova 2016: 98).

In our opinion, “bullying” is more commonly used in our country. Respectively, it is what we use in our work. Moreover, the term “mobbing” is more often used concerning relations in the workforce, reflecting the aggressive behaviour of colleagues towards one of them.

We believe that it is essential to identify the vital signs of bullying, based on which we will be able to distinguish it from other aggressive, abusive situations that create psychological discomfort for the child. Moreover, the concept of “offensive” largely depends on subjective perception, established personal attitudes and values.

Many teenagers humorously perceive teasing comrades, not considering them offensive. Moreover, they are the first to be ready to laugh at them-

selves, their appearance, and the curious cases that have happened to them.

According to philologists, “due to associative connections and presuppositional meanings, a phrase in which no negative message was put at all can be perceived as offensive if it concerns a painful topic for the addressee” (Vlasova 2019: 70).

This moment also makes it difficult for teenagers to determine the fine line between playful teasing and offensive, offensive behaviour. Teenagers do not realize what harm their jokes directed at a friend can cause. The nickname given jokingly for years seems normal and acceptable to everyone in the class except the person to whom it was addressed. For a teenager who finds himself in the centre of such attention, the experience can lead to the fear of being ridiculed and the risk of psychological problems in the future increases. Studies show that about 67% of students are the objects of jokes, and peers tease 8% throughout their school life (Gulyaev 2021: 114).

The current criminal legislation of the Republic of Kazakhstan does not provide for the composition of such a criminal offence as cyberbullying. However, the need to criminalize such an act has been repeatedly expressed by legal scholars and public and state figures.

Thus, the President of the Republic of Kazakhstan, K.-Zh. Tokayev said that today “it is critically important to take new measures to protect human rights. Like the whole world, Kazakhstan is also faced with the insecurity of citizens from harassment on the Internet. First of all, children suffer from this. They are susceptible to online harassment, which, unfortunately, leads to sad consequences. It’s time to take legislative measures to protect citizens, especially children, from cyberbullying” (Tokayev 2020).

Accordingly, since there is a particular political will, we believe that the inclusion of cyberbullying in a specific part of the Criminal Code of the Republic of Kazakhstan remains a matter of time. In addition, children affected by cyberbullying should know that their abusers should not go unpunished today.

The most relevant norm providing for legal liability is Part 2 of Article 131 of the Republic of Kazakhstan “Insult”. By this norm, an insult, that is, the humiliation of the honour and dignity of another person, expressed in an indecent form, committed in public or using mass media or telecommunications networks, entails a fine of up to 200 M.R.P. or correctional labour in the same amount, or involvement

in community service for up to 180 hours (Criminal Code of the Republic of Kazakhstan, 2014).

According to experts, when deciding on the qualification of an act as an insult, the court should proceed from the norms of morality of our society, and not only from its perception by the victim himself, because he may have an increased conceit and consider any critical statements in his address offensive (Borchashvili 2021: 186).

Currently, the victim of bullying can apply to law enforcement agencies. In the case of cyberbullying, each offender may be brought to criminal responsibility under Part 2 of Article 131 of the Criminal Code of the Republic of Kazakhstan.

However, insulting and bullying are not the same thing. Insulting is an action of a singular nature, while bullying is a continuous activity. This activity, of course, is also aimed at humiliating another person's honour and dignity. It can be expressed in an indecent form, but simultaneously, it is committed not by one subject but by several at once. In bullying, therefore, we see the diversity of issues of the offence and its duration. Bullying is a continuing offence.

Unfortunately, it can be stated that the criminal legislation of Kazakhstan does not correspond to the current pace of development of information relations. The development of information technologies and communications leads to new risks and threats for children in the Internet space, and new forms and types of offences against minors appear. This requires a corresponding increase in important legislation and preventive activities of law enforcement agencies, but here we have to face new problems. One such problem in information relations is the observance of human rights and freedoms. The right to free access to information is a fundamental human right; it is also possessed by persons who have not yet reached their majority. By trying to restrict access to information that it considers harmful to the health and development of children, the State thereby restricts freedom on the Internet in general. Since many in Kazakhstan adhere to this position, in 2021-2022, there was an active discussion of the need to make changes and additions to several regulatory legal acts on informatization to protect the child's rights. Opponents of making such changes called the draft law anti-democratic, threatening the most important human rights and freedoms.

In May 2022, Kazakhstan adopted a legislative act on amendments and additions to regulatory legal actions concerning protecting children's rights, information and informatization (The Law of the

Republic of Kazakhstan, 2022). Following these changes, a normative definition of bullying was given for the first time, which was enshrined in Article 1 of The Law of the Republic of Kazakhstan dated August 8, 2002, "On the Rights of the child in the Republic of Kazakhstan": "4-1) Bullying (bullying) of a child – systematic (two or more times) actions of a humiliating nature, harassment and (or) intimidation, including those aimed at forcing or refusing to commit any action, as well as the same actions committed in public or using mass media and (or) telecommunications networks (cyberbullying)" (The Law of the Republic of Kazakhstan, 2002).

Furthermore, an identical definition is included in paragraphs 4-2 of Article 1 of The Law of the Republic of Kazakhstan dated July 27, 2007, "On Education" (The Law of the Republic of Kazakhstan, 2007).

Changes concerning issues related to cyberbullying were also reflected in The Law of the Republic of Kazakhstan dated July 23, 1999, "On Mass Media". At the same time, the legislator determined the algorithm of actions when identifying the facts of cyberbullying against a child on Internet resources. At the same time, a note to the newly introduced art. 18-4 of The Law "On Mass Media" defines cyberbullying itself: "cyberbullying refers to systematic (two or more times) humiliating actions against a child, harassment and (or) intimidation of a child, including those aimed at forcing or refusing to commit any action using an Internet resource" (The Law of the Republic of Kazakhstan, 1999).

The changes in the current Kazakh legislation considered in the article show that a big step has been taken in recognizing bullying and cyberbullying as a real threat to the safety of children. However, how much is one recognition of danger enough? It was evident that bullying and cyberbullying fully correspond to the concept of an offence, a tort since there are illegal actions that violate the rights of a child; there are harmful consequences in the form of causing moral harm to a minor; there is a causal relationship between the actions performed and the damage caused. The composition of the offence is obvious, but the legislator did not include it either in the Code of Administrative Offences or in the current Criminal Code of the Republic of Kazakhstan. Accordingly, the perpetrators of cyberbullying cannot be brought to legal responsibility today. The only measure enshrined in the law is blocking access to an Internet resource that records the facts of cyberbullying against a child.

In our opinion, the problem of the correlation between cyberbullying and criminal law is being actualized today. The tools of criminal law and its influence may appear unnecessarily harsh, especially concerning minors, in whose communication environment cyberbullying is most common. However, it should be borne in mind that cyberbullying in some situations represents truly criminal behaviour, significantly when it is associated with severe threats or intimidation, or harassment, leading the victim to suicide attempts.

The analysis of foreign legislation shows the success of securing legal responsibility for actions falling under the concept of cyberbullying. Therefore, in the UK it operates the Malicious Communications Act 1988, which states that it is an offence for any person to send a communication that is “indecent or grossly offensive” for the purpose of causing “distress or anxiety to the recipient”. A person found guilty of this offence is liable to receive a prison sentence of up to 6 months, a fine or even both. At the same time, since May 2022, the prison term has increased to 12 months (Malicious Communications Act, 1988).

In New Zealand, in 2015, The Harmful Digital Communications Act was adopted, which consolidated the basic principles of communication through digital messages, including such as non-disclosure of confidential personal facts about a person; a ban on threatening or frightening messages, as well as notes of grossly offensive or obscene nature, etc. Violation of such fundamental principles of communication entails the imposition of a fine on the guilty

person or imprisonment for up to 2 years (Harmful Digital Communications Act, 2015).

It seems a pretty reasonable conclusion of some foreign psychologists that awareness of all stakeholders – youth, parents, educational organizations, and psychologists – about potential criminal liability can be a potent deterrent (Kift 2007: 228).

Conclusion

The characteristics of the main signs and consequences of cyberbullying allow us to consider it one of the main dangers for children in the information space.

The consolidation of definitions of bullying and cyberbullying in the legislation indicates the actualization of the problems of ensuring children’s information security, taking into account the development of modern communication networks and technologies. The appearance of the term “cyberbullying” in the regulatory legal acts of Kazakhstan should be considered one of the first steps to counteract this dangerous phenomenon. We believe that the further development of information relations in society will inevitably lead to the criminalization of this phenomenon, as evidenced by the experience of foreign countries that have faced the problem of cyberbullying to a greater extent and much earlier than Kazakhstan due to the high level of digitalization. This indicates the need to develop an effective, well-thought-out policy that affects not only legislation but also law enforcement, education and other state and non-state structures working in the field of protection of the rights of minors.

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