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## **The role of law and moral in establishing countermeasures against sexual harassment**

Since sexual harassment is prevalent amongst women and becoming common amongst the middle school children, there is more demand for legal action. Surveys conducted by non-profit organizations show a high level of victimization, but there are often cases of constant concealment, silence about such facts of offenses. This article aims to discuss the role of law and morale in dealing with sexual harassment. On the one hand, it discusses the nature of legal definition of harassment and the difficulty in proving the act due to the presence of a subjective component. Inability to enforce the law will turn it merely into a symbolic measure. On the other hand, lack of law enforcement does not mean that the norm on sexual harassment will not have a deterrent effect. The existence of a legal norm will avert the crime, yet it will be difficult to measure the number of prevented offences. Equally important is to highlight that sexual violence is common place amongst the middle school children across the globe and gaining visibility in Kazakhstan. For that reason, the article discusses advantages and limitations of various interventions that aim to prevent sexual harassment in schools. With many interventions being of single program character, authors recommend systematic strategies that tackle harassment on the individual, family, and community level.

*Key words:* sexual harassment, sexual abuse, sexual victimization, middle school students, interventions, law, deterrent effect.

### *Introduction*

The demand for the law targeting sexual harassment has recently appeared across the popular media outlets in Kazakhstan. This discussion has stemmed from the recent survey conducted by the International Center for Journalism MediaNet, a non-profit non-governmental organization created by a group of Kazakh journalists in 2004. The survey named as “Attitudes of Kazakhstanis to sexual harassment” states that 82 % of female citizens acknowledged the problem of sexual harassment [1]. In particularly, 54 % of the respondents believe that sexual harassment is a problem that is worthy addressing. Other 28 % stated that the issue is urgent, while the rest either claim that sexual harassment is either a personal problem or does not exist at all. According to the survey 92 % of the respondents the contentious issue should necessitate a response at the state level [1].

The findings of the survey might have stayed unnoticed in the realms of internet unless it has been brought to attention by various media outlets. Popular news websites such as Factcheck.kz, Inbusiness.kz and Tenginews almost concurrently published the findings of the research. In their articles, authors cited the statements of Aizhan Oirat, referring to her as “a lawyer-Internationalist and a Program Coordinator Center for Legal Policy Research” [2]. In other words, civil society and the media actively raise awareness about

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modern problems that Kazakhstanis frequently encounter. However, such outlets do not seek only to inform and educate about the question at hand. They do not solely deliver factual, unbiased and neutral information. There is a clear agenda that is attached to the survey of “Attitudes of Kazakhstanis to sexual harassment”.

The agenda is to create a law that would create a legal punishment for sexual harassment. The advocates clearly state that the government must urgently interfere into the current crisis of sexual harassment and create new section of laws in the Labour, Administrative and Criminal Code [2]. On the one hand, their argument is convincing. It taps into a common sense to prohibit sexual harassment from the realm of acceptable social relations. One must have the law that will act as a deterrence for committing the crime. It is legitimate to demand measures prohibiting the perpetuation of unwelcome sexual behaviour. On the other hand, in practice, what sexual harassment is and how one can prove it is an incredibly complicated matter. For that reason, social scientists argue that sexual violence and harassment should not be solely left to the realm of legal relations.

In Kazakhstan sexual violence and harassment at schools has recently grabbed media’s attention. It is becoming somewhat common to hear that school children are physically and sexually assaulted by the peers. The case of persistent raping of a 7-year-old Adil in one of the private schools in Almaty received a public resonance in Kazakhstan. And while we tend to hear cases of sexual violence across schools in Kazakhstan, currently there is no statistics for the incidents. Schools would keep such news under the rug as that would shed a negative light on the institute. Worldwide, however, this problem received much extensive coverage. For example, in the United States, according to the Kann’s et. al study about 1 in 9 high schools girls and 1 in 14 high schools students were raped at some point in their life [3]. As for sexual harassment expressed in the form of sexual advances, it became somewhat a norm with nearly half of the mid to high school kids having experienced abuse [4]. As for student population, 8 out of 10 reported the negative effects of sexual advances [4]. Thus, the aim of this article is twofold. First, the goal is to review the problematics of the concept and define its place in the legislative field. Second of all, we will explore the role of various social programmes at raising awareness, education and prevention of crimes of sexual character.

#### *Methods and Materials*

This article, in theoretical and methodological aspects, is based on the research of predominantly foreign researchers, as legislative process in relation to sexual violence and harassment is developed by American or English authors. As sexual victimization has not received due attention from the national scientists.

The legal definition of sexual harassment is particularly well addressed by the U.S. Equal Employment Opportunity Commission and UK Equality Act (2010). For that reason, their normative acts will be analyzed and cross compared to identify existing gaps in the definitions. Psychological aspects of sexual harassment have received extensive attention in the work of foreign scientists such as Fitzgerald, L.F., Gelfand, M.J. & Dragow, F.

To explore the symbolic effects of the law, the work of Dutch researchers such as Bart van Klink, Britta van Beers, Lonke Poort, John Griffiths will be used as a lens. They briefly shed light on the usages and dangers of legislation as an instrument of democratic governance under the rule of law. Alongside, exploring the potential for deterrence, we will conduct comparative analysis between the Criminal Code of Russian Federation, Ukraine and Kazakhstan.

For comparative analysis, Only a handful of programs have been shown to be promising or effective for preventing SV among adolescents; De Gue et al. 2020); Safe Dates; Green Dot (Coker et al., 2017); Coaching Boys into Men (Miller et al., 2013); Second Step (Espelage et al., 2013) and Shifting Boundaries (Taylor et al., 2013).

#### *Results*

As a wish to our drafters of laws, pay attention to the Criminal Code of Ukraine. Section IV Criminal offenses against sexual freedom and sexual inviolability of the person consists of the following articles: Article 152. Rape, Article 153. Sexual violence, Article 154. Compulsion to enter sexual intercourse, Article 155. Committing sexual acts with a person under the age of sixteen, Article 156. Corruption of minors, Article 156-1. Claims of a child for sexual purposes and Article 301-1. Obtaining access to child pornography, its acquisition, possession, importation, transportation or other movement, manufacture, sale and distribution.

For clarity, we want to draw your attention to Article 153, which defines sexual violence as the commission of any acts of a sexual nature, not related to penetration into the body of another person, without the voluntary consent of the victim (sexual violence) and the following article 154. compulsion to enter into sex-

ual intercourse, which is defined as coercion of a person without his voluntary consent to commit an act of a sexual nature with another person [5]. The legislator clearly distinguishes sexual intercourse from all other acts of a sexual nature.

However, we would like to add that addressing the matters of sexual harassment should not be left only to the legal practitioners. Sexual violence is a complex and multifaceted phenomenon that begins at early adolescence. For that reason, prevention practitioners should start implementing evidence-based practices at middle school. The interventions suggested should not be of a single program character, as practice inevitable shows that such approaches have limitations. Below, based on the comprehensive study of Dating Matters, we shall suggest several approaches for tackling sexual harassment at schools [6]. This research is a multicomponent prevention model focused on middle schools' youth as well as their parents, schools, and neighbourhoods. The model focuses on equipping 11–14-year-olds with skills that are necessary for healthy relationships and prevention of sexual violence. The program is based on seven essential components that are meant to reinforce other components of the intervention. The first component is somewhat a traditional classroom-based approach for 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> graders.

- For 6<sup>th</sup> graders conduct 7 sessions of 50-minutes classes that emphasize the nature of healthy relationships with friends, family, and dating. Here, the focus is placed on teaching social and emotional skills and strategies for coping with feelings, communication in the situations of conflict is also given specific attention. The strategy also builds on bystander intervention principles and discusses ways to help friends who are in unhealthy relationships. The program further continues into the 7<sup>th</sup> grade, where student revise previous years' information with the accent on dating relationships and sexual violence. In the 8<sup>th</sup> grade, practitioners argue for 10 sessions with a poster and a play contest [6].

- Intervention for the parents of 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> graders are provided. Parents are the primary figures who should promote effective communication on healthy relationships and sexual health. Depending on the grade, parents participate in group sessions where they are equipped with skills for open and effective communication on healthy relationships, appropriate supervision, and sexual health. The parents are emailed special booklets that they are supposed to use in home environment when discussing topics relating to dating violence [6]. In other words, the idea is to actively involve parents in the support and supervise middle school middle school youth in dating matters.

- Training for preventing sexual violence, however, should not limited only to the youth and their parents [6]. Educators such as teachers, trainers, coaches, and other school professionals can play a significant role in reducing sexual harassment. To reach a wider audience, the Dating Matters program promotes one-hour free online training. Its aim is to enable the educators to recognize signs of potential violence and promote healthy relationships. The training is based on evidence-based research and is available online on the website. In other words, educators in Kazakhstan would have no problem with accessing the data, yet the correct translation is required for a wider reach.

- In ensuring the awareness about sexual violence amongst youth, the intervention also suggests using technology and language that is appropriate for 11-14 years old. It suggests shosting life, social and digital media events that would attract attention and enable youth to question the nature of unhealthy relationships [6]. It is proposed to use young ambassadors who are popular among young people at the local or national level. Informal events such as workshops and youth groups are suggested to bring young people for discussion and also awareness creation.

- The intervention also promotes free online Capacity assessment and dating tools that is accessible to local health departments [6]. The approach is meant to improve community's ability to translate a dating violence prevention model on the ground. It enables organizations to collect data from stakeholders thereby allowing for the creation of assessment reports. Based on collected data, the priorities and action plans can be built to tackle violence amongst teens.

- The intervention also created a specific guide for local health departments [6]. With its help the practitioners can collect and use data to monitor to identify and monitor indicators of dating violence. Researchers argue that collection of data on teen violence is a significant step in establishing a community wide approach for monitoring and tracking changes in teen dating violence over time.

- As health professionals due to the nature of their work encounter the consequences of sexually violent acts, the researchers suggest local health departments to develop policies specific for dating violence [6]. It also provides an overview of policy approaches to dating violence prevention, guidance for developing a policy plan, and tools to support policy development. The online guide walks users through the policy process

with the aid of worksheets, tools, and policy related resources. The guide is free and also available online and can be also provided by health departments.

### *Discussion*

While the issue of sexual harassment has only recently surfaced in Kazakhstani media, the world news brought the issue to light in 2007. It started with Tarana Burke, an activist, who catapulted the discussion about the persistence and prevalence of workplace sexual harassment. She encouraged women spoke up about their experiences of sexual abuse on social platforms [3]. The hashtag Me Too was created to unite all women across social media who were a victim of unsolicited sexual behaviour. However, it is only 10 years later, when her campaign developed into a fully-fledged movement.

The broader movement unrolled in 2017, when Alyssa Milano inflamed “Me too” with the tweet “If you’ve been sexually harassed or assaulted write “me too” as a reply to this tweet”. According to data presented by Facebook, Alyssa’s tweet had a domino effect. Within 24 hours, around five million women were engaged in “Me too” discussions. Just over 12 million comments and various reactions were posted. Facebook’s statistical analysis suggested that more than 45 % of people in the United States were friends with someone who was engaged in conversation with the words “Me too” [7].

The broader movement did not stay online. Various accusations against celebrities engulfed the media. Potential perversions of politicians also resurfaced. Former U.S. Senator Al Franken, George H.W. Bush; and the late President Donald J. Trump were in the limelight [6]. In 2018, a record number of American CEOs left their jobs for various reasons, including sexual misconduct. Price Waterhouse, an American consulting company, reported that executives were asked to leave their jobs for “ethical reasons” rather than for a financial concern [4]. And while there are several issues that go under the heading of “ethical lapses”, allegations of sexual harassment are on the list. The report claimed that to prevent any damage to company’s image, corporations adopted a “zero-tolerance” stance towards sexual misconduct because of societal pressures that commenced with the “MeToo” movement.

It appears that the world has suddenly awoken to an issue that became somewhat normalized. This realization of a problem however did not bring along clear-cut solutions. Instead, it uncovered a can of worms that social scientists are struggling to conceptualize. To deal with an emerging problem, one must first capture the nature of the concern. And it is precisely here that various stumbling blocks seem to arise.

Perhaps, the most intriguing fact about the term of sexual harassment is that its definition is very abstract and subjective. According to the Equality Act 2010 (UK), “Sexual harassment is unwanted behaviour of a sexual nature which: violates your dignity, makes you feel intimidated, degraded or humiliated and creates a hostile or offensive environment” [8; 1]. An ambiguous definition of sexual harassment is also suggested by the U.S. Equal Employment Opportunity Commission, that describes unwelcome sexual advances, requests for sexual favors and other verbal or physical harassment of a sexual nature [8]. The ambiguity also stems from the fact the wrongful conduct does not define sexual harassment in terms of behaviour. It does not refer to any specific behaviour. It simply states that it is an act that can be verbal, physical and non-verbal of sexual nature that creates humiliating environment.

Such obscurity partially stems from the fact that sexual harassment to some extent is a psychological phenomenon. Fitzgerald and his corroborators pointed out three psychological characteristics to sexual harassment a) gender harassment b) unwanted sexual attention c) sexual coercion [9]. Sexual harassment can be expressed in forms of offensive sexual remarks or sexist stories. Unwanted sexual attention can involve unwanted attempts to draw someone into a discussion of personal or sexual matters, unwanted touching, unwanted repeated requests for dates, staring, and unwanted attempts to have sex with someone that result in that person pleading or struggling [10]. In other word, one’s perceptions are key to registering that sexual misconduct has taken place.

And perceptions are a subjective phenomenon. While for some sharing sexual stories is a way of building trust, for another one it might be an insult. While for one, an embrace at a greeting might be a harassment, for another it can be perceived as being welcomed. While for some women interpret repeated request for a date as a sign of strong liking, others could see it as unwanted sexual attention. Also, perceiving sexual harassment has to be linked to a gender-based behavior [8]. For example, if one notices that a male employer hugs his female colleagues, but also hugs his male co-workers, then such behaviour is unlikely to be seen as unwanted sexual behaviour. However, if the male solely hugs the female co-workers, it is more plausible to interpret such act as sexual harassment. Lastly, after the act has been linked to gender, it is then important the action to be considered offensive, hostile for the victim.

Nonetheless, there are a few objective forms of sexual harassment. Sexual coercion occurs when the perpetrator requests sexual activity from the victim in exchange for various workplace benefits. This is the most “obvious” form of harassment. This form of harassment if recorded can constitute as objective proof. Moreover, for a sexual harassment to constitute as a crime, according to the EEOC, it must be sufficiently severe or pervasive to create an abusive work environment [10]. Thus, severity/pervasiveness and the use of bribery and work-related benefits or threat to achieve sexual favours are the only legal dimensions of sexual harassment in the western world.

In other words, there are two sides of the coin: the psychological and legal one. Majority of human experiences of sexual harassment do not always meet the legal criteria. Perceptions are key to recognizing that sexual harassment took place. But whether such claims are appropriate for adjudication is where the problem stems from. The question is how one can initiate the legal process and decide the case that is solely based on one’s subjective perception. Most of the perceived actions that fall under the category of sexual harassment will be impossible to prove. The courts merely will not have sufficient grounds to have a meaningful hearing process. Creating a legal category of sexual harassment will create the grounds for the wrongful accusation, but very little room for objective proof. Therefore, creating laws that would lack an objective behaviour for which one cannot be punished becomes futile.

There is a pool of potential unintended consequences that can emerge from inadequate laws. In the case of sexual harassment, it opens a space for a wrongful accusation and defamation of one’s status at work. Most importantly though, it will not take long before the courts realize the symbolic nature of the law. Symbolic laws are to a large extent are ineffective. Symbolic legislation has other goals to those officially stated. Their aims can be of political or social character. “A well-known example is the Norwegian 1948 Housemaid Law, studied by Vilhelm Aubert (1966). In Aubert’s view, the legislation at hand was never meant to be effective but was enacted to give recognition to the rights of housemaids on a “symbolic” level. It served to demonstrate that these rights were taken seriously, at least on paper. However, in practice nothing much changed in the position of housemaids” [10; 2].

To understand whether a specific norm can be categorized as symbolic, Van Clink (2016) offers symbolic and pragmatic criteria in order. First, there are no sensible provisions to support the enforcement of the law. Second, the text of such a law is written in an abstract language. Such obscurity means that the legal act cannot be understood by citizens [11; 3]. The vagueness of formulation also means neither the courts nor prosecutors would be able to enforce it. The ambiguity of the language opens possibilities for various interpretations. Equally important is if to look at the law from a pragmatic criterion [11; 3]. In the legislative process two or more groups with conflicting or incompatible interests compete each other. One of the groups involved considers the enactment of the law as a moral victory over the other group (or groups) and a confirmation of its values; and society is in a state of emergency that calls for immediate governmental action. If two or more of these criteria are met, it is likely that the law in question serves symbolic rather than instrumental goals [11; 4].

Let’s now have a closer look at the current legal definitions of the sexual harassment in the British and American law. “Sexual harassment is unwanted behaviour of a sexual nature which: violates your dignity, makes you feel intimidated, degraded or humiliated and creates a hostile or offensive environment”. First, the definition of the act is written in an abstract language. There are plenty of acts that can fall under the category of unwanted. Second, one and the same act can be perceived differently by various people. While for some a hug from the boss is a usual morning greeting, for others it can be an act of unwanted touching and constitute the case of sexual harassment. In turn, ambiguous formulation and the vagueness of interpretation leads to the inability of uniform enforcement. Thus, according to Van Clink (2016) the current legal definition of sexual harassment meets the criteria of the symbolic law. It becomes impossible to enforce the law on sexual harassment, if legislators cannot designate behaviours that constitute sexual harassment.

However, if the law cannot be technically enforced, it is likely to have a deterrent effect. The existence of the law may signal to the potential offender that unlawful actions would invite the criminal justice system. In particularly, Classical school of criminology claims that offenders are rational individuals who engage in calculus before committing the crime. Criminals weight costs and benefits of a given act. If the pleasure outweighs the possible pain from the punishment, the individuals act accordingly. For that reason, the society has an obligation to create deterrents the costs of which would outweigh the ones to be gained from crime. In fact, the principle of deterrence continues to underlie all judicial systems. Deterrents in the form of fines, disciplinary measures, community work, prison sentences are a norm of any criminal justice system. For that reason, one cannot simply shirk away the potential of the criminal legislation to deter the acts of sexual har-

assessment. For that reason, let us investigate the current legislative realm to understand the kind of norms that are created to attempt to prevent crimes of sexual nature and specifically, sexual harassment.

In Kazakhstan, criminal liability for sexual intercourse or other acts of a sexual nature with a person under the age of sixteen, as well as for the commission of sexual depravity against minors (Articles 122 and 124 of the Criminal Code) occurs in cases where sexual intercourse, sodomy, lesbianism, or depraved acts were committed without the use of violence or the threat of its use, or without taking advantage of the helpless state of the victim [12]. However, this article is far from being fully implemented. Due to insufficiently successful legislative regulation of criminal liability for indecent acts, as well as the presence of several qualification problems that the current article is not always successfully translated on the ground.

In this regard, one can draw attention to the experience of the Russian Federation. When applying the law on criminal liability for the commission of crimes provided for by articles 131-135 of the Criminal Code of the Russian Federation in relation to minors, the courts should proceed from the fact that the qualification of crimes on the basis of relevant grounds (for example, under paragraph "a" of Part 3 of Article 131 of the Criminal Code of the Russian Federation) is possible only in cases where the perpetrator knew or assumed that the victim is a person under the age of eighteen or another age specifically indicated in the disposition of the article of the Special Part of the Criminal Code of the Russian Federation.

Considering the increased social danger of crimes under Articles 131-135 of the Criminal Code of the Russian Federation, committed against minors, the courts should identify the circumstances that contributed to the commission of such crimes, violations of the rights and freedoms of citizens, as well as other violations of the law committed during the preliminary investigation or during criminal proceedings in a lower court. According to Part 4 of Article 29 of the Criminal Procedure Code of the Russian Federation, it is necessary to draw the attention of relevant organizations and officials to the revealed facts of violations of the law by issuing private rulings or resolutions [13].

A distinctive feature of indecent acts is the wide range of negative social consequences they cause. Infringing upon sexual inviolability, depraved acts, thereby violate the normal physical and moral development of a minor, as well as public morality. Considering the huge destructive effect of indecent acts, their assignment to the category of crimes of small gravity seems unjustified. In our opinion, it can be supplemented with circumstances that increase responsibility — the commission of indecent acts by a parent or other person who is entrusted with the responsibility for raising a minor, a teacher or other employee of an educational organization, medical institution, organization providing social services, or another organization obliged to exercise supervision for a minor.

Having heard a child's complaint about the atypical behaviour of relatives or a stranger, it is necessary to promptly respond to it. Most often, depraved acts are not accompanied by causing damage to the victim and consist only in exposing his genitals and touching them, exposing the genitals of the perpetrator, demonstrating pornographic objects, films, and other actions of a similar nature. In this regard, establishing the fact of committing indecent acts is referred to the competence of the judicial and investigative authorities.

Indirectly, inflammatory changes, superficial damage to the skin and mucous membranes, haemorrhages, and traces of sperm in the external genital area can indicate the commission of indecent acts. They should be differentiated from inflammatory diseases of the genital area, the consequences of masturbation or helminthiasis [14]. When clarifying the circumstances of committing indecent acts, it must be taken into account that children are subject to suggestion, self-suggestion and confabulations. With this in mind, their questioning should be carried out only with the participation of a teacher, although it should be noted that collecting an anamnesis in these cases is, in principle, extremely undesirable, since with little information it can have a serious negative impact on the child [14].

However, the presence of article on in relation to sexual acts does not mean that this legislation works. There is plenty of latent crime that one can only grasped through population wide interviewing. The presence of a specific article in the criminal code does not suggest it is constantly enforced. There is always a danger that the law that is meant to deal with sexual misconduct will become an unforced law. Therefore, the legal act will have no practical consequences for breaking it. It may have a deterrent effect, but it would be hard to measure it and prove its efficacy.

Along with law, there are other means of preventative character. Sexual harassment and violence is pervasive amongst the adolescents in school settings. Callahan and his collaborators have documented cases of sexual harassment as early as grade 6. For that reason, many researchers argued that interventions for preventing sexual harassment should commence at middle school [15; 61]. Thus, in addressing the gap, Taylor et al., 2013 tested a technology for diminishing sexual harassment amongst the 6<sup>th</sup> and 7<sup>th</sup> graders [15; 65].

Taylor and his collaborators developed A Shifting Boundary intervention into 30 public schools in New York City. Since sexual victimization and harassment has a subjective dimension, authors operationalized it with it in mind. Thus, harassment was operationalized through a spectrum activity from the least to the most severe. “Making sexual jokes and comments; showing, giving or leaving sexual pictures, messages, or notes about the person; writing sexual messages about the individual in bathroom walls; spreading sexual rumors; spying on person while they are dressing or showering; touching, grabbing or pinching someone in a sexual way; intentionally brushing up against one in a sexual way; pulling one’s clothing for the purposes of revealing bodily parts; blocking one’s path and cornering one in a sexual way; making a person kiss you or him; making someone do something sexual other than kissing” [15; 67].

After having operationalized the concept, the authors suggested two kinds of interventions to prevent sexual violence amongst the middle school goers. The classroom intervention included a block of classes that focused on teaching the legislative consequences for sexual harassment offenders. The lessons emphasized the significance of clear communication of one’s boundaries in interactions. Students were taught how to define, set and maintain boundaries in interpersonal relationships. Activities also included plotting the shifting nature of personal space, considering laws as they apply by gender and activities prevent to sexual victimization.

The other intervention was called a building-based intervention. Here, the educators placed several posters related to sexual harassment. The aim was to increase reporting of cases of sexual harassment. Also, to identify unsafe areas of schools, the intervention mapped potential hotspots. The locations were then policed on a regular basis by school personnel. The buildings interventions were also for 6 — 10 weeks as classroom-based interventions [15; 67]. However, researchers did not just compare the interventions above. They also implemented a combined approach, where both classroom and building intervention were introduced at the same time. Lastly, researchers had a control group where neither of the approaches was implemented.

Nonetheless, there is one obvious limitation. The study was not of a longitudinal character. The study only had two follow-up points. One was straight after the intervention and the other was 6 months later [16; 180]. Hence, it is not clear whether the effects of the intervention would stay or dissipate over a long period of time. A longitudinal study to reduce youth violence, peer aggression, peer victimization, sexual violence perpetration among middle school sixth grade students was conducted by Espelage and his corroborators (2013). For an entire academic year, school children participated in 50-minutes classes delivered by trained personnel. Classes were of a highly interactive character with the focus on topics such as bullying, sexual harassment and victimization, physical aggression and homophobic name calling. After the interventions, “the study showed a reduction of a 42 % in physical fighting after 1 year of the intervention” [16; 185]. However, no significant effects for perpetuation of sexual harassment, bullying or homophobic teasing was found [16; 185]. The authors, however, did not explore the reasons for the lack of intervention’s effect on sexual harassment. The cost of the study prevented collection of observational data; therefore, it was hard to make generalizable conclusions.

Other researchers such as Coker and his group tested the effects of bystander intervention to reduce sexual violence perpetuation [17; 566]. Green Dot bystander intervention was implemented for 5 years across Grades 9-12 in 36 schools in Kentucky. The focus was on teaching school children the skills of recognizing situations and behaviours that may become violent and intervene to reduce the likelihood of violence. Instead of relying on teachers’ skills, the study asked rape crisis centre educators to deliver the 50-minutes persuasive speech. Also, 12-15 % of student body was given specific training in bystander intervention to maximize the possibilities for intervention [17; 571]. In the identification of appropriate trainees, educators worked closely with high school staff to identify student leaders. After the programme, the authors concluded that “the intervention was effective in reducing the student-level sexual violence perpetration rates by 17 % — 21 %” [17; 572]. The programme’s success was attributed to the fact that educators had undergone extensive training and feedback on their programme delivery throughout the implementation by professional trained personnel. In other words, the cost of the study i.e. financial investment into appropriate training explained the effectiveness of the intervention.

A more subtle form of intervention to prevent perpetuation of physical, sexual and psychological abuse in a relationship was tested by Miller and his colleagues (2013). The program was called as Coaching Boys Into Men [18; 108]. It trains sports coaches to talk male athletes about stopping violence and against girls or women. Coaches are given cards on various topics and are meant to organize a 15-minutes discussion on a given topic amongst males during the sports season. The authors concluded that after the intervention “fewer

athletes supported peer's abuse behaviour and there was less abuse perpetuation in general" [18; 111]. While the intervention did not require plenty of resources and relied on coaches as key influences, the study stated that "modest reductions in dating violence and negative bystander behaviours" were noted [18; 112].

Addressing the issue of teen dating violence are Reidy and his colleagues (2017). School children in the age group of 11-17 who has been exposed to violence or aggression at home, school or community were referred to the Expect The Respect Support Group intervention [19; 175]. Selected students were taught the differences between healthy and abusive relationships. They were trained to recognize the use of abuse of various forms of power. Specifically, guidance was given on understanding the signs of abuse in interpersonal relationships. School kids were given training in setting boundaries, asking for consent, resolving conflicts and ending relationships. Also, group sessions were conducted that involved discussing on gender violence and ways of standing up against it. Educational videos, interactive games, role plays, and creative expression through art and poetry were used as a main tool for engaging school children into learning experiences. Interestingly, despite the study being of a longitudinal study, the scholars found no effect for boys or girls on reported self-defense, controlling behaviours, fear/intimidation, or injury.

The approaches discussed above are developed to teach students and middle school youth variety of skills to prevent sexual violence and harassment. Criteria of healthy relationships, bystander intervention, physical environments that impede sexual victimization have shown to drastically reduce victimization amongst the students. However, most of the studies are single program prevention strategies. None of the research suggest comprehensive strategies that address a risk of sexual violence. De Gue and his collaborators (2020), in their systematic review of primary prevention strategies for sexual violence perpetration, argues that multiple coordinated interventions will enhance the effectiveness of prevention efforts.

### Conclusion

This article aimed to understand the role of law and morale in preventing sexual harassment — one of commonly under reported phenomena. Overall, the complex nature of the offence makes it extremely difficult for the person filing the suit to prove the burden of proof. For that reason, the law for addressing the wrongdoing may end up being simply of a symbolic character, as it will be extremely difficult to enforce. Nonetheless, having a legal gap is not a solution. The law has a deterrent character. Its existence means higher chances of it being considered by an offender in his cost benefit analysis. The sole reliance on the legal measures would be, however, illogical. One law cannot solve a long-standing societal issue. The law is not a silver bullet. Instead, it should be actively supported by a variety of comprehensive measures. The interventions should be directed at middle school children while actively involving educators, school professionals, parents, and health departments. In doing so, practitioners in Kazakhstan can adapt comprehensive study of Dating Matters, a seven-step program oriented to develop a culture of sexual harassment prevention.

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## Жыныстық алымсақтыққа қарсы іс-шараларды белгілеудегі құқық пен моральдың рөлі

Қоғамда әйелдер арасында жыныстық қудалау мен қысым көрсету басым болғандықтан және орта мектеп балалары арасында да жиі кездесетіндіктен, халық арасында мұндай құқықбұзушыларды сот арқылы жауапкершілікке тарту талабы өсіп келеді. Коммерциялық емес ұйымдар жүргізген сауалнамаларында виктимизацияның жоғары деңгейі туралы хабардар ете, осындай құқықбұзушылықтардың тұрақты түрде тіркелмейтіндігі туралы нақтыланып отыр. Мұндай қарама-қайшылық жасырын, бірақ белгілі бір дәрежеде қалыпқа келтірілген дағдарысты еңсеру үшін тиісті әрекеттерді қажет етеді. Мақала жыныстық алымсақтыққа қарсы күресте заң мен моральдың рөлін талқылауға бағытталған. Бір жағынан, жыныстық алымсақтықты заңды түрде анықтау сипаты және субъективтік компоненттің болуына байланысты әрекетті дәлелдеудің күрделілігі талқыланды. Заңның орындалуын қамтамасыз ете алмау оны тек символдық өлшемге айналдырады. Екінші жағынан, құқық қолдану тәжірибесінің болмауы, жыныстық алымсақтық туралы нормалардың тежеуші әсері болмайды дегенді білдірмейді. Құқықтық норманың болуы қылмыстың алдын алады, алайда, жасалайын деп жатқан құқық бұзушылықтардың алдын алуы бойынша санын анықтауда қиындық болады. Жыныстық алымсақтық орта мектеп жасындағы балалар арасында бүкіл әлем бойынша кең таралған құбылыс болып табылатындығын және Қазақстанда барынша байқалатынын атап өту ерекше маңызды. Осыған орай, мақалада мектептердегі жыныстық алымсақтықтың алдын алуға арналған әртүрлі іс-шаралардың артықшылықтары мен шектеулері талқыланды. Көптеген іс-шаралар бір бағдарламаның сипатына ие болғандықтан, авторлар жеке, отбасылық және әлеуметтік деңгейдегі жыныстық алымсақтықпен күресуге бағытталған кешенді және жүйелі стратегияларды ұсынады.

*Кілт сөздер:* жыныстық алымсақтық, жыныстық зорлық-зомбылық, жыныстық құрбандық, орта мектеп оқушылары, заң, тежеуші әсер.

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## Роль права и морали в установлении контрмер против сексуальных домогательств

Поскольку сексуальные преследования и домогательства преобладают в женской среде и становятся все более распространенным явлением среди детей средней школы, в обществе растет спрос на подобного рода судебные иски. Опросы, проведенные некоммерческими организациями, показывают высокий уровень виктимизации, однако при этом нередки случаи постоянного утаивания, замалчивания о таких фактах правонарушений. Настоящая статья направлена на обсуждение роли закона и морали в борьбе с сексуальными домогательствами. С одной стороны, рассмотрен характер легального определения домогательств и сложность доказывания деяния в связи с наличием субъективной составляющей. Неспособность обеспечить соблюдение закона превратит его лишь в символическую меру. С другой — отсутствие правоприменения не означает, что норма о сексуальных домогательствах не будет иметь сдерживающего эффекта. Наличие правовой нормы предотвратит преступление, но измерить количество предотвращенных правонарушений будет сложно. Не менее важно подчеркнуть тот факт, что сексуальное насилие является обычным явлением среди детей среднего школьного возраста по всему миру и становится все более заметным в Казахстане. По этой причине авторами статьи обсуждены преимущества и ограничения различных вмешательств, разработанных для предотвращения сексуальных домогательств в школах. Поскольку многие вмешательства носят характер одной программы, в статье рекомендуются комплексные и систематические стратегии, направленные на борьбу с домогательствами на индивидуальном, семейном и общественном уровне.

*Ключевые слова:* сексуальные домогательства, сексуальное насилие, сексуальная виктимизация, школьники среднего звена, интервенции, закон, сдерживающий эффект.

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