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The criminalistic characteristic of the crimes connected with procurement and sexual exploitation of the victims of human trafficking

The theoretical and application aspects of criminal researches of counteractions to trafficking in the Republic of Kazakhstan are considered. The criminal characteristics of crimes connected with procurement and sexual exploitation of victims of trafficking are disclosed. The authors offer construction of general theoretic basis and empirical research of the mechanism of trafficking and main methodic of detection.

Key words: human trafficking, exploitation of a man, false imprisonment, organization and keeping of dens, procurement.

Law enforcement practice of law enforcement bodies of the Republic of Kazakhstan and modern scientific research in the field of administrative law, criminal law, criminology, forensic science and the theory of operational and investigative activities indicate that criminal formation the entrepreneurship, became one of the following levels of activity of crime in general and in specifically, the further step of the development of organized crime. Organized crime is functioning of individuals and criminal groups using legal forms of business entrepreneurship in persistent offenses and crimes, including related to human trafficking. These acts are misdemeanors and crimes and bring a steady criminal income as a result of exploitation of, primarily migrants, as well as citizens of Kazakhstan. It is also possible to state that criminal formation focused on financial gain and the acquisition of material wealth through the establishment and exploitation of the market not only of illegal goods and services, but also the use of slave labor in the legally acting economic entities. Thus the use of people as a commodity in criminal purposes is very common.

Human trafficking is a serious challenge for all civilized states, including the Republic of Kazakhstan. Currently, the acts not only directly related to human trafficking, but also deeds «touch of nature» are criminalized in administrative and criminal law. That is acts when the value of the individual is reduced to the level of its monetary value, a man like a property is bought and sold for money, come under the criminal prohibition. On the basis of legal analysis of the state of problems of struggle against illegal business in the field of human trafficking, evidence-based proposals to fight this phenomenon are being developed. The causes and conditions of committing offenses and crimes in the sphere of human trafficking are identified, as well as features of suppression and investigation of these crimes are justified. The data obtained as a result of research in this area could serve as a theoretical and practical basis for the development of science-based proposals and recommendations to improve the legislation aimed at fighting and preventing human trafficking in the Republic of Kazakhstan. This is aimed at enhancing the effectiveness of law enforcement practice in modern conditions. Researches in this field allow to form the conceptual basis of the legal policy on combating human trafficking in accordance with international standards. This will minimize trafficking and ensure the successful implementation of preventive measures to reduce it in all areas of practice and successfully identify and investigate the offenses.

The actuality of the research lies in the fact that modern Kazakhstan trafficking, forced labor and exploitation are relatively new forms of crime. The latency of this type of illegal activity is very high. Despite the fact that the studied problem becomes widespread, its research is conducted only at the level of criminal and criminological direction, while an investigative practice requires methodical recommendations for their prevention and detection. Largely for this reason, in Kazakhstan there are no evidence-based provisions that could prevent the spread of the investigated dangerous phenomenon — human trafficking in the field of entrepreneurship. The problems of forensic and criminal legal protection of personal freedom associated with all kinds of deals against people, slavery, forced labor and exploitation, scientifically developed tactical and methodical aspects of the identification, detection, investigation and prevention of human trafficking are required.

Counteraction to human trafficking is a key strategic priority of the state policy of Kazakhstan. The results of previously implemented state programs to combat human trafficking showed expediency and need

for further coherent systematic operation of the entire state, society and business on the formation of effective measures preventing the further development of human trafficking. In this context, the importance of research is in interdisciplinary approach to the development and implementation of an integrated set of measures aimed at combating and investigation of illegal business in the field of human trafficking. The results based on reasonable theoretical conclusions arising from the provisions of international law and national legislation in the sphere of fighting with human trafficking, can be implemented as by government bodies, civil society as well by business, and contribute to the elimination of such manifestations.

From this perspective, forensic characterization of crimes related to pimping and sexual exploitation of victims should be considered and analyzed. It appears to us as a system of generalized scientific evidence and the conclusions and recommendations on the most common forensic significance of characteristics that are necessary for the organization and implementation of their comprehensive, complete, objective and rapid identification, detection, investigation and prevention of the crimes.

For such crimes, it is possible to talk about the following structure of criminological characteristics:

- 1) the nature of the source data;
- 2) the system of data about the way of commitment and concealing the crime and the typical consequences of its use;
- 3) personality of a probable criminal and other people indirectly involved in crime;
- 4) characteristics of the organized criminal group;
- 5) the environment of crime (place, time also other circumstances).

Let's consider each element of forensic characteristics of such crimes separately. Typological features of personality of pimps intertwine with the criminological characteristics of the members of an organized criminal group, with its criminal law, socio-demographic, moral-psychological and other characteristics. But at the same time, there are purely criminological characteristics of these types of offenders.

Analysis of the norms of the current criminal legislation shows that criminals, whose criminal business is based on the exploitation of prostitution, can be divided into the following groups:

- pimps;
- organizers and keepers of brothel for prostitution;
- persons engaged in kidnapping for sexual exploitation;
- human traffickers, including pursuing the goal of sexual exploitation of victims;
- minors traders pursuing the goal of sexual exploitation of victims.

Common to all these types of criminals are their extremely acquisitive tendencies. In this article we consider only those people whose activities include pimping and sexual exploitation victims. The next types can be defined depending on the level of stability of antisocial orientation in sexual exploitation and pimping:

- 1) situational offenders, using a suitable moment to satisfy selfish purposes. It is mainly solitary pimps and brothel keepers for prostitution;
- 2) persons belonging to unstable group, specializing in brokering activities connected with prostitution;
- 3) persons belonging to organized crime groups and known in the criminal and other sphere, possessing a criminal professionalism and communication skills with investigative and law enforcement officials operating within the Republic of Kazakhstan.
- 4) persons entering into international transnational criminal corporation.

The specificity of an organized criminal group is that there is a clear separation of functions, that is, the allocation of the leader, executors, minor members of the group (the dispatcher and driver) and people indirectly involved in crime.

Typology of leaders, pimps and traffickers in the investigated criminal cases can be summarized as follows:

- just a leader organizer;
- just a head leader;
- just an executive leader;
- mixed type.

Mixed type of leader or a leader executor is encountered in most organized criminal groups. As for the leader, organizer and a head leader, their functioning is typical only at the stage of formation of the group.

The role of artists in pimp actions, as we noted above, perform a leader pimp and guards. Moreover, in exceptional cases, ancillary people may be executors, namely a driver or one of the commercial sex workers

with experience in providing sexual services. This can be explained by congestion of pimp and guard their departure to serve incoming orders, while that received a new order.

Secondary performers (dispatchers and drivers), acting in a group of traffickers which has a purpose of exploitation of prostitution may be involved as permanently and occasional. Their financing is carried out at the expense of the number of perfect «deals» and in some cases they may have a share in the profits of organized crime in general. As our research shows — permanently functioning and occasionally invited members of the group cannot leave their criminal activities on their own initiative, without damage to the group. This is due to the fact that all members of the group as the traffickers and pimps are in processing chain of the mechanism of committed crime. They can expect a steady income and excess profits from such activities only interacting, actively fulfilling its interim targets for providing «sexual services» to customers. Thus, people «being under»press «of psychological pressure or threats of physical violence from the criminal group» may be in groups» [1]. Therefore, we should especially focus on the psychological atmosphere within the organized group of traffickers, brothel keepers for prostitution and pimps. These data are an important criminal information, which can greatly facilitate or hinder the detection and investigation of organized crime traffickers, pimps and brothel keepers. Our studies allow to allocate following groups:

- 1) with a steady psychological atmosphere within group;
- 2) with unstable psychological atmosphere.

The first is typical for those cases when, firstly, the group is just being formed and the desire to unite all members of the group and establish the psychological contacts inside is highly developed; secondly, when there is a steady profit from carried out criminal acts and, accordingly, «peaceful» psychological atmosphere and group cohesion increases; thirdly, psychological cohesion of the people is in the organized groups, where the leader is a strong-willed, competent organizer, suppressing and neutralizing any attempts of worsening of relations between members of the group. Meanwhile, in each criminal group there are certain contradictions which sometimes turn to conflict. In the same source it is stated that the conflicts within the organized group can be classified as follows:

- 1) connected with organized crime;
- 2) not connected with organized crime.

The reasons for these conflicts, if they are connected with organized criminal activity arise:

- 1) in the fight for leadership;
- 2) in the struggle for the closeness to the leader of the group;
- 3) because of the desire to leave the group when disagreements are between old and new members;
- 4) regarding criminal traditions;
- 5) regarding methods and techniques of criminal activities and the principles of the division of stolen;
- 6) in connection with the personal hostility of people.

Conflicts not connected with organized crime may be rooted in the criminal past of some members of the criminal group, can be associated with social and service practice, ethnic, cultural, emotional and moral disagreements [1; 263]. Knowing these relations and the causes of conflict allows to apply the tactical combination or a tactical approach during the investigative procedure, which are most suitable in a the situation at disclosing and investigation of these crimes.

Among people indirectly involved or participating in crimes related to human trafficking for the purpose of exploitation of prostitution, it is necessary to consider a forensic point of commercial sex workers and their clients.

Interviewed police officers of the Republic of Kazakhstan noted that in the regions they serve (regional centers, cities and towns that have capital status) they meet the following groups of sex workers:

- 1) Exclusive sex workers who provide sexual services mainly for foreign currency;
- 2) commercial sex workers, oriented to the customers from the citizens of Kazakhstan, mainly — men and women on call, restaurant, hotel, pool, located in discos, as well as saunas and baths;
- 3) engaged in homosexual prostitution;
- 4) engaged in child prostitution;
- 5) street (the station) sex workers.

Sex workers of these levels form a «closed corporate groups». At the top elite level, such groups are united by the most prestigious places of «work» (hotels, bars, restaurants and so on). On the middle level, they are consolidated, as a rule at brothels, and on the lowest form permanent rather motley market world of so-called «wandering people». Each closed corporate group united according to the interest and the place of sexual activity is extremely hostile to the environment, as it acts in relation to the rest mass of commercial sex workers (even at the same level) as a «micro-monopoly.» Unifying team spirit existing in the group, aims

to not to give competitors «habitable» profitable place» [2]. Each corporate group of sex workers has a well-established system of mutually beneficial relations with pimps with the help of which they do business, economic and other relations with the employees of hotels, restaurants, nightclubs, saunas and other places of entertainment. As the study showed, sex workers of different groups come under the operational supervision and put to operational and preventive account of Internal Affairs authorities. Since such persons are not subjects of administrative or criminal offense but make up one of the niches of the criminal environment and are carriers of important operational information not only in regard to the traffickers and pimps, but also in relation to other crimes committed both at served area and in the other region. The question of their use in operational and investigative tactics requires further study. In addition, our studies show that the organization and keeping of brothels for prostitution and procuring are organizing link in the activities of sex workers. Accordingly, they always find a mutually beneficial relationship. At the same time it should be noted that sex workers have extremely negative attitude to persons engaged in human trafficking, as kidnappers or traffickers use coercion based on violence or enslaving terms of the deal. As for homosexual and child prostitution, in our country, they have not yet received such rapid prosperity, such as in the United States, the Philippines, Thailand and other countries. But this is not a reason to consider such situation to be permanent. The limiting factor is mainly in the mentality of the population (the repressive sexual morality), although in recent years the situation has become more serious and there is a tendency in the development of these crimes in our country.

From the forensic point of view in evidence tactics is presented a social portrait of the people using the services of commercial sex workers. This is mainly young and middle-aged men. There are a lot of big businessmen, bank employees and small entrepreneurs whose income is presumably high. There are many representatives of the authorities and management among the clients of sex workers. Despite the relatively low income, clients of prostitutes can become college and university students. In most cases, the client has a spouse or cohabitant, and therefore shows constant concern for keeping secret his meetings with sex workers. This fact makes it difficult to identifying and the subsequent involvement as witnesses for the prosecution. Therefore, the availability of data on the identity of the client, his relationships, peculiarity of the behavior with commercial sex workers and pimp allows to use customers to determine the tactics of investigation and solution of other problems of identification, detection and investigation of crime.

The following elements of criminological characteristics of crime is the place, time, situation and other circumstances of the offense. The analysis of criminal cases in considered category of crimes shows that the time and place of organized mediation in prostitution depend on the method of its commission and concealment. Organizing and keeping of brothels for prostitution and procuring are formal compositions of the crime and considered completed from the moment of implementation of the actions in the disposition of criminal articles of the current criminal legislation of our country. But from forensic point of view, characterizing the place and time of the offense, should be spoken of as an environment where the order for providing sexual services was accepted, and of the environment where the customer's sexual act with sex workers was made. The order is most often done by phone. Number of subscriber dispatcher is taken from different advertising newspapers. There were cases when dispatcher telephoned the guests of different hotels to offer «to brighten their leisure». In other cases, customers directly addressed to the pimps or sex workers (to the restaurant, street and others) with a request on providing sexual services. Providing customer with intimate services by sex workers takes place mainly at home of the client, in offices, in private hotels, in various entertainment places (restaurants, discos), in saunas and baths, in cars, in a rented apartment, in brothels and other places where sexual acts might take place. The time of these crimes is usually in the evening or at night. The main peak of the «work» of brothel for prostitution and pimps is at 22–24 (36 %), 01–02 (28 %), 20–22 (21 %) o'clock. The nature of the source data can be different in its content, scope and sources of the getting and serves to bringing up a version and direction of the investigation at the initial stage of the investigation.

As applied to the investigation of the organization and keeping of brothels for prostitution, sexual exploitation and pimping classification proposed by A.N.Vasilev which names six categories of cases is most appropriate:

- 1) there is information about the event and specific perpetrators of crime, but it is necessary to determine whether the event had a criminal nature;
- 2) event with signs of a crime and harmful consequences are established, responsible people for these consequences are known, but their behavior in the event of unknown;
- 3) the event with signs of crime, which only certain people could commit and use the results is found;

4) event with signs of crime that the people concerned indirectly or in more or less distant result of a crime may have committed, it was found;

5) the event with signs of crime, special skills or special knowledge of any specific circumstances to carry out required is found;

6) the event with signs of crime is obvious, but the details of guilt are extremely limited [3; 4–6].

The nature of the source data by the beginning of investigation of mentioned crimes is largely determined by the presence at the inspector various operational and investigative information on the criminal functioning of the group of pimps and traffickers.

Nowadays criminal cases of crimes committed by criminal groups of human traffickers for the purpose of exploitation of prostitution, is conducted in the following order:

– After the rapid operation on capturing in the act of individual members of the group of traffickers and pimps;

– in the process of investigating other criminal cases not related to the crimes in question.

In the first case, the investigation is preceded by the identification, storage, study and documentation of the following information:

1) signs of the crimes in question;

2) the mechanism of committing a crime;

3) the number of members of the criminal group;

4) the psychology of the relationship between the partners;

5) defining of the group leader, performers and support group members;

6) establishing of their internal and external connections;

7) establishing of corrupt links;

8) other data which can greatly facilitate the disclosure and investigation of the crimes in question.

The practical value of intelligence information suggests its use not only during a criminal case, but in the in the course of investigation.

Human trafficking for the purpose of exploitation of prostitution are carried out by members of an organized criminal group. System of actions of these members form a compulsory element of criminological characteristics of crime, called in forensic science as methods of committing and concealment of the crime. Considered crime, as a rule, are not only prepared and committed by a single concept, but the concealment of criminal activity takes place in a single system of committed method of the crime. Therefore, the process of committing a crime related to the objective side of the crime. It is studied and in the light of the subject of proof in criminal procedural law. For forensic the method of commitment and concealment of the crime «has a crucial importance for private forensic techniques as a basis for the nomination of both common and private versions, as this affects the determination of the directions of the investigation and other issues of disclosure and investigation of crimes» [4; 75].

Identification and subsequent proof of criminal activity of mentioned organized crime groups is extremely difficult. Therefore, for the successful detection and investigation of such crimes is very important to use forensic, other special technique that allows to install and fix the procedurally typical material traces of the crime and likely locations. The survey of more than 500 employees of the prosecuting authorities in the Republic of Kazakhstan showed that investigative and operational staff experiences some difficulties in obtaining personal sources of evidence (testimony of witnesses, suspects and accused persons). So without appropriate material sources of evidentiary information to detect and prove criminal activities pimps is almost impossible. Carriers of «non-verbal» information indicating mediation in prostitution can be divided into the following groups:

1) marks recorded in audio, video, photo, filming; means of electronic eavesdropping and surveillance and other types of forensic and special equipment; while fixing the data of interest can be carried out in the framework of the operational activities or investigative action;

2) chemical originated signs, indicating the obtaining the money for providing sexual services;

3) signs of client presence with sex workers at the scene, showing the finished sexual intercourse or attempt to have it; it may be signs of legs, hands, teeth, vehicles, semen, vaginal fluid, blood, hair, urine, micro particles of clothing and footwear, as well as items belonging to sex workers and clients;

4) signs of presence of groups of sex workers, pimps, guard, the driver and other persons in the den or in the «office»;

5) signs of documentary character (call logs, addresses logs of sex workers, documents leases on apartments rent, notebooks of pimps where there may be information indicating the presence of corrupt relationships, and so on);

6) other evidence that has importance for establishing the truth in the process of proving the criminal activities of the group.

In addition to these tracks, which can significantly ease the process of proving the case, investigative workers need «as widely as possible and professionally use the data of background counts, the existing automated information retrieval systems and accumulated in separate investigative and operational divisions of the array of computer information on people and organizations suspected of involvement in organized criminal activities, committed, investigated and are being investigated crimes» [1; 270].

All of the above indicates the relevance of the struggle against human trafficking and stipulates the need to continue further investigation of this problem and make recommendations on improving methodical, tactical, organizational methods and means of combating criminal activities of persons involved in trafficking.

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Адам саудасы құрбандарын сексуалдық эксплуатациялау және жеңгетайлықпен байланысты қылмыстардың криминалистикалық сипаттамасы

Мақалада Қазақстан Республикасында адам саудасына қарсы іс-қимылды криминалистикалық зерттеудің теориялық және қолданбалы аспектілері қарастырылды. Адам саудасы құрбандарын сексуалды пайдаланым және жеңгетайлыққа байланысты қылмыстардың криминалистикалық сипаттамасы ашылып көрсетілді. Авторлар адам саудасы тетігін және тергеу жүргізудің негізгі әдістерін мақсатты криминалистикалық зерттеудің жалпы теориялық негіздері мен эмпирикалық алғышарттарын құрылымдауды ұсынды.

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Криминалистическая характеристика преступлений, связанных со сводничеством и сексуальной эксплуатацией жертв торговли людьми

В статье рассматриваются теоретические и прикладные аспекты криминалистических исследований противодействия торговле людьми в Республике Казахстан. Раскрывается криминалистическая характеристика преступлений, связанных со сводничеством и сексуальной эксплуатацией жертв торговли людьми. Авторы предлагают конструирование общетеоретических основ и эмпирических предпосылок для направленного криминалистического исследования механизма торговли людьми и основных методик расследования.

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