
Problematic Aspects of Divulging the Secrecy of Adoption

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Abstract: Ensuring and protecting the interests of children in a democratic state governed by the rule of law has always been and remains a priority task of any democratic state, insofar as children are the most vulnerable and most unprotected part of modern society, and they should not be deprived of rights. The problem of criminal legal protection of childhood and minors is relevant for all states, including the Russian Federation. The legal system of the Russian Federation in the field of ensuring the rights of children is a set of international and national legal acts that ensure the normal moral and spiritual development of children and minors.

In the domestic national legal system, the guarantor of the rights and interests of the child and minors is the Constitution of the Russian Federation, which stipulates that marriage and family, motherhood, fatherhood and childhood are under the protection of the state, and that taking care of children and their upbringing is a natural right and duty of parents.

The current situation can be explained by the fact that only deliberate disclosure of the secret of adoption is criminally punishable, the disclosure of this information by negligence does not constitute a crime under Art. 155 of the Criminal Code of the Russian Federation, since the property and other rights of adopted persons are guaranteed by the protection of the Family Code of the Russian Federation. Disclosure of the secret of adoption may not cause significant damage to the property rights of the adopted child.

The unformed psyche of a minor, the understanding that there is no consanguinity between close relatives, which until recently were the most native to him, is stress that can lead to suicide. The ways of improving the criminal legal protection of minors from divulging the secrets of adoption are proposed.

Keywords: children, minors, divulging the secrecy of adoption, criminal law protection.

INTRODUCTION

For a long time the state did not pay due attention to this problem, there was a manifestation of indifference to family problems. Only with the adoption of the Constitution of the Russian Federation, the process of intensifying the solution of these issues was outlined.

When identifying the determinants of divulging the secret of adoption, it should be borne in mind that this crime belongs to the crimes enshrined in Chapter XX "Crimes against families and minors" of the Criminal Code of the Russian Federation, which is most often committed on the basis of specific interpersonal relationships, interpersonal conflicts motivated by base motives, envy, revenge, jealousy, self-interest of the guilty person connected with the victim by family or other relationships.

The famous geneticist Academician Dubinin wrote: "We must not forget that each person, having a unique genetic organization, has his own reaction rate, that is, a unique personal way to react to social and physical environmental influences».

According to a sociological study conducted among experts who are directly involved in the procedure for registering and disclosing the secrecy of adoption (magistrate, employees of the internal affairs bodies, prosecutors, education, social protection, health care, guardianship, civil status records), it was ranked the role and place of certain determinants influencing the formation of criminal intent and the desire to commit this crime: in 30% of cases, respondents responded to a decrease in parental responsibility for children, 18% indicated the absence of a clearly developed state family policy, 25% indicated a difficult financial situation; the rest pointed to a moral crisis.

It can be argued that the commission of a crime under Article 155 of the Criminal Code of the Russian Federation is due to a complex of determinants, which include socio-psychological, personal, socio-economic, and legal. Insufficient participation of civil society institutions in solving this problem is noted; the difficult

financial situation of modern families; low organization of activities to prevent this phenomenon; imbalance in the work of the competent authorities in this area.

LITERATURE REVIEW

It should be noted that the issues of criminal liability for disclosing secrets, confidential information, as an independent legal institution, have practically not been studied in domestic criminal law. Despite the attempts of individual scientists to consider the problem at the doctrinal level, the interest shown by domestic specialists in the field of criminal law has not yet received that coverage so that it can be argued that the current legislation guarantees every citizen protection from actions aimed at disclosing the secret of adoption. At the same time, a sectoral approach was very often used, in which the preventive potential of the norms of administrative, civil, family law was studied.

Such scientists as Gaukhan L.D., Kotyuk M.F., Kunts E.V., Maksimov S.V., Malkov V.D., Matskevich I.M., Minkovsky G.M., Naumov A.V., Petrashev V.N., Pobegailo E.F., Rarog A.I., Revin V.P., Tyazhkova I.M., Uskova Yu.V. dealt with the protection of the rights of minors. At the same time, the analysis of theoretical and scientific publications on the criminal law and criminological aspects of disclosing the secrecy of adoption allows us to draw a conclusion about the need for a deeper, doctrinal consideration of this problem, taking into account the action of the modern state policy in the field of criminal legal protection of disclosure of secrets adoptions.

MATERIALS AND METHODS

The methodological basis was formed by the dialectical method, which implies a systematic approach to the study of objects. The study is based on the conceptual provisions of the doctrine of the general theory of law, criminal law, philosophy, sociology and psychology.

In the course of work on the project, methods of the empirical level of knowledge that have become traditional for criminology, political science and sociology will be actively used - a survey of criminologists and political scientists (at least 50 people), questionnaires of Russian citizens (at least 2,000 respondents), interviewing persons, content -analysis of print and online media sources aimed at identifying the causes, factors, features and possible methods of crime prevention.

Data on crimes against the family and juvenile delinquency in the modern Russian Federation, obtained from open and accessible information sources (information and analytical centers, official websites and archives of law enforcement agencies, fiscal and control and supervisory authorities, etc.) will be actively studied and summarized. This methodological set will provide the necessary depth and quality of the study of all aspects of the selected scientific problematics at the intersection of criminology and jurisprudence.

In the process of research, were used formal-logical, sociological, historical-legal, comparative-legal, statistical, systemic methods of cognition.

RESULTS

It is stated that the existing problems of ensuring the secrecy of adoption are not only legal, but also ethical character. The issue of maintaining the secrecy of adoption should be resolved in accordance with current legislation and with the prevailing circumstances, which will dictate the need to amend the criminal law aimed at ensuring the secrecy of adoption, as well as toughening the punishment for divulging the secrecy of adoption.

At the present stage, the absence of a mechanism for protecting the rights of minors in Russia should be considered objective. It is necessary to carry out activities "Day of Adoption", the purpose of which is to implement demographic policy, increase the culture of adoption, promote and improve work on placing orphans and children left without parental care in adoptive families, drawing public attention to the problems of orphans and children left without parental care, support for adoptive parents.

A gradual transition is the optimal solution, since Russian society is not yet fully prepared for drastic changes in this area.

Summarizing the results of the study, we can talk about two possible options for resolving this problem: 1) the secret of adoption will be abolished; 2) the secret of adoption will not be canceled.

Modern realities dictate the need to edit regulations governing the institution of secrecy of adoption.

In particular, it seems necessary to amend the current legislation, which would allow an adopted citizen to freely access information about his biological parents. Indeed, in this case, the preservation of the secret of adoption seems unfounded, since it implies, first of all, the restriction of third parties, but not the child himself. You can draw a parallel with paragraph 1 of Art. 7 of the Convention on the Rights of the Child, according to which a child, as much as possible, has the right to know her parents and is entitled to their care. It would be logical to supplement the corresponding provision of Art. 139 of the RF IC and establish in it the conditions and procedure for disclosing the secret of adoption.

In this case, one of the conditions for disclosing a secret should be the achievement of the age of majority by the person who has expressed a desire to find out information about the biological parents. At a minimum, this will make it possible to maintain the secrecy of adoption, protecting the rights and legitimate interests of the child and his adoptive parents, and at the same time realizing the child's right to know his parents, which was mentioned above. T., however, notes that this provision should be applied only if the secret of adoption has been revealed in the family of the citizen who applied to the civil registry office. Among other things, this knowledge, in addition to a simple desire to receive information, may be due to other, completely objective factors - sometimes it is just necessary to know the biological parents in order to establish any genetic, hereditary diseases, as well as in family planning.

Speaking about the secret of adoption in general, it should be noted the need to consolidate the norm, according to which it should be observed only if the adoptive parents so wish.

Among other things, it would be logical to eliminate the problem of personification of the responsible person, discussed earlier.

Also, if the institution of adoption secrecy is preserved, special attention should be paid to Art. 155 of the Criminal Code RF.

DISCUSSION

To prevent crimes, it is necessary to work to minimize such a conflict, to eliminate conflict-generating factors, as well as psychological problems that can lead to a problem. It is assumed that the basis for the conflict provoking deviant and criminal behavior are difficulties in adaptation in the society that surrounds a person. Personality is individuality, uniqueness. The concept of "human" and "person (personality)" is different. It is believed that the concept of a human is broader, i.e. not every human is a person, but every person is a human. Life gives us examples when there is a human, but there is no personality. The difference between a criminal and a normal person is vague. In comparison with the entire population, the traits of those who have been convicted and those who have not been convicted are compared. Approaches to the study of personality: 1) psychological (introindividual) - in this case, the study comes from within, from the consciousness of the personality; 2) sociological (interindividual) - with this approach, the study relies on society.

From here, the structure of the criminal's personality, the hierarchy of signs, is formed. A certain construct that allows to streamline information about the mass of offenders, and on the other hand, allows to establish different ages of criminal responsibility (in different countries it is different, as you know), facilitates the search for offenders, allows to identify risk groups (where there is a high probability of committing a crime).

The problem of the personality of the offender is constantly changing, but has a certain path: from the formation of the personality, its interaction with specific life situations, the personality at the time of the commission of the crime, at the time of the administration of justice, the personality during the period of serving the sentence.

Human is a biological and social system. Biological and psychological properties without interaction with upbringing and the situation of the act are criminologically neutral.

The moral and psychological characteristic of the offender is divided into a moral component (expressing the attitude towards social values, what social values are: homeland, love, mother, etc.). Hence we are talking about an antisocial attitude, this integral concept characterizes morality, such an attitude means a person's negative attitude towards social values. The antisocial attitude differs: a) in latitude; b) in depth (the degree of hatred can be different); c) in intensity (for example, if you cut someone off in a car, and he pulls out a pistol and starts shooting at you); d) by resistance (by the degree of compliance, variability, modifying under a positive influence, can it be neutralized or not). The psychological component is based on an asocial attitude. In this case, it has a neutral attitude (indifference, but it is enough to create a tempting situation and then a person can react to the situation in terms of criminality) or a disdainful attitude towards social values.

Legal consciousness has a complex hierarchy, which includes three elements: the intellectual sphere, the emotional sphere, the volitional sphere.

Defects of legal awareness: 1) legal ignorance - ignorance, poor knowledge, distorted or perverted interpretation of legal norms. According to the criminal law, ignorance of the law does not exempt from liability, but this is not entirely true, for example, in relation to tax crimes, after all, one must first explain to a person what can be done and how to do it, and then ask him; 2) legal quietism - there are norms, but they are not written for me, they are created for the rest; 3) legal negativism - a negative attitude towards legal norms; 4) legal infantilism (childishness) - this is often found in adolescents.

Very important parameters in the psychological characteristics of a criminal's personality are self-respect and self-esteem. Psychologist James came up with the formula: self-esteem = success / (divided by) claim. And accordingly, you can increase self-esteem by lowering the claim (in the sense of your needs) or you can increase self-esteem by increasing success. In the literature, opinions are expressed according to which the legislator should completely revise this Art. 155 of the Criminal Code, make significant changes to the very corpus delicti. In particular, it is said about the need to exclude from the disposition of this indication of specific motives (selfish, base motives).

In this case, it is proposed to understand grave consequences as the breakdown of the family, abandonment of the

child, illness of the child and parents, an attempt at suicide.

Amendments to Art. 155 of the Criminal Code of the Russian Federation, in the case of keeping secrecy, adoptions must be carried out first. Before the changes should concern the sanctions for committing the specified crime. At the moment, a punishment may be imposed in the form of a fine in the amount of up to eighty thousand rubles or in the amount of the wage or other income of the convicted person for a period of up to six months, compulsory labor for a term of up to three hundred and sixty hours, correctional labor for a term of up to one year, arrest for for a period of up to four months, with or without the deprivation of the right to hold certain positions or engage in certain activities for a period of up to three years. I believe that these punishment measures are disproportionate to the degree of social danger of an act that can inflict severe psychological trauma and lead to irreversible tragic consequences, up to family breakup or suicide.

The international obligations of the Russian Federation, as well as specific problems of the current situation of minors, have determined the choice as priority of the following directions of state social policy to improve the situation of children in the Russian Federation: strengthening the criminal legal protection of childhood; family support as the only living environment for children; ensuring safe motherhood and child health protection.

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