



ZHUMAGALI

Askhat Zhumagalievich,

1 National Bureau of Anti-Corruption of
the Agency of the Republic of Kazakhstan
for Civil Service Affairs and Anti-
Corruption



KARIPOVA

Ainagul Tukenovna,

1 Academy of Law Enforcement Agencies
under the General Prosecutor's Office
of the Republic of Kazakhstan, Astana,
Kazakhstan



SAGYMBEKOV

Bakhytzhan Zhassamuratovich,

1 Academy of Law Enforcement Agencies
under the General Prosecutor's Office
of the Republic of Kazakhstan, Astana,
Kazakhstan



OMAROV

Erbol Agbaevich,

1 Academy of Law Enforcement Agencies
under the General Prosecutor's Office
of the Republic of Kazakhstan, Astana,
Kazakhstan

CRIMINOLOGICAL CHARACTERISTICS OF MURDERS: quantitative and qualitative analysis, prevention measures

УДК 343.97

МРНТИ 10.81.35

Түйіндеме.

Мақалада Қазақстан Республикасы Бас прокуратурасының жанындағы Құқық қорғау органдары академиясының “Адам өміріне қол сұғушылықпен байланысты қылмыстар жағдайын талдау, және алдын алу шаралары” атты зерттеу нәтижелері ұсынылған.

Криминологиялық талдау көрсеткендей, қылмыстың қайталануы, қатыгездік, аса қаталдықпен жасау тәсілдерінің, оның ішінде алкогольдік масаң күйдегі адам өлтірудің өсу қарқыны көрініс тапты. Мақалада авторлар, адам өлтірудің жағымсыз құрылымдық өзгеруінің себебін ашады.

Шетелдік тәжірибеге (Швейцария, Жапония, Сингапур, Тәжікстан, Өзбекстан, Өзербайжан) талдау жасау негізінде, жазалау тәжірибесін ауырлату, пробациялық бақылау мен есепке алу, алдын алуды жетілдіру бойынша құқықтық және ұйымдастыру-практикалық шараларының кешені әзірленді.

Түйін сөздер: адам өлтіру, профилактикалық есепке алу, жазалау тәжірибесі, алдын алу шаралары.

Аннотация.

В статье представлены результаты исследования “Анализ состояния преступности, связанной с посягательствами на жизнь человека, и меры профилактики” Академии правоохранительных органов при Генеральной прокуратуре Республики Казахстан (август 2017 г.).

Криминологический анализ свидетельствует о росте повторной преступности, жестокости, изощренности способов совершения убийств, в т. ч. в состоянии алкогольного опьянения. В работе авторами раскрыты причины негативных структурных изменений убийств.

На основе анализа зарубежного опыта (Швейцария, Япония, Сингапур, Таджикистан, Узбекистан, Азербайджан) разработан комплекс правовых и организационно-практических мер по ужесточению карательной практики, усилению пробационного контроля и учета, совершенствованию профилактики.

Ключевые слова: убийство, профилактический учет, карательная практика, меры профилактики.

Annotation.

The article presents the results of the research “Analysis of the State Crime Rate related to Assault on Human Life and Preventive Measures” conducted by the Academy of Law Enforcement Agencies under the General Prosecutor’s Office of the Republic of Kazakhstan (August 2017).

Criminological analysis shows the growth of repeated crime, cruelty, sophistication of the methods of committing murders, including murder committed by those under the influence of alcohol. In the article the author reveals the causes of negative structural changes in murders.

Based on the analysis of international experience (Switzerland, Japan, Singapore, Tajikistan, Uzbekistan, and Azerbaijan), a set of legal and organizational-practical measures to tighten punitive practices, strengthen probation control and accounting, and improve prevention was developed.

Keywords: murder, preventive registration, punitive practice, preventive measures.

INTRODUCTION

The highest value of the Republic of Kazakhstan, like in any other democratic, legal and social state, is a human life.¹ Therefore, the issue of its legal protection is always significant and should be a main concern for any research.

According to official statistics, over the past 25 years, serious positive socio-economic changes have taken place in the country. For instance, GDP per capita has increased 15 times², the average monthly pension 200 times³, social aid 6 times⁴, and the minimum cost of living increased by 5 times.⁵

These improvements of economic indicators positively affected citizens' security.

In the 80's on the territory of Soviet Kazakhstan, approximately 1,500 murders were committed annually.⁶

In the 90's this rate rose up to 2,500, but the peak occurred in 1996, when 2,600 intentional murders were registered. Since then, over the next 20 years, the number has declined annually.

Over the past five years, the number of murders has dropped by almost 1.5 times.⁷

Also in the 80's, almost 2,500 serious bodily injuries were committed annually.⁸ In 1994, this rate increased up to 6,000, which during the next 20 years decreased to 1,500 in 2014.⁹

NEGATIVE CHANGES IN CRIME STRUCTURE

Despite successful dynamics of murders, there are hidden problems in the social sphere and ensuring law and order.

According to the United Nations Office on Drugs and Crime (UNODC) in its *Global Study on Homicide 2013*, Kazakhstan is ranked 138 out of 219 countries (UNODC, 2013). Neighboring countries ahead of Kazakhstan are Tajikistan, Uzbekistan and Belarus.

There are negative structural changes in crime. Over the past five years, the number of murder of pregnant women has increased five times (from 4 in 2012 to 26 in 2016). Furthermore, over the past two years, there was a growth of the murders of officials (from 5 to 18) and murder com-

mitted in a way dangerous to the lives of many people (from 15 to 30). Every second murder is committed by those under influence of alcohol.¹⁰ Since 2015, the number of homicides with aggravating circumstances has increased, as well.¹¹ The most common serious murders are the murders of two or more persons committed by group for financial gain.

Today, every third killer has already committed criminal offenses. In general, over past five years such murders have doubled.¹²

Over the past two years, the number of murders committed by recidivists has increased three times,¹³ and overall, there has been an increase in murders by 5,7 % (447 vs. 423).

SUBJECT OF A MURDER

Based on survey of convicts in prisons of Karaganda and Eastern Kazakhstan regions, a social and psychological portrait of the murderer was drawn up.

Today the portrait of the murderer is the following. It is a man of 21–29 years old, unemployed, with a middle level education and single. Every third killer is an alcoholic. Usually, such people were raised in a single parent family, or in orphanages 80 %). They do not understand the sense of value of another person's life. Moreover, they believe that violence is a natural way of solving all problems, and social environment is seen as hostile.

Many murders possess following qualities: impulsiveness, rigidity (unwillingness of the individual to change behavior in environment), suspicion, rancor, increased sensitivity of interpersonal relations, and low level of self-control.¹⁴

Most of the homicides were recorded in the central and northern regions of Kazakhstan.

The presence of problems in the social sphere resulted in a growth of infanticide. Social unsettledness, psychological problems and stressful situations on the rise push some young women to kill their own newborn children. Over the past five years, these crimes have increased almost two times.¹⁵

The criminological portrait of a mother who kills her own newborn child is following: a woman of 16–24 years old, a Kazakh, born in a town, unemployed, with a middle level education, unmarried, previously not prosecuted.

¹ Article 1 of Constitution of the Republic of Kazakhstan.

² From \$696 US dollars in 1993 up to \$10500 US dollars in 2015.

³ From \$187 US dollars in 1991 up to \$ 38933 US dollars in 2015.

⁴ From \$3441 US dollars in 1999 up to \$ 21674 US dollars in 2015.

⁵ From \$3505 US dollars in 1997 up to \$ 19647 US dollars in 2015.

⁶ In 1980 – 1611, in 1981 – 1574, in 1982 – 1590, in 1983 – 1 613; in 1984 – 1 504

⁷ In 2012 – 1267 crimes, in 2013 – 1120, in 2014 – 904, in 2015 – 862, in 2016 – 861

⁸ In 1980 – 2 590; in 1981 – 2 594; in 1982 – 2 523; in 1983 – 2 665; in 1984 – 2 573

⁹ The speech of the Prosecutor General of the Republic of Kazakhstan on results of prosecutor's office work for 2016

¹⁰ According to Report form 1M, murders committed by intoxicated in the total mass of murders are following: in 2012 – 57%, in 2013 – 56%, in 2014 – 56%, in 2015 – 48%, in 2016 – 53%

¹¹ According to Report form 1M: in 2015 – from 294 up to 573, in 2016 – from 303 up to 625

¹² In 2012 – 168, in 2016 – 316

¹³ In 2015 – 28, in 2016 – 78

¹⁴ According to psychoanalysis conducted by Professor Shaharbayeva Z.Zh.

¹⁵ From 10 in 2012 to 19 in 2016

In many cases, crimes were committed by natives of the southern and western regions of Kazakhstan – 45.5 % (Zhambyl – 4, Kyzylorda – 3, Western Kazakhstan – 3).

It is assumed that the main reasons committing such kind of murder can also be attributed to the local traditions, which condemn the birth of an illegitimate child, and the immaturity of the individual.

The next, is a portrait of victims usually, a Kazakh man of 30 to 49 years old, the crime taking place at night (from 22.00 to 06.00 hours), in residential premises (house, apartment, 45.8 %), and at the beginning or end of the year (December, January), after alcohol consumption.

Self-interest, family-household quarrels and hooligan motivation remain the most common motives of murder.¹⁶

According to the results of the analysis, it is determined that suicide rates have increased several times over the past five years.¹⁷ In 2016, about one third of suicide attempts ended with a fatal outcome – 32.4 % (186 of 573). Victims are also unemployed men aged 30 to 39 years old. Most of these cases occur in cities and regional centers (Almaty, Astana, Pavlodar and Karaganda regions).¹⁸

The foregoing shows that situations with murders are not as prosperous as they seem at first glance.

REASONS FOR COMMITTING MURDER

There are well-known reasons and conditions that generally contribute to murder: aggressive motivation (antipathy to the victim, neuroticism), conflict crime situation, being intoxicated, social disorder of the criminal, victim's behavior, as well as social factors (alcoholism, drug addiction, marginality, etc.). They are described in detail in scientific papers of such prominent scientists-criminologists, as Antonian, Starkov, Abeltsev and others.¹⁹

Personal interviews with the convicted indicate that most of them were raised in families where alcohol was abused, or there was only one parent or the formation of their personality took place in orphanage or in the family of relatives where they were left alone. As a result, most of the time the child was left to fend for himself and “the street rules” formed his behavior and addictions. Most often, the formation of his personality was limited to the satisfaction of minimal social and personal needs, additionally there was a lack of emotional and psychological development.

The lack of warm family relations among many murderers was one of the decisive factors that influenced their criminal behavior.

For example, 21-year old “Sergei”²⁰ was sentenced to 10 years for murder. He grew up without parents and his elder sister cared for him. At the age of 14 he started working to help his sister who had her own family. Then, under the influence adults and after drinking alcohol Sergei committed a murder. According to psychologist of prison, “Sergei” would be a normal and prosperous citizen if he had a family and an appropriate environment.

In general, among the interviewed, 73.8 % (287) of the men and 73.6 % (39) of the women were not married, and more than half of them had no children (77.1 % of men, 54.7 % of women).

Most convicts regret the values they have had. In response to the question, “What is the most important thing you had in life before you were convicted?”, two of the three interviewed prisoners answered “a family”. Most of them regret that they lost their families, and were planning to devote their free time to their relatives after being released from prison.

As the main condition for committing murder, 45 % of the interviewed indicated alcoholic intoxication.

As a result of an integrated approach of the research, the following factors that negatively affected the structural changes in crime have been identified (the author does not claim truth of his conclusions).

The first reason is the shortcomings of probation control and preventive registration.

The General Prosecutor's Office officially stated the importance of preventive work not only with the conditionally convicted, but also of the released on parole, and also people under administrative supervision and persons convicted of punishments not related to deprivation of liberty.

At the First Forum of Prison Reform (2013) and the Board of the General Prosecutor's Office (2014), it was indicated that there is a need to shift the focus of the work of the penal executive bodies towards social and legal assistance, eliminate the preconditions for repeated offenses, electronic bracelets of tracking.

Despite the updated legislation²¹ and the availability of special services (the Probation Service), probationary measures are still ineffective. Statistical data confirms this.

¹⁶ According to Report form 1M for 2016

¹⁷ According to Report form 1M for 2012–2016 there is an increase from 31 up to 573

¹⁸ According to Report form 1M for 2016

¹⁹ See Starkov O.V. *Criminology. Theory and practice: a textbook for universities*. – M., 2016. – 641 p. – P.346–365; Abel'tsev S.N. *Personality of the criminal and the problem of criminal violence*. – M., 2000. – 207 p. – P.68 – 84.; *Criminology*. – Almaty, 2004. – 336 p. – P. 210 – 214; Antonyan Yu.M. *The psychology of murder*. – M., 1997. – 304 p.

²⁰ The name of the person was changed for ethical reasons.

²¹ See the Law “On Probation” adopted in 30.12.2016; *Comprehensive strategy of social rehabilitation of citizens released from prison and registered in probation service in the Republic of Kazakhstan for 2017–2019 adopted in 08.01.2016; Plan of measures for the implementation of the Comprehensive Strategy for 2017–2019; Rules governing the functional and activity of the probation service, adopted by the order of the Ministry of Internal Affairs No. 511 in 15.08.2014; Rules for the interaction of probation services and police units to monitor the behavior of persons who are registered in probation services adopted by the order of the Ministry of Internal*

For instance, in recent years there has been a fourfold increase of crimes committed twice or more.²²

In 2017, every third criminal offense was committed by a person who previously committed a crime (29.4%).²³

According to some experts, overall such negative trend may continue, because 2018 is a post amnesty period (Karpova, 2017).

In our opinion, one of the reasons for this situation's existence is the prevention of a "risk group" carried out by various police services – the local police service (LPS) and probation.

The LPS put criminals on preventive registration,²⁴ but to provide social and legal assistance, the data of the "contingent" is transferred to the probation service,²⁵ since this function is legally entrusted to probation control.

The absence of a single centralized preventive service, as well as proper control and coordination of the activities of the LPS and the probation service, leads to a violation of the mechanisms of interaction between them. As a result, individuals after being released from prison are not put on preventive registration and information about them is not transferred to the probation service for the provision of social and legal assistance.

For example, in Zhambyl region on October 2016, Mr. 'B', previously convicted for murder and rape, was released. After the release, he was not registered in the probation service, and, consequently, preventive work was not carried out. As a result, in May 2017, Mr.'B' committed murder again.

The selective inspection of the registration of previously convicted persons who committed murders shows that in 2015 29 out of 99 persons were not on preventive registration list, in 2016 – 86 out of 179. Of course, the reasons for this may be different, but this circumstance requires attention of the Ministry of Internal Affairs and the General Prosecutor's Office.

The second reason is the weakening of preventive work by police on local level.

According to the Department of Internal Security of the Ministry of Internal Affairs,²⁶ the attention of the LPS (in-

Affairs No. 517 in 18.08.2014; Article 19 Penal Code.

²² In 2014 – 11434, in 2015 – 23769, in 2016 – 46143.

²³ See the Report Form 1M: in 2012 – 8.2 %, 8013 out of 98176, in 2013 – 8.1 %, 8,818 out of 102566, in 2014 – 8 %, 8597 out of 106899, in 2015 – 16, 3 %, 17692 out of 108455, in 2016 – 32.3 %, 38026 out of 117743.

²⁴ Rules for the organization of activities of district police inspectors responsible for organizing the work of the local police offices, local police inspectors and their assistants adopted by the order of the Ministry of Internal Affairs No. 1095 in 29.12.2015.

²⁵ Article 8 of the Rules for interaction between probation services and police units to monitor the behavior of persons registered in probation services, adopted by the order No. 517 of the Ministry of Internal Affairs in 18.08.2014.

²⁶ Analytical report of the Department of Internal Security of the Ministry

cluding district police inspectors) is focused on prosecuting violations of the rules of improvement, trade, sanitary condition of the territory (Articles 206, 408, 505 of the Administrative Code of the Republic of Kazakhstan). At the same time, these articles contain discretionary power. For the same activity, a person may be warned or be heavily fined. The proportion of warnings over the past three years has been steadily increasing and has reached more than 90%.²⁷ Perhaps that is why LPS began to investigate such offences since it bring income to budget.

Administrative offenses such as, in the sphere of domestic violence, hooliganism and drinking of alcohol in public places, have begun to be overlooked. Since 2016, the registration of such offences has decreased.²⁸

Accordingly, murders have increased by 5.7 %, including those committed by the intoxicated.

At the same time, international experience shows that the timely suppression of such minor offenses ultimately leads to a reduction in violent acts. In Singapore, for example, crime has almost reduced to zero. This country is ranked third in homicide rates globally (UNODC, 2013). Singapore started with the reinforcing of one's responsibility of the discharge of garbage, smoking and crossing the road in the wrong places, the use of chewing gum, spitting on the sidewalk, feeding stray animals and birds, and others.

The third reason that negatively affected on crime structure is a judicial practice of serious crimes.

The choice of this factor is not random. The need for its study is due to the results of a sociological survey of the people of our country and the assessments of experienced expert practitioners.

Along with other measures to prevent homicides, ordinary citizens and experts expressed the view that it is necessary to tighten criminal liability, including punitive practices, up to the implementation of death penalty and the extension of the term of imprisonment.

After calculating using a correlation method, a dependence was established between murders committed by persons who had previously been brought to criminal responsibility and the number of persons convicted without isolation from society. This means the more people that are

of Internal Affairs on the results of external analysis of corruption risks in the activities of the Administrative Police Committee, administrative police departments and local police service of the DIA of the cities Astana and Almaty, regions and in transport (No. 18-18-1-29 / 1-8231 dated 06.03.2017)

²⁷ According to statistics on administrative violations for the period from 2014 to 2016 there is an annual increase of warnings used in accordance with art. 204 of the Administrative Code – 56 % (14641 out of 26106), 88.8 % (38554 out of 43393) and 90, 3 % (41878 out of 46368).

²⁸ According to statistics on administrative violations in 2016 a prosecution of domestic violence decreased by 50.3 %, hooliganism offences by 44.4 %, alcohol consumption by 3.5 %.

sentenced without the appointment of deprivation of freedom, the more likely they will be to commit murder a second or more time.

It is necessary to note the importance of a strict criminal policy on grave and especially grave crimes, which is enshrined in the Concept of Legal Policy for the period of 2010 to 2020.

The effectiveness of this approach is confirmed in the course of the study.

According to data for 2016 in Kostanay region, 45 % of people were convicted without isolation from the community for serious crimes (309 of 683), Karaganda – 60 % (620 out of 1028), and Eastern Kazakhstan – 52 % (464 out of 895). In the same regions, a high level of murders per 100 thousand capita: in Kostanay (12), Karaganda (9.8), East Kazakhstan (9.4).

In general, over the past five years, in the places where there was a stringent judicial practice for serious crimes, the murder rate (per 100,000 capita) declined. The same situation occurred in the Western, Northern Kazakhstan, Almaty, Akmola, Zhambyl, and Atyrau.

In Kyzylorda region, during the last 5 years, a “humane” approach to for punishment of serious crimes (an average of 41 % of deprivation of liberty) was implemented. As a result, in 2016 the number of murders increased by 46.7 % (from 15 to 22, the coefficient – 3.2), in the first half of the year, almost 3 times. During the period from January until July 2016, the murder rate has already exceeded the annual indicator of the previous year by 0.4 (3.6).

Based on the results of the analysis, it was created the so-called “normal” number of imposing imprisonment for serious crimes – the average is at least 48 %. It is assumed that compliance with this indicator will ensure the stability of the state of crime.

Furthermore, the study shows that there is a need to revise the approaches to the practice of parole previously convicted for murder, serious and especially serious violent crimes.

According to Article 72 of the Criminal Code of the Republic of Kazakhstan, a person may be released on parole if court recognizes that he does not need to be in prison to stand back to the right way.

It is important to note that this is not the duty of the court, but only its right, which can be realized if certain conditions are met, such as the right behavior, positive attitude towards the individual, society, labor, norms, rules and traditions of human community.

Therefore, parole should not be used to achieve any corporate indicators. Otherwise, this can lead to negative consequences.

For example, in June, 2017, Mr. “A”, convicted four times of serious crimes, was convicted again but for murder after being on parole. At the same time, the court at first had pre-

viously refused to give parole to Mr. “A”. However, the regional court canceled this decision.

In this case, individual preventive work with Mr. “A” was carried out formally. As a result Mr. “A” committed a rape in November 2016. This crime was committed during the probation. An inquiry of canceling the parole was not initiated.

Similarly, in the Almaty region, the recidivist Mr. “B”, previously convicted of murder was twice released under parole, and the final release was in July 2016 by order of the Kapshagai City Court. Four months later, Mr. “B” committed murder again.

In general, over the past two years, the number of those convicted of murder has increased fourfold, and they have been previously convicted of murder, rape and harm to health, including those who have been released under an amnesty or parole.²⁹

FOREIGN COUNTRIES EXPERIENCE

It should be noted that in Germany the use of parole is possible only with the conclusion given by expert psychologist. In Kazakhstan, such conclusion of a psychologist in correctional institutions is not taken into account. Therefore, this experience deserves attention and its implementation.

Other countries with a low homicide rate (Switzerland, Japan, Singapore) are now pursuing a policy of toughening criminal repression. Particular attention is paid to the education of youth by enhancing the role and status of school teachers, developing a sense of collectivism, focused on mutual assistance and pooling efforts in combating crime. In this regard, in European countries, volunteering among citizens in a police has become widespread.

The CIS countries (Tajikistan, Uzbekistan, Azerbaijan), which have a low level of homicide, are striving to improve the technical bases of law enforcement and to introduce modern technologies into their activities.

In addition, there is a practice in foreign countries to restrict the turnover of alcohol by banning its sale in areas with a high levels of ‘alcohol related crimes’ at certain times and days of the week as well as limiting the number of alcohol sales and its advertising.

Scientists and criminologists share an opinion that the most common causes of violent crimes are poverty, social isolation, low educational levels and the insufficient implementation of the rule of law (Starkov, 2016).

RECOMMENDATIONS AND CONCLUSION

Based on the analysis of the experiences of foreign countries, the following complex of legal, organizational and practical measures designed to reduce encroachments on human life were developed:

²⁹ According to statistics there were more convicted murderers who had previously been convicted for murder, assault and rape in 2015 – 7, in 2016 – 31.



- pilot projects aimed to reduce turnover of alcohol products in the most criminogenic cities, including banning the sale of alcohol in shops on weekends (from 7:00 am on Saturday to 7:00 am on Monday) and holidays (from 7:00 am on the first holiday to 7:00 am of the first working day) and restrictions of licensing for alcohol sale considering population density and places of alcohol shop;
- carrying out an integrated inspection of the local police service and probation services with the development of constructive solutions;
- introduction of electronic control systems such as “E-supervision proceedings” or “E-preventive case”, which will reflect the work on individual prevention of each person who is under preventive registration and probation control;
- creating a new system of unified centralized automated registration which should be integrated with databases of correctional institutions with function of controlling a registration and work with offender who is under probation control;
- using measures to ensure a strict criminal policy for serious and very serious violent crimes, including the development of legal acts aimed to improve the mechanisms of parole;
- conducting a large-scale explanation work among youth on moral and sexual education, as well as government support of young mothers trapped in a difficult situation;
- development and implementation of life skills training programs for conflict resolution, social adaptation, designed to help youth to manage their emotions.
- The stated above conclusions and recommendations will also contribute to the improvement of law enforcement practices and interagency cooperation

REFERENCES:

1. Abel'tsev S.N. (2000) *Personality Of The Criminal And The Problem Of Criminal Violence*. M., pp 68 – 84.
2. Antonyan Yu.M. (1997) *The Psychology Of Murder*. M., p 304.
3. Karipova A.T. (2017) *Forecasting The Development Of The Criminal Situation In The Republic Of Kazakhstan*. Monograph – Astana: The Academy of Law Enforcement Agencies under the Prosecutor General's Office of the Republic of Kazakhstan, p 172.
4. Starkov O.V. (2016) *Criminology. Theory and practice: a textbook for universities*. M., p 641.
5. UNODC *Global Study on Homicide 2013*. United Nations publication, Sales No. 14.IV.1