

LEGAL APPROACHES TO COMBATING MASSACRES IN RUSSIA

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ABSTRACT

Objective: In recent decades, the number of mass shootings in Russian educational institutions has increased. The study aims at evaluating the effectiveness of various means of protecting an individual developed and implemented in the country. Within this objective, the authors discuss the possibility of using preventive measures against grave crimes, i.e. the death penalty enshrined in the current criminal law but not fully implemented due to the moratorium. In the emerging Russian judicial practice, the authors consider crimes committed by minors and persons between the age of 18 and 21.

Methods: As part of the study, the authors review scientific works on the topic, crime statistics, and decisions of legislative authorities.

Results: According to the newly developed and consolidated provisions of Russian legislation, there has been a tightening of responsibility for arms trafficking in the form of a complete ban on the acquisition of any firearms by the named persons. It has been established that the main reason for the rapid increase in massacres is not the tightening or leniency of the law but its non-compliance. In the cases under consideration, civilian firearms were acquired by young people illegally due to neglect of one's professional duties.

Conclusion: The authors believe that the measures, consisting in toughening the responsibility for the illegal circulation of civilian weapons adopted in 2021, will be more effective in preventing massacres among persons under the age of 21. As for the ability of such measures to counteract grave crimes committed by persons who have already reached this age, there are great doubts about their effectiveness. In this regard, there is a need to improve the newly adopted measures to prevent grave crimes among young people depending on their age (under or over 21).

Keywords: Mass murders. Death penalty. Arms in circulation. Young people.

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ABORDAGENS LEGAIS PARA COMBATER MASSACRES NA RÚSSIA

RESUMO

Objetivo: nas últimas décadas, o número de tiroteios em massa em instituições educacionais russas aumentou. O estudo visa avaliar a eficácia de vários meios de proteção individual desenvolvidos e implementados no país. Dentro deste objetivo, os autores discutem a possibilidade do uso de medidas preventivas contra crimes graves, ou seja, a pena de morte consagrada na lei penal atual, mas não totalmente implementada devido à moratória. Na emergente prática judicial russa, os autores consideram crimes cometidos por menores e pessoas entre 18 e 21 anos.

Métodos: Como parte do estudo, os autores revisam trabalhos científicos sobre o tema, estatísticas criminais e decisões de autoridades legislativas.

Resultados: De acordo com as disposições recém-desenvolvidas e consolidadas da legislação russa, houve um endurecimento da responsabilidade pelo tráfico de armas na forma de uma proibição total da aquisição de qualquer arma de fogo pelas pessoas nomeadas. Ficou estabelecido que a principal razão para o rápido aumento dos massacres não é o endurecimento ou a clemência da lei, mas seu descumprimento. Nos casos em análise, as armas de fogo civis foram adquiridas por jovens de forma ilegal devido ao descumprimento de seus deveres profissionais.

Conclusão: Os autores acreditam que as medidas que consistem em endurecer a responsabilidade pela circulação ilegal de armas civis adotadas em 2021 serão mais eficazes na prevenção de massacres entre menores de 21 anos. crimes cometidos por pessoas que já atingiram essa idade, há grandes dúvidas sobre sua eficácia. A este respeito, é necessário melhorar as medidas recentemente adotadas para prevenir crimes graves entre os jovens em função da sua idade (menores ou maiores de 21 anos).

Palavras-chave: Assassinatos em massa. Pena de morte. Armas em circulação. Jovens.



ENFOQUES JURÍDICOS PARA COMBATIR LAS MASACRES EN RUSIA

RESUMEN

Objetivo: En las últimas décadas, ha aumentado el número de tiroteos masivos en instituciones educativas rusas. El estudio tiene como objetivo evaluar la efectividad de varios medios de protección individual desarrollados e implementados en el país. Dentro de este objetivo, los autores discuten la posibilidad de utilizar medidas preventivas contra delitos graves, es decir, la pena de muerte consagrada en la ley penal vigente pero no implementada en su totalidad debido a la moratoria. En la emergente práctica judicial rusa, los autores consideran los delitos cometidos por menores y personas de entre 18 y 21 años.

Métodos: Como parte del estudio, los autores revisan trabajos científicos sobre el tema, estadísticas criminales y decisiones de las autoridades legislativas.

Resultados: De acuerdo con las disposiciones recientemente desarrolladas y consolidadas de la legislación rusa, ha habido un endurecimiento de la responsabilidad por el tráfico de armas en forma de una prohibición total de la adquisición de cualquier arma de fuego por parte de las personas nombradas. Se ha establecido que la razón principal del rápido aumento de las masacres no es el endurecimiento o la indulgencia de la ley sino su incumplimiento. En los casos que se examinan, las armas de fuego civiles fueron adquiridas ilegalmente por jóvenes debido al incumplimiento de sus deberes profesionales.

Conclusión: Los autores creen que las medidas, consistentes en endurecer la responsabilidad por la circulación ilegal de armas civiles adoptadas en 2021, serán más efectivas para prevenir masacres entre personas menores de 21 años. En cuanto a la capacidad de tales medidas para contrarrestar graves delitos cometidos por personas que ya han alcanzado esta edad, existen grandes dudas sobre su eficacia. En este sentido, es necesario mejorar las medidas recientemente adoptadas para prevenir delitos graves entre los jóvenes en función de su edad (menores o mayores de 21 años).

Palabras clave: Asesinatos en masa. Pena de muerte. Armas en circulación. Gente joven.

INTRODUCTION

In the world of dominating digital technologies, the death penalty continues to be the most important means used by the state to protect individuals from criminal encroachments. The Constitution of the Russian Federation and the Criminal Code of the Russian Federation testify to this. Article 20 of the Constitution of the Russian Federation states that the death penalty as an exceptional measure of punishment can be established by federal law for grave crimes against life. The General Part (Articles 44, 59) and certain articles of the Special Part (Clause 2 of Articles 105, 277, 295, 317, 357) of the Criminal Code of the Russian Federation directly



provide for the death penalty as one of the types of punishments. However, Russia took on the obligation to declare a moratorium on capital punishment, which was established by the Decree of the President of the Russian Federation (Malko, 1998, p. 107) of May 16, 1996, No. 724 “On Phasing out the Death Penalty in Connection with Russia’s Accession to the Council of Europe” (President of the Russian Federation, 1996). Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms signed on April 16, 1997 (The member States of the Council of Europe, 1983) regarding the abolition of the death penalty in Russia is still operating under the Vienna Convention, which requires that the protocol be observed until it is ratified. In 2009, the Constitutional Court of the Russian Federation recognized the impossibility of imposing the death penalty due to the obligations assumed and the current international legal trend of non-application of the death penalty by European states (Constitutional Court of the Russian Federation, 2009). On September 16, 2022, Russia officially ceased to be a party to the European Convention for the Protection of Human Rights and withdrew from the jurisdiction of the European Court of Human Rights.

MATERIALS AND METHODS

The materials used in this article include scientific articles published in periodicals (journals) and collections of conferences of various levels and different topics, educational literature (textbooks and manuals), abstracts from monographs (chapters and sections), as well as Internet sources and sources from legal e-reference systems on issues of combating massacres. Candidate’s and doctoral dissertations also played a significant role in the study of this topic since they consider various measures to counter different types of murders.

To work with these scientific and journalistic studies, we used the universal dialectical method of scientific cognition which underlies the chosen methodology. This method effectively complements and specifies statistical and descriptive methods. The statistical method allows us to study the quantitative characteristics of mass murders. The descriptive method is used when considering measures to counteract grave crimes committed in modern conditions.

RESULTS AND DISCUSSION

The death penalty is being actively discussed after tragic events associated with serial murders (Fedosenko, 2007; Kozlova, 2010) or massacres (terrorist attacks in various cities,



airports, aircraft explosions, etc.) (Agnich, 2015; Muschert, 2007; Newman et al., 2012), especially if children were hurt (the events in Beslan on September 1, 2004). In 2019, the issue of the death penalty became even more acute after the murder of a nine-year-old girl in Saratov. On October 9, 2019, she disappeared on her way from home to school. Back then, many citizens of Saratov supported the execution of her 35-year-old rapist and murderer but he was sentenced to life in prison instead (Interfaks, 2020). Russia saw many tragic events related to massacres: the Kerch Polytechnic College massacre on October 17, 2018, when 21 people were killed, including 15 students and five employees; the Kazan school shooting on May 11, 2021, with nine people killed, including seven children; the Perm State University shooting, with six killed and 47 injured (RBK, 2021); the Izhevsk school shooting on September 26, 2022, with 18 killed and 23 injured; on February 3, 2014, a student opened fire at a Moscow school and killed his teacher and a police officer and injured another one; on April 24, 2017, two people died and 11 other people were injured in the village of Agvali, the Republic of Dagestan, after a grenade brought by a student exploded (RBK, 2021, May 11). Considering these facts and the special military operation in Ukraine, public authorities and social figures made several proposals and big statements (Dobrynin, 2021). In particular, they pointed to the abolition of the moratorium on the death penalty (Artamonova & Tretyak, 2022; Lenta.ru, 2021; RIA Novosti, 2021), the limited circulation of weapons (Bondarenko, 2021), and the need to identify unreliable people, change ideology, and prohibit anonymity on the Internet. In addition, public figures consider not only the restriction but also a complete ban on civilian weapons and the return to the death penalty as an ineffective measure to counter this type of crime.

According to human rights defender S. Nikitin, the private ownership of weapons is an archaic legacy of the Middle Ages. It is nothing but a threat to civilians. The activist argues that children dressed up in military uniforms, marching (even still in strollers), and carrying plastic machine guns are a horrible sight, which cannot be imagined in a normal and mentally healthy state. The death penalty is shameful and completely ineffective. The belief that capital punishment will intimidate a potential victim is a myth. Many murders are often committed in a state of acute alcohol or drug intoxication, so the person who kills is not able to properly think at the moment. The use of the death penalty in those countries where it is legal does not lead to a decrease in violent crimes. The pacifist L. Nikitinsky declares that something needs to be done with the circulation of weapons, including hunting weapons. The current public life and the state are permeated with the ideologies of saber-rattling, the cult of power, and the idea of “we can repeat”. Under these conditions, many people praise strength instead of intelligence and probably acquire weapons (State Duma of the Federal Assembly of the Russian Federation,



2021a). “If we shoot this Kazan guy, a misfit and yet a poor fellow, this is an illusion of solving the problem, not only this one but also many others that our state is sick with. This is the main danger”, Nikitinsky says.

As a result, it was decided to toughen responsibility for arms trafficking and make appropriate legislative amendments. Legislative activity in this direction has been initiated more than once: after the Moscow school shooting on February 4, 2014 and the events in Kerch in 2018. In 2014, V. Milonov, a deputy of the State Duma of Saint Petersburg, the 4th and 5th convocation, proposed to attend a medical examination once a year instead of once every five years when obtaining a license to purchase weapons, but his proposal was not realized. In 2018, President V.V. Putin instructed to develop measures to prevent these types of murders. Considering the initiative of Deputy Milonov, the National Guard proposed to make amendments to the medical examination when obtaining a license to purchase civilian weapons and perform it once a year and identified several additional grounds for refusing the license. However, these amendments were sent for further development. From 2014 to 2022, a significant number of amendments were made to the Federal Law “On Weapon” to tighten it. These mainly concerned:

- Increasing the age of possession to 21 in relation to limited lethality of civilian weapons (Federal Law of July 21, 2014 No. 227-FZ);
- Expanding the range of grounds for refusing to issue a license for the acquisition of civilian weapons (Federal Law No. 227-FZ of July 21, 2014, No. 230-FZ of July 13, 2015);
- Setting new rules for passing a medical examination and obtaining a license to purchase civilian weapons (passing a medical examination when obtaining a license to purchase weapons once a year instead of once every five years; a medical examination must be carried out by a psychiatrist and an addiction therapist in state municipal mental and drug rehab clinics according to the place of residence) (Federal Law No. 230-FZ of July 13, 2015);
- Prohibiting citizens (legal entities) to store and use firearms found by them or transferred to them, i.e. they are not original owners, as well as weapons they do not have the right to acquire in accordance with the Federal Law (Federal Law No. 280-FZ of August 2, 2019).

During this period, sufficient measures were taken and implemented to curb the illegal acquisition of weapons; no further tightening of the law was required but only strict observance of existing prohibitions.

After the tragic events in Kazan on May 11, 2021, amendments were made to expand the range of grounds prohibiting the issuance of a license for the acquisition of civilian weapons,



to prohibit the sale of hunting firearms to citizens under the age of 21, to increase the mandatory possession of smooth-bore weapons before the purchase of semi-automatic weapons (up to two years), and to transfer some types of weapons into the category of rifled weapons (State Duma of the Federal Assembly of the Russian Federation, 2001). There was a tightening of administrative (State Duma of the Federal Assembly of the Russian Federation, 2021b) and criminal (TASS, 2021) liability for the illegal sale and manufacture of firearms, their main parts, ammunition, and explosives (devices). Federal Law No. 21-FZ of February 25, 2022 and Federal Law No. 638-FZ of December 29, 2022 establish a new procedure: the maintenance of weapons can be carried out both by the owner and by a legal entity that has an appropriate license, while the repair of civilian and service weapons can be done only by a legal entity that has a license for this. They also enshrine the so-called interruption of owning hunting smooth-bore weapons for the acquisition of hunting rifled weapons.

The question arises about the effectiveness of the measures taken to prevent mass murders among young people.

Considering civilian weapons to be the main threat to the lives of civilians, their irreconcilable opponents do not consider the fact that a huge number of people are involved in their production and shipping weapons to both the domestic and foreign markets, and their reduction can lead to huge material losses. Many experts believe that these changes (which came into force on June 29, 2022) would be detrimental to the arms industry as a whole (Artamonova, 2019) and could have various negative social consequences. According to V. Zhikharev, Executive Director of the Union of Russian Gunsmiths named after M.T. Kalashnikov, the preliminary damage from the announced tightening was estimated at 5 billion rubles. As a result, a significant number of jobs were predicted to be cut. V. Nagaev, adviser to the Executive Director of “Molot-Oruzhie” (a manufacturer of smooth-bore semi-automatic rifles) reported that, along with the sanctions imposed by the US administration in 2017 that cut off the enterprise from foreign markets, the law as amended in 2021 could lead to the liquidation of the enterprise and dismissal of about 2,000 employees. Considering members of their families, 6,000-8,000 people would be left without means of living. The consequences for the town of Vyatskiye Polyany, with a population of only 32,000 people, could be incredibly tragic. Mass unemployment during the pandemic and economic crisis would have many economic, physical, emotional, and psychological consequences (death, heart attack, mental treatment in a psychiatric hospital, suicide, the commission of grave crimes) not only for fired employees but also for their families.

Dismissal could entail the loss of acquired skills in a certain field of activity, the



impossibility of finding a job and financially supporting oneself and one's family, trouble in the family, the poor upbringing of children, and personality degradation (alcoholism, drug addiction, etc.).

After the adoption of these amendments in 2021, they came into force within a short period. At that time, two more massacres were committed in educational institutions and, as a result, 24 people were killed. It turns out that the limited circulation of civilian weapons and the simultaneous increase in the circulation of military weapons in connection with the special military operation cannot exclude the possibility of new massacres committed by young people. In this case, almost all shooters who committed massacres had a distorted psyche. In particular, the Kazan shooter had a serious neurological disease, and the others were found insane as a result of a psychological and psychiatric examination. After killing a lot of people, some criminals commit suicide, which might indicate their unstable mental state. Under such circumstances, it is difficult to talk about the strong-willed and conscious criminal or post-criminal behavior of a person who committed such a crime. The person's will determines whether the crime will end and how it will end (suicide is also an act of will), as well as the post-criminal behavior of the person who committed the crime, and its impact on criminal proceedings, as indicated in the special literature (RIA Novosti, 2019). The limited circulation (or complete ban on circulation) of civilian weapons among the youth can negatively affect the persons involved in their production and their families. Instead of criminals, ordinary citizens will pay for these massacres. For humanitarian reasons, killers will be declared insane or will be given a prison sentence for a certain period (in the worst-case scenario, a life sentence).

However, the tightening of legislation in the circulation of civilian weapons is not a serious obstacle for serial killers, terrorists, and rapists, who use weapons (legally/illegally acquired by both adults and young people) and other tools to commit a crime. We believe that the possibility of acquiring civilian weapons at the age of 18 is not the main reason for the commission of massacres by young people. As noted above, almost all adult shooters had a distorted psyche but managed to pass all the examinations without much effort. A high school student from Moscow freely took a weapon from his father, although the father as the owner of this weapon was obliged to limit access to any person, including his relatives and minors, in accordance with the law "On Weapons".

In all cases, civilian weapons were acquired by young shooters illegally due to the improper performance of professional (official) duties by psychiatrists and other persons (for example, parents). Therefore, the main reason is not the leniency of the law but its non-compliance. During the period when weapons were acquired by criminals, the law already



contained the necessary measures to suppress acts of their illegal acquisition. In this regard, there are great doubts about the effectiveness of the measures taken to prevent grave crimes among young people.

Opponents of the death penalty argue that it will not frighten a potential murderer who, at the time of committing a crime, was in a state of severe alcoholic (drug) intoxication and was not able to think. However, we would like to give an example from the life of convicted persons. The serial killer Alexander Pichushkin (the Bitsa Park Maniac) was held in the same cell with the Chechen terrorist Nur-Pashi Kulayev (an attacker at the school in Beslan) and began to threaten him with murder. Being in fear for his life, Kulayev asked to be transferred to solitary confinement. The approaching mortal danger made one of the most dangerous terrorists fear for his life. The criminal was sentenced to death but got life imprisonment due to a moratorium and even then he took action to save his life. Therefore, all the arguments of pseudo-humanists in the media that murderers are not afraid of the death penalty are far-fetched and untenable. Any person is afraid of death, both at the moment of an immediate and possible threat.

In addition, Article 3 of the Constitution of the Russian Federation states that the bearer of sovereignty and the sole source of power in Russia shall be its multinational people, exercising its power directly, as well as through state government bodies and local self-government bodies. The will of the people regarding the use of the death penalty has been repeatedly expressed. According to a survey conducted by the Public Opinion Foundation on November 1, 2019, over 70% of Russians recognized the need for the death penalty: 68% for sexual crimes against minors, 57% for murders, and 53% for terrorist attacks (RIA Novosti, 2019). Each country, including Russia, has the right to independently resolve internal problems, in particular the introduction or abolition of a moratorium on the death penalty. We believe that the legislature should increase the price of human life. Abolishing the death penalty means removing the main obstacle in the way of serial killers, terrorists, and other criminals who ignore the law and neglect other people's lives.

CONCLUSION

While studying the issue of counteracting massacres, we achieved the following results:

1. To effectively counteract mass murders, we identified measures to fight against these grave crimes committed by minors or by persons who are between the ages of 18 and 21. According to the newly developed and fixed provisions of the current legislation, there is a tightening of responsibility for the illegal circulation of weapons in the form of a complete ban



on the acquisition of any firearms by the above-mentioned persons.

2. We established that the main reason for the rapid increase in massacres is not the tightening or leniency of the law but its non-compliance. In the cases under consideration, civilian firearms were acquired by young people illegally due to neglect of one's professional duties. In this regard, there is a need to improve the newly emerged and develop new measures to prevent grave crimes among young people depending on their age category (up to and over 21).

3. A promising solution to counteracting mass murders committed by young people does not only include measures that limit and exclude the circulation of weapons inside this group, imprisonment, and life sentence, but also the death penalty enshrined in the current criminal law and not implemented in judicial practice. The latter is recognized as a necessary means of combating crime today by a significant number (70%) of the country's population.

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