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RĪGAS STRADIŅA  
UNIVERSITĀTE

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# CRIMINOLOGICAL PROBLEMS OF SEXUAL VIOLENCE

Summary of Doctoral Thesis  
for obtaining the degree of a Doctor of Law

Speciality – Law  
Subfield – Criminal Law

Riga, 2015



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The Doctoral Thesis was carried out at Rīga Stradiņš University

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The Doctoral Thesis is available at RSU Library and RSU homepage:  
[www.rsu.lv](http://www.rsu.lv)

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# 1. CHARACTERISTICS OF THE THESIS

## 1.1. Topicality of the Theme

Life, health and favourable conditions for the provision of our needs are important to everyone. Research in framework of doctoral thesis shows that abrupt and unpleasant changes in a person's life are psychologically difficult, so the criminality and criminogenic situation in the country as a whole is one of the most sensitive and the most important aspects of social life.<sup>1</sup> The research proves that, in Latvia, one of the major threats to the public health and to life is increasing manifestations of violence. Significant amount of violent crimes are committed on the streets, squares, parks or other public places, including schools.

Nowadays sexual violence has become a social vice and "human weakness" all around the world. Offenses of sexual nature are sexual contacts where one of the partners does not voluntarily agree to it or is involved without realizing the meaning and consequences of the actions thus violating the person's right to sexual self-determination, freedom and sexual inviolability. This is a serious violation of the fundamental rights, in particular with regard to the rights of a child. The study of child sex abuse in Latvia highlighted that yearly at least 1000 children suffer from the sexual abuse, although it is presumed that this figure may be considerably higher, up to 5000.<sup>2</sup> Research of the individual health threat origins shows that sexual violence is one of the most serious public health problems with a long-term physical and mental health complications which involve considerable social and public health costs. For example, the number of sexual violence cases affect up to 33% of women, there are also studies where 53% of cases of sexual violence where adolescent

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<sup>1</sup> Kipāne, A. Noziedzība sabiedrības drošības kontekstā // Jurista vārds, 2010. gada 19. janvāris, Nr. 3 (598), 24. lpp.

<sup>2</sup> Pētījums par bērnu seksuālo izmantošanu Latvijā. (viewed on 27.11.2013.). Available on: [www.riskchild.org/.../Atskaite\\_bernu%20seksula%20izmant.%203.do...](http://www.riskchild.org/.../Atskaite_bernu%20seksula%20izmant.%203.do...)

pregnant women are noted.<sup>3</sup> WHO World Report on Violence and Health recognizes that sexual violence results in an increased health risks associated with several body systems, such as, neural, cardiovascular, gastrointestinal, urogenital, reproductive, musculoskeletal, immune and endocrine systems.<sup>4</sup> Although effects of stalking on a person's health are less investigated, it is increasingly recognized as an increasing public health problem. In addition to the negative impact of sexual violence on the physical and mental health, studies reveal that experiencing violence in childhood and adolescence increases the likelihood of experiencing such violence in adulthood.<sup>5</sup> Professor L. Kelly states that sexual violence is also associated with behavioural aspects of men's casual and urban life, for example, street sexual harassment when a person comments on a female body and/ or lascivious whistles in a public place. This suggests that sexual violence is a part of everyday life and is something that is mostly experienced by women and children in its various manifestations.<sup>6</sup> However, the fact that the sexual abuse victims are also men and representatives of other social groups cannot be ignored. The data from the US annual report show that every year, 834 700 thousand men are victims of rape and/ or physical violence committed by victims' intimate partners.<sup>7</sup>

Prevention and combat of sexual offences has become one of the major issues in the work of Latvian law enforcement agencies and international

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<sup>3</sup> Frye, A. *Holistic Midwifery: A Comprehensive Textbook for Midwives in Homebirth Practice*. Volume 1: Care During Pregnancy. Portland, Oregon, Labrys Press, 2008, p. 307-310, 572.

<sup>4</sup> *World Report on Violence and Health* / edited E.G Krug, Mercy A.J., Zwi B.A. and Rafael Lozano R. Geneva: World Health Organization WHO, 2002, p. 180.

<sup>5</sup> NISVS. *National Intimate Partner and Sexual Violence Survey*. Summary Report. 2011. (viewed on 25.07.2013.).

Available on: [http://www.cdc.gov/violenceprevention/pdf/nisvs\\_report2010-a.pdf](http://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf)

<sup>6</sup> *Handbook of Sexual Violence* / editor J.M.Brown, S.L.Walklate Routledge, 2011, p. 156.

<sup>7</sup> Tjaden, P., Thoennes N. *Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey*. (viewed on 15.07.2013.). Available on: <https://www.ncjrs.gov/pdffiles/172837.pdf>

organizations. Furthermore, the disappearance of strictly controlled state borders and the development of the Internet has led to an increase in the scope of criminal world operations, diversifying the types of offense, an increasing the speed of committing offenses and movement of social delinquents, as well as expansion of the operating area.<sup>8</sup> Professor's P. Minca<sup>9</sup> opinion that fundamental rights cannot be achieved in the absence of sufficiently effective crime reduction and prevention measures that restrict sexual aggression has not still lost its significance. In order to study the problems of sexual abuse, it is necessary to examine its real prevalence. However, the country does not have sufficiently reliable data available on the prevalence of sexual violence, besides that, there has not been carried out an assessment of the level of latent crime. Criminal statistics only provide an overview of recorded crime. The understanding of sexual abuse, analysis of crime determination mechanism, as well as personal traits of offenders and victims are of great significance and topicality since Latvian researchers have not looked at the above mentioned issues from this perspective. There have not been carried out relevant studies, furthermore there has not been developed prevention methodology. Thus, the study could make a certain contribution to the development of the national research in the field of legal science.

## **1.2. Novelty of the Doctoral Thesis from Theoretical and Practical Point of View**

The scientific **novelty** of the thesis is related to several factors. Despite the fact that violence is becoming more and more serious problem, criminology does not pay sufficient attention to it. The author of the study examines the phenomenon of violence characterizing its forms, specific

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<sup>8</sup> Lieljuksis, A. Noziedzīgi iegūtu līdzekļu legalizācijas apkarošana. Rīga, SIA „P&Ko”, 2007, 5. lpp.

<sup>9</sup> Mincs, P. Krimināltiesības. Sevišķā daļa. Rīga, AS „Rota”, 1939, 277. lpp

characteristic features, and trends. The typology of the subject of sex criminal offenses is an innovative approach to the issue studied. Its can be applied in purposeful and successful preventive work in the field of sexual inviolability. In Latvia, there have not been carried out studies on sexual violence, its trends and specific characteristic features of criminals and victims. The submitted doctoral work contains a complex study of sexual violence as a legal-social phenomenon in criminology (research of causes and reasons), it provides characteristics of offender's personality and understanding of sexual crime victims' characteristics (victimology approach). The work provides assessment of the above mentioned phenomena, as well as proposes practical solutions to the existing problems. Diversified approach and the principle of interaction have a key role in the criminological research process. Crime is undesirable social and legal phenomenon therefore the country needs to find effective means to curb it and create a national policy to limit violence. The great German criminologist H. J. Schneider assumes that "Criminology has a very important task since lawyers depend on its conclusions for both introducing novelties and application of criminal law in practice".<sup>10</sup> The theoretical approaches of criminology and its system are closely related to other sciences. During the research, the author has made a attempt to synthesize criminological, criminal law, sociological and psychological aspects of sexual violence. The researchers in Latvia have no have a detailed look at the mentioned topics from this aspect. Thus, the study could make a certain contribution to the legal science.

The doctoral thesis widely analyses varied studies of the researchers in Latvia and other countries, as well as uses versatile psychological knowledge since criminology, as one of social sciences, in many respects, goes beyond the traditional approach of criminal law. It should be noted that these studies provide a comprehensive overview of the research challenges on the prevalence

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<sup>10</sup> Шнайдер Г.Й. Криминология. Москва: „Прогресс”, „Универс”, 1994, с. 9.

of sexual violence, its comparison with other countries, victimological studies, and typology of sexual offenders. The study has a precise framework, and its scope includes criminological characteristics of sexual violence and the main problem issues. Prior to analysing problematic aspects of sexual abuse, the author explores the criminological characteristics of violent crime. The description of criminological problems includes the author's view regarding the types of sexual violence, contributory factors, personality of sexual offenders, and victimological aspects. It is essential to study criminological aspects of sexual violence in order to improve both the prevention and detection of criminal offenses, as well as legislative decision making. The basic aspects of work and the drawn conclusions further develop criminological theories, as well as extend a number of the concepts in criminology. The results can serve as a basis for further criminological research. Thus, the given doctoral thesis has an importance in both the science of law and in the development of other social sciences as a whole. The results of the study may be used by practitioners and scholars in order to purposefully operate in the field of improving the legislation and preventative measures.

### **1.3. Research Questions**

Research questions of the doctoral thesis are as follows: 1) to study the prevalence of violence, and sexual violence in particular, to determine the trends of sexual violence; 2) to explore the determinants of sexual aggression, including those which are related to the perpetrator's personality and the victims of offenses; 3) in the study, the author makes an attempt to understand whether the high level of sexual violence can be associated with insufficient amount of socio-legal preventative measures related to insufficient awareness regarding the extent of violence decreasing the level of violence, and the lack of research in the respective field. The author assumes that the country has no functionally united system to work in researching the situation in the field of sexual crimes,

as well as there are deficiencies in the guidelines regarding the criminal policy and strategies in the field of crime prevention. The study pays attention to the prevalence of sexual violence in families, and the attitude of general public to the victims of sexual violence.

#### **1.4. Object and Subject of the Research**

The research *object* - sexual violence as a criminological phenomenon. The research *subject* is criminological aspects of sexual abuse: current situation and trends, contributing factors, characteristics of sex offenders, victimization and victimity.

#### **1.5. The Aim and Objectives of the Doctoral Thesis**

The aim of the thesis is to develop a complex theoretically practical study on criminological problems of sexual violence and to put forward the proposals for solving the above mentioned problems.

In order to achieve the aims of the doctoral thesis the following objectives have been set:

- 1) To analyse the situation and trends of violent crimes;
- 2) To explore the characteristics and criminological typology of sexual abuse;
- 3) To evaluate the prevalence of sexual violence;
- 4) To describe and analyse the determinants of sexual violence;
- 5) To describe criminological characteristics of sexual offender's personality;
- 6) To evaluate the theoretical and practical victimological aspects of sexual offences.

#### **1.6. Research Methods**

The methodological foundation of the thesis includes the dialectic and

systemic approaches, which are essential for analysing the legal and social phenomena.

In the development of the doctoral thesis, there have been used the following general scientific research methods: monographic method - information collection, summarizing and analysis of the issues being studied; the methods of analysis and synthesis - to uncover the fundamental regularities of the problem; historical method- based on the analysis of the developments in research object; comparative method- provides comparison and analysis. The conclusions are based on the comparison of data sets - research and statistical data from other countries. The comparative analysis enables not only accurate identification of flaws in Latvian legal system, but also more precise justification of the author's proposals.

The empirical data were obtained using the following research methods: statistical data analysis; a summary of different scientific views; content analysis—periodicals as well as bibliographic publications, scientific conference materials and Internet resource analysis. The practical part summarizes Latvian court rulings, the author's daily work practical experience and observations.

The theoretical base of the research comprises general and specialist literature. The doctoral thesis includes a considerable number of descriptive and statistical material on the problems to be studied. The thesis summarizes a wide range of scientific literature: in criminology, criminal law, forensics, criminal rights, international law and psychology. During the research, the works of the following Latvian scientist were used and analysed: Jāņa Baumaņa, Ulda Krastiņa, Ulda Ķiņa, Valentīnas Liholajas, Ārijas Meikališas, Daiņa Mežuļa, Paula Minca, Aivara Niedres, Intas Poudžiunas, Viestura Reņģes, Evijas Strikas, Ilzes Veitneres, Andreja Vilka, Vitolda Zahara, Janas Zīles u.c., as well as foreign scientist`s Jean M. Goodwin, Scott Allen Johnson, David P. Farrington, David Finkelhor, Ricard J. Gelles, Kathleen Coulborn Faller, Liz

Kelly, Zbigniew Lew-Starowicz, J. Reid Meloy, Anna C. Salter, Howard N. Snyder, Larry J. Siegel, Patricia Tjaden, Nancy Thoennes, Юрий Миранович Антонян, Виктор Васильевич Лунеев, Давид Вениаминович Ривман, Роман Дмитриевич Шарапов, Лев Вульфович Франк, etc., studies and opinions about the research question.

The legal basis of the study consists of international conventions, the European Parliament and the Council legal acts, and Latvian laws: the Constitution, the Criminal Law (CL), Protection of the Rights of the Child Law, etc. The base of the thesis is the study of the laws and regulations, the analysis of various studies and opinions in order to identify the prevalence of sexual violence, victimological aspects and the country's criminal law regulations regarding sexual crime.

### **1.7. Approbation of the Study Results**

The study results were approbated participating in 28 local and international conferences, of which 25 are international as well as 13 scientific publications on the problem-issue included in the study. During the study, particular issues included in the thesis have been published in scientific papers: two articles have been published in the LCS peer reviewed and recognized scientific publications, three of the included articles have been published in scientific database Gesis SocioGuide and one article in SHS Web of Conferences.

Table 1.7.1.

## List of Conferences

<b>Year</b>	<b>Title, city, university, date</b>	<b>Report/poster report topic</b>
2009	Rīga Stradiņš University International Scientific Conference „Security Consolidation Problems Under Crisis Conditions” Riga, RSU, September 16.	<i>„Seksuālās vardarbības tendences un tās novēršanas iespējas krīzes apstākļos”</i>
2010	Rīga Stradiņš university International Scientific Conference „The Strengthening of security in Crisis Conditions: New Challenges and Unconventional Approaches”, Riga, RSU, April 8.	<i>„Viktimizācija un seksuālo noziedzīgo nodarījumu upuris”</i>
2010	Rīgas Stradiņa universitātes 9. Zinātniskā konference, Rīga, RSU, 18–19. aprīlis.	1. <i>„Seksuālo noziedzīgo nodarījumu tendences”</i> 2. <i>„Seksuālo noziegumu kriminoloģiskais raksturojums”</i>
2010	52 <sup>th</sup> International Scientific Conference of Daugavpils University, Daugavpils, DU, April 14–16.	<i>„Seksuālās vardarbības izpausmes un tendences problēmaspektā”</i>
2010	3 <sup>rd</sup> International Interdisciplinary Scientific conference „Society. Health. Welfare”, Riga, RSU, November 11–12.	<i>Poster „Human Trafficking as a Form of Sexual Violence”</i>
2010	International Scientific conference „Current problems of State and Law”, Daugavpils, DU, November 26–27.	<i>„Seksuāla rakstura noziedzīgu nodarījumu novēršanas problēmas”</i>
2010	International Scientific Conference „Organized Crime and Criminal Organizations: theoretical and Organizational-tactical Challenges. The current phenomenon and trends”, Riga, RSU, December 1.	<i>„Seksuālā vardarbība organizētās noziedzības aspektā”</i>
2011	Rīgas Stradiņa universitātes 10. Zinātniskā konference, Rīga, RSU, 14–15 aprīlis.	<i>„Seksuālās deviācijas ģimenē: kriminoloģiskais raksturojums”</i>

Table 1.7.1. continuation

2011	53 <sup>rd</sup> International Scientific Conference of Daugavpils University, Daugavpils, DU, April 13–15.	<i>„Dzimumnoziedzumos cietušo personu tiesību aizsardzības mehānisms – kompensācijas problemātika”</i>
2011	International Scientific Conference „Role and possibilities of Law Enforcement Authorities and Police in Ensuring Public Security Tiesību”, Riga, RSU, September 28.	<i>„Dzimumnoziedznieku personības tipoloģija”</i>
2011	International Scientific conference „Social and Economics Dimension of European Integration: problems, solutions, perspectives”, Daugavpils, DU, November 3–5.	<i>„Tiesiskā sadarbība noziedzīgos nodarījumos pret personas dzimumne aizskaramību”</i>
2012	Rīgas Stradiņa universitātes 11. Zinātniskā konference, Rīga, RSU, 29–30. marts	<i>„Personas dzimumne aizskaramības krimināltiesiskā regulējuma pilnveidošana”</i>
2012	54 <sup>th</sup> International Scientific Conference of Daugavpils University, Daugavpils, DU, April 18–20.	<i>„Noziedzīgu nodarījumu upuris kā krimināltiesiska kategorija: raksturojums un klasifikācija”</i>
2012	International Scientific Conference „Political, Legal, Social and Medical Aspects of Narcotics”, Riga, RSU, April 26.	<i>„Narkomānijas intensifikācija vardarbīgas rīcības izpausmēs”</i>
2012	Starptautiskā zinātniskā konference „Globālie izaicinājumi konfliktu risināšanas tiesiskie un organizatoriskie paņēmieni”, Rīga, BSA, 27–28. aprīlis	<i>„Būtiskie aspekti seksuāla rakstura noziedzīgu nodarījumu novēršanas jomā”</i>
2012	II International Scientific-practical Conference of young scientists and students „Time of Challenges and Opportunities: problem, solutions and perspectives”, Rezekne, BIA, May 17–18.	<i>„Personas dzimumne aizskaramības aizsardzības problemātika kibertelpā”</i>

Table 1.7.1. continuation

2012	Rīgas Stradiņa universitātes zinātniski praktiskā konference ""Tiesisko problēmu aktuālie jautājumi „Pacta sunt servanda””, Rīga, RSU 7. novembris	„Drošības nozīme un tās izpēte metodoloģiskajā kontekstā”
2012	7 <sup>th</sup> International Scientific Conference “Social Sciences for Regional Development 2012: mpact of the finacial capital on the region`s economic competitiveness”, Daugavpils, DU, November 8–11.	„Seksuālās noziedzības ietekmējošo faktoru mijiedarbība”
2012	The 4 <sup>th</sup> International Interdisciplinary Scientific Conference “Society, Health, Welfare.” Riga, Rīga Stradiņš University, November 22–23, 2012	“Woman as a Sexual Offender – reality or myths”
2013	55th International Scientific Conference of Daugavpils University, Daugavpils, DU, 10–12. aprīlis	“Vardarbīgu dzimumsakaru krimināltiesiskā izpratne”
2013	Rīga Stradiņš University International scientific conference "Topical Problems of Innovation Law", Rīga, RSU April 25,	„Aktuālie grozījumi Krimināllikumā: noziedzīgi nodarījumi pret personas tikumību un dzimumbrīvību”
2013	Rīga Stradiņš University International Scientific Conference „Innovate Criminology – Challenges for the Future”, Rīga, RSU, September 13,	„Vardarbība kā mūsdienu sabiedrības sociāli tiesiskais fēnomens: interpretācija, formas un veidi”
2013	8 <sup>th</sup> International Scientific Conference “Social Sciences for Regional Development 2013”, DU, Daugavpils, October 10–12	„Dzimumnoziegumu novēršanas kriminoloģiskais aspekts”
2013	II International Scientific Conference „Transformational Processes in Law, Regional Economics and Economic Policies: Topical Economic, Political and Legal Issues”, Riga, BIA, December 10.	„Incests – sociālās uzvedības izkropļojums – kriminoloģiskais raksturojums.”

End of Table 1.7.1.

2014	56 <sup>th</sup> International Scientific Conference of Daugavpils University, Daugavpils, DU, 9–11.aprīlis	„Jēdziena „vardarbība” krimināltiesiskais raksturojums”.
2014	International Practical Conference „Legal Policy for Development of Society”, Riga, RSU, April 23.	„Vardarbīgās noziedzības saturs un kopējās kriminoloģiskās tendences”.
2014	IV International young researchers and student’s scientific and practical conference “Time of Challenges and Possibilities: problems, development and perspectives”, Riga, BIA, May 15–16.	„Seksuālās noziedzības tipiskākie faktori”.
2014	9 <sup>th</sup> International Scientific Conference “Social Sciences for Regional Development 2014”, Daugavpils, DU, October 17-18.	„Cietušā lomas seksuālās vardarbības mehānismā kriminoloģiskais raksturojums”.
2014	5 <sup>th</sup> International Interdisciplinary Scientific Conference Society. Health. Welfare. Family Well Being and Human Capital Improvement in Changing Society: Strategy and Practice. Riga, Rīga Stradiņš University, November 26–28.	„Criminological Aspect on the Role of Family in Sexual Crimes”.

Table 1.7.2.

### List of Publications

Year	Title	Publication
2010	<i>Noziedzība sabiedrības drošības kontekstā</i>	Jurista vārds Nr. 3 (598), 19.01.2010.
2010	<i>Seksuāla rakstura noziedzīgo nodarījumu kriminoloģiskais raksturojums</i>	Administrative and Criminal Justice, No.4 (53), 2010, Quotable: ISSN 1407-2971
2010	<i>Seksuālās vardarbības tendences un tās novēršanas iespējas krīzes apstākļos</i>	Rīgas Stradiņa universitātes Zinātniskie raksti. 2009. gada sociālo zinātņu pētnieciskā darba publikācijas. Rīga, RSU, 2010.

Table 1.7.2 continuation

2011	<i>Seksuāla rakstura noziedzīgu nodarījumu novēršanas problēmas</i>	List of Scientific Article of the International Scientific conference „Current problems of State and Law”, (26-27. november, 2010), Daugavpils: Saule, 2011, ISBN 9789984145433
2012	<i>Personas dzimumne aizskaramības aizsardzības problemātika kibertelpā</i>	Conference Article Compilation. II International scientific-practical conference of Young scientists and students „Time of challenges and opportunities: problems, solutions and perspectives.” BIA, SIA „Petrovskis un Ko”, 2012. ISBN 978-9984-47-064-1
2012	<i>Seksuālās uzņēmības problemātika</i>	Rīgas Stradiņa universitātes Zinātniskie raksti 2011. 2011. gada sociālo zinātņu nozares pētnieciskā darba publikācijas. Rīga, RSU, 2012,
2012	<i>Tiesiskā sadarbība noziedzīgos nodarījumos pret personas dzimumne aizskaramību</i>	Proceedings of International Scientific conference „Social and Economics Dimension of European Integration: problems, solutions, perspectives”. (3rd.-5th november, 2011). Daugavpils Universitāte: akadēmiskais apgāds Saule, 2012, Quotable: ISBN: 9789984145853 (included in the database: GESIS SocioGuide)
2013	<i>Seksuālās noziedzības ietekmējošo faktoru mijiedarbība</i>	Proceedings of International Scientific conference. The materiāls of the International Scientific Conference “Social Sciences for Regional Development 2012: Impact of the Financial Capital on the Region`s Economic Competitiveness (8th-11th november, 2012). Part II.. Current Problems of States and Law. Daugavpils: akadēmiskais apgāds Saule, 2013, Quotable: ISBN:978-9984-14-638-6 (Include in the database: GESIS SocioGuide)

End of Table 1.7.2.

2014	<i>Vardarbīgu dzimumsakaru krimināltiesiskā izpratne</i>	Proceedings of the International Scientific Conference of Daugavpils University/ Daugavpils Universitātes Starptautiskas Zinatniskas Konferences Materiāli; 2014, Issue 55, Daugavpils: Saule, 2014, ISBN 978-9984-14-665-2. Available on electronically.
2014	<i>Seksuālās noziedzības tipiskākie faktori</i>	IV International young researchers and student's scientific and practical conference "Time of Challenges and Possibilities: problems, development and perspectives" BSA, SIA „Petrovskis un Ko”, 2014, ISBN 978-9984-47-091-7
2014	<i>Woman As a Sexual Offender – Reality or Myths?</i>	Proceeding of the 4th International Interdisciplinary Scientific conference "Society, Health, Welfare." Riga Stradiņš University, november 22-23, 2012, Volume 10 – 2014. Quotable: Available on: <a href="http://www.shs-conferences.org">http://www.shs-conferences.org</a> or <a href="http://dx.doi.org/10.1051/shsconf/20141000016">http://dx.doi.org/10.1051/shsconf/20141000016</a>
2014	<i>Dzimumnoziedzumu novēršanas kriminoloģiskais aspekts</i>	Proceedings of International Scientific conference. The materials of the International Scientific Conference "Social Sciences for Regional Development 2013" (10th-12th october, 2013). Part II.. Current Problems of States and Law. Daugavpils: akadēmiskais apgāds Saule, 2013, Quotable: ISBN:978-9984-14-688-1 (Include in the database: GESIS SocioGuide)

## **1.8. Structure and Volume of the Doctoral Thesis**

The doctoral thesis consists of abstracts, introduction, six chapters with subchapters, conclusion, list of references, and appendices (1-5). The structure of the doctoral theses is as follows:

1. Violence as a Criminological Category
  - 1.1. Phenomenology of Violence: Interpretation, Essence and Classification
  - 1.2. Criminological Aspect of Violent Crime
2. Sexual Violence as a Form of Unlawful Behaviour
  - 2.1. General Characteristics of Patterns of Sexual Behaviour, Its Diversity and Distribution
  - 2.2. Criminal Law Understanding of Sexual Abuse
  - 2.3. Sexual Crime Situation and Trends of Prevalence
3. Criminological Characteristics of Particular Categories of Sexual Violence
  - 3.1. Distinctive Characteristics of Children Sexual Abuse
  - 3.2. Characteristics of Incest as a Form of Social Behaviour Distortion
  - 3.3. Problems of Sexual Violence against Women
  - 3.4. Sexual Harassment Problems
  - 3.5. Human Trafficking as a Manifestation of Sexual Abuse
  - 3.6. Sexual Inviolability Issues in Cyberspace
4. Criminological Characteristics of Sexual Violence Determinants
  - 4.1. General Characteristics of Sexual Violence Determinants
  - 4.2. Determinants of Social Environment and Their Impact
  - 4.3. Determinants of Sexual Violence Related to Perpetrator's Personality
5. Criminological Study of Sexual Perpetrator's Personality
  - 5.1. Socio-Demographic Parameters of Sexual Perpetrators
  - 5.2. Behavioural Characteristics of Sexual Perpetrators
  - 5.3. Characteristics of Sex Offender's Motivational Sphere
  - 5.4. Typology of Sexual Perpetrators' Personality

## 6. Victimological Aspects of Sexual Violence

### 6.1. Vicinity and Victimization in Sexual Violence Mechanism

### 6.2. The Problem of Victim's Personality Role in the Sexual Violence Mechanism

### 6.3. Classification of Sexual Abuse Victims

The thesis, excluding the list of references, consists of 283 (two hundred eighty three) pages. At the end of the thesis, the conclusions have been drawn and suggestions have been divided into five groups.

The thesis extensively draws on monographic literature, scientific articles, sociological studies and jurisprudence. The totals of 634 sources have been used in the research.

## 2. SUMMARIZED CONTENT OF THE HE THESIS

### 2.1. The Criminological Aspect of Violence

In the first chapter, the author studies the criminological aspects of violence. Criminology defines aggression as an activity resulting in physical harm or mental injury to surrounding people and is accompanied by strong, negative emotions – hate, hostility, and loathing. Mass aggression manifests itself in genocide, terror, ethnic and ideological forms of clashes.<sup>11</sup> Violent crime is a major problem worldwide, it manifests itself between individuals, social groups and classes, nations and countries. American researchers' state that "in recent years crime has become as a metaphor for fear and insecurity."<sup>12</sup> From the author's point of view, violence is to be interpreted broadly to cover not only the individual as the direct object of violence but also another living beings. Section 230 of the Criminal Law specifies the liability for cruel treatment of animals, including sexually explicit activity with animals. At the same time, it needs to be taken into account that aggression may be directed against inanimate natural objects as well. Aggression in the form of damaged or destroyed property tends to be called a *symbolic aggression*.<sup>13</sup> Russian authors call it (*имущественное насилие*) – violence against property.

The main conclusions of the given chapter:

There are distinguished the following groups of violence: physical violence, sexual violence, mental and emotional violence. There also exists such form of violence as psychological violence which is an intentional conduct detrimental to individual psychological integrity<sup>14</sup>, as well as the intellectual

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<sup>11</sup> Kriminoloģija / zinātn red. K.Ķipēna, V.Vilks. Rīga, Nordik, 2004, 508. lpp.

<sup>12</sup> Friedman, K., Bischoff, H., Davis, R.C. & Person, A. Victims and helpers: Reactions to crime. Washington, U.S. Department of Justice, National Institute of Justice, 1982, p. 1.

<sup>13</sup> Reņģe, V. Sociālā psiholoģija. Rīga, Zvaigzne ABC, 2002, 71. lpp.

<sup>14</sup> 2011. gada 11. maija Eiropas Padomes Konvencija par vardarbības pret sievietēm un

impact, since not all forms of violence can be attributed to physical and psychological violence. For example, unlawful confinement or deprivation causes damage not so much to a person's body as to the individual's rights and legal interests.<sup>15</sup>

Violent crime can be looked at in a broad and narrow sense. In the broad sense, violent crime is a segment of crime which forms a specific group of offenses – against humanity and peace, war crimes, genocide, criminal offenses against individual's life and health, sexual inviolability, dignity, honour and freedom, as well as public order. Violence has been defined as an intentional act or inactivity using physical force or power, threats or their actual use against an individual, a group of people, country's population and causing or likely to cause an injury or death; psychological harm, deprivation or restriction of human rights, providing physical, emotional pain and effects on person's self-esteem.

In the narrow sense, violent crime against a person is interpreted as unlawful behaviour prohibited by criminal law and endangers life, health and individual physical integrity (including sexual inviolability). Person's life is inextricably linked to the manifestations of freedom.<sup>16</sup> The violent crime inheres a high degree of public danger and social pathologic form that being prohibited by criminal law, manifests itself in relatively massively carried out extreme acts of criminal violence, using different forms of violence (physical, mental, psychological, etc.).

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vardarbības ģimenē novēršanu un apkarošanu. (viewed on 12.05.2014.). Available on: [http://www.lm.gov.lv/upload/berns\\_gimene/bernu\\_tiesibas/ep\\_konvencija1.pdf](http://www.lm.gov.lv/upload/berns_gimene/bernu_tiesibas/ep_konvencija1.pdf)

<sup>15</sup> Золотухин, С.Н. Уличная насильственная преступность и ее предупреждение (по материалам Уральского региона): Автореф. дис. канд. юрид. наук. Челябинск, 2000, с.14–15. (viewed on 25.11.2013.).

Available on: <http://www.dissercat.com/content/ulichnaya-nasilstvennaya-prestupnost-i-ee-preduprezhdenie-po-materialam-uralskogo-regiona>

<sup>16</sup> Гишинский, Я.И. Социальное насилие. Монография. Санкт-Петербург, Издательский Дом „Алеф-Пресс“, 2013, с. 49.

Violence is not only means of reaching one's aims, but also motivational and expressive element – an opportunity to subdue other individuals and to have control over others.

The author supports the broader approach to the notion of violent crime. Thus, the author can explain violent crime as a body of criminal acts<sup>17</sup> committed over a certain period of time and in a particular territory, using criminal violence (for example, physical force or threats of using violence) with the main aim to deprive a person of life, damage health, physical freedom or the integrity of the individual, animal's life and health as well as the right to property.

Existence and formation of criminal violence as a whole is determined by the same factors and conditions that affect crime in general, but the range and intensity of several criminological phenomena and processes are explicit since they are specifically related to social tension in society and the microenvironment, behavioural stereotypes, and perceptions about the acceptability of violence.

No doubt, criminal violence dynamics correlate with the socio-economic processes in the country. Satisfaction of human needs has a key role in determination of different types of violence.

## **2.2. Sexual Violence as a Form of Unlawful Behaviour**

In the second chapter, the author analyses sexual violence as a type of unlawful behaviour. In the chapter, the author studies the forms of sexual violence, the criminal law framework, as well as sexual crime situation and dynamics.

The concept of sexual violence is varied. Sexual abuse refers to different

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<sup>17</sup> with its inherent tendency and dynamics

sexual acts (different conditions and forms):<sup>18</sup>

- rape or sexual assault in order to satisfy sexual proclivity in a marriage or at the beginning of relationship. Date rape which is a violent sexual intercourse during a voluntary social contact. The victim and the offender know each other and spend time together;
- rape or other sexual activities carried out by a stranger;
- systematic rape during an armed conflict;
- involvement in an unwanted sexual activity (undesirable experience);
- sexual violence against a mentally ill or a disable person;
- sexual exploitation of children;
- forced marriage or cohabitation, including a marriage with a child;
- other actions (*coitus per os* or *per anum*), varyingly arousing a person's body (object insertion in the genitals, anus, mouth, , imitating sexual intercourse);
- prohibiting the use of contraception or other means to protect themselves against unwanted pregnancy and/ or sexually transmitted diseases; forced abortion; forced pregnancy; violent sterilization;
- any act of violence against a person's sexual integrity, including female genital mutilation and compulsory virginity tests;
- forced prostitution; human trafficking, sexual slavery;
- distribution of child pornography;
- Sexual violence is also forcing someone to look at pornographic magazines, movies or to engage in pornographic activities;
- A person is violated with *sexual harassment*, including undesirable and unpleasant sexual comments. Sexual harassment also takes place in case of

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<sup>18</sup> Guidelines for medico-legal care of victims of sexual violence. World Health Organization. (viewed on 09.07.2013.). Available on: <http://whqlibdoc.who.int/publications/2004/924154628X.pdf>

any kind of unwanted verbal, non-verbal or physical - sexual behaviour, with the purpose and consequence to disregard of other's dignity, in particular when creating and intimidating, hostile, degrading, humiliating or offensive environment. Sexual harassment may include not only physical actions, but also verbal and written, such as sending harassing e-mails or text messages to a mobile phone. The crucial fact is that such and "advertence" is unpleasant.<sup>19</sup>

According to the Criminal Law, responsibility for the offences against morality and sexual inviolability is included in the Chapter XVI of the Criminal Law. "Although interests included the Criminal Law Chapter – morality and sexual inviolability are closely related, the theory of criminal law conditionally divide such offenses into two groups."<sup>20</sup>: 1) offenses against sexual freedom and sexual inviolability; 2) offenses against morality.

In practice, other criminal offenses are found to be based on the subject's desire to satisfy their sexual desires which are to be classified under other sections of the Criminal Law. The USA criminologist L.J. Siegel indicates that crimes related to sexuality and moral behaviour are frequently considered as crimes against public order or the so-called victimless crime<sup>21</sup>, possibly even as sexual theft or other economic crimes. If a person receives sexual satisfaction in a form of fetishism, they may commit a theft or robbery.<sup>22</sup> Other forms of sexual crimes include exhibitionism (Section 231 of CL, hooliganism), a public form of sexual assault (Section 231 of CL, hooliganism);

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<sup>19</sup> Zvērinātu advokātu birojs "BDO Zelmēns & Liberte" Darba likums ar komentāriem. Rīga, Latvijas Brīvo arodbiedrību savienība, 2010, 72. lpp.

<sup>20</sup> Krastiņš, U., Liholaja, V., Niedre, A. Krimināltiesības. Sevišķā daļa. Rīga, Tiesu namu aģentūra, 2009, 288. lpp.

<sup>21</sup> Siegel, L.J. Criminology: Theories, Patterns, and Typologies. Blemont, Cengage Learning, 2006, p. 245.

<sup>22</sup> Noziegumu izmeklēšanas metodika / prof. A.Kavaliņa vadībā. Rīga, Latvijas Policijas akadēmija, 2000, 65. lpp.

necrophilia (Section 228 of CL, desecration of a corpse); bestiality or sodomy<sup>23</sup> (Section 231 of CL, cruel treatment of animals). There is separately distinguished the most dangerous sexual offense – sexual murder (intentional killing) if it is related to rape (Section 117. article 7 of CL.). Criminal Law norm includes importance of life and sexual freedom or sexual inviolability, in a certain order, distinguishing primary and secondary interests basing on a offender’s perspective.<sup>24</sup> The term “related” means that violence is used against the victim in order to prevent resistance against sexual intercourse or stop the fight against rape as well as because of sadistic inclinations. Describing such relation D. Krajev (*Краев*) indicates that it is a specific mutual relationship, which determines the existence of three-phase circuit: *murder-special connection-another criminal offense*<sup>25</sup>

Study of general trends in sexual offences reveal that: the volume of registered sexual offenses is comparatively low, the level recorded annually fluctuates, presenting both recession and growth. For example, comparing criminal statistics from 2011–2014<sup>26</sup>, it can be concluded that in the relative percentages in relation to the total number, crimes against morality and sexual inviolability account for: in 2011 – 0.59%; 2012 – 1.01%, while in 2013 – 1.07%, and in 2014 it is 1.02%. Analysis of the registered statistical data shows that the cases of seduction, among other sexual crimes, were the dominant type of crimes in 2011 and 2012. In years 2013 and 2014, there was an increase in the cases of sexual assaults. The number of rapes remains at a

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<sup>23</sup> Human unnatural sexual desires against animals. Svešvārdu vārdnīca / red. Dr.philol. J.Baldunčiks. Rīga, SIA Jumava, 2007, 736. lpp.

<sup>24</sup> Krastiņš, U., Liholaja, V., Niedre, A. Krimināltiesības. Sevišķā daļa. Rīga, Tiesu namu aģentūra, 2009, 145. lpp.

<sup>25</sup> Краев, Д.Ю. Убийство, сопряженное с иными преступлениями: Законодательная регламентация и квалификация. Автореферат. Москва, 2009. (viewed on 20.08.2014.). Available on: <http://www.law.edu.ru/article/article.asp?articleID=1310231>

<sup>26</sup> IeM Informācijas centra statistiskie dati: Kriminālā statistika. (viewed 19.09.2013.). Available on: <http://www.ic.iem.gov.lv/node/109>

relatively stable level. In Latvia, statistics show that crimes against morality and sexual inviolability constitute on average approximately 1% of the criminal offenses. There is a similar situation in Sweden – only approximately 1%; in Europe – less than 5%; in Russia, in the 1980s, it was 2-3% of the total number of criminal offences; in 1990s – 1%, of which 80-85% were rape cases.<sup>27</sup> For example, rape statistics in different countries is as follows: France – 10 277; Germany – 7292; Russia – 6208; Sweden – 4901; Argentina – 3276; Belgium – 2786; Poland – 1611; Norway – 944; Finland – 914.<sup>28</sup>

To sum up, the study of the trends of sex abuse and the research carried out in the recent years in various fields and criminal statistics indicate to a number of negative tendencies: a considerable number of children suffer from sex crimes; cyber-space criminal activity has substantially increased, and there is a rise in human trafficking for the purpose of commercial sexual exploitation.

### **2.3. Criminological Characteristics of Particular Sexual Violence Categories**

In the third chapter, the author analyses problems of particular forms of sexual abuse - sexual abuse of children, incest, sexual violence against women, sexual harassment, human trafficking as a manifestation of sexual abuse, sexual inviolability issues in cyber-space. The results of the criminological study of sexual abuse allowed the author to propose possible directions of improvement in Criminal Law: 1) stalking has a threatening and dangerous nature because of endless tracing, systematically, (usually) secret observation (individual's performance and behaviour), and persecution which is commonly of persistent nature. In the author's view, stalking, firstly, discriminates and secondly denies or violates the conventional rights guaranteed by the fundamental rights,

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<sup>27</sup> Преступность и реформы в России / под ред: А.И.Долгова. Москва, Криминолог. Ассоц., 1998, с. 155.

<sup>28</sup> NationalMaster. (viewed 05.02.2013.).

Available on: [http://www.nationmaster.com/graph/cri\\_rap-crime-rapes](http://www.nationmaster.com/graph/cri_rap-crime-rapes)

therefore it needs to be eliminated. The author's holds an opinion that it is worth discussing the criminalization of stalking as a concept of interfering behaviour; 2) the criminological analysis carried out by the author suggests that, in Latvia, a significant number of criminal sexual conduct takes place within the family. Considering that such a crime is in contrary to the natural order, as well as taking into account the historical continuity and the experience of other countries, the author of the thesis proposes that there should be a separate article which provides the criminal liability for the sexual relations between close relatives; 3) from the author's point of view, in the case of sexual harassment, impact of violence and consequences of victimization are criminal. Therefore, it would be reasonable to address the question how to determine the liability in the Criminal Law and in particular, concerning sexual harassment using employment concerns or subordination.

In the summary of the chapter, the author provides a possible definition of sexual violence – sexual violence is diverse, any physical, virtual, or verbal activity or a sexual assault or an attempt to have sexual contact or remote actions in cyberspace, or any other activities against the victim's will involving physical force, power, deceit, coercion, or threats or using victim's helplessness or overcoming its resistance thus violating another's sexuality, causing the victim a wide range of concerns: physical pain, mental and physical injury, and material damage.

Undoubtedly, the success of any national development and pillar of prosperity is security, which is based on a human life without fear of any kind of threats. Even though elimination of the total crime as a social phenomenon is not possible “nevertheless incapacity to solve all the crimes against an individual's fundamental rights does not excuse the state from its obligations to minimize likelihood of such offenses. The fact that a person has been a victim to the violation of their rights suggests that the state has failed to fulfil its

obligations and personal safety has not been ensured.”<sup>29</sup>

The author points out that it is essential to establish a comprehensive system to ensure the prevention of sexual offenses, prompt and effective investigation of crimes, timely assistance and support to victims, as well as public education, informing society of the opportunities to report on the committed sexual crimes.

In recent years, the investigated cases of human trafficking and child pornography distribution on the Internet show international interconnectivity of criminal groups. This indicates that countries must look for new and effective means of reduction and combating international crime. Therefore, there is an urgent need to constantly seek new forms and methods of sexual crime prevention using variety of measures.<sup>30</sup> Sex crime prevention measures include a certain degree of difficulty. Firstly, there must be ensured physical inviolability, meaning the prevention of crime in the individual's personal space or surroundings. Secondly, there must be provided a proper impact on the individual, in order to facilitate his/her proper legal behaviour and the development of socially useful skills, etc. Thirdly, the circumstances and reasons that contribute to the crime must be identified and neutralized.<sup>31</sup> When combatting the violence, it is of utmost importance to do it quickly and actively. Proper sex education plays a significant role in preventing violent sexual encounters, in particular, it can be attributed to the younger generation.

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<sup>29</sup> Miezāne, E. Par preventīvu piespiedu līdzekļu ieviešanu Latvijas tiesību sistēmā // Jurista vārds, 2011.gada 20. septembris, Nr. 38 (685), 15. lpp.

<sup>30</sup> Kipāne, A. Seksuāla rakstura noziedzīgu nodarījumu novēršanas problēmas // Valsts un tiesību aktuālās problēmas: Starptautiskās zinātniskās konferences zinātnisko rakstu krājums. Daugavpils, Saule, 2011, 245. lpp.

<sup>31</sup> Kipāne, A. Dzimumnoziedzumu novēršanas kriminoloģiskais aspekts // Daugavpils Universitātes Sociālo zinātņu fakultātes Starptautisko zinātnisko konferenču rakstu krājums. Starptautiskās zinātniskās konferences „Sociālās zinātnes reģionālajai attīstībai 2013” materiāli. II.daļa. Valsts un tiesību aktuālās problēmas. Daugavpils, Daugavpils Universitātes Akadēmiskais apgāds „Saule”, 2014, 115. lpp.

“Education about sex is essential for the healthy development of society and the establishment of appropriate sexual awareness in children, teenagers and young adults, as well as other age groups. Sex is one of the most important educational issues. Puberty and the period prior to the puberty are very important and difficult stages in sex education. During this period, young people have already developed relatively definite views of life, including sex; they all strive for independence.

Sexual desire is expressed at this age. Young people often try to satisfy it with intercourse without critical evaluation of this act, with no responsibility for the consequences. This is due to the increased activity of sex hormones and relatively weak control over their desires.”<sup>32</sup> The victim’s greater involvement in identification of the perpetrator as well as reporting on them are of utmost importance.

The author believes that a national sexual offence prevention programme with complex and integrated operations should be developed in order to prevent the spread of sexual abuse. In the author’s view, the emphasis should be on prevention and forecasting which is based on proactive actions.

#### **2.4. Criminological Characteristics of Sexual Violence Determinants**

In the fourth chapter, the author studies the criminological characteristics of sexual violence determinants. The theory of criminology recognizes that causes of crime in a broad sense include all circumstances without which it could not arise and exist. Causes of crime are active forces that with their impact determine its existence.<sup>33</sup> Exactly the same applies to sexual offenses. Therefore, it can be noted that the causes of sexual crime are those

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<sup>32</sup> Kas ir dzimumaudzināšana? (viewed on 26.10.2014.).

Available on: <http://pedagogs.lv/kas-ir-dzimumaudzinasana-un-kads-ir-tas-noluks/>

<sup>33</sup> Криминология: Учебник для юридических вузов / под. общ.ред. А.И.Долговой. Москва: Инфра.Норма-М, 2001, с. 164.

active forces that cause subjects' interest and form the motives to commit crime. Sexual violence is a complex interdisciplinary problem which includes psychological, legal, medical, and other aspects.

In this chapter, the author studies the general, environmental and individual factors. There are several theories which explain sexual aggression. In relation to biological elements in sex offenders' personality, the author refers to H. J. Baker and R.J. Stoller research on the genetic anomaly "Klinefelter's syndrome" or XXY chromosome syndrome. "Klinefelter's syndrome" is a condition which expresses in boys before puberty. During puberty, 80% of men with the syndrome are distinguished by women-specific physical characteristics and hormonal profile. After the study of 28 cases, the above mentioned researchers found that 7 genetic males during puberty wanted to change their gender. In the literature review, a reference can be found to the fact that men with Klinefelter's syndrome can have a higher sexual deviations than males without such a diagnose.<sup>34</sup> Further, the author focuses on a short overview of feminism, social learning theory, evolution theory and integrated theory, showing both the commonalities and their disadvantages.

Criminological factors can be explored on a number of levels: meta, macro, micro and meso environment. "Essentially, meta environmental factors characterize socio-historical conditions as a whole on the earth and the geopolitical environment where Latvia is located. Specifically the micro-environment where such forms and factors exist which determine existence of crime as a set of offenses."<sup>35</sup> Multidisciplinary studies confirm that the roots of delinquent social behaviour are almost always found in the family, in the circumstance under which the child is growing. A number of studies have shown a relationship between parental criminal history and its impact on

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<sup>34</sup> Deb, S., Mukherjee A. Impact of Sexual Abuse on Mental Health of Children. New Deli, Concept publishing Comapny, 2009, p. 44.

<sup>35</sup> Kriminoloģija / zināt. red. K.Ķipēna, A.Vilks. Rīga, Nordik, 2004, 206. lpp.

children. In a family where a parent has a criminal past, there is a higher probability of a child's criminal behaviour than in a family without criminal past. Dutch researchers, *Van de Rakt, Nieuwbeerta, and De Graaf's* analysis of 4271 men convicted in the past and their 6962 children and 717 without any criminal record and their 1133 children found that children, whose father's past had a constant and persistent criminality, often become criminals as well.<sup>36</sup> The Australian study identified that the following trends have been observed for about 76% of boys and 80% of girls with a convicted parent.<sup>37</sup> Russian scientist *Shestakov (Шестаков)* pays special attention to the family's internal problems and distinguish a separate type of criminal offense – domestic violence.<sup>38</sup> Family criminology studies the following: 1) criminal offenses against family members, with greater emphasis on crimes against a spouse and murdering children; 2) family impact on juvenile delinquency; 3) family influence on the development of offender committing crimes against other people's property; 4) family impact on the formation of violent criminals; 5) the family influence on recurrence of crimes; 6) motivational mechanism within a family that affects the mass phenomenon – crime; 7) prevention of crime directly influencing the family structure. In addition, the family criminology detects the connection between the family and crime, such as effect on family relationships.<sup>39</sup>

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<sup>36</sup> Van de Rakt, M., Nieuwbeerta, P. and de Graaf, N.D. Like Father, Like Son. The Relationships between Conviction Trajectories of Fathers and their Sons and Daughters. (viewed on 09.08.2014.).

Available on: <http://ics.uda.ub.rug.nl/FILES/root/Articles/2008/RaktMvd-LikeFather/RaktMvd-LikeFather-2008.pdf>

<sup>37</sup> Goodwin, V., Davis B. Crime Families: Gender and the intergenerational transfe of criminal tendencies. (viewed on 09.08.2014.).

Available on: <http://www.aic.gov.au/publications/current%20series/tandi/401420/tandi414.html>

<sup>38</sup> Шестаков, Д.А. Семейная криминология: криминофамилистика. Юридический центр, 2003, с. 94.

<sup>39</sup> Криминология – XX век /,под ред. проф. В.Н.Бурлакова, проф. В.П.Сальникова. Санкт-Петербург, Издательство “Юридический центр Пресс”, 2000, глава 15.Кризис семьи и преступность.

Personality traits have an essential role in the manifestations of personal behaviour. Psychologist K.G. Jung stated “our behaviour and conduct are determined by both our will, plans, intentions and external circumstances, people surrounding us and what is happening around us.”<sup>40</sup> It is well known that a person most frequently commits a crime when he/she lacks necessary skills for law-abiding life or has the social behaviour disorders.<sup>41</sup> Analysis of contemporary researchers’ opinions indicates that sexual violence is related not only to satisfying sexual needs, but also to the desire for power and control, as well as to various mental problems. Problems and sexual abnormalities may determine the type of violent forms of behaviour. Sexual crimes can occur in situations where the victim’s behaviour, manners and clothing creates misconceptions about the person’s intentions and desires. The perpetrator’s behaviour is motivated by sexual and non-sexual components.

Summarizing the factors contributing to sexual violence, the author concludes:

1. Sexually aggressive behaviour as bio-psycho-social phenomenon is mainly viewed from a male point of view and sexual violence acts committed by women remain without an in-depth exploration. Furthermore, it is noteworthy that sexually aggressive behaviour is not limited to adults.
2. Sexual violence is a complex phenomenon that can be caused by a number of factors – the overall unfavourable social and economic conditions, legal, psychological, environmental effects, addictive behaviour etc. Of particular importance are the specific factors – anger, rage, power, sadism, sexual pleasure, psychopathy, attitude towards the victim and the evolutionary pressure.

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<sup>40</sup> Reņģe, V. Psiholoģija. Personības psiholoģija. Rīga, Zvaigzne ABC, 2000, 13. lpp.

<sup>41</sup> Zahars, V. Ar brīvības atņemšanu notiesāto personu resocializācija – jauns vektors kriminālsodu izpildē // Kriminālā Justīcija, 2011, Nr. 4/2011 (57), 8. lpp.

3. It can be concluded that family has an essential role and is an important factor is the relationship between parents. Parents' attitude towards each other and children. It is essential to understand that children need a special parental support and understanding in the family.
4. Although Latvian legal scientists do not distinguish a separate category – “family criminology” or “family relationship criminology”, the author believes that such category needs to be created. To some extent, the family is the model of an individual's relationship with the society, because the family has the socializing function, i.e. individual's adaptation in the society.

## **2.5. Criminological Characteristics of Sex Offenders**

In the fifth chapter, the author studies criminological characteristics of sex offenders. Analysing the sexual perpetrators' personality characteristics, the author relies on three key components of violent criminal's portrait defined by criminology: the socio-demographic indicator; behavioural characteristics; the characterization of motivational sphere.

Criminal personality is a person who has committed a criminal offence which manifests individual's antisocial deviation reflecting the negative socially important values, which affect the external circumstances of the crime and nature of the criminal activity.<sup>42</sup> Study of sexual offences has revealed that these criminal offenses are predominated by men in the sexually active age of 16-40 years. There is a relatively small number of sexual offenses committed by women. According to TIS data on sexual crimes (rape, sexual assault, seduction and incitement to engage in sexual activities) in the period from 2005 to 2015, there were convicted 807 people, out of them 13 or 1.6% were women. Looking at the statistical data related to age groups the results are as follows:

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<sup>42</sup> Криминология / под редакцией В.Д.Малкова. Москва, Юстицинформ, 2006, с. 82.

minors – 86 (10.4%); 18–24 year olds – 174 (21.6%); 25–29 aged adults – 110 (13.6%) and 30–49 year olds – 324 (40.1%). In the age group of 50 years and more 117 people (14.5%) were convicted.<sup>43</sup>

Sex offenders are divided in groups based on various factors: motivation, the victim, behavioural model (*modus operandi*<sup>44</sup>), the circumstances of the crime, and connection to other criminal offenses. The author summarized sexual offenders' typology by following foreign scholars – S.M. Inshakov (*Иниаков*); N.P. Jablokov (*Яблоков*); V. Sigusch; A. Salter, Dietz; K.V. Lanning, V. Radecki; A. Kuznetsov, T.R. Pierson and B. Harry, D. Finkelhor and L. Williams; A.V. Burgess, A.N. Groth, L.L. Holmstrom and S.M. Sgroi; G. de Becker; S.A. Johnson; D. Scully and J. Marola; P. Magargee and I. Toch; R. Lesniak and E. Lesniak; B. Hirschfeld; H. Hanks and J. Saradjian; A. Sorrel and V. Masters; McCarty; R. Matthews and J.K. Mathews and Spelt; J. Warren and J. Hislop. The author concludes that criminal offenses are committed by a heterogeneous group of criminals whose behaviour is reflected in different models of perpetrators.<sup>45</sup>

The author agrees, that “most rapists deliberately humiliate, insult or injure the victim. A part of rapists use force to receive sexual satisfaction, but in most cases the dominant motive is subjugation and aggression, rather than sexual gratification.”<sup>46</sup> The author believes that sexual maniacs<sup>47</sup> is a

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<sup>43</sup> Tiesu informācijas sistēma. TIS. (viewed on 16.06.2013.). Available on: [https://tis.ta.gov.lv/tisreal?Form=TIS\\_STAT\\_O&SessionId=A2CBF949D2EB7D01869E251C36FBAFC5](https://tis.ta.gov.lv/tisreal?Form=TIS_STAT_O&SessionId=A2CBF949D2EB7D01869E251C36FBAFC5)

<sup>44</sup> (lat. *operating method*) – distinct pattern or manner of working that comes to be associated with a particular criminal. Encyclopædia Britannica. Available on: <http://www.britannica.com/EBchecked/topic/387437/modus-operandi>

<sup>45</sup> Holmes, S.T., Holmes, R.M. *Sex Crimes: Patterns and Behavior*. CA, SAGE Publications, Inc, 2008, p. 206.

<sup>46</sup> Шейдер, Р. Психиатрия. Москва, Издательство: Практика, 1998, с. 53.

<sup>47</sup> Maniac [fr. *maniaque*, lat. gr. *maniakos*] – a human with a bright pronounced pathological tendencies: Svešvārdu vārdnīca / red. Dr.philol. J.Baldunčiks. Rīga, SIA Jumava, 2007, 456. lpp.

particularly dangerous category of criminals. The main deviation of a sadist is an absolute desire for power. Physical harm is just one of the means of achieving power. Usually, they feel the need to instil fear, to feel stronger than the victim. In order to subjugate another and become the absolute master they need to make other individuals feel fully helpless, submissive and obedient, to turn victim into a property, breaking the victim's spirit. This is achieved by humiliation and subjugation to slavery.<sup>48</sup>

Speaking about female perpetrator group, it can be indicated that female sexual criminals are different from male sexual offenders. The author acknowledges that female sex offenders are not sexual predators, there is no specific choice of victim's age, they are not actively seeking an unknown victim, and rarely there is more than one victim at a time.<sup>49</sup> Fundamentally female sex offenders are divided into three main groups: teacher/ lover; predisposed; male coerced/ male accompanied.<sup>50</sup> A. Salter<sup>51</sup> writes that there are three types of sexually violent women who sexually exploit children:

1) sexual abuser who sexually exploits children under six years of age, mostly their descendants. In addition to that, many of them have sadistic inclinations. In the study of J. Saradjian, nine out of fourteen abusers admitted that they have fun when causing pain to children.<sup>52</sup>

2) "teacher-lover" group includes the offenders who choose teenagers as their victims. Age difference between molesters and victims is an average of

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<sup>48</sup> Малкина–Пых, И. Виктимология. Психология поведения жертвы. Москва, Эксмо, 2010, с. 154.

<sup>49</sup> Chancellor, A.S. Investigating Sexual Assault Cases. Burlington, Jones & Bartlett Learning, 2012, p. 177.

<sup>50</sup> Craissati, J. Managing High Risk Sex Offenders in the Community: A Psychological Approach. New York, Routledge, 2004,

<sup>51</sup> Soltera, A. Varmākas pedofīli, izvarotāji un citi. To psiholoģija un aizsardzība pret tiem. b.i.v., Adria Books, 2007, 86.–87. lpp.

<sup>52</sup> Saradjian, J. Women Who Sexually Abuse Children: From Research to Clinical Proctice. New York, John Wiley, 1996, p. 34.

sixteen years. All are mature women, mostly aged between 30 and 40, often twice the age of the victim. These women do not act sadistically.<sup>53</sup> 3) They are women whose partner, a man, initially forced to have sex with children. Such women are motivated by a need to please their partner. However, there are studies where results confirm that over time these women start to like it and they begin to do it on their own.

After study of sexual offenders' typology offered by various scholars, the author concludes, that the typology records not only the most common traits, but also the regularities and logical outcome of criminal behaviour. The author points out, that sex offenders have variety of motivations – thinking errors and psychological abnormalities. Undoubtedly, that thorough and comprehensive research of sexual offender's personality provides support for detection of criminal offenses, investigation and punishment determination. It is also important in determining the most effective methods of probation.

In the basic classification the author includes a breakdown by 1) the type of criminal offense; 2) the mechanism of violent action; 3) the attitude toward a victim. Summarizing the described typology, the author created characteristics of a typical sexual offender:

- aggressive: impulsive; situational; with sadistic tendencies; sexual maniacs;
- child abusers – paedophiles;
- abuser–persuader.

## **2.6. Victimological Aspects of Sexual Violence**

The sixth chapter examines the victimological aspects of sexual abuse – victimization and victimity, victim's role in the victimization process and the classification of victims. The interaction between the perpetrator and victim

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<sup>53</sup> Ibid, p. 36.

takes place in a specific social environment, which includes specific circumstances that contribute to a criminal offense.

Relatively recently, criminologists, focusing on the role of the victim in a crime, indicated that the victim is not always simply a passive target, but sometimes actively influences the criminal situation. Criminological victimology takes into account that the nature of human behaviour can be – careless, reckless, risky, and sometimes provocative thus threatening for individual him/herself. The victim's behaviour at different stages of the crime: before, during and after the crime, can be passive or active. Nowadays victimization reasons are explained by several different theories: *Victim precipitation theory* – active or passive target's behaviour can contribute to criminal violence and can lead to victimization. According to this theory, a victim's involvement can be either active or passive. Active – aggressive or provocative behaviour of the victim, which is results in victimization. Passive – victim's personal and social characteristics that makes the victim an attractive target<sup>54</sup>; *lifestyle theories* – a view that lifestyle increases exposure to become a victim of crime (high-risk lifestyle; college life, criminal's lifestyle); *deviant place theory* – victimization is mainly dependent on the places where people live; *routine activities theory* – victimization is determined by the person's daily activities. Crime and victimization are related to the interaction of three groups of factors: lack of protection; offender's motivation and a suitable target, which can be represented as below:

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<sup>54</sup> Siegel, L.J. *Criminology: The Core*. Stamford, Cengage Learning, 2010, p. 68.–69.



Figure 2.6.1. **Elements of Routine Activities Theory**

Routine activities theory and lifestyle theory have a lot in common. These include four basic concepts: 1) the proximity of the offender; 2) the time to act for the offender; 3) the availability of the target; 4) protection. These theories also include five foreseeable elements: a person lives in a high crime area; is out late at night; wears valuables (gold jewellery, precious watches, etc.); engages in risky behaviour such as alcohol consumption, etc.

In criminology the victim is studied from the perspective of the crime mechanism, his/her role in the criminal situation and crime prevention. It must be stressed that it is the analysis of the victims personality together with the analysis of the criminal offence provide the basis for effective prevention of criminal offences and may contribute to the investigation and detection.<sup>55</sup> A study of the causes and conditions that contribute to criminal offences, lead to the conclusion that although there is a considerable number of innocent victims, there are victims who incite and facilitate the crime. Therefore, victims with victimogene deflections are of special interest in victimological studies.

The victim's role and behaviour can be derived from the victim's condition (drunk, fatigued), physical and mental health condition, and victim's actions: anti-social or reckless acts, negligent attitude to their dignity and

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<sup>55</sup> Kairišs, J. Vairāk ziņu – mazāk noziegumu. (viewed on 04.02.2013.). Available on: <http://politika.lv/article/vairak-zinu-mazak-noziegumu>

honour, property, as well as victim's accidental actions. The victim can influence the formation of a particular crime and its motives, as well as make it as short-term, one-time, situation, or continuous or systematic actions.<sup>56</sup> Researcher D. Scully's<sup>57</sup> study results of people convicted of rape revealed that victim's lack of resistance, from the rapist's point of view, mean victim's consent. As long as the victim has not suffered serious physical harm, in the rapist's view, the rape has not taken place. An example from a trial, *the accused participated in lewd activity with a 10-year-old girl for two years, two years later the girl was raped on a regular basis. The victim is the wife's distant relative. The accused indicates nothing malicious had not been done, it could not be described as rape – has she been beaten or taken with force?*<sup>58</sup>

The author concludes that from the perspective of victimological theory, the role of the victim can be 1) the main, secondary, or accidental<sup>59</sup> (when the behaviour of the victim contributes to a crime only to some extent); 2) conscious or unconscious, 3) “stable or persistent” (a victim, who repeatedly or systematically is subjected to abuse) and “episodic” (being subjected to a one-time injury, perhaps the only and the last in his/her life); 4) open or latent, the latent victim's role, in the genesis of the crime, forms the concept of a potential, emerging and latent victim, opposite to the open and latent role, there may be also distinguished real or imaginary roles.

If victims can play a role in the course of a criminal offense, victim's fault should be considered as one of victimological concepts. In victimology, victim's fault means inappropriate behaviour, determined and negative attitude

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<sup>56</sup> Криминология: Учебник / под ред. проф. Н.Ф. Кузнецовой, проф. В.В.Лунеева. Москва, Wolters Kluwer Russia, 2004, с. 151.

<sup>57</sup> Scully, D. Understanding Sexual Violence: A Study of Convicted Rapists. Routledge, Unwin Hyman, 1990, p. 80.

<sup>58</sup> Vidzemes apgabaltiesas 2012. gada 17. maija spriedums (lieta Nr.111400088). Available on: tiesas arhīvā.

<sup>59</sup> [Origin of Latin *Accidental*] – casual; – with a transient nature, secondary

towards public interests or surrounding people. It is explained as any violation of social norms, social categories- a victim's behaviour in crimes and negative attitude. The victim's behaviour, which directly contributes to the emergence of criminal intent and its realization. It can be described as a manifestation of deviant activity. For example, P. Taranov (*Таранов*) writes that the victim carries his/her share of the blame for what has happened to him/her, is happening and will happen.<sup>60</sup> In relation this concept, L.V. Frank<sup>61</sup> indicates that within victimology, it is viewed in a broad sense and includes not only legal but also moral guilt. A wide range of features is taken into account – starting from any lack of guilt to severe one, from mild to serious moral criminal culpability, from positive socially useful activity to abusive provocation. The scholar points out that there is need to strictly distinguish between the generally accepted definition of the term “fault” in criminal law and the tentative term used in victimology when evaluating the victim's activity and behaviour. Scientist N. Kuznecova (*Кузнецова*)<sup>62</sup> treated it in two ways: 1) legal or moral form of responsibility; 2) as a victim's cooperation with the offender in sustaining his/her own injuries. Although the given term is not used in the criminal law, “the victim's fault” can be classified as a criminal offender's attenuating circumstance in criminal law. American criminologists emphasizing the special role of victims in the process of victimization use the term *victim precipitation*.<sup>63</sup> The author acknowledges that the major difficulties are related to the questions of why the victim, in cases when he/she may flee or go for help, does not do anything. On the contrary, he/she takes action that

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<sup>60</sup> Таранов, П.С. Методы 100 %-ной победы. Симферополь, Реноме, 1997, с. 86.

<sup>61</sup> Франк, Л.В. Потерпевшие от преступления и проблемы советской виктимологии Душанбе, Ирфон, 1977, с. 11.

<sup>62</sup> Кузнецова, Н. Уголовное значение „вины потерпевшего” // Советская юстиция, 1967, № 17, с. 16.

<sup>63</sup> Pollock, J.M. Ethical Dilemmas and Decisions in Criminal Justice. Belmont, Wadworth, 2007, p. 137

clearly indicates that he/she is ready for sexual intimacy. M. Amir's study of rape models showed that 19% of rapes have been *victim-precipitated rapes*, such factors as: alcohol, seductive actions of the victim, revealing clothing, the use of foul language and bad reputation. These observations are also confirmed by other authors (J. Antonjan, V. Voljenkin, A. Djachenko, V. Konovlov, and L. Frank). According to M. Amir's opinion, the offender whose victim was acting in accordance with the "victim precipitation" concept, should be punished less severe than the one whose victim him/herself did not contribute to sexual abuse. M. Amir stated that "*precipitation*" means a quick and hasty action – unduly hasty, ill-considered or urgent haste. The victim's behaviour can consist of actions (she/he agrees to have a drink or to have a ride with a stranger) or inaction (inadequately responsive to sexual nature proposals or attempts). Such behaviour is to be distinguished from direct provocation and seduction. J. Kumacheva (*Кумачева*) has the opposite view indicating that the rape victim's behaviour can not be in principle a violation of law, it can be reckless, careless, indiscriminative, inattentive, but not more. Behaviour is one of the negative elements of the crime mechanism, but it is always a characteristic of victim's negative behaviour. It can also be an unfortunate coincidence, a total of 75% of the victims are characterized positively, and only 21.5% are characterized negatively.<sup>64</sup>

The author considers that the term "victim's fault" is not rather appropriate and accurate, firstly, the perpetrator and the victim are opposite concepts, the victim has not committed a crime, and, secondly, in criminal law, guilt is defined as "a person's mental attitude in a form of intent or negligence

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<sup>64</sup> Кумачева, Я. Виктимное поведение жертвы изнасилования и его уголовно-правовое значение // Право и жизнь, № 116 (11), 2007, (viewed on 12.04.2014.). Available on: [www.law-n-life.ru/arch/116/116\\_Kumacheva.doc](http://www.law-n-life.ru/arch/116/116_Kumacheva.doc)

against his/her unlawful acts or inaction and their causative harmful effects.”<sup>65</sup> The author believes that personal characteristic features that are indicative of personal thoughtlessness, such as excessive or unwarranted trust, negligent choice of acquaintances, playfulness, excess partying, use of alcohol and other intoxicating substances are important factors in cases of sexual offenses. The author’s viewpoint is that here we could speak about victimogene distortion. Russian scholar K. Vishnevecki (*Вишневецкий*) pays attention to victimogene deformation, looking at this phenomenon as an individual’s set of socio-psychological characteristics associated with adverse personal socialization features and with his/her unsatisfactory social adaptation which, in the psychological plane, manifests itself in emotional fragility, uncontrollability, and reduced capacity for abstract thinking. These characteristics are exhibited in different combinations – lack of precaution, unselectability of social contacts, low level of communication skills, personal conflicts, and other moral and legal awareness deformation forms.<sup>66</sup>

Analysing the practical materials (criminal processes, judicial practice), the author concludes that, in most cases of sexual offences, it is essential to look at victim’s vulnerability and him/her being exploited by the criminal. For example, the analysis of cases carried out by Supreme Court related to Sections 160 and 162 of Criminal Law shows that most of the girls at risk of sexual violence are aged between seven and thirteen years. The number of victims amounted to 176 (144 females, 32 males and 4 people of age).<sup>67</sup>

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<sup>65</sup> Krastiņš, U., Liholaja, V., Niedre A. *Krimināltiesības. Vispārīgā daļa*. Rīga, Tiesu namu aģentūra, 2008, 154. lpp.

<sup>66</sup> Ившин, В.Г., Изрисова, С.Ф., Фатъянина, Л.Г. *Виктимология: учебное пособие*. Москва, Wolters Kluwer, 2011, с. 29.

<sup>67</sup> Tiesu prakse krimināllietās pēc Krimināllikuma 160. un 162.panta. (Tiesu prakses apkopojums apspriests departamenta senatoru kopsēdē 2007.gada 27.septembrī). Latvijas Republikas Augstākā tiesa. (viewed on 30.08.2014.). Available on: <http://www.at.gov.lv/lv/info/summary/2007/>

Victims are talked into sexual criminal offenses using a broad spectrum of violence: physical violence, threats, coercion, blackmail, deceit or using the victim's helplessness.

**The author suggests the following diagrammatic representation of the kinds how victim are talked into sexual offenses:**



Figure 2.6.2. **Diagrammatic representation of the kinds how victim are talked into sexual offenses**

Due to the above mentioned conditions, the author considers the public's tendency to blame the victim as one of the major problems. Surrounding people frequently choose to believe, perhaps thus ensuring their illusory protection, that rape victims are "light-minded", drunk or inappropriately dressed women. In the author's opinion, the problem lies in inadequate understanding of the provoking situations in relation to the criminal situation. In scientific literature, provoking situations are illustrated with examples of the opposite sex relationships. It is noted that "the victim's expressions, manners, clothing, action, motion or even the use of physical force can cause a series of events that result in a violent offense."<sup>68</sup> This myth has been confirmed by an international study: 26% of respondents indicated that the woman is completely or partially responsible for the sexy or indecent wear of clothes, 22% believe that she is responsible if she has had a lot of sexual partners.<sup>69</sup> There is a widespread view

<sup>68</sup> Kriminoloģija / zin. red. K.Ķipēna, A.Vilks. Rīga, Nordik, 2004, 268. lpp.

<sup>69</sup> Shoham, S.G, Knepper P.,Kett M. International Handbook of Victimology. CRS Press, Tayler&Francis Group, LLC, 2005, p. 242.

that rape victims are often characterized as people who establish sexual relationships with casual acquaintances, love reckless risk, conflict with other people, tend to be aggressive themselves, are egocentric or on the contrary – indecisive, infantile and without any experience in forming relationships with other people. It is often reflected in public space that “the general public will continue to punish the victims of harassment with distancing, denial or alienation, by despising, avoiding, and attribution of participation and blame.”<sup>70</sup> Similar parallels can be drawn with the Arab countries. In Egypt, a woman who has become a victim of violence is isolated from the society. In Turkey, despite the fact that women or girls are kidnapped or raped against their will, the society considers that it is also women’s fault.

When choosing the victim, offenders are guided by various criteria (age, experience, desires, credulity, trust, etc.). For example, D. Rivman writes that curiosity and debauchery are not only the victim’s character traits and features used by the offenders, but also the basis of the manifestation of the victim’s initiative.<sup>71</sup> Furthermore, other features such as moral resistance, attention, kindness, clarity of mind and physical fitness in some cases contribute to the criminal offense.

Typology of the victims is determined by personality peculiarities – *psychophysical features*, distinguishing – minors, women, the elderly, people with physical and mental problems; *morally-psychological* - including people with a predisposition to adverse morally-psychological traits such as aggression, miserliness, alcohol abuse, as well as positive traits, for example trust; *social role*– a person with a certain speciality or occupation, a person who

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<sup>70</sup> Лапија, К. Sods būt upurim. (viewed on 04.10.2013.).

Available on: <http://www.apollo.lv/portal/news/73/articles/114343>

<sup>71</sup> Ривман, Д.В. Криминальная виктимология. Санкт-Петербург, Питер, 2002, с. 148.

has become a victim by witnessing another crime.<sup>72</sup> Summarizing the literature on different classifications of victims, the author concludes that victims can be classified according to the victim's involvement in the crime – a person has become a victim inadvertently or under the influence of the circumstances that have a logical nature. For example, researchers A. Kuznetsov, T. R. Pierson and B. Harry when analysing a considerable number of sexual offences ( $N=827$ ) divided the victims into three major groups: children, adolescents, and adults.<sup>73</sup> The serial sexual homicide victims include: 1) victims whose victimity is associated with the inability to adequately assess the severity of the situation before the criminal offence, and to resist the violation of the rights (children and people with mental problems). 2) The victims who are able to adequately assess the dangerous situation before the crime, and provoke it with rude, provocative and frivolous behaviour. 3) The victims who are able to adequately assess the victimity of the situation, but for some reason, do not take personal security measures, such as a single women going through a remote location late at night.<sup>74</sup>

The author agrees to the arguments of the study “Support to Victimization Prevention in Latvia” that the factual harm does not mean automatic acquisition of procedural status of a victim, besides a person's wishes and process persecutor's decision, there must be obtained the information which allows to assume that the person is a victim of a violent crime. Therefore, in criminal proceedings, not any person who believes to have been harmed should be recognized as a victim. When investigating sexual assaults, there may be doubt about the statement of the assault, it may be staged

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<sup>72</sup> Криминология / под редакцией профессора В.Д.Малкова. Москва, Юстицинформ, 2006, с. 182.

<sup>73</sup> Canter, D. Criminal Psychology: Topics in Applied Psychology. New York, Routledge, 2008, p. 252.

<sup>74</sup> Серийные сексуальные убийства: Учебное пособие / под ред. Ю.М. Антоняна. Москва: ММЮИ МВД России, Издательство „Щит-М”, 1997, с. 57.

as well. The practice proves, that ungrounded accusation in case of sexual abuse may be fictitious due to mental properties of the victim. Occasionally, the victim, to give credibility, causes themselves bodily injuries, rips lingerie, stains it with blood, gives the names of the witnesses who supposedly heard victim's cries for help, or seen the act of raping. There are cases where rape claims were submitted by women left by men and thus trying to take revenge or to restore the relationship.

To sum up, the author notes that the victim of a sexual crime can 1) be active or passive; 2) be aware or unaware of the nature of their actions; 3) closely related or unrelated to the perpetrator; 4) able or unable to resist which generally determines a person's possibility to become a victim. Victim classification has both theoretical and practical significance. Identification of victim's personality and its characteristics allows determining potential preventive measures.

In the author's opinion, victimological classification model of sexual assault victims can be based on the following groups:

- 1) characteristics of victim's personality – victim's physical or social features;
- 2) victim's behaviour;
- 3) the condition of the victim at the time when the crime was committed (helplessness, illness);
- 4) the relationship between the victim and the offender.

### **3. KEY FINDINGS AND RECOMMENDATIONS**

The doctoral thesis analyses criminological problems of sexual abuse.

The aim of the study has been reached and the answers to the research questions have been given. The research has revealed issues related to sexual violence in criminological scope, including analysis criminal law regulations. The analysis of criminological problem issues allows to identify the major deficiencies which must be solved. The criminological study allowed the author to identify the directions of improvement in criminal law.

The results off the study allow to conclude that criminological problem aspects of sexual abuse can be divided into five groups. The given part contains both the conclusions and proposals.

#### **The first group – violent crime research problems**

1. The analysis of the term “violence” confirms that it is a multifaceted and complex category. Basically, the concept of violence is understood as a violation of human rights, particularly the right to life, the right to safety, the right to dignity, the right to physical and mental integrity and the right to sexual reproductive choice, and health. However, it must be taken into account that violence may be directed not only against a person, but also against other living beings and property.
2. In order to develop an effective crime prevention policy in Latvia, there is a need for research in the following fields: intensity of violence in different age groups, the population’s perception of the violence cases; recording and reporting on the cases of violence; the victim’s experience after the violence has been detected, as well as there is a need for regular monitoring regarding the victimization. During the research, it is essential to identify the categories of threats - the risk of victimization should be assessed; forms and means of threats should be taken into consideration; victim protection tactics should be determined. In order to facilitate

preventive work and to prevent the vulnerability of victims, measures should be provided in social security, education, family and employment areas.

3. The author supports the broader approach to violent crime. Therefore, the author explains the violent crime as a set of criminal offenses carried out in a given territory and in a given period of time using criminal violence (for example, physical force or threats to use it) with the main aim to deprive a person of life, damage the person's health, physical freedom or the integrity of the individual, animals' life and health, as well as the right to property.
4. It must be noted that one of the pivotal deficiencies of justice, freedom and security is the unreliable and incomparable statistical data. The available information and studies do not show the true prevalence, they only serve to highlight small visible parts of the problem. High rate of crime latency and the large number of victims who do not want to refer to law enforcement agencies may be assessed rather negatively.

#### **The second group – criminological study of sexual violence**

5. Sexual violence manifests itself in various malicious aggressive circumstances and ways. Sexual violence is a complicated and complex social and legal problem.
6. The society widely discusses the male aggression against women and children. At the same time, there should be noted differences in analysis of violence characteristics, the consequences of women's aggressive behaviour against others. Their manifestation is not sufficiently analysed and researched. There are relatively few valid data on other forms of violence. The violence against other groups, such as homeless, migrants, the elderly and male victimization cannot be left unnoticed. A marginal theme is sexual abuse of prisoners and detainees. Violence directed against

prostitutes is insufficiently studied topic. There is little study concerning violence against the elderly. The author emphasizes the fact that, in Latvia, there is not full understanding of relationship between experienced violence, especially sexual, resulting in planned or committed suicide.

7. The problem issue of sexual abuse of male in interpersonal and in collective violence manifestations (during war or armed conflict) has not been properly studied.
8. Sexual domestic violence has an extensive range of problems. Domestic abuse is a specific type of offense, as there is 1) special relationship (kinship or partnership) between the victim and perpetrator; 2) the two share an emotional and often economic dependence; 3) it is rare when domestic violence is a single act, most frequently it is a pattern of behaviour, which over time will continue, and is difficult to stop. It is a cycle of a lasting violent nature, from a few months to several years.
9. Cyber-sexual harassment is a fairly widespread phenomenon. The research shows that on average, in EU, cyber-sexual harassment reaches 11%. Assessing the research results, it can be established that, in Latvia and Estonia cyber-sexual harassment ranges in 10-14% margin, compared to Lithuania's 5-9%.
10. Sexual violence is related not only to satisfaction of one's sexual needs, but also to the desire for power and control, and to a variety of mental problems. Deviations and problems in sexual life may determine the type of violent forms of behaviour. Perpetrator's behaviour is motivated by both sexual and nonsexual components.
11. The author concludes that sexually aggressive behaviour as a bio-psycho-social phenomenon is mainly viewed from a male point of view, but acts of sexual violence committed by females remain beyond the scope of in-depth study. Furthermore, it is noteworthy that sexually aggressive behaviour is

not limited only to adults. Therefore, it can be reasonably assumed that criminal behaviour is not based on one group of causes, but a number of phenomena. Furthermore, such behavioural pattern is formed in a long period of time. The author's view is that the factors that influence sexual violence integrate several factors. Multi-determining nature of sexual aggression reflects a wide range of different sexual aggression forms.

12. Sexual offenses are determined by factors that are closely linked to violence. It is power and control over the victim that is connected and integrated with: victim's humiliation, domination over the victim, and victim's abuse. Aggressor's goal is to force the victim to submit, instilling fear and creating a sense of defencelessness. There are different causes of aggression and anxiety. It is undeniable that violent behaviour does not have only reason, but the behaviour of the individual is a long chain of events, sometimes even a result of the whole life.
13. Sexual offender's personality is a set of characteristics inherent in a person who has committed or is committing a criminal offense. This set of features shapes his/her individuality. The author observes that the sexual offender typology records not only the most common features, but also regularities and logical outcome of criminal behaviour. Sex offenders have a variety of motivational activities – thinking errors and mental deviations. The author offers the following classification:
  - the aggressive; the impulsive; situational; persons with sadistic tendencies; sexual maniacs;
  - child molesters – paedophiles;
  - the abuser–persuader.
14. The victim's personality and behaviour are of criminological, criminal law and criminal procedural significance, as it is taken into account in the classification of the offense and determining the punishment.

Victimological elements are also seen in the framework of criminal law, in the sections related to aggravating and mitigating circumstances.

15. Victimization reasons are explained by a number of theories: the victim's involvement theory- criminal violence can be encouraged by active or passive target's behaviour that leads to victimization. In accordance with the theory the victim's involvement can be active or passive. Active – aggressive or provocative behaviour of the victim, which results in victimization. Passive – victim's personal and social features, that make the victim an attractive target for criminals. Lifestyle theory – view of the fact that lifestyle increases the odds to become a victim of a crime (high-risk lifestyle, college life, criminal lifestyle). Deviant environment theory – victimization mainly depends in the neighbourhood where a person lives. The theory of daily activities – victimization depends on the person's daily activities. Criminal offenses and victimization are linked to the interaction of three factors: lack of protection, offender's motivation and suitable target.
16. The author interprets the victimity as a complex, two-level phenomena (property), which on the one hand manifests itself in person's defencelessness - vulnerability to the offenses in micro and macro environment, and on the other hand, subjective personal predisposition to become a victim, which reduces its ability to resist violence. Both of these levels are closely interrelated. The potential of the victim's victimization is increased by victim's vulnerability + victimity which leads to victimization.
17. Topical and at the same time “eternal” problem associated with the victims of sexual offenses is a term “the victim's fault.” The author's view is that the term “the victim's fault” cannot be discussed in the context of sexual offenses, but rather about victimogene deformation – a set of personal

socio-physical characteristics associated with adverse personal socialization features, with its unsatisfactory social adaptation, and which, in the physiological plane, manifests as emotional fragility, uncontrollability and reduced capacity for abstract thinking. These characteristics in different combinations can be seen as lack of precaution, social contact unselect ability, low level of communication skills, personal conflicts, and other forms of moral and legal awareness deformation.

18. The author considers that the problem lies in general public's tendency to blame the victim, as well as inadequate understanding of provoking situation in the criminal situation. It should be emphasized that focusing mainly on the victim's thoughtlessness, provocative or inappropriate behaviour, we forget that violence has some negative trait - the victim frequently is made believe that he/she him/herself is to blame in what has happened or, in the case of child sexual abuse, parents are to blame. The author states that violence is unacceptable and the problem lies in one who caused violence.
19. The author offers a possible victimological classification into the following basic groups: 1) the victim's personal characteristics – victim's physical or social characteristics; 2) the victim's behaviour; 3) the condition of the victim at the time when the crime was committed (helplessness, illness); 4) the relationship between the victim and offender.

**The third group – theoretical aspects of sexual violence.**

20. The author offers a possible definition of sexual violence – sexual violence is diverse, any physical, virtual, and verbal acts or sexual assaults, or an attempt to obtain sexual contact, or any other actions taken against the victim's will using physical force, power, deceit, coercion, threats, or making use of victim's helplessness. Thus, another person's sexuality is

violated, and there are caused a wide range of concerns: physical pain, mental and psychiatric injury, and material damage.

21. The author offers a possible concept of sex crime (sexual offense) defining it as an intentional subject's sexual or sexual meaning containing actions in relation to socially-accepted moral norms and values protected by criminal law- real or virtual disregard and violation of victim's sexual freedom and sexual inviolability.
22. The term „*sextortion*” is a type of sexual exploitation, which does not have a corresponding term in Latvian. The author proposes to call it “”*sektorcija*” or „*seksuālā izspiešana/šantāža*” (sexual extortion/blackmail)” – a process in which a person influenced by threats and coaxing is forced to display obscene materials for an extended period of time on the Internet.
23. The author suggests the following definition of cyber-sexual violence: “Cyber-sexual violence is any remote activity of sexual nature and intention in cyberspace violating the rights of another person”.
24. The author believes that, in Latvia, “family criminology” or “family relationship criminology” as criminology sub-field needs to be developed, which explores the impact of the family institution on criminal behaviour and crime. Therefore, the family criminology would include the issue of family influence on the persons involved in violence (formation of a violent offender and a victim) as one of the research areas.

#### **The fourth group – legal organizational measures of sexual crime prevention.**

25. In order to prevent the spread of sexual abuse, a national program of sexual crime prevention should be developed, which provides complex and integrated operations. The author's view is that emphasis should be laid on prevention and forecasting that are based on a proactive procedures. It

would be essential to form a special preventive body for prevention of sexual violence which would be a part of Crime Prevention Bureau of the State Police.

26. It is necessary to create an independent body with a sufficient professional capacity. The author believes that under the Ministry of Justice of the Republic of Latvia, there must be established an institute for legal and crime research with the following main functions: for criminal analysis, forecasting and criminal policy development, its main functions would include the following: scientific research; proposal development and the provision of legal, social and organizational measures for the implementation of crime prevention; cooperation with international organization in the field of crime prevention.

**The fifth group refers to the vector of improvements in criminal legal framework.**

27. From the view of the researcher, the fundamental rights guaranteed by the convention are, firstly, actually discriminated, secondly, denied or violated by persistent threatening behaviour, stalking and espial, thus they should be averted. The individual behaviour that with bullying and harassment threatens other's personal integrity must be criminalised. The author proposes to amend the Criminal Law with Section XIV, Criminal Offenses Against Person's Fundamental Rights and Freedoms, to ammend Article149<sup>2</sup>, *Person's Stalking* with the folowing: *for illegal accction, stalkerism if it causes major harm.*
28. Criminological analysis suggests that a significant number of sexual crimes in Latvia are committed the family. Considering that such criminal offense is contrary to the natural order and taking into account the historical continuity and experience of other countries, the author calls for a separate article for the criminalization of sexual relations between close relatives.

*To amend Criminal Law article 160, Sexual Violence in Family with the following: for sexual intercourse or other sexual act involving vaginal, anal or oral penetration of another person's body, if the action has been performed without the victim's consent or through the victim's state of helplessness, if the offense has been committed by the victim's relative.<sup>75</sup>*

29. The author believes that it will be to address the question in order to determine the responsibility by the Criminal Law and, in particular, for the sexual harassment using authority and subordination. The author proposes to amend Criminal Law article 159<sup>1</sup> *Sexual harassment with the following: sexual harassment using bullying, unwanted proposals or offers to a person, who is dependent due to employment or job position, in order to have sexual contact.*

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<sup>75</sup> such person or the betrothed, spouse, parents, grandparents, children grandchildren, brothers or sisters of such person, as well as of the person with whom the relevant natural person is living together and with whom he or she has a common (joint) household (hereinafter – the immediate family)

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