

CAUSES AND CONSEQUENCES OF THE VIOLENCE AGAINST THE CHILDREN¹⁵⁶

Jasmina Igrački

Research associate at the Institute for Criminological and Sociological Research, Belgrade
jasminaigracki@yahoo.com
ORCID 0000-0002-0533-9033

Abstract:

Violence against children is a historical phenomenon present in every society, which is not conditioned by the level of development. Factors and determinants that affect the violence against the children occur at different social levels. Economic underdevelopment of society, poverty, inadequate legislation, social conflicts, ineffective protection of the social protection system, collapsed education system, poor health care are some of the many factors that increase the risk of violence.

Violence against children is completely criminalized, but the development of technologies, techniques, and society in general, open opportunities for new forms of violence. Children are the most vulnerable and sensitive members of society, and violence has an extremely destructive effect on their health, psychological and social well-being. The family, as the basic cell of society, is marginalized. Therefore, its influence on education and the creation of tolerant and empathetic children is questionable. There are also factors that increase the risk of violence, such as economic resources, inadequate social environment, social pathology, verbal and physical conflicts in the family, lack of family cohesion, as well as various forms of family dysfunction.

Research shows that parents abuse children in 95% of cases, and that in around 80-90% of cases, abusers are mature and responsible individuals. Also, studies show that growing up in a violent environment creates a predisposition for violent behaviour in the future. Having looked at the causes and consequences, we believe that states and societies must ensure the equality of children's rights with other members of the community and the protection of children from violence, and that it is necessary to raise social awareness of the seriousness of the problem.

Key words: children, violence, ethology, phenomenology, prevention

1. INTRODUCTION

The basic cell of society is the family, and as such, its greatest role is to be present in the child's life in all its aspects. The family influences the child's development, his upbringing, his actions in the future, but also the understanding of social circumstances and interpersonal relationships. Today, parents are very worried about whether they will be able to protect their children from the influence of the social environment and all its challenges. Due to difficult economic conditions, many households are on the brink of

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existence. Understanding the dynamics of poverty is essential for understanding the position of children, because it represents one of the key structural causes of the denial of children's rights. Aware of the state in which modern civilization finds itself in terms of maladjusted behaviour and violence, all social structures are in a serious dilemma how to prevent violence against the children, adolescents, and young people.

The awakening of awareness of childhood as a concept date back to the 17th century when the child began to be treated as a particularly sensitive being. Thanks to psychologists, the basic characteristics of a child's personality have been recognized, which instruct us to appreciate, respect, shape them normatively, and create an environment in which the rights of the child are recognized and realized.

Violence against children includes all forms of violence against persons under the age of 18, whether committed by parents or other guardians, peers, partners, or strangers. Violence can manifest itself in different forms: physical violence, emotional violence, sexual violence, economic violence-exploitation of a child, neglect, the presence of social pathology, frequent verbal and physical conflicts in the family, social isolation inadequate environment.

Violence against boys and girls¹⁵⁷ is almost identical in all types of violence, except for sexual violence where the dominant share is girls, who in 2020 make up 80.8% of victims of this type of violence. Internet space represents a new dangerous terrain for all kinds of violence. Data shows that one in three students has had a disturbing experience online in recent years. Digital peer violence was experienced by 16% of students, while 15% experienced violence in live interaction. Bullying (including violent punishment) includes physical, sexual, and psychological/emotional violence; neglect of infants, children and adolescents by parents, guardians, and other competent persons, most often in the home, but also in environments such as schools and orphanages. Bullying (including cyberbullying) is unwanted aggressive behaviour by another child or group of children who are neither siblings nor in a romantic relationship with the victim. It involves repeated physical, psychological, or social harm and often occurs in schools and other settings where children gather, as well as online. Violence among children is concentrated among children and young adults between the ages of 10 and 29 most often occurs in an environment between acquaintances and strangers, includes bullying and physical assault with or without weapons (such as guns and knives), and may include violence gangs.

Intimate partner violence (or domestic violence) includes physical, sexual, and emotional violence by an intimate partner or ex-partner. Although men can also be victims, intimate partner violence disproportionately affects women. It usually occurs in girls in child marriages and early/forced marriages.

Emotional or psychological violence includes restricting a child's movement, belittling, ridiculing, threats and intimidation, discrimination, rejection, and other non-physical forms of hostile treatment. When directed against girls or boys because of their biological sex or gender identity, any of these types of violence can also constitute gender-based violence.

Experiencing violence in childhood affects lifelong health and well-being. Also, practice has shown that children who have experienced some form of violence accept violence as a pattern of behaviour, and in later years, apply that pattern of behaviour. The recognition of domestic violence as a constantly present problem in relations between

¹⁵⁷ Republic Institute for Social Protection, Children in the Social Protection System in 2020, RZSZ, Belgrade, 2021.

partners, marriage, or cohabitation, has led to the understanding that in addition to violence that is directly directed between partners, at the same time the consequences and effects of domestic violence also affect children who witness violence. The World Health Organization points out that children who witness parental violence are at a much higher risk of emotional and behavioural problems, including high risk of anxiety, depression, poor academic performance, low self-esteem, disobedience, insomnia and nightmares, and low physical strength.¹⁵⁸ The seriousness of the consequences suffered by children who are “merely” silent observers of violence are just as serious as the consequences experienced by children who themselves are victims of abuse in the family. Studies conducted in the USA have shown that children who witness violence between parents often exhibit the same behaviours and psychological disorders as children who have been abused themselves.¹⁵⁹ From the point of view of the risk of victimization, domestic violence between spouses, fathers and mothers, not only seriously affects women, who are most often the direct victims of violence, but indirectly, it also affects all family members who witness the violence. In the narrower sense, domestic violence is violence that occurs in the home (Igrački, Brašovan, DeliĆ, 2022). Based on available data, little is known about the number of children who witness domestic violence. According to research conducted in America in the 1990s, it was estimated that between 25% and 30% of American women experienced physical injury in an intimate partner relationship at least once (Ofosky, 1995). How much of that number of domestic violence takes place in the presence of children is not known, which is why it is considered that children are invisible victims of violence (Ofosky, 1995). Denying that very young children cannot suffer domestic violence, because they are not capable of understanding and perceiving the importance and severity of violence between parents, is not correct. Namely, numerous studies have shown that even very young children can experience emotional stress, retardation in developmental behaviour, psychosomatic complaints, regression, or setbacks in language development or defecation (Ofosky, 1995). Children of school age, who understand situations of violence between their parents, generally try to prevent violence, so they can experience all forms of post-traumatic stress syndrome, as well as the victim of violence (Ofosky, 1995). Although there are cases where adolescent children who witness violence in the family can overcome it with adequate help, there is no doubt that such relationships that take place within families leave a mark on the child’s emotional development. Therefore, a certain percentage of children inherit aggressiveness in their behaviour (Ofosky, 1995).

It is crucially important that all participants in the child protection process have a common understanding and a unique attitude in relation to the occurrence of violence against children. The most important condition for a successful process of child protection is consent, in relation to the determination and definition of the concept of child abuse and neglect (Igrački, 2012: 260). The scope and method of protecting children from abuse and the way individual systems and services operate, differ in terms of the level and content of protection. Thus, the roles of the education and health systems are greatest in the field of primary prevention, the role of the social protection system is predominantly in the area of special or secondary prevention, while the legal system assumes a key role in the application of protective interventions in specific cases of abuse (Igrački, Brašovan DeliĆ, 2023). Legal protection includes the application of repressive measures in relation to parents or other persons who abuse a child. Centres for social work are services that play a

¹⁵⁸ World Health Organization: “World report on violence and health”, 2002, 103.

¹⁵⁹ Ibid.

key role in protecting children from abuse. That role is based on their important functions (Igrački, 2012: 261).

The Convention on the Rights of the Child¹⁶⁰ proclaims that a child, with the aim of complete and harmonious personality development, should grow up in a family environment, in an atmosphere of happiness, love and understanding. The EU strategy on children's rights, adopted in 2021, covers 6 thematic areas: children's participation in political and democratic society; socio-economic inclusion, health care and education; preventing violence against children and ensuring the protection of children; justice tailored to the child; digital and information society and global dimension.¹⁶¹ The strategy is fully aligned with the UN Convention on the Rights of the Child, the EU Charter of Fundamental Rights, as well as the UN Sustainable Development Goals (SDG Agenda 2030).¹⁶² The Agenda for Sustainable Development 2030 proclaims in part 16.2 that "to end abuse, exploitation, human trafficking and all forms of violence against children and torture against children". Children's rights are today recognized by international law and regulated normatively. Every child in Europe and around the world should enjoy the same rights and live without discrimination and intimidation of any kind. In the European Union Strategy on the Rights of the Child, the Commission addresses ongoing and new challenges and proposes concrete actions to protect, promote and fulfil the rights of the child in today's ever-changing world.

2. MANIFESTATIONAL FORMS OF VIOLENCE AGAINST CHILDREN AND THE CONSEQUENCES

It is estimated that up to 1 billion children between the ages of 2 and 17 have experienced physical, sexual, or emotional abuse or neglect in the 2016, globally (Hillis, Mercy, Amobi & Kress, 2016).

Children as victims of violence and neglect are those children who are at risk of becoming victims or if they are victims of abuse, neglect, violence, and exploitation, or if their physical, psychological or emotional well-being and development are threatened by the actions or omissions of parents, guardians or others the person who takes care of them directly. Domestic violence is behaviour that endangers one family member physical integrity, mental health or tranquillity of another family member.¹⁶³

Domestic violence and other forms of gender-based violence remain widespread, including an alarming rate of homicides of women (at least 26 cases in 2017 and 30 in 2018).¹⁶⁴ The Law on the Prevention of Domestic Violence in Serbia, which entered into force on June 1, 2017, brought changes to existing institutional response practices to

¹⁶⁰ Law on Ratification of the United Nations Convention on the Rights of the Child "Official Gazette of the SFRY" - International Treaties, No. 15/90 and "Official Gazette of the FRY" - International Treaties, No. 4/96 and 2/97. UNICEF, Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the Participation of Children in Armed Conflict, Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

¹⁶¹ European Commission, EU Strategy on the Rights of the Child, Brussels, 2021., https://ec.europa.eu/info/sites/default/files/childrights_annex1_2021_4_digital_0.pdf

¹⁶² European Commission, Annex to the EU Strategy on the Rights of the Child, EU and International Frameworks, https://ec.europa.eu/info/sites/default/files/ds0821040enn_002.pdf

¹⁶³ The Law on Social Protection and in accordance with the General Protocol on the Protection of Children from Abuse and Neglect.

¹⁶⁴ Women Against Violence Network, "Femicide-Murders of women in Serbia, January 1 - December 31, 2018", page visited on 5/18/2024.

violence and provided immediate protection and support to victims of domestic violence. However, not all aspects of the Istanbul Convention have been incorporated into the law. According to the data of the Ministry of the Interior, the number of women killed in domestic and partner violence is 31 in 2017, 34 in 2018, 27 women in 2019, 26 in 2020, 20 in 2021, in 2022. 26, during 2023, 28 women were killed, and by May 2024, 13 women were killed, most often by their partners or close relatives.

In the period from June 1, 2017, to October 15, 2019, a total of 61,164 emergency measures were issued, while the courts extended 35,340 emergency measures. This domestic violence against children manifests itself in different forms: physical violence (implies the use of body parts or weapons to threaten, punish, control or hurt another person), emotional violence (includes intimidation, constant criticism, belittling, various accusations, emotional blackmail, creating insecurities of the victim, verbal abuse, harassment, bullying etc.), sexual violence (implies any violation of sexual freedom and morality, any form of degradation and humiliation on sexual grounds, any form of coercion into sexual intercourse and rape), economic violence/exploitation of a child (implies confiscation of money and valuables, control of earnings, prohibition to get a job and earn one's own income, imposition of obligation to constantly submit detailed reports on spending money), neglect (implies neglect of the child's basic physical and psychological needs, which can cause serious damage to health and development, parental failures or guardian to provide adequate food, shelter and clothing, failure to protect the child from physical harm or danger, as well as failure to provide appropriate medical care or treatment and abandonment of the child.¹⁶⁵

In older and younger children who suffer abuse, there may be a change in behaviour, and some of the signs are:¹⁶⁶

- The child does not want to be alone with certain people or is afraid to be away from the guardian, parents, especially if this is a new behaviour (younger age)
- Regressive behaviour or continuation of out-of-date behaviour, such as thumb-sucking or bed-wetting (younger children)
- Becomes withdrawn (younger child)
- Sudden outbursts of anger can be a symptom (younger children, but it is common in older people as well)
- Changes in diet (in younger children)
- They may not make eye contact with adults
- Aversion to physical contact
- They may spend unusually long periods of time alone (typical of school-age children).
- Younger children may have night terrors, fear of the dark and going to bed, fear of separation, uncontrolled urination (developmental problems of the child should be ruled out here),
- Expressed fears of adults or of certain persons
- Avoiding any physical contact with other people
- Children of school age may run away from home, may have altered behaviour at school.

According to the latest reports, the number of children in the social protection system is continuously growing. During 2020, there were a total of 187,635 children on the records of centres for social work (CSR), which is 25.8% of the total number of children in the Republic of Serbia. In the past ten years, the number of children in the social protection

¹⁶⁵ Republic Institute for Social Protection, Children in the Social Protection System in 2020, RZSZ, Belgrade, 2021.

¹⁶⁶ Ibid.

system has increased by 15.8%.¹⁶⁷ The trend of high representation of children in the social protection system indicates that children are the most vulnerable category of the population of the Republic of Serbia.

In 2020, the Centre for Social Work registered 8,365 reports of violence against children in the family environment. Of these, 40% are dominated by reports of emotional violence against children, 2,685 reports of child neglect, 2,121 reports of physical violence, 193 reports of sexual violence and 23 reports of economic violence.¹⁶⁸ The share of girls and boys for whom violence was reported in all types of violence is almost equal, except for sexual violence, where the dominant share is girls, who in 2020 make up 80.8% of victims of this type of violence. In 2020, 129 children were registered in shelters for victims of domestic violence.¹⁶⁹ The largest share of 56.6% was pre-school age children. In 2020, a total of 409 street children used the services of the shelter,¹⁷⁰ of which 95.1% were of primary school age. The SOS telephone service for women with experience of gender-based violence was used by 34 girls aged up to 17 years. Share of girls in the total number of SOS phone users in 2020 was 1.7%.¹⁷¹

When talking about the digital space, it becomes an increasingly important context in which children are exposed to violence. According to the Strategy for the Prevention and Protection of Children from Violence in Serbia for the period 2020-2023, 65% of the youngest respondents from the sample aged 9 and 10, participants (98%) and all from the oldest age group groups (15–17 years old), access the Internet daily from a mobile/smartphone. Children begin to use the Internet at an ever-younger age, in a personalized way without the proper insight of their parents/guardians into their activities, which has important implications in practice. Every third student has had a disturbing experience on the Internet in the last year. Digital peer violence was experienced by 16% of students, while 15% experienced violence in live interaction. A third of the surveyed students suffered and perpetrated digital violence at the same time.¹⁷² Research shows that exposure to violence at an early age can lead to brain development disorders and damage other parts of the nervous system, as well as the endocrine, circulatory, musculoskeletal, reproductive, respiratory, and immune systems, with lifelong consequences. Violence against children can also negatively affect cognitive development and result in underachievement in education and occupation.

The consequences of exposure to violence are reflected in inappropriate behaviour for the child's age. Children are more likely to smoke, abuse alcohol and drugs, and engage in high-risk sexual behaviour. They also have higher rates of anxiety, depression, other mental health problems, and suicide and death because of exposure to violence. Also, there are unwanted pregnancies, induced abortions, gynaecological problems, and sexually transmitted infections, including HIV.

Continuous physical violence can lead to long-term consequences for the victim, such as mental retardation, blindness and cerebral palsy, as well as various neurological

¹⁶⁷ *Ibidem*.

¹⁶⁸ Republic Institute for Social Protection, Children in the Social Protection System in 2020, RZSZ, Belgrade, in 2021

¹⁶⁹ In the Republic of Serbia, there are 6 licensed providers of this service in the following cities: Belgrade, Kragujevac, Pančevo, Niš, Leskovac, Vranje

¹⁷⁰ In the Republic of Serbia, there are only three licensed providers in the territory of Belgrade.

¹⁷¹ Republic Institute for Social Protection, Children in the Social Protection System in 2020, RZSZ, Belgrade, in 2021.

¹⁷² National strategy for the prevention and protection of children from violence for the period from 2020 to 2023, Official Gazette of the RS, No. 80/2020.

disorders such as tics, stuttering, depression, sleep disorders, tendency to self-harm etc. (Račić, 2016: 276). Victims of sexual violence often have visible injuries as physical indicators of the violence they suffered, but emotional and social indicators are also noticeable, such as anger, fear of going to bed, depression, confusion, withdrawal, insomnia, highly controlled behaviour or hyperactivity etc.¹⁷³

The most difficult form of abuse to identify and prove is emotional abuse, but it is also the most widespread and usually occurs together with other forms of abuse. Especially emotional abuse is difficult to identify because children develop emotional intelligence by learning from models and are unable to recognize emotional and psychological abuse, and society's attitude towards this form of violence is often such that it is not recognized or condemned (Milašinović & Andrić, 2021: 63). A form of violence that includes the neglect of the child's basic physical and psychological needs, which can lead to serious consequences for the child's health and development. Neglect occurs due to the failure of parents or guardians to provide adequate living conditions, such as food, shelter and clothing, failure to protect the child from physical harm or danger, as well as failure to provide necessary medical care. Neglect includes abandoning a child.¹⁷⁴

Children who are exposed to various forms of violence are more likely to be violent themselves in the future. Also, their behaviour is maladaptive, they are at risk of dropping out of school, they have difficulty finding and keeping a job, and they are at increased risk for later victimization. Every child who has been victimized has a sense of shame that comes with an experience of this kind. However, the consequences do not end only with embarrassment. Research that has been done indicates that the effects of childhood bullying persist for decades, with long-term changes that can expose us to a greater risk of mental and physical illnesses. Many risk factors occur, such as: attention deficit, hyperactivity, behaviour disorder or other behavioural disorders, alcohol, drug and tobacco consumption, low intelligence and educational achievements, low commitment to school and school failure, unemployment, exposure to family violence. They also have higher rates of anxiety, depression, other mental health problems and suicide, unwanted pregnancies, induced abortions, gynaecological problems, and sexually transmitted infections, including HIV.

Negative experiences in childhood (ACE)¹⁷⁵ show that the negative effects of such experiences are long-term and affect physical and mental health, personality traits, and educational outcomes.

The study shows that, out of every 100 adults in Serbia, about 70 of them repeatedly experienced at least one form of ACE during childhood, and about 20 of them experienced four or more. It was found that negative experiences in childhood are more

¹⁷³ National platform for the prevention of violence involving children. Sexual violence [The National Platform for Prevention of Violence Involving Children. Sexual Violence], <https://cuvamte.gov.rs/sta-je-nasilje/seksualno-nasilje/>

¹⁷⁴ Republic Institute for Social Protection (2017). Children in the social protection system in 2016. [Children in the social security system 2016].

https://childhub.org/sites/default/files/library/attachments/ps_deca_u_sistemu_socijalne_zastite_2016_0.pdf, p.23.

¹⁷⁵ An adverse childhood experience (ACE — Adverse Childhood Experience) is a traumatic life experience that occurs before the age of 18, and which a person remembers when he grows up. These are examples of negative experiences in childhood: physical abuse, emotional abuse, sexual abuse, alcoholism in the family, drug abuse in the family, depression or another mental illness in the family, suicide in the family, a family member in prison, abuse of the mother by a partner, abuse of the father by the partner, separated parents, psychological neglect, physical neglect, violent behaviour, participation in a fight, violence in the community, collective violence.

common among people living in urban areas, people who are not in a partner relationship, people of the male sex, younger people (18-29 years), people with a lower level of education and people who left school.¹⁷⁶

In addition to the internal disorders that a person feels, there are risk factors in relationships with family, friends, intimate partners and peers. Also, there is an inconsistent process of control and discipline between parents and children, a low level of attachment between parents and children, lack of parental interest in children's activities, parental substance abuse or crime, parental depression, low family income, unemployment in the family, socializing with delinquent peers and/or gang membership, leading to frequent fights and assaults, resulting in serious injury and death. Homicides, which often involve weapons such as knives and firearms, are among the top four causes of adolescent death, where boys make up over 80% of victims and perpetrators.

3. PROGRAMMES FOR PREVENTION OF VIOLENCE AGAINST AND AMONG CHILDREN

To achieve the goals of preventing violence against and among young people, a comprehensive approach is necessary that addresses the social determinants of violence, such as income inequality, rapid demographic and social changes, and low levels of social protection. The necessity of preventing violence against and among young people is reflected in a comprehensive approach, which recognizes the strong correlation between rates of violence among young people and economic

Social protection programmes should be designed so that workshops are organized in order to help victims of violence, which, with the professional help of psychologists, pedagogues, lawyers, and other actors of society for the prevention of violence, help victims how to manage anger, train them how to resolve conflict situations, to develop the necessary skills for solving problems, to conduct surveys in schools and present projects to parents and children, in order to learn positive parenting skills, and to introduce children to academic and social skills at an early age, to achieve better cooperation with institutions that do therapeutic treatments with people at high risk and to be involved in preventive programmes, to reduce access to alcohol and drugs, to activate the police in the community, to design a programme to reduce concentrated poverty and improve the urban environment.

The school environment, in addition to education, organized activities, provides many opportunities in terms of creating attitudes and rules for accepting violence, alcohol and drug consumption, carrying weapons on school grounds and other risks, and represents protection from violence and empowers younger people to be responsible citizens. At the beginning of 2019, the "Learn Safely" initiative was launched, which focused specifically on ending violence against children in schools. The activities promoted as part of this initiative complement the current work that countries are doing to implement a technical package based on improving access to education and providing life skills training through schools.

Many efforts are being made to realize that prevention activities against children and among children can improve a wide range of health, educational and social outcomes, leading to potentially significant economic savings. In this light, a handbook, Prevention of

¹⁷⁶ UNICEF, Study of negative experiences in childhood, UNICEF in Serbia, March 2019.

Violence in Schools, was adopted, which talks about schools, education and violence prevention. The handbook provides guidance to school officials and educational authorities on how schools can incorporate violence prevention into their routine activities and through the points of interaction schools provide with children, parents, and other community members.

Preventing abuse and neglect and protecting a child is a complex process, and it is necessary to establish good cooperation between experts from all areas that work with children (health, education, social protection, police, judiciary etc.). The role of coordinator of child protection activities is played by the centre for social work in Serbia which provides the following services:

- Placement services in a shelter where reception is provided for up to six months for children who are victims of domestic violence.
- The drop-in service is available to children who live or work on the street and are considered victims of neglect or abuse and who voluntarily request or agree to the service.
- SOS telephone services for women who have experienced violence is a free telephone SOS line that is operational 24 hours a day, 365 days a year, in order to provide help, consultation and support in a confidential form and with respect for the anonymity of women, i.e. girls under 18 years of age with experience of gender-based violence
- The supported housing service is available for a maximum of one year to victims of human trafficking who have reached the age of 15.

We believe that emphasis should be placed on creating positive experiences in childhood, in terms of assessment and intervention, because they have a protective effect on development and resilience. The recommendation to all professionals to assess positive experiences in children is necessary because positive experiences are ingredients of personal protection against maladaptation. It is also necessary to educate parents, future parents, as well as professionals who work with children and adolescents in the domain of recognizing the presence of protective factors. Acquainting adolescents with protective factors and providing assistance, as well as strengthening these factors, would be of great importance (e.g. raising their awareness of positive experiences in childhood, encouraging them to seek help when they lack such experiences. It is necessary to invest in violence prevention, strengthen services support for families and children facing multiple deprivations, in order to prevent the separation of the child from the family in accordance with the best interests of the child.

4. CRIMINAL REGULATION IN TERMS OF PROTECTION OF CHILDREN AS VICTIMS OF VIOLENCE

The Criminal Code defines what is considered a child, by distinguishing between younger and older minors: a child is a person who has not reached the age of fourteen, while a minor is a person who has reached the age of fourteen but not reached the age of eighteen, while a person under the age of eighteen is a minor the face.¹⁷⁷

Committing criminal acts with elements of violence and violent behaviour, in the sense of criminal law, include those incriminated human behaviours that injure or endanger legally protected goods with force or serious threats (Lazarević, 2002:11-12). Therefore, the tort of violence is the unlawful use of force or threats against another, that is, against things. This limitation is necessary to exclude from the sphere of incrimination those acts

¹⁷⁷ Criminal Code, Article 112, Paragraphs 8-9.

of violence in which the use of force or threats appear, under certain conditions, as permissible, legally founded ways of behaviour. It should be borne in mind that violence is always illegal behaviour, except in cases where illegality is expressly excluded by law. That is why the legislator, quite justifiably, does not include illegality as their special feature in the description of the nature of crimes of violence, because such behaviours are not allowed in principle, they are therefore always illegal. This rule is deviated from in two situations: when it is determined by regulation that some persons are allowed to undertake activities that in substance mean violence and are prescribed by law as criminal acts; if there is some general basis for the exclusion of illegality that is not only applied to crimes of violence but also to other acts. In the first case, illegality is included in the description of the nature of the criminal act, while in the second case, the existence of the conditions provided for by the law in the corresponding general grounds is assessed.

Criminologists at the very mention of violence most often mean violent crime as a specific type of socially dangerous acts. Violent crime refers to those crimes where an attack or threat on the victim is used in order to achieve a certain goal. This type of criminal activity is considered in criminology as one of the basic types of crime that attracts special attention. Violent crime, that is, violent behaviour, is characterized by causing fear in the public because it is traditionally considered that such acts and behaviours cause a feeling of insecurity among citizens. increase with the occurrence of drastic cases of violence that are placed in the public and through the media. Newer forms of violent crime are specific forms of domestic violence, peer violence, violence at sports events and public gatherings, and other crimes with elements of violence. In the modern world, there is a unique opinion that the life and bodily integrity of a person represent a social value, for the preservation of which there is not only an individual, individual, but a general common interest of society (Igrački, 2015).

The provisions of the current criminal legislation regarding violence, abuse and neglect of children in the Republic of Serbia are not sufficiently specified and should be interpreted carefully. These criminal acts fail to define precisely, which leaves the possibility of applying different provisions of the criminal legislation in the execution of similar or the same criminal acts. It is also necessary to mention the provisions of this law which provide for other criminal acts, such as the criminal offense of assault on a helpless person (in the qualified case of assault on a minor),¹⁷⁸ the criminal offense of sexual intercourse with a child ¹⁷⁹ criminal offense of rape (in the qualified case of rape of a minor) ¹⁸⁰ as well as the criminal offense of blasphemy. ¹⁸¹

If the act of rape was carried out using force/coercion against the victim, it must be qualified as the act of committing the criminal offense of rape, while if no coercion was used, and it was committed against a minor, depending on the age of the person, it can be rape against a child (person up to 14 years of age), or the criminal act of neglecting and abusing a minor if it was committed out of self-interest, i.e. if the act of neglect or an act equated to it with a minor blood relative in the direct line or with a minor brother or sister, can be qualified as a criminal act of desecration. Due to insufficient precision of the legislator, it is often the case that the public prosecutor determines the legal qualification

¹⁷⁸ Criminal Code, Article 179.

¹⁷⁹ Criminal Code, Article 180.

¹⁸⁰ Criminal Code, Article 181.

¹⁸¹ Criminal Code, Article 197.

depending on the available evidence, more specifically that although there are indications that a more serious crime was committed, it qualifies as one of the milder ones because there is enough evidence for it. We emphasize that in practice it is often difficult to prove whether force was used in a certain situation, as well as what exactly this coercion must fulfil. Furthermore, the question of theoretical demarcation arises, which leads to problems in practical application, in the case of committing adultery with a minor family member, when it is necessary to distinguish whether it is abuse (sexual abuse by a family member) or desecration, or on child abuse, and for which the most severe punishment is provided in relation to the two previously mentioned criminal acts. For this reason, we are of the opinion that in such situations there is no room for imprecise determination of the nature of the criminal offense, especially if the principle of protection of the best interests of the child is accepted, i.e. in specific cases of minors.

Domestic violence is defined as the use of violence, threats to attack life or body, insolent or reckless behaviour that endangers the peace, physical integrity, or mental state of a family member.¹⁸² In addition, a criminal sanction is provided for anyone who violates the measures of protection against domestic violence adopted by the court.¹⁸³ The criminal act of abuse of a minor can be committed by a parent, adoptive parent, guardian or other person if they perform actions that abuse a minor or force them to work excessively or work that does not correspond to the age of the minor or to beg, or out of self-interest leads them to perform other actions that are harmful to his development.¹⁸⁴

The criminal act of neglecting a minor can be committed by a parent, adoptive parent, guardian or other person by grossly neglecting their duty of care and education by abandoning a minor they are required to care for.¹⁸⁵ The Law on Special Measures for the Prevention of Criminal Offenses against Sexual Freedom against Minors (the so-called *Marija's Law*) provides that criminal prosecution and the execution of the sentence do not become statute-barred for criminal offenses against sexual freedom against minors, specifically for the criminal offense of rape; blasphemy over a helpless person; sex with a child; abuse of position; illicit sexual acts; pimping and facilitating sexual intercourse; mediation in prostitution; displaying, obtaining and possessing pornographic material and exploiting a minor for pornography; inducing a minor to attend sexual acts; using a computer network or communication by other technical means to commit criminal acts against sexual freedom against a minor.¹⁸⁶

In relation to the issue of protecting the best interests of the child in criminal proceedings, the research of the Centre for the Rights of the Child from 2015 in Serbia is significant, the results of which indicated that the court, as well as other authorities acting in criminal proceedings, very rarely refer to the principle of the best interests of the child. The research is based on data obtained through anonymous surveys completed by judges and prosecutors of Basic Courts and the High Court in Belgrade, and from the processed cases it was not possible to conclude whether the court considered the best interests of the child during the proceedings. The research showed that in a certain number of cases, other participants in the procedure (Centres for social work, experts etc.) are called upon to protect the best interests of the child in order to prevent secondary victimization and

¹⁸² Criminal Code, Article 194, Paragraph 1.

¹⁸³ Criminal Code, Article 194, Paragraph 5.

¹⁸⁴ Criminal Code, Article 193, Paragraph 2.

¹⁸⁵ Criminal Code, Article 193, Paragraph 1.

¹⁸⁶ Law on special measures to prevent the commission of crimes against sexual freedom against minors ("Official Gazette of RS", no. 32/2013), articles 3 and 5.

additional traumatization of minors (and only when hearing the child or testifying in criminal proceedings), and not for the purpose of primary protection of the best interests of the child in the specific proceedings.¹⁸⁷

As the Convention on the Rights of the Child was adopted by the United Nations General Assembly in 1989, from then until today, the escalation of domestic violence, the recognition that children are also victims of domestic violence, even when the violence is not directed directly at them, led to the need closer regulation of the position of the child as an indirect victim of such violence. The indicator that domestic violence most often occurs in the presence of children is a survey of data on domestic violence in the practice of courts in the Republic of Serbia, which shows that the largest number of perpetrators (46%) have two or more children, with one child being 28% of perpetrators. , and 26% of the perpetrators are without children, while 28% of the perpetrators are with one child, while the situation is similar in terms of victims, so the lowest percentage of victims is without children (11.5%), and the largest number has one child (42.6%) or two or more children (39%). The need to protect all family members from domestic violence, especially vulnerable categories, women, and children, led to the adoption of the Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).¹⁸⁸

The Convention on the Rights of the Child¹⁸⁹ proclaims that a child, with the aim of complete and harmonious personality development, should grow up in a family environment, in an atmosphere of happiness, love and understanding. In this way, already in the preamble of the Convention, it proclaims that in order to achieve set goal, it is necessary to provide protection to children from any form of behaviour in the family that leads to disturbances in the family sphere, and which results in the lack of one of the mentioned elements of child development. The goal is to provide all measures to prevent and ensure the protection of the child from all forms of violence in the family, but also to institutions and the wider social environment, i.e. to protect the child from all forms of physical and mental violence, abuse and neglect, all forms of sexual exploitation and sexual abuse, abduction and trafficking of children as well as all other forms of exploitation harmful to any kind of child's well-being, inhumane and humiliating actions and punishment. The Convention comprehensively mandates that the contracting states take measures to ensure that the child does not become a direct victim of any violent and degrading and inhumane actions within and outside the family. However, the Convention does not explicitly refer to the protection of children as indirect victims of domestic violence in any provision. On the contrary, it does so implicitly, in the preamble, where it is indicated that within the set objective of the Convention, all measures that states are obliged to implement are aimed at realizing the child's comprehensive right to live in a harmonious family environment. Also, the Convention on the Rights of the Child guarantees the basic rights of children to protect them from all forms of violence, discrimination, and neglect.

¹⁸⁷ How to achieve justice tailored to the child - Protection of child victims in criminal proceedings and the state of practice in the Republic of Serbia, Centre for Children's Rights, 2015, 29-35.

¹⁸⁸ Council of Europe Convention on preventing and combating violence against women and domestic violence, <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatyid=210>.

¹⁸⁹ Law on Ratification of the United Nations Convention on the Rights of the Child "Official Gazette of the SFRY" - International Treaties, No. 15/90 and "Official Gazette of the FRY" - International Treaties, No. 4/96 and 2/97.

The National Strategy for the Improvement of the Position of Victims and Witnesses of Criminal Crimes in the Republic of Serbia for the Period from 2020 to 2025 with the Accompanying Action Plan for the Period from 2020 to 2025 is a strategic document that provides for the harmonization of legislation with the European Union Directive on the establishment of minimum standards on rights, support and protection of victims of crime (Directive 2012/29/EU) and the establishment of the National Network for assistance and support to victims and witnesses of criminal acts. The Strategy for the prevention and suppression of human trafficking, especially women and children, and the protection of victims for the period from 2017 to 2022, as well as the Strategy for the Development of Information Security in the Republic of Serbia for the period from 2017 to 2020, are also important. The strategic framework includes the Education Development Strategy in the Republic of Serbia until 2030 and the accompanying Action Plan for the period from 2021 to 2023. Then, the National Strategy for the Prevention and Protection of Children from Violence for the period from 2020 to 2023 with the Action Plan for 2020-2021. treats the issue of violence against children in a comprehensive, multisectoral manner.

National strategy for the prevention and protection of children from violence for the period from 2020 to 2023,¹⁹⁰ with the Action Plan for 2020-2021. Treats the issue of violence against children in a comprehensive, multisectoral manner. With this document, an important step was taken to improve the protection of children from violence in Serbia. Different types of violence are defined, and the environments in which violence takes place are also recognized. The strategy emphasizes the importance of special protection of children from sensitive groups who are often exposed to multiple forms of violence, and recognizes children in street situations, refugee children, migrant children, LGBTI children, Roma children as particularly vulnerable groups of children, among others.¹⁹¹ In order to achieve the systemic improvement of education in the Republic of Serbia, the Strategy for the Development of Education and Upbringing in the Republic of Serbia until 2030 and the accompanying Action Plan for the period from 2021 to 2023 were adopted.¹⁹² The vision of the development of education and upbringing, defined by the Strategy, is to provide quality education to achieve the full potential of every child, youth, and adult in the Republic of Serbia. The mission of education in the coming period is to provide high quality education that serves the development of the individual, and thus the entire society.

Penal policy is insufficient to reduce the commission of criminal acts, and that it is necessary to improve the system of preventive action, both general prevention and to persons who have committed a specific criminal offense in order to reduce recidivism. In this regard, many international legal documents dealing with the issue of domestic violence and violence against women recognize the need to work with perpetrators of domestic violence precisely for the reason of reducing restitution, as a necessary way to reduce the commission of this crime. The protection measures provided for by this law are also of great importance, the aim of which is to protect the physical integrity, mental health, and tranquillity of the victim, but also to prevent the repetition of violence by the abuser. They are determined against a family member who commits violence and has the purpose of temporarily prohibiting or limiting the maintenance of personal relations with the victim,

¹⁹⁰ National Strategy for the Prevention and Protection of Children from Violence for the Period from 2020 to 2023, Official Gazette of the RS, No. 80/2020.

¹⁹¹ Centre for Children's Rights, CPD Info - Bulletin of the Center for Children's Rights, April - June 2020.

¹⁹² Available at: <https://www.mpn.gov.rs/strategija-razvoja-obrazovanja-i-vaspitanja-u-republici-srbiji-do-2030-godine/>

and can be the issuance of an order for eviction from the family apartment or house, regardless of the right of ownership or lease of real estate, the issuance of an order for moving into a family apartment or a house, regardless of the right of ownership or real estate lease, prohibition of approaching a family member at a certain distance, prohibition of access to the area around the family member's place of residence or work, prohibition of further harassment of a family member.¹⁹³ The Convention on the Rights of the Child stipulates that in all activities concerning children, regardless of which institution carries them out, the best interest of the child is of primary importance, as well as that the child will be provided with such protection and care as is necessary for his well-being, taking into account the rights and the obligations of his parents and other persons who are responsible for that child.¹⁹⁴

In addition to the Convention on the Rights of the Child, Serbia respects many other international documents and conventions: - Convention against Torture and Other Cruel, Inhuman or Degrading Punishments or Procedures (1984); Convention against Transnational Organized Crime (2000); Protocol for the Prevention, Suppression and Punishment of Trafficking in Human Beings, Especially Women and Children (2000); Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse (Lanzarote Convention) (2007/2010); Convention on preventing and combating violence against women and domestic violence (Istanbul Convention); a Convention on high-tech crime (Budapest Convention) of the Council of Europe (2001); Convention of the International Labor Organization (ILO) no. 138 (1973); ILO Convention no. 182 on the worst forms of child labour (1999); - European Convention on the realization of children's rights (1996, in force since 2000); - EU strategy on children's rights; EU Guidelines for the Promotion and Protection of Children's Rights (2007); EU Agenda for Children's Rights (2011).

UNICEF proclaims that all children have the right to protection from violence, exploitation, and abuse. Children in Europe, as well as around the world, should enjoy the same rights and live without discrimination and intimidation of any kind. The EU strategy on children's rights, adopted in 2021, covers six thematic areas: children's participation in political and democratic society; socio-economic inclusion, health care and education; preventing violence against children and ensuring the protection of children; justice tailored to the child; digital and information society and global dimension.¹⁹⁵ The strategy is fully aligned with the UN Convention on the Rights of the Child, the EU Charter of Fundamental Rights, as well as the UN Sustainable Development Goals (SDG Agenda 2030).¹⁹⁶

The Convention on the Rights of the Child stipulates the obligation to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in care with parents, legal guardians or any other person entrusted with the care of the child.¹⁹⁷ The mentioned measures should include effective procedures for establishing social programmes to ensure

¹⁹³ Family Law, Article 198.

¹⁹⁴ Law on Ratification of the UN Convention on the Rights of the Child, Article 3, Paragraphs 1-2.

¹⁹⁵ European Commission, EU Strategy on the Rights of the Child, Brussels, 2021., https://ec.europa.eu/info/sites/default/files/childrights_annex1_2021_4_digital_0.pdf

¹⁹⁶ European Commission, Annex to the EU Strategy on the Rights of the Child, EU and International Frameworks, https://ec.europa.eu/info/sites/default/files/ds0821040enn_002.pdf

¹⁹⁷ Convention on the Rights of the Child, Article 19, Paragraph 1.

the support that is necessary for the child and those entrusted with the care of the child, as well as other forms of prevention, determination, reporting, forwarding, investigation, treatment and monitoring of the cases of child abuse mentioned here. And, if necessary, addressing the court.¹⁹⁸

Although many documents have been adopted to prevent violence, abuse and neglect of children, the research data are worrying. Youth violence leads to significant increases in health, welfare, and criminal justice costs, reduces productivity, lowers property values in areas where it occurs, and generally undermines the fabric of society.

5. CONCLUSION

In general, children are classified as particularly vulnerable victims. Emotional immaturity, the degree of mental and intellectual development, leads to the conclusion that the consequences of domestic violence experienced by a child especially affect the child because they affect his further psychophysical development. Research shows that children who witness domestic violence can learn from it that violence is an adequate way of resolving conflicts, that violence is part of family relationships, that the abuser in an intimate partner relationship often goes unpunished and that violence is a way to control people. It is of vital importance to respond in a timely and adequate manner to every form of violence, even to those behaviours that are not domestic violence in themselves, but are of such a quality that, based on the circumstances in which they occur, it can be concluded that there is the danger of domestic violence, in any of its forms. Research has shown that exposure to family violence is the best predictor of transmission of violence through generations. Children exposed to domestic violence suffer abuse more often than children who are not in that situation; the risk of physical and sexual abuse of children increases dramatically from 30% to over 60% for those who have witnessed domestic violence. Mothers who are beaten by their partners are twice as likely to abuse their children, and fathers who often beat their wives are more likely to beat their children as well. Witnessing domestic violence has long been an unaddressed issue, although a growing body of research indicates that it affects children in various domains, including their physical or biological functioning, behaviour, emotions, cognitive development, and social adjustment.

Practice has shown that children who have experienced some form of violence accept violence as a pattern of behaviour, and in later years, apply that pattern of behaviour. Recognizing domestic violence as a constantly present problem in inter-partner relations, marriage, or extramarital union, led to the understanding that in addition to violence directed directly between partners, the consequences and effects of domestic violence also affect children who witness violence. The problem of domestic violence in judicial practice is that children, as indirect victims of domestic violence, are invisible from the point of view of criminal law protection, in situations when the violence is not directed towards them, which is most often the case. The intention of the perpetrator, usually a man, is directed towards the victim, usually a woman. There are opinions that domestic violence is a pattern, in which the abuser directs his violent behaviour towards a specific target, his intimate partner, in contrast to violent crime in general, so research shows that the majority of abusers (80%) purposefully limit their aggressive behaviour to the use of violence in within the framework of the family and towards an intimate partner.

Protecting children from violence, abuse and neglect is an extremely difficult process. For this reason, it is necessary to establish good cooperation between experts from

¹⁹⁸ Convention on the Rights of the Child, Article 19, Paragraph 2.

all areas that work with children (health, education, social protection, police, justice etc.). The main reason for adopting the General Protocol, which refers to all children whose well-being is at risk, brings into focus the fact that it must not exist discrimination, family status, ethnic origin and any other social or individual characteristics of the child (race, colour, gender, language, religion, nationality, mental, physical or other specific characteristics of the child and his family). Strategies to prevent violence against children should be aimed at all levels of prevention — universal (which refers to the general population), selective (which refers to at-risk populations) before violence occurs, as well as indicated prevention (which prevents continuation and consequences of violence) after negative experiences occur. The Global Status Report on Violence Prevention should be implicitly viewed, which suggests the following ways to prevent violence: developing safe, stable and nurturing relationships between children and their parents and guardians, developing life skills in children and adolescents, reducing the availability and harmful use of alcohol, reducing access to guns and knives, promoting gender equality to prevent violence against women, changing cultural and social norms that support violence, victim identification programmes and their care and support.

The Convention on the Rights of the Child, which was ratified in 1990 by Serbia, and thus assumed the obligation to apply measures to prevent violence against children, as well as to provide protection to children from all forms of violence in the family, institutions, and wider social environment. The articles of the Convention on the Rights of the Child cover the protection of children from: Physical and mental violence, exploitation and abuse, all forms of sexual exploitation and abuse, kidnapping, trafficking of children, all other forms of exploitation that harm the well-being of the child, Inhuman and degrading treatment and punishment. The Convention also states the state's obligation to provide support measures for the physical and psychological recovery of a child who is a victim of violence and for his or her reintegration into society.

Recent evidence also suggests that multiple victimization is common among youth, and that youth who are exposed to violence in one context or setting (e.g. school, neighbourhood, family) are more likely to experience exposure in other settings as well. Moreover, there is evidence that the cumulative effects of exposure to violence and victimization are more harmful to young people than experiencing a single type of violence. Namely, these findings showed that the cumulative effects of exposure to school, household, and neighbourhood violence lead to increased anxiety, depression, aggressive fantasies, delinquency, and aggression, and we believe that it is necessary in the coming period to speed up the process of adopting the planned Law on the Rights of the Child in Serbia, the adoption of which is essential for linking and further directing strategic directions in the field of protection of children's rights towards the provisions of the UN Convention on the Rights of the Child.

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