

ISSN 1820-4589

THE CULTURE OF POLIS, vol. XVII (2020), special edition

a journal for nurturing democratic political culture

THE CULTURE OF POLIS
a journal for nurturing democratic political culture

Publishers: Culture – Polis Novi Sad, www.kpolisa.com;
Institute of European studies Belgrade, www.ies.rs

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Printing: NS Mala knjiga +

Circulation: 400.

UDC 316.334.56:008

CIP – Cataloging in publication

Library of Matica srpska, Novi Sad

3

КУЛТУРА полиса : часопис за неговање демократске
политичке културе / главни и одговорни уредник Љубиша
Деспотовић. – Год. 1, бр. 1 (2004) – . – Нови Сад :
Удружење за политичке науке СЦГ Огранак у Новом Саду;
Stylos, 2004.-. - 21 cm

Повремено
ISSN 1820-4589

COBISS.SR-ID 199568391

PEDOPHILIA

Causes and consequences

Edited by:

Željko Đ. Bjelajac

Aleksandar M. Filipović

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FOREWORD

From a perspective of what the history of interpersonal relationships teaches us, it is not difficult to conclude that many societies experienced immense degrees of atrocities, which were the product of “alienation between men”. This sociopathological symptom became particularly expressed in the previous years, and the “modern alienation” began a specific transformation, so it is different from one from times before in form and volume. Today the alienation, despite civilization achievements, human rights and freedoms and democracy that “feeds” us immoderately, became much more intensive and abstract, and it latently transformed into the dominant social model of behavior.

Scenes of sexual molestation of children, particularly on the Internet, surpassed the critical point, and spread with very fast and dynamic tempo, partly because the technological platforms did not show usefulness that keeps pace with the problem, as they simply could not find an answer to the question: “What motivates people to sexual molestation of children?”

Sexual molestation of children is one of the greatest atrocities because it relates to causing hard psychophysical consequences to this vulnerable social group. Children as the most endangered, innocent victims of this crime, live through terrible traumas, that are a result of physical and emotional abuse and neglect. Naturally, in the given context, various forms of exploitation of the juveniles shall be mentioned, such as child pornography or child trafficking for sexual exploitation... It is nonsensical that parents, people who are close to them, teachers, meaning those whose duty is the care and proper development of the children often become mapped as perpetrators or accomplices in this inhuman crime. Although violence against children is a frequent phenomenon, the level of reporting this crime is low, so the children as victims of this crime often remain invisible, not only in the domain of statistical reports and analytics of government agencies but in evaluating of efficiency estimations of current initiatives and strategies for combatting this sort of crime. What was said relates to the persons who are perpetrators of this crime – whom we call pedophiles, which makes phenomenology and etiology quite delicate.

Pedophilia is a form of paraphilias, characterized by constant and intensive sexual fantasies, impulses and behavior that relate to children (usually under 13 years of age). This symptomatology is more expressed percentage-wise in males than in females, although it is observed that this deviancy is much more perfidious and discrete in females. Pedophilia is present everywhere and can be found in all social classes, regardless of wealth, education, or religion. Some pedophiles are attracted only by boys, other only by girls, and there is a third category

of these persons who are attracted to both genders. Some pedophiles show a subtle affinity to certain physical attributes (age, build, face, hair, voice, etc.), while the others are less “picky”. These people, with personality structure disorder, are usually known to a child. They can be members of an immediate or wider family or persons with authority, like teachers and coaches. Some of them show incestuous tendencies and are attracted by children from their own families. This is a generally unspoken topic. Many family members avoid bringing that to the surface and try to handle the problem themselves because otherwise they will face public judgment and carry a social stigma. In that case, child-victim is exposed to additional risks for mental and physical health.

Despite the statistics, the prevalence of pedophilia is debatable, as it is instinctively measured by the total number of registered pedophiles in the general population. Although sporadic pedophile impulses are more frequent than it is perceived, the long-term fixations and repetition of sexual fantasies that include children of that age are necessary for making a diagnosis by physicians. Naturally, estimations of physicians are made concerning special criteria, including being unable to control sexual impulses toward children, and the absence of proper functioning in business and family environment, or in interactions with friends.

With a certain category of pedophiles, deviancy becomes a part of their personality. They became very susceptible and dedicated to it, and live by that. They are susceptible to get predatory attributes, and they are ready to use force or coercion for sexual exploitation of children. Many of them have antisocial personality disorder comorbid with some mental disorders. In time they can develop dependence from psychoactive substances, alcohol, and drugs. They were often sexually molested as children and come from dysfunctional families. On the other side, there is a group of pedophiles who are mildly aware of their auto-destructive sexual impulse, which makes them feel insecurity, anxiety, shame, and guilt. From all that was said, we can see all the complexity of this problem, which is very significant for the treatment perspective of the affected.

The treatment is usually long-term and uncertain psychotherapy, with medications that affect sexual impulse and testosterone levels. The effects of treatment are limited. The best results are achieved when the individuals apply voluntarily before they commit the incriminated offense. The treatment demanded after the arrest can be less efficient. Albeit, some pedophiles in penitentiary conditions can create a habit of abstaining from pedophilic activities with a real chance to be reintegrated in society by continual surveillance and long-term treatment (which includes medication).

In that sense, before you are several scientific papers, which do not advocate simple concepts and solutions of this socio-pathological phenomenon, both in essence and in content. Spontaneous incarceration of pedophiles in prisons or similar institutions, even for a long time, will not manage to change their pedo-

philiac habits, affinities, desires, and fantasies. Therefore a multidisciplinary approach is necessary, which potentiates prevention of pedophilia with finding mechanisms for the dedicated and useful treatment of the affected persons, which would relieve the community and the victims from fear, created by this frustrating offense, and then would give answers to this endured negative event with planned protection resources.

Edited by:

dr Željko Bjelajac, full professor

dr Aleksandar M. Filipović, assistant professor

PHENOMENOLOGICAL AND ETIOLOGICAL ATTRIBUTES OF PEDOPHILIA

Summary: Paraphilias include sexual arousal to uncommon objects, situations, and/or target groups (i.e. children, animals, corpses). Certain sexual activities that might look odd to another person or a health worker are not paraphiliac disorder just because they are odd. Individuals can have paraphiliac interests without meeting the criteria for paraphiliac disorder. Dozens of paraphilias have been described, and some of them are only marginally represented. There can be more than one paraphiliac disorder in unhealthy persons (antisocial, sadistic, narcissistic, etc) which increases the difficulty of treatment procedures. Certain paraphilias, such as pedophilia, are specific incriminating acts which most often result in jail sentences, stigmatization of perpetrators and their victims, as well as lifetime registration as a sexual offender. Pedophilia, alternatively marked as the pedophiliac disorder is a psychosexual defect most often seen in adults, who are obsessed with sexual fantasies or efforts to enter sexual relations with children of the same or of the opposite sex. It is a very complex disorder, which demands sociological, criminological, and particularly psychopathological approaches that would systematically research symptoms, nature, and factors (hereditary, organic, and social) of pathological states and processes in the mental life of these persons.

Key words: pedophilia, causes of pedophilia, prevalence, Internet pedophilia, traumas and needs, a perspective of treatment

Introduction

The term paraphilia refers to sexual pleasure and passion that occur due to fantasizing and unusual sexual behavior. Also, not all forms of attraction are paraphilias – they become it only when it is the only way of achieving sexual satisfaction. In persons who exhibit such behavior, obsessive sexual needs, and fantasies that cause significant hindrance or inadequacies in social, work, living

* zdjbjelajac@gmail.com

surroundings are dominating. Epidemiology of paraphilias is such that regardless of the small prevalence of paraphilias in the general population, their frequent behavior (mobility and inventiveness) induces significant presence, which caused that a significant percentage of the population was traumatized by persons suffering from paraphilias.

There are dozens of expert terms for pathological sexual anomalies or paraphilia¹, and among them, dominant are exhibitionism (exposure of genitals); fetishism (use of inanimate objects), frotteurism (touching or rubbing persons without consent); pedophilia (attraction to prepubescent children); sexual masochism (humiliation or suffering); transvestite fetishism (cross-dressing), voyeurism (watching sexual activities of others); zoophilia (sexual attraction to animals)... Other paraphilias, which do not meet the criteria for the former groups in the opinion of some authors include following paraphilias as well: necrophilia (pleasure from watching the corpses or their parts, up to sexual relations with corpses), coprophilia (sexual fetish that causes those who suffer from it to experience pleasure when coming in contact with excrement), klismaphilia (sexual arousal achieved by enemas), urophilia (sexual arousal achieved by urine); nymphomania (disorder tied to women and hyperactive libido and obsessive desire for sex), emetophilia (sexual arousal related to vomiting – either watching someone who vomits, or achieving arousal when vomiting or vomiting over partner's body); telephone scatology (sexual pleasure achieved by indecent phone calls)...

Among paraphilias, pedophilia is the most prevalent phenomenon and as such, it is rooted in all classes of society. According to available epidemiological data, 10% to 20% of children in the general population were molested before their 18th birthday, and 20% of adult women were victims of persons who prefer exhibitionism and voyeurism. The term “pedophile” itself is used in everyday communication in a very wide array of meanings, and very often is used to qualify individuals as “sexual molesters of children”. Nonetheless, expert public stresses the fact that these are two separate categories that can overlap in a certain measure. In the given context, there are sexual molesters of children who meet the criteria to be clinically diagnosed as pedophiles, sexual molesters of children who are not pedophiles, and pedophiles who have affinities toward children but who do not sexually molest children.

If we put this complex phenomenon in historical context, then we can see that one of the main achievements in the last 25 years was increasing awareness of the prevalence and harmful psychophysical consequences of sexual molesta-

¹ Agoraphilia – pleasure from sex in public, algophilia – pleasure from pain, gerontophilia – affinity to old persons, lacryphilia – pleasure in partner's tears, misophilia – sexual impulse to unclean persons, nanophilia – attraction to short and small partners, altocalciphilia – attraction to high heels, amococlytica – attraction to shaved genitals, amaurophilia – blindfolded sex, acuculphilia – attraction to circumcised, alorgasmia – thinking of someone to achieve orgasm, amomaxia – sexual pleasure in a car, coprolalia – pleasure from coarse language, mixoscopia – pleasure from watching partner in sexual act with another person, vincilagnia – pleasure in bondage...

tion of children. This implies a permanent effort to subdue sexual impulses toward children and change the psychopathic personality structure² of pedophiles with a certainty of their medical and social treatment.

Term and characteristics of pedophilia

According to the international statistical classification of diseases and similar health problems (Chapter 5 – Mental and behavioral disorders - F00-F99; Personality and behavior disorders of adults - F60-F69), pedophilia (F65.4) is defined as “sexual affinity toward children (boys and/or girls), usually in prepubescent or early pubescent”.³ According to the Manual for diagnostics and statistics of mental disorders, fifth edition (DSM-5), to diagnose the pedophile disorder, the following criteria must be met:⁴

- Repeating, intensive sexual fantasies, impulses, and behavior that include sexual activity with a prepubescent child (13 years old or younger) during at least six months;
- These sexual impulses cause or have caused significant troubles and deterioration in social, professional or other important areas of functioning;
- A person is at least 16 years old and is at least five years older than the child in the first category. Still, this does not include individuals in late adolescence who are involved in regular sexual relations with 12 or 13 years of age.

In former experiences of classification of behavior and establishing of certain types of pedophiles, the presence of two basic types was noticed:

- Situational/accidental pedophile. These are persons whose sexual affinities are not limited exclusively to minors and who have no particular affinity to the age of the victim. They can often establish relatively normal relations with their partner/partners, and minors are their spontaneous victims whose vulnerability and exposure is used for molestation;
- Preferential pedophile. This kind of individual generally has a larger number of victims and show attributes of life habits that tie them with searching for objects of their desires and points them to places where they have access and where minors usually spend time.

² Sigmund Freud gave one of the first definitions of personality. According to psychoanalysis, personality is a complex structural and dynamic system which envelops many subsystems or instances. Therefore psychoanalysis is oriented to specific in-depth analysis of unconscious layers of personality, as well as studying of development dynamics, including in addition to normal, pathological consequences of disharmonic development. Jung added elements of the collective unconscious which enter a personality structure. See: Иван Видановић, *Речник социјалног рада*, Удружење стручних радника социјалне заштите Србије; Друштво социјалних радника Србије; Асоцијација центра за социјални рад Србије; Унија Студената социјалног рада, Београд, 2006.

³ *International Statistical Classification of Diseases and Related Health Problems 10th Revision (ICD-10)-WHO Version for 2016*, <https://icd.who.int/browse10/2016/en#/F65.4/13/02/2020>.

⁴ *American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*, DC: American Psychiatric Association, Washington, 2013.

Regarding activities that pedophiles point toward children, there is a wide array, from pedophiles who never commit a crime as a result of their pedophile activities, and everything remains at the level of perception or satisfaction with the Internet addresses and pedophile literature, to pedophiles who act on their pedophile tendencies. These acts essentially are:⁵

- Watching of nude children;
- Stripping in front of children;
- Stripping of children;
- Masturbation in front of children;
- Touching of child's genitals or asking a child to touch genitals of that person;
- Asking for oral sex to children or asking children to orally satisfy them;
- Some of them are satisfied only with touching or caressing children and their intimate parts, or with oral sex, while vaginal or anal penetration is a rarer form of realization of pedophile activities.

Depending on which developmental stage of children attracts them, there is a clear classification of pedophiles. Those attracted to prepubescent children are called hebephiles. Those who are attracted by pubescent children are called ephebophiles. It is implied that circumstances of every individual case are specific and not all attributes are applicable in all situations, and certain elements that might be considered as general for different kinds of pedophiles:

- They are usually males aged between 30 and 50;
- They mostly attack and/or show sexual arousal to victims aged between 8 and 13;
- In case of sexual molestation that is more rarely committed by women, the age of victims can vary, and victims can be younger than five or be adolescents;
- Pedophilia as affinity to male children is chronic, while affinities towards female children can be lost over time;
- A presence of very low self-esteem is noticeable, as well as lack of tolerance to stressful situations, withdrawal with difficulties in interpersonal relations and feeling insecure with adult women;
- Experiences tell that many of them did not have sexual relations with adult women at all;
- Some pedophiles are married and have children, and are esteemed members of the community;
- They permanently seek contact with minors and show persistence and readiness to patiently “build a relationship”;
- There were previous traumatic experiences in some individuals mostly tied to molestation when they were children;
- They very often abstain from violence although there were sexist and cruel elements recorded. Their way of action in principle is based on the approach and establishing of trusting relationship with a molestation victim who is a minor;
- They try to minimize the importance of their actions and mental and bodily harm caused to the victim;
- They generally have a significant lack of empathy.

⁵ Željko Bjelajac, “Cyber Crime and Internet Pedophilia”, *Western Balkans From Stabilization to Integration*, Institute of International Politics and Economics, Belgrade, 2011, pp. 437–456.

Pedophilia does not always appear isolated. Males with pedophilic disorder often have a significant history of psychiatric disorders, which in extreme cases can shadow the discovery of etiology. Whether it is a secondary appearance that relates to the emotional and social consequences of this affinity or they are true comorbidities, it is still difficult to prove.⁶ Therefore, from a clinical standpoint, there are persons with the pedophilic disorder who limit their obsession for sexual contact with children exclusively to fantasies, in contrast to the category of pedophiles whose behavior inexorably leads to committing a crime due to inability to abstain and the inability of self-control. The fantasy itself does not have the potential to satisfy their exaggerated sexual desire. In the given context, there is a third category of perpetrators of crimes against children, and which were not an initial product of pedophilia. These are surrogate types of sexual offenders and they can be diagnosed within the category of impulse control disorder, which represents the lack of sexual affinity towards children, but an act of Child Sexual Abuse was committed - CSA (DSM-5: 312.89; ICD-10: 63.8).

Case overview - Pedophilia⁷

A man in his seventies, retired, widower, who lives in a house with his daughter, her husband and his two granddaughters, aged 5 and 9, on several occasions came to kids' room when they played with a girl from the neighborhood, aged 9, when there were no other adults in the home. He tickled the bodies of the girls which amused the girls. On one occasion he went to the restroom and returned to the kids' room with his pants lowered and asked the girls to touch his genitals. The girls were surprised and refused to do that which angered him. The older girl reported the event to her mother, who asked for help from social services, and criminal proceedings were later started against him. During the interrogation it was learned that he touched his daughter's body when she bathed, asked her to look at him, and touch his body and often masturbated, all of which happened when she was aged between 10 and 12. He forbade her from telling her mother, which she never dared, so the mother never learned what was happening between them. He rarely had sexual relations with his wife, they often quarreled, and the wife was spending a lot of time outside of their home. She mostly worked and provided for the family while he was partial to alcohol, often verbally aggressive, and they were near divorce several times because of disagreements.

⁶ Gilian Tenbergen, Matthias Wittfoth, Helge Frieling, Jorge Ponseti, Martin Walter, Henrik Walter, Klaus M. Beier, Boris Schiffer, Tillmann H. C. Kruger, "The Neurobiology and Psychology of Pedophilia: Recent Advances and Challenges", *Front Hum Neurosci.* 2015; 9: 344. Published online 2015 Jun 24, <https://doi.org/10.3389/fnhum.2015.00344/15/02/2020>.

⁷ Lana Mužinić, „Parafilije“, <https://www.cybermed.hr/clanci/parafilije/24/02/2020>.

Due to the specificity of the phenomenon, it is impossible to get relevant statistical data on its distribution. In an important study from 1989, *John Briere and Marsha Runtz* sampled 193 college students and discovered that 9% reported that they had some sexual fantasies about prepubescent children, 5% admitted they at least once masturbated to such fantasies, and 7% stated at least some probability of seeking sexual contact with a child if they were certain they will avoid detection and punishment.⁸ *Kathy Smiljanich and John Briere* sampled 279 pupils and got a similar result. They also discovered that there is a significant difference in gender of pedophiles: approximately 7 out of 8 pedophiles are males.⁹ In very wide research, *Kathryn Becker-Blease, Daniel Friend, and Jennifer J. Freyd* sampled 531 male students and discovered that 7% admitted they have a sexual affinity toward children and 3% said they would think about sexual contact with a child if they were certain no one would learn about it.¹⁰ *Nathaniel McCognathy and Michael C. Seto*, in their analyses, estimate that around 5% of men are attracted by prepubescent children in a certain measure.¹¹ Because the majority of sexual assaults are happening in the “dark field” (approximately to every reported case of child sexual abuse another five is not reported),¹² it is difficult to statistically determine the real magnitude of this disorder, mostly because of general availability of virtual networks. Earlier, pedophiles had a “narrow” field of maneuver. They would go to kids’ playgrounds, schoolyards and had usual methods of operation that included watching, following, asking questions, giving candies and other sweets, etc. Such an approach implied exposure to certain risks.¹³ The Internet now provides pedophiles uninterrupted and carefree following of children, involvement in their activities, play, and fun. Simultaneously, the Internet provides an exit, meaning a possibility to escape to anonymity when they sense the danger of discovery.

Pedophilia is a serious disorder of sexual preference which is difficult to treat, as it requires the application of several types of psychiatric intervention

⁸ John Briere and Marsha Runtz, “University Males’ Sexual Interest in Children: Predicting Potential Indices of ‘Pedophilia’ in a Non-Forensic Sample”, *Child Abuse and Neglect*, 13 (1), 1989, pp. 65–75.

⁹ Kathy Smiljanich and John Briere, “Self-reported Sexual Interest in Children: Sex Differences and Psychosocial Correlates in a University Sample”, *Violence and Victims*, 11(1), 1996, pp. 39-50.

¹⁰ Kathryn Becker-Blease, Daniel Friend, and Jennifer J. Freyd, “Child Sex Abuse Perpetrators Among Male University Students”, *Presentation at 22nd Annual Meeting of the International Society for Traumatic Stress Studies*, Hollywood; CA. November 4-7, 2006.

¹¹ Nathaniel McCognathy, “Pedophilia: A Report of the Evidence”, *Australian and New Zealand Journal of Psychiatry*, 32, 1998, pp. 252-265. in: Michael C. Seto, “Pedophilia”, *Annual Review of Clinical Psychology*, 5, 2009, pp. 391-407.

¹² Ryan C. W. Hall, Richard. C. W. Hall, “A profile of pedophilia: definition, characteristics of offenders, recidivism, treatment outcomes, and forensic issues”, *Mayo Clin. Proc.* 82(4), April 2007, pp. 457–471. in: Michael C. Seto, “Pedophilia”, *Annual Review of Clinical Psychology*, 5, 2009, pp. 391-407.

¹³ Željko Bjelajac, *Bezbednosna kultura -Umeće življenja*, Pravni fakultet za privredu i pravosuđe u Novom Sadu, Novi Sad, 2017, pp. 343-344.

and a combination of several therapeutic techniques. Psychologists and psychiatrists still try to find a working cure for pedophilia to divert sexual attraction pedophiles feel towards children to adults. On the other side, the experts came closer to the position that pedophilia is a kind of sexual orientation – innate characteristic very resistant to changes. The problem is obviously made more complex by causes of the disorder itself because, despite the existence of evidence that pedophilia is generated in destructive families, it remains unclear whether these are innate mental anomalies or forms of learned behavior.

Causes of pedophilia

When we talk about the etiological aspect of pedophilia, it would be extremely unprofessional not to put it in a historical context. By putting sexual molestation in childhood from a historical perspective, we can learn interesting facts about pedophilia in Ancient Greek and Roman culture. Naturally, in Ancient Athens and Rome the modern concept of pedophilia could not exist as such, nor would the modern psychiatric definition be applicable. Girls, naturally, married older men, which is a regular practice in many parts of the world even today. By following the historical thread, up until 1800 the minimum age for marriage for girls in Europe was 12 years. After that period the border was slowly moving to 16-18 years of age while reflecting social attitudes, and it became universal in the Western culture during the 20th century. In Ancient Greece and Rome flirting and sexual relations between a bearded man and an immature boy were not unusual, but only in certain circumstances, in certain circles, in certain cities and in a certain time. These questions are also differently treated particularly in Islamic culture, with elements of taboo. According to the then-value system of Islam, a child is a person who has not yet reached puberty. So if a girl is nine years old, she is not considered a child if she reached puberty, according to Islam. Therefore, if a man enters sexual relations with her, it is not considered as pedophilia, as the girl is not a child, for start. It does not fit the definition of pedophilia. So, the key term, “age of consent” obviously fitted the customary law.

Sexual molestation of children is far from new. Family historians discovered that the adults in elite households of Europe in the 15th and 16th centuries sometimes treated young children as sex toys. A strong example is related to the king of France, Louis XIII. According to the diary written by the royal physician, members of the French royal court adored “sexual games with tiny hands”.¹⁴ It was also well-known to the Americans in the mid-19th century that the young people were sexually molested. In New York, between 1790 and

¹⁴ Steven Mintz, “Placing childhood sexual abuse in historical perspective”, <https://tif.ssrc.org/2012/07/13/placing-childhood-sexual-abuse-in-historical-perspective/> 01/03/2020.

1876, between a third and a half of all rape victims were younger than 19, during the 1820s, that number was 76%. A historian Linn Sacco discovered more than 500 published newspaper reports about incest between fathers and daughters between 1817 and 1899. In a textbook from 1894, “A System of Legal Medicine”, it was reported that “rape of children is a most frequent form of sexual crimes”.¹⁵ In his significant study of female sexual behavior, published in 1953, Alfred Kinsey reported that nearly a quarter of all the girls younger than 14 reported they were victims of some form of sexual molestation, including exhibitionism, caressing or incest (numbers similar to those reported in our time).¹⁶ Despite this data, a justified public interest was not shown, nor the empathy was developed, an ability to understand the world from another’s perspective, meaning the ability to understand and feel the feelings of others.

Causes of pedophilia (and other paraphilias) are not known. There is evidence that pedophilia can be started in families, although it is not clear if it results from genetics or learned behavior. The history of sexual molestation in childhood is another potential factor in the development of pedophilia, although it is not proven. Behavior learning models suggest that a child who is the victim or observer of inappropriate sexual behavior can be caused to imitate these same behaviors. These persons, devoid of normal social and sexual contacts, can seek pleasures by means that are less socially acceptable. Physiological models research potential relation between hormones and behavior, and particularly the role of aggression and male sex hormones. The individuals may become aware of their sexual interest in children during puberty. Pedophilia can be a lifelong state, but the pedophilic disorder includes elements that can be changed in time.¹⁷ Basic causes of pedophilia are still disputable among the expert public and pretty much intangible. Still, several different factors as potential causes or indicators of pedophile tendencies in individuals. Biological, psychological, and social factors point out that pedophilia can have multiple causes.

Researches that relate to the etiology of pedophilia suggest a complex and multi-factor phenomenon influenced by genetic influences,¹⁸ stressful life events, specific learning processes,¹⁹ as well as disorders in the structural integrity in “pedophilic” brains might generate this specific phenotype of sexual affinity.²⁰

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ <https://www.psychologytoday.com/intl/conditions/pedophilia/01/03/2020>.

¹⁸ Ray Blanchard, Nathan J. Kolla, James M. Cantor, Philip E. Klassen, Robert Dickey, Michael E. Kuban and Thomas Blak, “IQ, handedness, and pedophilia in adult male patients stratified by referral source”, *Sex. Abuse* 19, September 1, 2007, pp. 285–309. Research Article Find in PubMed, <https://doi.org/10.1177/107906320701900307/07/03/2020>.

¹⁹ Ashley F. Jespersena, Martin L. Lalumièrea and Michael C. Seto, “Sexual abuse history among adult sex offenders and non-sex offenders: a meta-analysis”, *Child Abuse Negl. Volume 33, Issue 3*, March 2009, pp. 179–192.

²⁰ Boris Schiffer, Thomas Peschel, Thomas Paul, Elk Gizewski, Michael Forsting, Norbert Leygraf, Manfred Schedlowski and Tillmann H.C. Krueger, „Structural brain abnormalities in the

Initial theories were mostly focused on psychological mechanisms to explain pedophilic tendencies, including classical and operational conditioning, as a behavior mechanism through which the theory of molestation-molester,²¹ tries to explain the style of childhood attachments as a marker of dysfunctional cognitive sexual schemes in adulthood.²² Social factors, such as molestation in childhood, as well as easy access to social platforms, including pornography disseminated through the Internet, also were identified as potential contributors and/or identifying factors for pedophilia and sexual molestation.²³ Researches have shown the connection between watching child pornography and committing child sexual abuse, although it is important to stress that not all the individuals who watch child pornography are involved in child sexual abuse. The Internet helped in spreading of child pornography by making it easily accessible while giving the consumers a certain level of anonymity. The Internet also allows the adults to be involved in activities that are legal, but inappropriate and can help the etiology and progress of pedophilia.²⁴ Nonetheless, researches point out that there are significant differences between pedophiles who only watch child pornography and individuals who sexually molest children.²⁵ Despite all, the Internet as a global communication network that grows exponentially has large potential to make pedophile activities easier, as children are particularly vulnerable to sexual predators like perfidious pedophiles on the Internet.

The Internet gave unlimited possibilities to pedophiles to apply different models of exploitation child victims, among which these are particularly distinguished: seductive model, a model based on trust and a direct sexual model, while on the other hand, the Internet allowed experts the mechanisms of detection and estimation of perpetrators of this online crime in the clinical or forensic surrounding. This is particularly important from the aspect of the multidisciplinary approach to prevention, detection, and adequate treatment of pedophilia.

frontostriatal system and cerebellum in pedophilia”, *Journal of Psychiatric Research, Volume 41, Issue 9*, November 2007, pp. 753–762.,

<https://doi.org/10.1016/j.jpsychires.2006.06.003/03/03/2020>.

²¹ Kurt Freund, Robin Watson and Robert Dickey, “Does sexual abuse in childhood cause pedophilia: an exploratory study”, *Archives of Sexual Behavior, volume 19*, 1990, pp. 557–568., <https://doi.org/10.1007/BF01542465/05/03/2020>.

²² Anthony R. Beech, Ian J. Mitchell, “A neurobiological perspective on attachment problems in sexual offenders and the role of selective serotonin re-uptake inhibitors in the treatment of such problems”, *Clin. Psychol. Rev.* 25, 2005, pp. 153–182., <https://doi.org/10.1016/j.cpr.2004.10.002/05/03/2020>.

²³ Anthony R. Beech et al., *The Internet and child sexual offending: A criminological review, Aggression and Violent Behavior, Volume 13, Issue 3*, June–July 2008, pp. 216–228., <https://doi.org/10.1016/j.avb.2008.03.007/07/03/2020>.

²⁴ Ethel Quayle and Max Taylor, “Model of Problematic Internet Use in People with a Sexual Interest in Children”, *Cyberpsychol Behav.* 6(1), 2003 Feb, pp. 93–106.

²⁵ Janina Neutze et al., “Predictors of Child Pornography Offenses and Child Sexual Abuse in a Community Sample of Pedophiles and Hebephiles”, *Annals of Sex Research* 23(2), October 2010, pp. 212–242.

Perspectives of detection and treatment of pedophiles

With any countermeasures, it is very important to work on the regime of discovery, and then on the treatment of pedophiles. Additionally, it is necessary to relieve these people of the fear of judgment and labeling when they come for help to a psychologist, a psychiatrist, or some other qualified expert before they become deeply involved in the problem, and sometimes even then. In that way, numerous incidents, problems, and most grave crimes would probably be avoided. Therefore, in the given context, support to the principle of “volunteerism” of persons who have awoken awareness they have sexual disorder should be encouraged. For the other category of pedophiles, who are in addition to the burden of their problems, burdened by the factor of “stigmatization”, it is necessary to apply other mechanisms to detect them.

The reasons why we love the Internet are obvious and known to everyone, but as they say “with every blessing comes a curse”, the Internet brought many problems, and online pedophiles are one of them. The number of pedophiles who lurk on the Internet and try to exploit the vulnerability of children increases daily. The parents are more concerned, and even in a panic because of the growing number of cases of sexual molesting of children on the Internet. You probably already know that websites and forums of the so-called “dark Web” are havens for pedophiles. The largest and the most profitable website with child pornography, “*Welcome to Video*”, was closed in 2019 and 338 persons suspected of pedophilia were arrested. Still, there are many other existing platforms, including *Discord*, *TikTok*, *Kik*, *Omegle*, *Chatroulette*, and *Snapchat*, to name a few, that are used by pedophiles and sexual predators. To tackle this problem, *Microsoft* published a new tool for the detection of pedophiles on the Internet. While remaining true to its dedication to make the Internet a safer place for children, *Microsoft* created an efficient solution in “Project Artemis”. It is an automatized system designed to track pedophiles through analyzing their talks with children so it would be able to register similar speech patterns and wording. “Project Artemis” has a rating system where after the analysis of the talk determines the possibility of involvement of pedophiles in communication and gives a rating to the person.²⁶ Although it is difficult to recognize these persons, some general characteristics can be seen:²⁷

- They are usually persons with good social standing;
- They are mostly higher-educated persons;
- A large percent of them have a job that allows them to be near the children;
- They prefer the company of children rather than of the adults;

²⁶<https://www.informacija.rs/Vesti/Microsoft-ima-novi-alat-za-otkrivanje-i-prijavljivanje-pedofila-na-internetu.html/12/03/2020>.

²⁷https://www.b92.net/zdravlje/mentalno_zdravlje.php?yyyy=2010&mm=06&dd=01&nav_id=435488/13/03/2020.

- They try to gain trust and friendship with children. They rarely force physical contact, but the physical contact comes gradually from touching, raising, holding in lap, hugging, kissing;
- They try to please children with sweets, toys, video games, money...;
- Their target group are troubled children, with hard life stories or emotionally neglected;
- They are mostly family persons, who have no other crimes;
- Many of them were victims of sexual violence in their childhood;
- Some of them marry women who have children of their own, who are their target group;
- They receive pleasure from children in many different ways. Some of them only watch children, live on photographs, others take pictures of children, some other need physical contact...;
- Although without children, they often have objects that might interest children in their homes.

It is important to stress that these general characteristics are not exclusive indicators that point to pedophilic disorder, but we use them to pay attention to certain behavior lines in adults who are in surroundings with children.

In psychiatry, even though the point that pedophilia is considered an incurable disorder, some techniques are used to suppress pedophilic activities. They are created so they do not have an important influence on thought processes or feelings of patients concerning daily life, but they help them to abstain from illegal acts conditioned by uncontrolled sexual urges towards children. Several types of psychiatric interventions are used, usually combinations of several therapeutic techniques: behavioral-cognitive, psychodynamic individual and group therapies, and psychoeducational and pharmaceutical treatments that are custom for every individual patient. Cognitive-behavioral therapy is used to break the learned chain of behaviors and events that precede unwanted sexual activity, or on modification of socially acceptable sexual behavior. Training of social skills, sexual education, development of empathy for victims, are all applied. The impulse triggers are identified, which lead to behavior that includes paraphilia, so they can be avoided. Psychotherapy is long-term therapy, to awaken the patient about the events that were important for the development of paraphilia, as well as what daily events influence their behavior. Therapy with antipsychotics, antidepressives, or anxiolytics is given in case of associated psychotic, depressive, or anxiety disorders. Also, anti-androgynous medications can be used, but under strict control, as they decrease the level of testosterone and consequently on the diminishment of sexual desire. A big problem in treatment is that it is hard to motivate persons with paraphilias to be treated, particularly those who do not perceive their behavior as strange and abnormal. For perpetrators of sexual crimes diagnosed with paraphilia an outside control system is established if they were sentenced to a prison term.²⁸ In some countries, a practice resulting from laws was introduced, that persons who were found guilty of sex-

²⁸ Lana Mužinić, „Parafilije“, <https://www.cybermed.hr/clanci/parafilije/20/03/2020>.

ual molestation of children must be treated with drugs that decrease sexual impulse a month before they are released on parole. These are experiments, related to chemical castration with products that decrease testosterone level and libido.

Traumas and needs of children – victims of sexual molestation

The word “trauma” comes from the Greek language and means injury. With the expression “traumatic experience” some difficult events are marked, such as war experiences, persecution, rape, torture, traffic accidents, etc. Psychotrauma means psychic injury or wound. After surviving traumatic experiences the majority of people feel bodily or mentally hurt. Everyone reacts differently to traumatic events, but some reactions are similar in most of the people who endured some trauma. Memories of traumatic events often come uncontrolled in form of various pictures or films before the eyes (so-called flashbacks), sounds (voices, cry, sounds of shooting or shelling, sirens), bad dreams, and nightmares. These recollections of trauma cause the same or similar reactions to ones felt at the moment of trauma: most often an intensive fear, helplessness, and panic. Many see themselves or their surroundings not as reality but as if they see everything “through a mist”. Some often “lose themselves” so they suddenly do not know where they are and what are they doing.²⁹ Every form of psychological and physical forcing represents a traumatic event that causes chronic health problems over a long period.

Shock trauma is usually isolated, individual, and rare very intensive negative events. These are events where a person due to the negative nature of the event becomes unexpectedly inundated with an intensely unpleasant experience that cannot be actively processed. Therefore in these situations, basic defense mechanisms are activated. Examples of shock traumas are rape, exposure to brutal violence in war, sudden loss of family or property, life-endangering situations, etc. Basic attributes of shock traumas are their suddenness (which causes shock), an intensive experience that surpasses current capacities for overcoming, and activation of basic defense mechanisms. Shock, as well as developmental traumas, leave lasting consequences and cannot be erased from the experience but can be overcome and integrated with the remainder of personal experience and the remainder of personality.³⁰ The effects of sexual molestation can vary with the age of the child, form of assault, relationship with the violator, therapeutical and other support after the assault. What remains stamped in the psyche of a child is the inability to repress the memory of what happened and avoiding talking about it. The constant state of excitement and tension often follows the victims of these crimes for a lifetime in different ways.

²⁹ <http://peregrina.at/bhs/service/therapy/information/traume/26/03/2020>.

³⁰ Vladimir Mišić, „Dva tipa trauma“, <http://www.vaspsiholog.com/2011/02/dvatipa-trauma/27/03/2020>.

Humiliation and pain caused by another human being create an intensive feeling of fear and distrust in others. That helps the process of alienation, frailty and isolation, and withdrawal from social relationships. Violent crimes injure the victim both physically and mentally so intense that he or she becomes alienated from their own emotions and thoughts. That numbing reinforces confusion and leads to the disorientation of the victim. The victim surrenders more and more and loses himself or herself,³¹ as after physical damage and bodily injuries from rape a child can suffer from multiple psychological consequences, such as:

- PTSD;
- Feeling of guilt and shame;
- Phobic neurosis;
- Anxiety;
- Anger;
- Fear;
- Loss of self-respect;
- Depression;
- Obsessive-compulsive neurosis;
- Social isolation;
- Chronic pain;
- Distrust in all adolescents and/or adults;
- Difficulties in maintaining healthy sexual relations;
- Memory, concentration, sleep and eating disorders...;

The mentioned psychotic disorders can retrieve certain destructive actions, such as suicide (active or passive autodestructive act where a person consciously and intentionally takes their own life), self-humiliation and self-punishing, anorexia/bulimia, dependence on alcohol, narcotics, gambling, pornography, prostitution and other forms of delinquent behavior. Persons who survived sexual violence as children can react in unexpected ways. The specter of their reactions can be very wide, as years after the survived violence, their emotions can go from one extreme to another. Sexual molestation can also lead the victim to become a perpetrator.

Because of all we said, the needs of child victims have to be within the domain of social interest, meaning primary and urgent intervention. It is useful to state several stages that can be helpful to the victims to overcome or at least diminish the trauma: primary estimation of needs, psychological help, therapeutic work, legal help, family counseling, help to family members with a goal of sustainable social inclusion of the victim: kindergarten, job search, school admission, and all other necessary activities, support in process of compensation for damages, help in learning, support during the education, help with finding a job, etc.

³¹ Željko Bjelajac, *Trgovina ljudima-Zločin protiv čovečnosti*, Pravni fakultet za privredu i pravosuđe, Novi Sad, 2014, p. 295.

Discussion

There are numerous difficulties in the detection of this disorder, mostly because of inventiveness and mobility of persons with an anomaly of sexual affinities, and invisibility of this problem due to unlimited possibilities of the Internet and inertia of the society. Although it can be concluded that the majority of molesters are never brought to justice and sentenced based on the prevalence of this phenomenon among the general population, and they continue to live in the community under a mask of model citizens, significant improvements in detection and registration of pedophiles are possible, as stated.

Social reaction to this asocial and antisocial behavior, in addition to the focus on repression, chiefly has to involve prevention, which can be translated in a narrow sense as forestalling, suppression, or in wider meaning as inhibition of a disease of behavior disorder, or phenomenon that causes consequences in some persons, groups or society. The primary prevention includes activities in reaching out to a wide circle of risk groups that can be potential perpetrators of crimes but potential victims as well. Secondary prevention in a wider context implies a situation of imminent danger but before the crime is committed. If the primary prevention relates to raising the awareness level of the widest public, then the secondary prevention would be in function of raising of the awareness in risk groups and raising the awareness level in potential perpetrators of crimes and victims of crime (in given context pedophiles and child victims of sexual molestation).

In the last area of preventative criminal policy, tertiary prevention relates to perpetrators of the crimes and applies treatment measures so they would not commit crimes in the future.³² The tertiary programs of prevention are the most concrete and most specific part of crime prevention. These programs are focused on individuals who are sentenced after they committed a crime and who still have the status of a significant threat to society (criminal potential), despite warning measures issued by relevant institutions as well as the involvement of citizens in local communities. The basic goal of the tertiary prevention is the decrease of recidivism in the community, through the application of various police measures of increased surveillance and control of recidivists (obligation to report to the police station, information on their movements, specific measures in the police sector, the involvement of citizens in surveillance of certain recidivists). In the recent time in the world measures that include the application of surveillance technology to monitor the recidivists and their movements. These are modern electronic systems with radio transmitters and computer surveil-

³² Donovan Hiss, Beth Horner, Ruth Pressler and Gerhard Swanepoel, *FCS Principles of Criminal Justice L2*, Pearson Education, Cape Town, 2009, p. 59.

lance.³³ In addition to these measures, other interesting measures are those which use social-psychological and psycho-socio-therapeutical treatment of certain categories of recidivists, such as perpetrators of rape and other sexual crimes where psychological treatment is applied together with medication therapy.³⁴ From all of this, it can be seen that these are very complex and demanding treatments.

It is of crucial importance to understand that pedophilia is a disorder/disease that calls for public care. The founding of centers for the prevention of pedophilia where support models, encouragement, and treatment of diseased persons within and outside of penitentiaries would be the focus, could give results in long term and show certain progress. Also, the general availability of register of pedophiles, and restriction of movement and stay in zones where children stay, can be one of the mechanisms of suppression of pedophilia. With this measure, a tendency of latent support of the development of a feeling of shame, judgment of their surrounding that can be a trigger for controlling aggressive sexual impulses towards children naturally follow.

Naturally, traumas of the children who are victims of crimes such as sexual molestation are expressed so much that they demand a comprehensive and timely reaction of society. Social work centers, prosecutors, police, physicians, and others, as the instruments of the system, have to work on their needs, rehabilitation, and full reintegration in the society in coordination.

Conclusion

It is very difficult and demanding to work on detection, diagnostics, and treatment of pedophilia as a conceptualized mental disorder characterized by sexual deviation, profiled through sexual interest/impulse towards children. Patients with the pedophilic disorder are generally stigmatized in the society, and particularly in penitentiary conditions, as they are not recognized as affected persons who need medical help, but as sexual molesters of children. These are people who are ill and who need help to overcome their twisted fantasies, or to live with them without molesting or assaulting children.

There are many theories on the causes of pedophilia. Some researchers look for causes in biological factors, similar to the process with other paraphilias. The majority of them gravitate to the position that pedophilia is a result of psychosocial factors and not biological attributes. Some positions emphasize the “theory of learned behavior”, where the personality of a pedophile is

³³ Elmedin Muratbegović, „Politika suzbijanja kriminaliteta- dio I“, u: Mirsad Abazović, i dr., *Politika suzbijanja kriminaliteta*, Univerzitet AAB, Priština, Univerzitet u Sarajevu – Fakultet kriminalističkih nauka, Sarajevo/Priština, 2006, p. 48.

³⁴ Hans - Jorg Albrecht, „Die Determinanten der Sexual strafrechtsreform“, *Zeitschrift fur die gesamte Strafrechtswissenschaft*, 111, De Gruyter, Berlin, 1999, pp. 863–888.

formed as a result of his/her sexual molestation in childhood, meaning it originates from interactions of a person with parents/surroundings during the first years of life. This generally relates to growing up in families/environment where boundaries of intimacy and sex are not clearly defined (incestuous environment or family). There are also opinions of some authors that pedophilia is a result of a warped desire for dominance over the sexual partner. The reasons are numerous and they generally depend on the personal history of each individual, in the context of disorder of emotional, cognitive, sexual development, and influence of certain social factors.

In modern times there are different thinking in the expert public about whether pedophilia can be treated. The starting point is that “feelings of pedophiles” are not curable so that the therapy can only be their support in managing these feelings. A possibility of resetting their mental composition is excluded since they have an innate high risk of committing a sexual offense. Therefore combined therapies that include medication for decreasing of the sexual impulse is used. The complexity of the topic can be reflected through the fact that the majority of sexual molesters of children were never encouraged to speak about their pressing sexual fantasies with children before they committed the crime.

In the end, the intention of this paper is not sole, to affirm efforts so the attention to “suffering of pedophiles” against the suffering of their victims would be paid. On the contrary, here a clear “signal” is set, which points persons who let themselves into pedophile fantasies to qualified therapists (psychoanalysts, psychiatrists, psychologists...) so they can save the lives of others by working on their strengthening.

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ФЕНОМЕНОЛОШКА И ЕТИОЛОШКА ОБЕЛЕЖЈА ПЕДОФИЛИЈЕ

Сажетак: Парафилије укључују сексуално узбуђење према нетипичним предметима, ситуацијама и/или циљним групама (нпр. деци, животињама, лешевима...). Поједине сексуалне активности које изгледају необично другој особи или здравственом раднику не представљају парафилни поремећај само зато што су необичне. Појединци могу имати парафилне интересе, а да не испуњавају критеријуме за парафилни поремећај. Описане су на десетине парафилија, при том, неке од њих су незнатно заступљене. Код оболелих лица може бити присутно више од једног парафилног поремећаја, а иста такође, могу имати значајне поремећаје личности (антисоцијалне, садистичке, нарцистичке...), што надаље отежава поступке третмана. Одређене парафилије, попут педофилије, представљају специфичне инкриминисане радње, које најчешће резултирају затворским казнама, стигматизацијом починилаца и жртава, те доживотном регистрацијом сексуалних преступника. Педофилија, која се алтернативно означава и као педофилни поремећај, је психосексуални дефект који углавном погађа одрасле особе, на начин што исте бивају опседнуте сексуалним маштаријама или покушајима да ступе у сексуалне односе са децом истог или супротног пола. У питању је веома комплексан поремећај, који захтева социолошки, криминолошки, а нарочито психопатолошки приступ који би систематски истражио симптоме, природу и чиниоце (наследне, органске и социјалне) патолошких стања и процеса у менталном животу ових личности.

Кључне речи: педофилија, узроци педофилије, преваленција, интернет педофилија, трауме и потребе, перспектива третмана

ŽELJKO Đ. BJELAJAC*

Faculty of Law for Commerce and Judiciary
Novi Sad

ALEKSANDAR M. FILIPOVIĆ**

Faculty of Economics and Engineering Management
Novi Sad

UDC 172:176

Original scientific work

Received: 24.04.2020

Approved: 07.05.2020

Page: 29-40

THE INTERNET AND SOCIAL NETWORKS AS UNLIMITED SPACE FOR CONCENTRATION AND MULTIPLIED PRESENCE OF PEDOPHILES

Summary: The transformative influence of the Internet on every aspect of human life and activity is so all-reaching that only by deep abstraction we can recall how life went on before its broad distribution. In its essence a communications technology, the Internet brought the most drastic change to the way we receive and send messages of every kind. And while in most cases it was an exceptional benefit, human nature remained unchanged, so a part of the vast global network became a ground for the expression of various negative tendencies, from asocial and antisocial to outright criminal ones. Due to its decentralized nature and a practical impossibility for the regulation of the largest part of the Internet, it began to host and make available content and possibilities that are on the other side of both the law and the public morals. Pornography is generally the most searched term on the Internet, and pornographic websites and platforms host vast collections of pornographic content. And while the mainstream part of the Internet is regulated in a certain measure, the remaining part is not, and in that virtual and practically unlimited space sexual predators, including pedophiles, can satisfy their urges and tendencies in ways that are not possible in the purely physical world. Internet pedophiles can contact potential victims far easier, as well to access and distribute child pornography content. Almost every communications platform on the Internet brings the danger of involvement of pedophiles, and they can communicate with potential victims without fear of being noticed and caught. Security services fight pedophilia on the global network as well, but due to the nature of the problems results are marginal. The key role in the prevention of the Internet pedophilia is in raising of awareness level of importance of security culture on the Internet in parents and children – as the parents have prepared children for dangers in the physical world, they have to prepare them for potential dangers in the virtual world of the global network as well.

Key words: The Internet, pedophilia, child pornography, social networks, security culture

* zdjbjelajac@gmail.com

** sasha.filipovic@gmail.com

Introduction

Video game manufacturers claim that it is difficult to make a video game, especially a multiplayer online one, without having to listen to accusations and mostly unfounded comments about the presence of pedophiles in multiplayer video games. Those who are not gamers consider pedophilia an irremovable part of the gaming culture¹.

On the other side, the corporations that earn money on the Internet have no moral problem whatsoever, despite the odium that threatens to contaminate the Internet, which even now seems an independent being. Child pornography and pedophilia on the Internet invoke protective ethical mechanisms of society. Nonetheless, these mechanisms, aside from many words, for time being have no significant effect. That is so because these mechanisms put the blame solely on the Internet while abolishing everyone else who is much more suited to react and protect the children – from parents, schools, to countries that can and shall do much with their criminal protection mechanisms. Still, the numbers are frightening. They, in general, always have an equivalent in adequate amounts of money that creates a strong dam that repels every effort from competent social factors to point to dangers that threaten the children and young adults from the bad content on the Internet.

The Internet and sexuality

The term “pedophilia” originates from Greek words *παιδί*, a child, and *φιλία*, friendship. The pedophiles, as defined in the fifth edition of Diagnostic and Statistical Manual for Mental Disorder² are individuals who are mostly or exclusively attracted to prepubescent children, generally under 13 years of age. There is a clear classification of pedophiles regarding which developmental stage of children attracts them. Those attracted to children entering puberty are called hebephiles. Those attracted to pubescent children are called ephebophiles. American Association of Psychiatrists in their *Diagnostic and Statistical Manual of Mental Disorder* from 1994 defines pedophilia as an act of imagined joining in sexual activities with a prepubescent child as a preferred or exclusive way of achieving sexual pleasure. Sexual abuse of children is defined as a relation be-

¹ <https://www.killerguides.net/blog/social/which-online-games-attract-pedophiles>, retrieved April 20th, 2020

² Diagnostic and Statistical Manual for Mental Disorder (*DSM*) is published by American Psychiatric Association. In the manual mental disorders and diagnostic criteria are listed. The manual is widely used around the world. *DSM* was first published in 1954, and its fifth edition, *DSM-5* was published in May 2013

tween a child younger than 14 and an adult, where a child is an object for sexual pleasure or an object for fulfilling the sexual needs of an adult³.

Pedophilia as an unnatural attitude and sexual deviance toward children of prepubescent age exist as long as the sexuality itself. In earlier times it was not particularly punishable⁴, and only in modern times states and societies introduced legal codification of this behavior, promoting the legal term “age of sexual consent” as the basis for legal liability or the absence of it for any sexual act between an adult and a child or a young person⁵.

Diverseness of sexual behavior through historical eras and spatial continuums confirms the standpoint that it is not separate from the way of life of a community as a whole, and that with entering the world of the ICT and the Internet communication the subject becomes if not sentenced, but predisposed for “loss of directness of reality⁶” which gives place to the virtual and combining and intertwining in, at moments, unrecognizable entity.

Before the ICT was implemented in everyday life, the pedophiles had a narrowed field of maneuver for their activity. They were visiting playgrounds, schoolyards, and they had usual methods of work that were consisting of watching, following, asking questions, giving sweets, bubble gums, chocolates, which implied serious exposure of pedophiles to serious risks.⁷

Usage of the Internet changed the world and initiated a new “civilization in the making” where sexuality is not a taboo in the form it was even in the late 20th century. This is only one of the phenomena promoted by the coming generation. The demand “all and now”, a *credo* of the armies of young people mostly relates to the sphere of intimate relationships and sexuality in general, which sometimes gives shockingly bizarre results⁸. Oversimplified sexuality reduced to Freud’s Id is a phenomenon that joined other phenomena of the modern society out of which the coming generation created a dominant view on life and moral good and evil.

³ Schnelder, H, J: Seksualna zaporaba djece - nova viktimološka i kriminološka saznanja, Split, 1999, p. 183

⁴ *Flowers, Ronald B: The Victimization and Exploitation of Women and Children: A Study of Physical, Mental and Sexual Maltreatment in the United States. McFarland, Jefferson, 1994*

⁵ Pedophilia flourished in Europe until the end of the 18th century. The juveniles comprised 50% of all the persons involved in pedophilia in Paris. A scandal in England from 19th century led the government to raise the age limit of sexual consent from 13 to 16 years. The reports depict a girl, Elisa Armstrong, who was sold for five pounds and then taken to midwife to confirm her virginity. In England prepubescent girls from English, Scottish and Irish villages were lured to London with promises of regular and lucrative job.

⁶ Žižek, Slavoj, *Ispitivanje realnog*. Novi Sad, Akademska knjiga, 2008, p. 171

⁷ Жељко Бјелајац, *Безбедносна култура, умеће живљења*, Правни факултет за привреду и правосуђе, Нови Сад, 2017, pp, 343 - 344

⁸ “A girl from Zagreb had sex with 100 partners in a month because of a bet“

<http://www.pressonline.rs/info/politika/189592/zbog-opklade-spavala-sa-100-muskaraca-za-30-dana.html>, retrieved April 20th, 2020

In the last decade usage of the Internet got a universal social and ethical form. Considering that the Internet has an ever-growing auditorium the sexuality received a new form of expression and showing. It is not just an intimate and secretive matter of couples anymore. A third of all Internet users in the world participates in some form of online sexual activities⁹. The freed sexuality and sexual expression on the Internet becomes a phenomenon that includes a string of cultural implications important for the future of human sexuality.¹⁰ Pornography and pedophilia are socially unwanted byproducts of these implications, but simply they are a part of the freed sexuality.

Child prostitution and pedophilia

Internet pedophilia is a specific form of cybercrime as pedophiles wander the electronic networks seeking victims, naïve and impressionable children. The Internet became a new playground accessible to pedophiles, where the children are permanently exposed to inappropriate sexual content and disturbing and hostile messages.¹¹ Modern criminal and victimology researches changed the appearance of the sexual abuse of children. Sexual offenses toward children are happening frequently, they are under-researched, they are difficult to control, and the perpetrators are mentally immoral only in rare cases. After survived victimization consequences for the majority of children are heavy and long-term. Today there are two well-organized forms of pedophilia. One is known as sexual rings, and the other as child prostitution¹².

“The Internet network is more often used for pedophilic activities, which poses a specific problem due to a lack of oversight on the Internet. Pedophiles often possess large collections of child pornography. In that sense, pedophiles are divided into three types:

- 1) closed type (collector hides his affinity from the public and generally does not disturb the children, simply gathers and enriches own collection, but keeps it to himself/herself);
- 2) isolated type (collector disturbs children and shows his material to the victims);
- 3) sharing type (likes to be in contact with other pedophiles and disturbs the children)”¹³.

⁹ Cooper, Al 2004. *Online Sexual Activity in the New Millenium*. Contemporary Sexuality, no. 38: 1-7, retrieved April 20th, 2020

¹⁰ Cavanagh, Allison 2007. *Sociology in the Age of the Internet*. Berkshire: Open University Press, retrieved April 20th, 2020

¹¹ Bjelajac, Željko, *Cyber Crime and Internet Pedophillia*, Western Balkans from Stabilization to Integration, Institute of International Politics and Economics, Belgrade, 2011, pp. 437 - 456

¹² See: Stočanin, Selma: Pedofilija, jedan od oblika seksualne nastranosti, *Kriminalističke teme* (2013), 3-4, Sarajevo, pp. 125-142

¹³ Stočanin, Selma: Pedofilija, jedan od oblika seksualne nastranosti, *Kriminalističke teme* (2013), 3-4, Sarajevo, pp. 125-142

The concealed presentation as a curtain for the true intent of users greatly helps in the dissemination of pornographic and pedophilic contents. On the other side, the wide availability of electronic devices capable to generate photos and videos and then sharing it online helps the spread of pedophilia and abuse of children and minors on the Internet. This capability created a trend, promoted by young people, to share personally created content with a wide audience, generally unknown or not enough known to the user of social networks¹⁴.

According to the data published in March 2020 by the website Internet World Stats¹⁵, on December 31st, 2019 the Internet was used by 4,574,150,134 citizens of Earth, which is 58,7%. More than half of users live in Asia, while percentage-wise, North America (94,6% of the population) and Europe (87,2%) have the most users.

With the global use of the Internet, sexuality arrived everywhere where a man did. The nature of often primal human impulses got its “citizenship right”. Video depictions of pornography, pedophilia, and child prostitution dominate the network. Research by the website *ExtremeTech* showed that a third of total Internet traffic is for content with a sexual connotation, and the largest website for adult content distribution, Xvideos, has 4,4 billion monthly visits¹⁶. Around 29 petabytes of pornographic content are sent over the Internet monthly, which means that each second 50 gigabytes of explicit sexual content are transferred¹⁷.

The largest and most visited pornographic websites are Xvideos – 4,4 billion monthly visits, Pornhub – 2,5 billion monthly visits, YouPorn – 2,1 billion monthly visits, Tube8 – 970 million monthly visits and LiveJasmin – 710 million monthly visits. These numbers shall be considered conditionally, as the numbers related to pornography and sex on the Internet grow every day.

According to statistical data gathered by the website Online Education, each day around 300 new websites containing pornography are created. The numbers that describe the volume of content with sexual connotation on the Internet is changing, but in one moment we could say that 12% of all the websites on the Internet contain pornographic content, 25% of all queries on Google and Yahoo search engines are related to pornography, 2,5 billion e-mails per day are related to sex, in each second 30,000 of the Internet users watch pornographic content, 20% of men and 13% of women admit they watch pornographic content on the Internet from work, 35% of all downloaded content from the Internet is related to pornography, 43% of all users of the Internet watch pornographic content, 70% of sexual content is visited during work hours, only 3% of websites with sexual content ask users to confirm they are of legal age, children

¹⁴ Moore, R: *Cyber crime: Investigating High-Technology Computer Crime*, Anderson Publishing, Cleveland, 2005

¹⁵ <https://www.internetworldstats.com>

¹⁶ Mark Roeder, *Unnatural Selection: Why the Geeks Will Inherit the Earth*, Arcade Publishing, New York, 2014

¹⁷ Kerry-Ann Ferreira, *Protecting Our Children in Cyberspace*, E-book, Kerry-Ann Ferreira, 2014

on the Internet see their first pornographic content aged 11, and terms “sex” and “porn” are among five most-searched terms for persons younger than 18 years¹⁸.

The American The National Center on Sexual Exploitation¹⁹ is a non-profit organization that discovers a connection between all forms of sexual exploitation, such as sexual abuse of children, prostitution, sexual relations trading, and public health crisis of pornography. The organization particularly stresses pornography as a cradle for pedophilia in a network of sexual exploitation that the society systematically neglects. To promote the complete solutions the National Center for Sexual Exploitation annually publishes the *Dirty Dozen List*²⁰ of corporations that help sexual exploitation of children and through Agenda for freedom from sexual exploitation that gives recommendations to the Congress about many questions, including sex trafficking, pornography and sexual abuse of children.

Considering that no corporation must not profit or make sexual exploitation easier, the Center concludes that, unfortunately, many renowned brands, companies, and organizations do exactly that. The Dirty Dozen List exists to name and shame main players that deepen the sexual exploitation – whether it is pedophilia, pornography, prostitution, sexual objectifying, sexual violence, or human trafficking.

The list for 2019 is comprised from corporations that received an attribute of “a major contributor to sexual exploitation“, and on the list are companies Amazon, Google, Message Envy, Netflix, Nevada, Seeking Arrangement, Sports Illustrated Swimsuit Issue, Steam, Tik Tok, Tweeter, Visa, Wish and Wyndham.

The list contains detailed information on reasons why these companies are on the list²¹.

Cyber dens

The moral panic that enveloped the Internet accusing it of numerous bad things nearly treats it as an ethical being that has its personality and responsibility. Still, the Internet is more like a Roman Forum, or medieval *trivius* where people were willingly coming to play or watch. Nobody is on the Internet forcefully, the Internet is no one’s and everyone’s, nobody is asked to come online. How everything is connected in the global network completely mimics the living systems, where every part is dedicated to the whole, and the whole survives only

¹⁸ Jenkins, Philip, "Law Enforcement Efforts Against Child Pornography Are Ineffective," in *At Issue: Child Sexual Abuse*. Ed. Angela Lewis. Greenhaven Press, San Diego 2005

¹⁹ The National Center on Sexual Exploitation (NCOSE), <https://endsexualexploitation.org/> retrieved April 20th, 2020

²⁰ The name of the list is association to title of a movie *The Dirty Dozen*, directed by Robert Aldridge in 1967.

²¹ <https://endsexualexploitation.org/articles/top-contributors-to-sexual-exploitation-revealed/>, retrieved April 20th, 2020

through the interaction of all of its parts. The Internet is owned by nobody, but everyone owns a part of it. Every device connected to the Internet – a phone, a tablet, a computer – is a consisting part of the global Internet network and its co-owner.

When we talk about pedophilia and the Internet as a surrounding that opens new possibilities and new space for concentration and multiplied presence of pedophiles, it is still just a possibility that can be used but not necessarily is used. As in sports, when good play can be canceled with “one dribbling more”, one can get in trouble on the Internet with “a click more”. The apologists of the innocence of the Internet claim that there is always a choice. You can click “yes” or “no”. If you click “no”, there is no trouble, but if you click “yes” you allow the possibility of trouble to happen. Naturally, the problem is when you are a child or a person who is not mature enough. But, the parents are there, and they know how to protect their children from nearly everything except from “a click more”, and that click often leads children to dark depths of pedophilia.

The American National Center for Missing & Exploited Children²² (NCMEC) estimated that one-third of total pornographic content traded with on the Internet is child pornography and that over last 20 years the number of child pornography pictures and videos available on the Internet was increased for 1,500%²³ American Department of Justice estimates that “in any given moment there are more than a million of pornographic files with children on the Internet, and that 200 new files are published daily”. The files are either photographs or video clips. The NCMEC reminds us that a single offender arrested in Great Britain owned 450,000 child pornography pictures and that the cyberspace for child pornography had a million monthly visits. A large part of child pornography trade is done on hidden levels of the Internet. It is estimated that between 50,000 and 100,000 pedophiles are involved in the organization of *sex rings*²⁴ around the world and that a third from them works from the United States. Digital cameras, Internet distribution, credit cards, and ease of transferring the files across state borders made access to a rapidly increased number of resources easy to users of child pornography²⁵.

Recently in Serbia, foreign citizens²⁶ were arrested who photographed naked girls in a house and broadcasted their pornographic shows live²⁷. This event

²² www.missingkids.org, retrieved April 20th, 2020

²³ Child Porn among fastest growing Internet Bussineses, *National Center for Missing and Exploited Children, USA. 2005*, https://web.archive.org/web/20071018231331/http://www.ncmec.org/missingkids/servlet/NewsEventServlet?LanguageCountry=en_US&PageId=2064, retrieved April 21st, 2020

²⁴ Sex rings are most common in countries of Western Europe, where the children are recruited through their parents or guardians, or through children already recruited in a sex ring.

²⁵ Wells, M.; Finkelhor, D.; Wolak, J.; Mitchell, K. (2007). *"Defining Child Pornography: Law Enforcement Dilemmas in Investigations of Internet Child Pornography Possession"*, Police Practice and Research. 8 (3): 269–282. doi:10.1080/15614260701450765.

²⁶ Brigitta Szabo (35) and Georg Karl Sutter (47)

²⁷ <https://mitrovica.info/sta-su-sajber-jazbine-pedofili-preko-interneta-vrebaju-srpske-devojci/>, retrieved April 12th, 2020

completely fits the basic definitions of “cyber dens” and generally in profiles of the Internet pedophilia. The victims mostly after the suggestion of their friend begin to participate in cybersex and its surrogates about which they are informed that it pays good and that the audience is foreigners they will never meet or see live. Pedophiles pay through money transfer agencies, and children need adults who will withdraw the money. It was registered in the practice that usually families or relatives of the girls are involved and that they withdraw the money.²⁸

According to findings of the Department for Combating High-Tech Crime of the Serbian Ministry of the Interior, the problem is that the police find evidence that is invisible, intangible, not in Serbia, but somewhere abroad. Police have to find it, document it by legal procedures in a short period. One person who was arrested around 720,000 photographs and 3,700 video clips of sexual molestation of children and juveniles were found. The Serbian police cannot provoke any crime, as the FBI also cannot. It cannot pose as an underage girl, communicate with pedophiles, set meetings, and arrest them²⁹.

In the explanation of this action, the Ministry of the Interior referred to a research made in Serbia that gave disappointing results.

“In that research, the key question was how much our children accept invitations to friendship from unknown people. Such friendships with unknown persons are accepted by 43% of elementary school children and 71% of middle schoolers. Two-thirds of them communicate with unknown persons via Messenger and other chat applications. The most shocking statistic is that 6% of elementary school children and 15% of middle school students accept to meet unknown persons. We realize the measure the parents are not aware of the seriousness of the situation whenever we arrive at the fact that the parents are those who open Facebook accounts to their pre-school children³⁰”.

The police forensics tried to create a profile of the Internet predator from our country. Still, “pedophilia is an internationally classified disorder, and we could not define whether these are people from rural or urban areas, what is their education level. Among pedophiles in our surroundings, we have profiles from farmers, PhDs, to priests, so we could not make a proper conclusion³¹”.

Social networks

Social networks³² are social structures defined by social interactions by individuals or groups, organizations, or societies as a whole. The goal of a social

²⁸ Ministry of the Interior of Republic of Serbia, Department for combating high tech crime

²⁹ Ibid

³⁰ Lecture of Saša Živanović, the head of the Department for combatting high tech crime of Serbian Ministry of the Interior, at a conference “Security and Responsibility”, organized in Subotica in 2017 by Foundation Tijana Jurić

³¹ Ibid

³² First scientific articles on theory of social networks were written in late 19th century by Emile Durkheim and Ferdinand Tonnies by announcing the idea of social networks in their theories and research of social groups

network is maintaining and strengthening of such created congregation. The main social units in such a formed structure are knots, and interactions between social units are connections. An individual (a group, organization, society) can be a member of multiple social networks.

Development of web technologies allowed the formation of social communities on the Internet –online social networks. The online social networks kept the basic concepts of traditional social networks and added some new concepts. The difference between online and offline social networks is in the manner of organization. Offline social networks usually gather around a joint topic or content, while online social networks are organized around individuals, groups, or societies, meaning the central actors are Internet users.

In modern times the social network is synonymous with an online social network. The social networks are one of the most popular Internet services, with quantitative and qualitative expansion. Still, the expansion has its bad sides as well. In parallel with the expansive use of social networks and hysteric desire for likes, one can notice the expansion of criminal activities on social networks. In that context, as the most frequent forms of criminal activities on the social networks, we have fraud, identity theft, piracy, pornography, pedophilia, terrorism, peer violence, hate speech, various forms of anti-governmental activities.

Numerous activities on the social networks that can be filed under illegal activities mostly remain “below the radar” of the law, but, luckily, moderators on social networks explicitly forbid and very efficiently remove pornographic and pedophilic content. Nonetheless, the nature of the phenomenon of pedophilia makes it regenerate easily and change its mutations and reincarnations as it goes. Pornography and pedophilia are so present in the real-life that they easily replicate on the social networks and in all categories of the ICT in general. Because of the large numbers, the social networks are suitable for quick and massive dissemination of pornographic material, but for the finding of pornographic and pedophilic sex rings as well. Numerous software tools that allow search with filtering of data about the users help the pedophiles to relatively easily find, identify, and recruit victims for their deviant desires on social networks.

Conclusion

In an earlier paper³³, we concluded that children began to use the Internet aged just four, and before they arrive at school age they mastered Internet surfing. For several hours a day, the kids spend time in a world without any limitations, so different from the world they live in. As they are naïve and innocent, they easily become prey of Internet predators. The predators acquired quick and anonymous access to the children, a place where they can hide their identity and

³³ Бјелајац, Жељко, Филиповић, Александар: *Перспективе заштите деце од злоупотреба на интернету*, Култура полиса, год. XVII (2020), бр. 41, pp. 259-271

wander over the network without limitations. Internet predators are generally sexual predators. We usually picture them as persons who wander around schoolyards and lurk their potential victims. Nonetheless, the reality has changed. Modern sexual predators lurk for their victims while hiding behind monitors, and they use great curiosity and credulity of children, as well as the anonymity offered by the Internet.

How can we protect the children? Generally, there are two fronts where the children shall be protected. The first is the protection from classic, contact pedophilia, or protection of children from physical contact with a predator. Although the danger for the child, in this case, is greater, it is easier to defend them. A far greater challenge is the protection of children from sexual predators on the Internet. The age limit of first-time users of the Internet is lower with each year, and the great number of prepubescent children seek online games and new friendships. Their innocence, curiosity, and credulousness make them suitable for the influence of pedophiles. Uncontrolled use of the Internet exposes the children to contact with pedophiles, hebephiles, ephebophiles, and other sexual deviants.

Pedophiles use the Internet in various ways, whether to connect with children, make friendships, organize live meetings, or as a means to find, keep, and distribute child pornography. The Internet is also used as a means for interconnecting in pedophile networks, where they share experiences, advice, and visual content.

Still, the Internet is not usable to pedophiles only because of the easy access to children, their identity, and child pornography. The internet is an ideal tool for pedophiles as it offers them complete safety and absolute anonymity. The majority of pedophiles live seemingly normal lives. In the past, most of these people did not dare to fulfill their sexual fantasies because of the fear of the reaction of society. Now the Internet gives them that possibility. Far from the prying eyes, from the safety of their homes, they can enter the private virtual worlds of others where they have the opportunity to watch child pornography and where they can live out their illegal and unfulfilled sexual fantasies. As Internet users, they are not subjected to ethical grading of the society, as they do not have to exist in the real, visible world where they would be subjected to critical judgment.

Education and raising awareness is of the greatest significance in combating Internet pedophilia. The organization of various seminars dedicated to the education of both parents and children is the most efficient method in the prevention of these crimes. We are capable to protect ourselves and our children only as much as we can spot the dangers threatening us from the Internet and to teach the children how to safely use the Internet, as well as to report potential misuses. It is very important to report any incident we spotted the police, as it helps to combat pedophilia on the Internet. Any misuse can be reported directly

to the police, but we can also use hotlines, anonymous phone lines, or web locations that allow anonymous reporting, such as WebEye.

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ИНТЕРНЕТ И ДРУШТВЕНЕ МРЕЖЕ КАО НЕОГРАНИЧЕНИ ПРОСТОР ЗА КОНЦЕНТРАЦИЈУ И МУЛТИПЛИЦИРАНО ПРИСУСТВО ПЕДОФИЛА

Сажетак: Трансформативни утицај интернета на сваки аспект људског живота и деловања је тако свеобухватан да једино дубоком апстракцијом можемо да се сетимо како се живот одвијао пре његовог широког распрострањења. У својој бити технологија комуникације, интернет је најдрастичније изменио начин на који примамо и преносимо поруке сваке врсте. И док је у највећем броју случајева то представљало изузетан бенефит, људска природа је остала непромењена, па је тако један део непрегледне глобалне мреже постао полигон за испољавање разних негативних тенденција, од асоцијалних и антисоцијалних па све до неприкривено криминалних. Због своје децентрализоване природе и практичне немогућности регулације највећег дела интернета на њему су се нашли и постали доступним садржаји и могућности који су са оне стране и закона и друштвеног морала. Порнографија је генерално најпретраживанији термин на интернету, а порнографски сајтови садрже изузетно велике количине материјала. И док је мејнстрим део интернета до одређене мере регулисан, остатак није, и у том виртуелном и практично неограниченом простору сексуални предатори, укључујући педофиле, могу да задовољавају своје склоности на начине који су у чисто физичком свету немогући. Путем интернета педофили могу да на далеко лакши начин ступе у контакт са потенцијалним жртвама, као и да дистрибуирају садржаје дечије порнографије. Безмало свака комуникациона платформа на интернету носи опасност од уплива педофила, а они могу да неометано комуницирају са потенцијалним жртвама без страха да ће бити примећени. Органи безбедности воде борбу са педофилијом и на глобалној мрежи, али резултати су због природе проблема занемарљиви. Кључна улога у превенцији интернет педофилије лежи у подизању свести о значају безбедносне културе на интернету код родитеља и деце – исто као што су родитељи припремали децу на опасности у физичком свету, морају их припремити на потенцијалне опасности и у виртуелном свету глобалне мреже.

Кључне речи: интернет, педофилија, дечија порнографија, друштвене мреже, безбедносна култура

VIDEO GAMES AS A MEAN OF FOSTERING OF THE INTERACTIVE RELATIONSHIP BETWEEN PEDOPHILES AND CHILDREN

Summary: Video games are the most rapidly growing and evolving product of the entertainment industry, and as such, became of the favorite pastimes. Various researches point that video games are not just entertainment for children for a while now and that the average age of a gamer is nearly 40 years old. The industry follows that trend, so the majority of gaming platforms and systems are created for adults. Nonetheless, with the saturation of the market we have the situation that there is a video game for everyone, and with the development of broadband Internet multiplayer online gaming became an indivisible component of video games, in such measure that some of the most popular video games are multiplayer-only. In online gaming, you make contact with other players so the door of possibility for potential misuse is open. Although the mentioned gaming services have age restrictions, most often set at 13 years of age, there is a possibility of giving a false statement and reaching those services, and additionally, there are popular games where the age limit is very low. The danger of misuse and even criminal behavior is increased by psychological mechanisms that appear during playing video games in teams, and one can get an impression of knowing and trusting somebody more than it is true. Still, the communication channels in video games are not the most suitable form of communication between pedophiles and children, but it should be stressed that the danger is in the possibility of migration of that virtual and interactive relationship to a more suitable platform, such as social networks, chat rooms, etc. additionally, the author gives examples of content with elements of pedophilia in video games, while sorting it into two groups according to embedded ethical relationship to that disorder. In the first group, there are games where pedophilia is present as a minor plot point and where the ethical relationship is following social norms, while the other group consists of games where pedophilia is a major plot point, and these games are mostly derived from certain genres of Japanese manga and anime. In conclusion, the author stresses that the danger from pedophiles in online gaming can be significantly mitigated by raising the level of security culture both in the parents and the children.

Key words: video game, pedophilia, online gaming, communication, trust, interactive relationship, security culture

* sasha.filipovic@gmail.com

Introduction

The title of this paper, as it is formulated, demands a certain explanation and a certain semantic differentiating. Otherwise, we could easily float to a non-sensical determination of video games with something that they cannot be attributed to, what they are not, and definitely cannot be as it would be in discord with the ontological being of the video game. Here we think about various theories and proofs that video games *engénéral* can have an obscure goal which is not “only the game and only the playing”.

Since they are a part of the general phenomenon of game, video games, by definition¹, cannot be no one’s means for anything. As Fink wrote, “game has no, nor it can have any purpose, it serves nothing. It is useless and is not used for anything – it does not relate to any final goal of human life that is sought for and believed in. A true player plays only to play. The game stands for itself and in itself, and it is an exception in more than one sense”².

Here we shall say a few words about a noumenon known as the ethics of video games. Naturally, we speak about ethics from the other side of the monitor, the ethics of the world of the video game, and being of video game that is sovereignly ruled only by the player’s avatar. If ethics is used to regulate the relationship between the avatar and the world where he moves and plays, that has to be a new meta-ethics, different from the traditional ethics as much as the world of the video game is different from the real world where the player lives and plays. When it comes to systems of moral values in video games, this paper confronts two forms of ethics but favors *non-ethics*³ of the video game world in contrast to *non-ethics* of video games insisted upon by protagonists of moral panic and critics of the immorality of video games. Non-ethics does not have a value here, that term does not carry good or evil nor it has a pejorative connotation. As non-ethics, we here consider the absence of ethics, non-existence of ethics of any kind, similar to what the Ancient Romans called *privatio ethicae*, and described in *Liber primus naturalium, Tractatus primus de causis et principiis naturalium*⁴, by Avicenna.⁵

A video game is, therefore, a game, created in the form of software, which is played with appropriate hardware. A video game is a designed ethical object in which one or more players, by their own experience of playing the game, completes its goals by using already embedded mechanics and rules of the game

¹ Filipović, Aleksandar: *Paradigma kulturološkog pozicioniranja video igre*, doctoral dissertation, Faculty of Dramatic Arts, Belgrade, 2016

² Fink, Eugen, *Osnovni fenomeni ljudskog postojanja*, Nolit, Beograd, 1984, p. 295

³ *Privatio ethicae*, a non-value based absence of ethics

⁴ Avicenna Latinus, *Liber primus naturalium, Tractatus primus de causis et principiis naturalium*, Louvain la Neuve, 1992, p. 131

⁵ Abu Ali al-Husein ibn Sina (Avicenna; 980 – 1037), leading Persian Islamic philosopher and polymath. He worked in medicine, alchemy, astronomy, psychology, ethics, theology, metaphysics, physics, logic, mathematics and poetry

*that cannot be changed by the will of one or more players outside from already embedded values. A video game is a game in virtual reality, object-oriented toward the player, without whom it cannot exist, where the player, by interaction with the hardware, activates previously defined game software, and together, within the own space and time of the game create its alternatively real world, whose manifesting being is shown on the monitor of the electronic device, while its virtual being stays inside the parallel world of the game together with the player's avatar, and the two beings of the game do not know of one another and do not depend on one another*⁶.

Pedophilia and video games

Pedophilia is most often determined as a mental, psychiatric and social disorder and sexual deviance where adults are sexually attracted to the prepubescent children⁷. That disorder generally leads to sexual abuse of children. Some definitions include older persons in the definition of pedophilia, some even people up to 18 years of age⁸.

Pedophilia is not exactly a frequent appearance in video games, but *a propos* pedophilia and video games there are several interesting aspects.

The most influential aspect is the all-presence of the ICT, or “saturation” or “submersion” of young people and children with information and communications technology, whose *flagship* is exactly video games on every possible platform, including web sites for sharing and exchange of video content, YouTube before others. The presence and aggressiveness of the ICT is a seed of the coming civilization⁹ and makes a child a potential candidate for violence and other kinds of mistreatment. The mechanism works in a way that the children do not have to do anything except keeping their devices on, which opens the door for those with ill-intent to easily and constantly behave inappropriately.

Sexual predators and other “bad guys” got an easy access point to enter the lives of children with online video games. They meet the children through online multiplayer video games and chat apps and create virtual connections and access points in the homes of their victims. The offenders enter conversations and gradually build trust. They often pose as children, offering their victims false stories of their hard life and negations caused by overdemanding parents. Their

⁶ Filipović, Aleksandar: *Paradigma kulturološkog pozicioniranja video igre*, doctoral dissertation, Faculty of Dramatic Arts, Belgrade, 2016

⁷ Gavin, Helen, *Criminological and Forensic Psychology*. SAGE Publications, 2013, p. 155.

⁸ Convention on the Rights of the Child, Office of the United Nations High Commissioner for Human Rights, <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>

⁹ The thesis on interaction of ICT and the new way of life and perception of reality than has the attributes of a new civilization was developed by Sherry Turkle in the book *Alone, Together*. See: Филиповић, Александар, Војнић, Сања, *Безбедносни изазови на интернету као новом простору за вршење насиља*, Култураполиса, год. XVI (2019), бр. 39, pp. 263-273

goal usually is to lead the children to share their explicit photographs and video files which predators later use and misuse. The reports on abuse of children are frequently presented around the world, and the most active perpetrators have hundreds or even thousands of victims. Video games are one of the media used for that, but predators find their victims on social networking platforms and video content exchange websites as well.

In the article *Which Online Games Attract Pedophiles?*, published on the “Killerguides” blog, Sean Turner, writing about the scourge that pedophiles represent, says that “despite their small numbers statistically, pedophiles lurking in the online game world are a concern – and should be. These “active offenders” are men and women who attempt to locate, communicate with, and ultimately physically assault the most innocent amongst us”¹⁰.

“The trouble is, there is a fine line between entrapment and catching a real criminal. As the online videos showing the vigilantes who look for “justice” by hunting down “pedophiles” show, most use entrapment to snare their quarry. For all they know, they could be showing up to confront a police officer or clergy member whose job it is to keep children from becoming victims. Or perhaps it’s just a lonely guy who didn’t really plan on doing anything more than having a Mcburger with someone he’d met online in a game. Even with the lame sexual banter often given (usually pushed by the vigilante, by the way), it becomes obvious who the real pervert might be. On the other hand, the predators need to be sought out and prevented from causing harm.”¹¹

Just a couple of months ago, over 400 known and convictable pedophiles were caught on various gaming platforms by a group known as “Samus.” Operation Samus was conducted by a legal coordinator and four transgender gamers over a three-week period. These investigators managed to gather evidence against 400 criminals, 124 of which were parole violators and known sex offenders. They did it with proper investigative technique, proper evidence gathering, and without baiting or entrapping the pedophiles they were after¹².” The author proceeds to give a link containing detailed information on the action that contains good and realistic advice to parents who want to keep their children safe on the network.

The virtual crime of virtual pedophilia

During mid-2018 in the USA, a shocking letter of Amber Peterson from North Carolina was published¹³. That mother of a seven-year-old girl acciden-

¹⁰ <https://www.killerguides.net/blog/social/which-online-games-attract-pedophiles>, retrieved April 20th, 2020

¹¹ <https://www.killerguides.net/blog/social/which-online-games-attract-pedophiles>, retrieved April 20th, 2020

¹² Ibid

¹³ <https://globalnews.ca/news/4316449/roblox-gang-rape-7-year-old-girl/>, retrieved April 20th, 2020

tally glimpsed at the video game her daughter was playing and was shocked: “My sweet and innocent daughter’s avatar was being violently gang-raped on a playground by two males. A female observer approached them and proceeded to jump on her body at the end of the act. Then the 3 characters ran away, leaving my daughter’s avatar laying on her face in the middle of the playground.”– she wrote, with the screenshots enclosed. Another mother, from Australia, was also shocked when her six-year-old daughter’s avatar was invited to a “sex room” within the game. She had enclosed a video clip she recorded of that sex room, and she was shocked to see explicit depictions of sex between avatars¹⁴. All of that was happening in video game Roblox¹⁵.

In a popular online *role-playing* video game Second Life¹⁶, players can create their own virtual identity, while choosing the age, gender, and appearance. Then these virtual characters can do anything in the video game that people do in real life, including sex. Depending on their preferences, a virtual character can have sex with someone older or younger, as well as much older and much younger. If the virtual character is an adult, he or she can have sex with a character who is a child. If done in the real world, it would be very wrong and very punishable. But is it seriously wrong and punishable to have virtual sex with a virtual child?

Peter Singer of the Princeton University in his article *Video crime peril vs. virtual pedophilia*¹⁷ considers a thesis by which the laws on child pornography would have to influence bans of video games that allow virtual sex with virtual children. The reason might be legally complicated, apologists of punishment for virtual crimes admit, but if it shows that the fantasy of virtual sex with a virtual child makes people more susceptible to get involved in the real-life pedophilia than the real children would be abused, and the movement for banning virtual pedophilia would become stronger.

Pedophiles are “good psychologists and they play the card of susceptibility and weakness of helpless children. Their approach is two-way, and it starts with an explanation that the acts requested from children are exclusively for educational or entertainment purposes and that it shall remain their secret. If such tactics do not give expected results, then they often turn to threats as a proven instrument of force¹⁸”

¹⁴ <https://www.kidspot.com.au/parenting/real-life/reader-stories/mum-horrified-after-sixyearold-stumbles-onto-explicit-roblox-sex-room>, retrieved April 20th, 2020

¹⁵ Roblox is a multiplayer online game and platform where the users design their own games or play various games designed by other users. The platform covers wide array of genres, from racing games to simulations. In August 2019 Roblox had over 100 million active monthly users.

¹⁶ *Second Life* is a virtual online world, launched in June 2003, while in 2017 it had nearly a million regular users.

¹⁷ <https://www.japantimes.co.jp/opinion/2007/07/22/commentary/world-commentary/video-crime-peril-vs-virtual-pedophilia/>, retrieved April 20th, 2020

¹⁸ Жељко Бјелајац, *Безбедносна култура, умеће живљења*, Правни факултет за привреду и правосуђе, Нови Сад, 2017, p. 342

As they often are, the jurists are divided. If the criminal prosecution is a too robust instrument against violent video games, there are discussions about paying damages to victims or families of victims because of the violent crimes committed by people who play violent or pedophilic video games. Today such lawsuits are rejected, mostly because video game manufacturers could not predict that their products will cause people to undertake actions in the virtual world that are illegal or immoral in the real world and life. Although the evidence provided by Anderson and Gentile¹⁹ weakened that defense, video game manufacturers still insist on a simple claim that there is no scientific proof that playing violent video games that have virtual violence in their narratives leads to committing violent acts in the real life.

Supporters of the movement for stigmatization of virtual crimes and criminals deem that society sometimes cannot wait for evidence and that we currently are at that moment. Apologists of the sinfulness of video games consider the risks too high and surpassing any good coming from violent video games. In their opinion, proofs might not be final but are too strong to be ignored.

Academic discussion about virtual pedophilia is perhaps focused on the wrong or too wide target. Like any other form of human creativity, video games should be under legal regulation, but not when we think they allow people to do virtual things that would be crimes if they were real, but only when there is evidence that brings us to correct conclusion that they will lead to real-world crimes. Currently, the evidence is much stronger against video games that include violence against life than for the games that allow pedophilia.

Some examples of the depiction of pedophilia in video games

Here we shall stress that out of the total presence of pedophilia and pedophilic content in video games we shall make a distinction between the games where the player comes in contact with pedophilic content as a part of the game narrative where there is a clear ethical distance from that (like L.A. Noire of Grand Theft Auto 4) and the games where the players themselves, meaning their avatars, commit sexual offenses as the goal of the game. The Japanese video game industry and their scene have a particular inclination to the other kind of pedophilia depiction in video games. Part of these contents comes from the popularity of *shotacon*²⁰ and *lolicon*²¹ manga and anime genres, where the first

¹⁹ Gentile, D. A., Anderson, C. A.: *Violent Video Games: The Newest Media Violence Hazard*, Media Violence and children, Gentile, D. A. (ed.) Praeger, Westport, 2003, pp. 131–152

²⁰ Shotacon is a Japanese acronym for “shotaro complex”, (正太郎コンプレックス, shōtarōkonprekkusu) and describes sexual affinity to prepubescent boys.

²¹ Lolicon (ロリコン), is a Japanese acronym and slang for the phrase “Lolita complex”. In Japan, this word marks the hebephile tendency to young girls as well as the manga genre where young

term is a Japanese language slang for attraction towards young boys, and the second for the attraction of prepubescent girls. In these contents, prepubescent boys or girls are depicted in an erotically and sexually suggestive manner and they represent an obvious object of desire, whether homoerotic or heteroerotic. Out of manga comic books interactive contents were created, where the player makes decisions and his avatar is either the boy/girl or another character to whom the boy/girl is an object of sexual attraction. These rudimentary video games are most often created in the visual novel format, distributed through certain niches of the Internet, and their production is often funded by donations from future players.

L.A. Noire

In one case, Cole Phelps responds to a call regarding a lurker at a high school. The lurker is seen spying on two high school girls as they are about to head home, Phelps arrests the creep and later interrogates him regarding a murder. Another case has the player finding a 12-year-old girl naked in a suspect's bed, while searching their apartment.²²

Grand Theft Auto IV

GTA IV has an in-game internet with dozens of websites that the player can visit. One such site is www.littlelacysurprisepageant.com, which is advertised on the in-game radio stations as a beauty pageant featuring little girls wearing sexy lingerie. If the player visits the website, it is revealed that it's actually an elaborate trap for pedophiles, and they are presented with a message from the LCPD saying that they've taken down the site and that the IP address has been logged. Upon exiting the computer, the player will have a 5-star wanted level.²³

Désiré

*Désiré*²⁴ is a French *point-and-click* adventure video game published in 2016. The game is about an eponymous character, *Désiré*, an achromatic boy who sees only black and white, and the player leads him through four different parts of his life. The game contains topics such as sexuality, violence, pedophilia, zoophilia, suicide, depression, morals, feminism, BDSM, and critiques of aspects of modern society, such as capitalism and materialism.

Drakengard

The character Leonard is a pedophile who inadvertently escaped a tragedy that claimed his family while he was away, engaging in an act of child molestation. He blames himself for the deaths of his brothers. His weakness eventually

female characters are portrayed in a sexual manner. The term originates in Vladimir Nabokov's novel, *Lolita*, whose subject is sexual attraction of a middle-aged man to a 12-year-old girl.

²² <https://www.giantbomb.com/pedophilia/3015-5265/>, retrieved April 20th, 2020

²³ *Ibid*

²⁴ <http://www.seccia.com/games/desire/>, retrieved April 20th, 2020

leads him into being forced into a pact with Faerie that leaves him blind. Similar to other sexually controversial character backgrounds in the game, overt references to Leonard's pedophilia were removed from the North American version of *Drakengard*.²⁵

Twisted Metal/Sweet Tooth

The character of Sweet Tooth in the *Twisted Metal* series is a known child molester that also kills the children, though rather than doing it out of motivation of genuine pedophilic attraction, Sweet Tooth is just a psychopath who revels in the suffering of others, and rape is just another tool to reach that end.²⁶

Rapelay

The most controversial game involving this concept was *Rapelay*, an eroge revolving around rape. The player controls a stalker that can rape a mother and her two daughters, one of which appears to be a prepubescent child. Despite never being released outside of Japan, the game sparked an international outcry that led to the publisher Illusion banning the game.²⁷

Online video games as a mean of meeting between people

It is indisputable that gamers have a specific relationship they make by playing video games with other players on the Internet. Through competition or teamwork, with enough time spent playing together, a player gets an impression of knowing his teammates better than it is the case. Many papers and books were written about how multiplayer online gaming positively influences higher psychosocial aspects in people who play video games in teams. But, the other side of that effect is precisely the impression that we know our virtual teammate and friend very well, despite knowing only his user name, things he or she said about themselves, and the things we can deduct from playing together, and *vice versa*.

The most popular services for playing video games contain age limits for users. So one of the most popular services for gaming on PCs, Steam, has the age limit set on 13 years for creating an account, and since it is necessary to buy a game before playing and you need a credit card to do that, the possibility that a child younger than 13 manages to create an account, buy a game, connect with other people out of whom some are potential pedophiles without parents noticing anything is very slim. A similar age limit is set for Microsoft's Xbox console, while for Sony's Playstation that limit is set at 18, and if the parents want their children to play video games on that console, they have to create them limited accounts, with various possibilities for control and protection. Still, there are

²⁵ <https://www.giantbomb.com/pedophilia/3015-5265/>, retrieved April 20th, 2020

²⁶ Ibid

²⁷ Ibid

some popular games suitable for children that have a multiplayer option, such as Minecraft, where additional caution and monitoring is necessary.

Still, we have to say that in the majority of communication during online multiplayer gaming the topics discussed are mostly limited to comments and demands of the game itself, as it simply is not practical to freeform chat during online game sessions, as the game will suffer for it. Only because certain people or groups purposely meet in gaming sessions to communicate (there are examples that Islamic terrorists and criminal groups used chat options of multiplayer online games for communication and arrangements) it does not necessarily mean that there is an increased danger for children from predators. What can be dangerous is the migration of that virtual relationship from the video game world on the Internet, whether to social networks, chat rooms, communication services, or something other. Then it is a much more suitable and versatile environment for communication of any kind, and larger maneuver space for predators as well, who in that case continues to build on the trust earned through the joint playing of video games.

Conclusion

It looks like this become a scholastic topic where everyone is involved and try to give their opinion to at least the description of the situation if not to the solution of the problem. Video games and ICT are spread around the world and these modern phenomena are becoming irremovable parts of daily life. They are also becoming necessary. Their further development and expansion cannot be stopped. Science and other categories of human knowledge and creativity are lagging in describing the phenomena and giving wise and useful advice to people how to implement the new way of life, based on the ICT and video games, without harming anyone. The lack of legal regulation based on scientific postulates leaves this evermore important field of public life to morals as an “assistant” regulator of relations. And when it comes to that, everything depends on the point of view and the amount of money that circulates the phenomenon which is the subject of a moral dilemma. History teaches us that every moral dilemma so far was solved in favor of money.

When it comes to video games, pedophilia, and their interaction, we witness a serious moral dilemma that exists in all segments of society and state and particularly exists with gamers. As usual, when the social circles are more intellectual, the greater is the dilemma. It is the greatest in scientists who work on philosophical and sociological aspects of video games, and the smallest is in school authorities, clergy, and parents who would like to transfer the blame for misgivings of their children to someone other than them. A long time ago those to blame were dime novels, then comic books, and violent films, then television, and now the attention is turned on video games which make their children everything the parents would not like them to be.

In another paper²⁸, we wrote about evil in video games and came to a position that there can be no evil in video games as evil among people is defined as purposeful hurting of another conscious being. There are no conscious beings in video games, there is only a video game world on the other side of the display, with avatars and virtual beings. Garry Young²⁹, in his book *Resolving the Gamer's Dilemma*, tries to fully explain the gamer's dilemma.

The author compares the consequences of virtual murder and virtual pedophilia. If it happened in the real world, both acts would be wrong, and the verdict would be guilt. Therefore, there is no morally relevant difference between the actual committing of murder and the actual committing of pedophilia. Is it then morally justifiable to make difference between the virtual offense of pedophilia and virtual offense of murder? In virtual worlds of video games, nobody cares about thousands of brutal murders. When you play GTA you can speed in your car on pavements and hit pedestrians without any sanction. Therefore, considering that the GTA franchise was sold in hundreds of millions of copies, it would seem that hundreds of millions of people believe that the virtual murder is morally allowed and they commit that act millions of times each day. From this conclusion, the conclusion that virtual pedophilia is also morally allowed would have to follow.

This paper is not a suitable place for the development of this dilemma but it seems that despite the protest of school authorities, church and various parents associations, this gamer's dilemma must be solved in favor of the video game world, regardless of what the avatar and his company do in their virtual world. Because in the virtual world no one is getting hurt. As a player, you only manipulate ones and zeroes that your hardware transforms into pixels on the display³⁰.

The science we are involved with cannot ignore baseless attacks on video game world, but also should not disregard dangers to society, particularly its youngest and most vulnerable members – children, moreover because the children are becoming a primary object of both good and bad in the video games and the ICT.

Pedophilia, like every other evil activity of the people, has its strongholds. Video games are one of them, but only on far fringes. It is not easy to exploit video games for anything else aside from gaming, because of its technical construction and ontological being. Still, we wrote about the existence of one narrow and hardly visible niche, where a danger coming from the human desire for the game and playing situated itself.

²⁸ Filipović, Aleksandar, *Etički izazovi video igre*, Zbornik radova Fakulteta dramskih umetnosti, Časopis Instituta za pozorište, film, radio i televiziju, Beograd, 2013, broj 24

²⁹ Dennison, Ryan, Young, Gary: *Resolving the gamer's dilemma: examining the moral and psychological differences between virtual murder and virtual paedophilia*, *Ethics Inf Technol*, 19, ppp. 237–239, 2017

³⁰ Ibid

We already wrote that this, at moments scholastic discussion about evil in video games and impossibility that being of a video game is declared evil from this side of the monitor isn't at all naïve. Therefore, full attention must be paid to the potentially devastating phenomenon of residential habituation of evil, a possibility or danger of habituation to doing evil things, and to residential "desatanization" of doing evil things to others in the real life. In that sense, the danger from evil in video games shall be sought in the decreased possibility of rational thinking and estimation in case of a meeting of the player with real evil, or in routinization of doing evil. The routine desatanized evil is generally one of the most destructive forms of evil as it doesn't come from places evil usually comes from, from where people expect it and have their defenses ready: monsters, creatures, psychopaths, sociopaths, and other marginalized people, but from perfectly normal and regular people. It is quite possible that themselves sincerely believe they are not ready to commit evil and that they objectively do not want it, do not enjoy it and they don't believe in any ideals or higher goals upon which they could be called to commit evil for, but they de facto help spreading evil and it is possible that in given situation they would relent under the pressure from the authority and commit unspeakable evil to another person much easier than would the people with whom committing evil is not routinized.

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ВИДЕО ИГРЕ КАО СРЕДСТВО ЗА ПОДСТИЦАЊЕ ИНТЕРАКТИВНОГ ОДНОСА ИЗМЕЂУ ПЕДОФИЛА И ДЕЦЕ

Сажетак: Видео игре су најбрже растући и еволуирајући производ индустрије забаве, и као такве, постале су један од најчешћих избора за провођење слободног времена. Различита истраживања указују да видео игре одавно нису забава за децу, да је старост просечног играча близу четрдесет година³¹ и да је 29% играча старије од 50 година³². Индустрија видео игара и сродна индустрија прате тај тренд, па је већина платформи и система за играње видео игара предвиђена за старије од 18 година. Међутим, засићењем тржишта дошло је до тога да постоји видео игра за сваког, а развојем интернета играње онлајн, заједно са другим играчима, постала је неодојива компонента видео игара, чак толико да су неке од најпопуларнијих видео игара предвиђене искључиво за онлајн играње. Самом чињеницом да играњем онлајн ступате у контакт са осталим играчима отвара се могућност за потенцијалне злоупотребе. Иако поменути сервиси за играње имају старосна ограничења, која су најчешће постављена на 13+ година, постоји, како могућност да се давањем лажног исказа сервисима приступи, тако и постоје игре где је старосни лимит јако низак. Опасност од злоупотреба, па чак и криминалног понашања је појачана психолошким механизмима који настају приликом играња видео игара у тиму, и стиче се веће поверење и осећај познавања него што је то стварно. Ипак, канали комуникације који постоје у видео играма ипак нису најподесније средство за комуникацију између педофила и деце, али треба нагласити да опасност лежи у могућности да тај виртуелни и интерактивни однос мигрира на подеснију платформу, као што су друштвене мреже, чет собе и остало. Аутор, такође, наводи примере садржаја са елементима педофилије који се налазе у видео играма, делећи их у две групе према уграђеном етичком односу према том поремећају. У првој групи су игре у којима је присуство педофилије успутно и са јасно одређеним етичким односом који је у складу са друштвеним нормама, док су у другој игри где је педофилија основ наратива, и те игре су најчешће изведене из јапанских еротских жанрова манга³³ стрипова. На крају аутор закључује да опасност од педофила у онлајн видео играма може да се значајно умањи подизањем нивоа безбедносне културе како код деце, тако и код родитеља.

Кључне речи: видео игра, педофилија, онлајн играње, комуникација, поверење, интерактивни однос, безбедносна култура

³¹ <https://www.statista.com/statistics/722259/world-gamers-by-age-and-gender/>, приступљено 20. априла 2020.

³² <https://www.esrb.org/about/video-game-industry-statistics.aspx>, приступљено 20. априла 2020.

³³ Манга је назива за изузетно популаран концепт стрипова, настао у Јапану где има пресудан културолошки утицај, али се његова популарност проширила глобално

CRIMINAL PROTECTION OF CHILDREN FROM SEXUAL ABUSE

Summary: The introductory part points out the seriousness of the problem of sexual abuse of children and lists, with the Constitution of the Republic of Serbia, conventions that are significant to address this problem. Also, the paper indicates that children, ie. persons under the age of fourteen, enjoy special criminal protection against sexual abuse by prescribing criminal offenses, and then these offenses are enumerated. Each of these criminal offenses is then presented with a brief analysis and an indication of particular problems or omissions in their prescribing. In the conclusion it is stated that the current criminal protection of children is at a satisfactory level, but that criminal legislation in this field is still expected to be amended due to the need for further alignment with the Istanbul Convention.

Key words: pedophilia, child, sexual offenses, rape, children's rights

Introduction

Sexual abuse of children is considered a significant social problem since the second half of the XX century, although scientific studies and social discussions about this phenomenon began much earlier. For instance, a French physician, Ambroise Tardieu, in the XIX century pointed to the problem of children victims of sexual abuse to experts and the general public. The interest of experts in different professions grew with time, so today there is many pieces of research of this problem, both in social and medical sciences (Жерапац, 2004: 28). Otherwise, the term “pedophile”, frequently used to mark perpetrators of crimes against sexual freedom of children is not the most adequate, although widely used. In literal translation the term “pedophile” means “a person who loves children”, and the perpetrators of crimes against sexual freedom whose victims are children certainly do not, meaning they do not love children in a noble sense, but the children are their “preferred victims”. (Шкулић, 2019: 40).

* veljkodelibasic@mts.rs

The Constitution of the Republic of Serbia guarantees the rights of a child, and within that, it prescribes that the children are protected from mental, physical, economic, and every other, including sexual exploitation and abuse (Article 64(3) of the Constitution of Republic of Serbia). In addition to the Constitution of Republic of Serbia, the children are protected by Convention on the Rights of the Child adopted and set for signing and ratification or joining by the resolution of General Assembly of the United Nations 44/25 from November 20th, 1989, and it came into force on September 2nd, 1990. Within the general protection of the child, this convention provides general protection of children from sexual abuse, while additional and more precise protection of children in that field is prescribed by the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse from October 27th, 2007. These conventions shall be viewed as a whole while having in mind that they treat every person younger than 18 as a child, while in Criminal Law of Serbia persons younger than 14 are treated as children.

Criminal offenses that protect children from sexual abuse

The central question with crimes against sexual freedom is how to regulate them with laws, meaning where to set the border between allowed and criminal. This question is still current, although not as much as it was several decades ago when we had a wave of legislative reforms in this field in many countries. Still, even today certain criminal and political questions are current, and in the sense of legal-dogmatic questions, there is almost no crime from this group where these questions are not asked in the application. With that in mind, it could be said that the protected object can be limited to one basic good or right, and that is the right to sexual self-determination. Following that, in the sexual sphere, only those sexual acts where it is not conscious or willing consent of persons against which they are committed shall be incriminated. In essence, these are only two situations: either situations where the sexual act is committed by using force (or when a state of helplessness is abused), or the situation when the act is committed against a person to whom the right on sexual self-determination cannot be recognized due do psychophysical immaturity (Стојановић, Делић, 2015: 66-67).

Persons younger than 14 in Serbia enjoy special criminal protection regarding sexual relations. The basic goal of these incriminations is the prevention of sexual relations or other forms of satisfaction of sexual impulses with persons younger than 14 because they are not physically nor mentally suitable, so that can result in harm to their health and development (Јазаревић, 2006: 516).

Criminal protection of children, meaning persons younger than 14 years old (Article 112(8) of the Criminal Code) from sexual abuse is given to crimes against sexual freedom prescribed in Chapter 18 of the Criminal Code, and these

are rape (Art. 178 of the Criminal Code), sexual intercourse with a helpless person (Art. 179 of the CC), sexual intercourse with a child (Art. 180 of the CC), sexual intercourse by abuse of office (Art. 181 of the CC), illicit sexual acts (Art. 182 of the CC), sexual harassment (Art. 182a of the CC), mediation in prostitution (Art. 184 of the CC), displaying, acquiring and possession of the pornographic material and exploitation of juveniles for pornography (Art. 185 of the CC), leading the child to attend sexual intercourse (Art. 185a of the CC) and exploitation of computer network or communication by other technical means for performing criminal offenses against sexual freedom of minors (Art. 185b of the CC). In addition to these criminal offenses, the children are given suitable criminal protection from sexual abuse by the criminal offense of human trafficking (Art. 388 of the CC). The protection is provided in two ways, either when the object of the offense is exclusively a child or when a certain criminal offense receives graver form if the offense is committed against a child.

The Law on amendments to the Criminal Code from 2019 introduces many novelties, both in a general and special part of the Code. In that sense, it shall be said that the legislator, among other things, increased penalties for crimes against sexual freedom, especially whose forms of the criminal offenses that endanger children, so, in that field, the Criminal Code of Serbia is among the harshest codes. Although there are valid arguments for the harshest penalties imposed on the perpetrators of criminal offenses against sexual freedom when the passive subject is a child, it shall be said that the majority of theorists criticize such solution (see: Стојановић, 2020: 584-585; Шкулић, 2019: 63-67).

Rape

The criminal offense of rape (Art. 178 of the CC) in addition to basic form incriminates one lighter and two graver forms. The basic form of rape (Par. 1) is committed by a person who forces another to sexual intercourse or to the equal act, by using force or threat of endangering life or body of that person or persons close to that person, and the prescribed penalty is imprisonment in term of five to 12 years. A lighter form of the criminal offense (Par. 2) differs from the basic form only in the form of forcing, as in this form of the criminal offense only threats are used, where the passive subject is threatened that for that person or persons close to that person something will be revealed that would damage his/her honor, and the prescribed penalty is imprisonment in term of two to ten years. The gravest form (Par. 4) exists if due to criminal offense from Paragraph 1 the death of the passive subject occurred, or the offense is committed against a child, and the prescribed penalty is imprisonment of at least ten years or life imprisonment.

This offense can be committed only with premeditation which, in basic form, among other things, has to envelop the consciousness that the sexual inter-

course or the equal offense is committed by using force or qualified threat and against the will of the passive subject. In the lighter form of the offense, premeditation envelops the consciousness that the offense committed by threatening to reveal something to him or her close person that would damage his / her honor or reputation or threatening other grave harm and against the will of the passive subject. With the gravest form which exists if the offense is committed against the child, that circumstance must be enveloped by premeditation of the perpetrator. During determination, if the qualifying circumstance that the offense is committed against the child exists, we shall have in mind that sometimes it is difficult to determine how old the passive subject is. It is known that persons aged 12-13 can be developed with expressed sexual attributes that are applied to persons aged 16-17 (Лукић, 1980: 270). In such cases the perpetrator can be in error in regard of the age of the passive subject as a qualifying circumstance, meaning it can happen that the age of the passive subject was not enveloped in premeditation of the perpetrator, and then it would not be the gravest form of this criminal offense.

Sexual intercourse with a helpless person

The criminal offense of sexual intercourse with a helpless person (Act 179 of the CC), in addition to the basic form, incriminates two graver forms. The act of the basic form (Par. 1) is intercourse or equal act. For the existence of the offense, it is necessary that the perpetrator, during committing the offense, abused some of the conditions of the passive subject because of which he or she was unable to resist. The essence of this offense is that the intercourse occurred against the will of the passive subject, while the passive subject can express his or her opposition in any way.

The conditions of the passive subject used for committing this offense are mental illness, developmental problems, other mental issues, powerlessness, or any other condition due to which the passive subject is unable for resisting. Differently from the criminal offense of rape, the perpetrator does not use coercion as a means for committing the offense but abuses some of the conditions the passive subject suffers from regardless of the activities of the perpetrator. The punishment prescribed by the Criminal Code is imprisonment in terms of five to 12 years.

The gravest form exists if the death of the person against whom the offense was committed occurs, or if the offense was committed against the child. The qualifying circumstance that the offense was committed against the child has to be enveloped in premeditation of the perpetrator, and prescribed punishment is imprisonment in terms of at least ten years or life imprisonment.

Sexual intercourse with the child

Ratio legis of the criminal offense of sexual intercourse with the child comes from the general position that a person who is not yet arrived in a certain age is not objectively capable to consent to sexual intercourse by own free will, or from standpoint of the legislator that a person who is a child in the criminal sense is not at all capable to consent to intercourse in a relevant manner. The matter is in abuse of insufficient age of the person with whom voluntary sexual intercourse is achieved and such abuse represents essential *ratio legis* of the criminal offense of intercourse with a child (Шкулић, 2019: 361).

The act of committing of the basic form of the criminal offense of intercourse with a child (Art. 180 of the CC) is prescribed alternatively as the intercourse or equal act, and prescribed punishment is imprisonment in term from five to 12 years. The intercourse is defined as vaginal intercourse, meaning penetration of male genitals into female genitals, while the act equal to intercourse is defined as anal or oral intercourse, or penetration of male genitals into the anal or oral orifice of another person (female or male). It is disputable whether oral intercourse between two female persons, meaning penetration of the tongue of one female to the vaginal or anal orifice of another female is considered as an act equal to sexual intercourse. While having in mind regulations of the Istanbul Convention (Art. 36), that sets demand that in criminal offenses against the sexual freedom the act of committing is defined widely, meaning that vaginal, anal or oral penetration of sexual nature in body of another person without their consent by using any part of the body or objects is incriminated, a position that oral intercourse between female persons shall be considered as an act equal to sexual intercourse shall be accepted (Delibašić, 2019: 241).

Sexual intercourse or act equaled to it must be committed with “consent” of the passive subject. Although there is no consent in the true meaning of that word, there cannot be force or qualified threat, because in that case, the gravest form of the offense of rape from Article 178, Paragraph 4 of the Criminal Code would exist. Also, if the act is committed against a helpless person younger than 14, the gravest form of criminal offense sexual intercourse against a helpless person from Art. 179 Par. 3 of the Criminal Code will exist (Стојановић, Перић, 2009: 92). There cannot be any forms of influencing the will of the passive subject, such as those attributable to the criminal offense of sexual intercourse by abuse of office, since in that case, if the passive subject is child, a graver form of this criminal offense, from Article 181, Paragraph 3 of the Criminal Code would exist (Шкулић, 2019: 366).

The criminal offense can be committed only with premeditation, wherein the sense of the age of the passive subject it is not necessary that the perpetrator has a clear knowledge of the exact age, but it is enough that he or she was aware that it is a very young person. An additional problem is the question of the exis-

tence of true error in the sense of the age of the passive subject. That possibility is quite real particularly in cases when the passive subject was not significantly younger than 14 and when his or her physical appearance relates to one of the people aged 14, or in case of the above-average physical and intellectual development of the passive subject. Since the removable true error excludes the guilt, for the existence of the criminal offense it is not enough that the perpetrator could learn the age of the passive subject in a certain way, and the general question is asked whether someone is obliged to determine the age of another person before entering sexual relations with him or her (Стојановић, 2017: 578).

In that sense, it shall be said that in both theory and practice there is an opinion according to which the existence of error about the age of the passive subject can be accepted only in case when the perpetrator is a minor or a young adult, and when it is justifiable to expect that due to own experience and development stage he or she could act in error. Aside from that, in this opinion, when the perpetrator is older than 21, there is no reason not to expect from him or her to check the age of the minor with whom he or she enters sexual relations. Besides, we can talk about true error only in age borderline cases, measured in months, while more serious age deviations cannot be enveloped in argumentation of true error (Павловић, 2013: 266).

A similar position is taken in question of legal error, where the problem of adaptability of criminal norms to specific cultural and ethnic minorities, such as Roma community, which favors early entering to sexual and matrimonial (extra-marital) relations shall be observed. By this opinion, the existence of error about incrimination of sexual acts against the children based on customs of a certain group or national minority cannot be considered a valid argument, or even extenuating circumstance, as the logic that represents violent or abusing customs as cultural attributes of a people cannot be accepted. Also, such logic is not accepted by the international conventions which try to eradicate gender-violent and discriminative customs by their recommendations (Павловић, 2013: 266).

The graver form (Par. 2) exists if during the basic form grievous bodily harm occurred in children against whom the offense was committed, or if the offense was committed by several persons, or if the offense had pregnancy as a consequence, and the prescribed penalty is imprisonment in term from five to 15 years. Interestingly, the legislator did not predict the graver form in case that the offense is committed by a person who is in a close or special relationship with the passive subject, such as a parent, step-father, step-mother, teacher, or guardian. True, with the criminal offense of sexual intercourse by abuse of office from Article 181 of the Criminal Code, a qualified form is prescribed (Par. 3) which exists if one of these persons or another person who commits sexual intercourse or the equal act with the child commits that offense by abuse of his office or position. In this way, the legislator made an omission, by prescribing the same punishment, the imprisonment in term from five to 12 years both for the basic form of the criminal offense of sexual intercourse with a child from Art. 180,

Par. 1 of the Criminal Code and for graver form of the criminal offense of sexual intercourse by abuse of office, from Art. 181, Par. 3 of the Criminal Code. Such solution is not acceptable, as in the basic form of sexual intercourse with the child there is a “consent” of the child, while in the graver form of the criminal offense of sexual intercourse by abuse of office the intercourse does not occur “voluntarily”, but since the perpetrator abuses his/her office or authority. Because of that a difference between these two situations shall be made by prescribing different punishment (Делибашић, 2019: 245-246). The gravest form of the criminal offense of sexual intercourse with a child (Par. 3) exists when during the basic or graver form of this offense the death of the child occurred, and prescribed punishment is imprisonment from at least 10 years to life imprisonment.

For the basic form of this criminal offense, the perpetrator will not be punished, which means that in that case there is no criminal offense (Art. 112 Par. 29 of the CC), if between him/her or the child there is no significant difference in mental and bodily maturity (Par. 4). In this way, the legislator predicted a condition of exclusion of the existence of criminal offense when certain perpetrators are in question. Although a position that it is a special condition of exclusion of illegality, it is still a circumstance that is connected to the perpetrator’s personality. Namely, a person with certain attributes cannot commit this criminal offense, so that is a personal condition for exclusion of culpability. This question has no practical importance because in both cases there is no criminal offense. Otherwise, this solution introduced in the Criminal Code in 2005 was proposed in the literature for a long time, and it exists in the foreign legislature. That solution is undisputable in the criminal and political sense, but there are certain differences in the way or condition under which it is predicted in foreign legislatures. Although the Criminal Code did not explicitly set the condition that in this case, the perpetrator has to be a minor (persons older than 14 but younger than 18), in case that the perpetrator is of age the condition that there is no significant difference in mental and physical maturity of the perpetrator and the passive subject would not be met. Regarding maximum age difference that could exist, and that the mentioned condition is met, we can see somewhat different solutions in the foreign legislature, or in positions of judicial practice (if it is not explicitly prescribed by the law, which is the most frequent case), or in opinions expressed in theory. According to these positions, the difference is between two and four years, in addition to usually requesting the condition that the passive subject cannot be younger than 12. That would be acceptable orientation criteria for the application of this condition of exclusion of illegality in our criminal legislation as well. Beginning from solutions and experiences in criminal law of other countries, as well as theoretical positions, a position could be taken that in cases when the age difference is not larger than two years we shall start with the assumption that the given condition concerning mental and physical maturity is met. If that difference is between two and four years, it would be necessary to determine and

compare the level of mental and physical maturity of the perpetrator and the passive subject and from that, the existence of the criminal offense would depend (Стојановић, Перић, 2009: 93-94). Therefore, for instance, this criminal offense would not exist in the situation when there is negligible difference in “emotional and social maturity and stability” (АСК, Кж1 555/2015), meaning mental and physical maturity. Nonetheless, there will be a significant difference in mental and physical maturity, and by that, the criminal offense will exist, if the perpetrator (aged 20) by his emotional maturity is at the level of the older minor, and passive subject (aged 12) is at the level of a child (ВСН, К 143/2011-2) (Стојановић, Шкулић, Делибашић, 2018: 230).

Sexual intercourse by abuse of office

The basic form of the criminal offense of sexual intercourse by abuse of office (Art. 181, Par. 1 of the CC) is committed by a person who by abusing his position leads to the intercourse or the equal act the person who is in any form of subordination or dependence to him or her, and prescribed penalty is imprisonment from three months to three years. The graver form (Par. 3) exists if a teacher, guardian, foster parent, parent, step-father, step-mother or another person who by abuse of his or her position commits sexual intercourse or the equal act to it with a child given to him or her for education, upbringing, custody or care, and the prescribed penalty is imprisonment in term from five to 12 years. It will take a graver form (Par. 4) if the act had a pregnancy as a consequence, and in that case for the offense from the Paragraph 1 an imprisonment from six months to five years is prescribed, or for the act from Paragraph 3, imprisonment in term from five to 15 years. The gravest form of this offense (Par. 5) exists if the death of the child occurred, when the prescribed punishment is imprisonment for at least ten years, up to life imprisonment.

Illicit sexual acts

The criminal offense of illicit sexual act (Art. 182 of the CC) exists if under the conditions from Art. 178 Par. 1 and 2, Art. 179 Par.1 and Art. 181 Par. 1, 2, and 3 of the Criminal Code, instead of the sexual intercourse or the equal act some other sexual act is committed. A fine or imprisonment up to three years is prescribed (Par. 1), or imprisonment from six months to five years (Par. 2). If because of the act from Paragraphs 1 and 2 a grievous bodily harm to the person against whom the act is committed, or if the act was committed by multiple persons or in a particularly cruel or humiliating manner (Par. 3), imprisonment from two to ten years is prescribed. For the gravest form of the offense (Par. 4), which exists if after act from Paragraphs 1 and 2 the death of the person against which the offense was committed, the perpetrator will be punished by imprisonment of at least five years.

Sexual harassment

To meet the condition prescribed by the Istanbul Convention a new criminal offense was introduced, sexual harassment from Article 182a of the Criminal Code, with basic and grave form. Basic form (Par. 1) is committed by a person who sexually harasses another person, and a fine or imprisonment up to six months is prescribed as a penalty. Grave form (Par. 2) exists if the basic form is committed against a minor, including a child, and imprisonment from three months to three years is prescribed. With the third paragraph of this offense, it was precisely defined that the sexual harassment is every verbal, non-verbal or physical behavior that has for a goal or represents damage to the dignity of a person in a sphere of sexual life, and which causes fear or creates a hostile, humiliating or insulting environment.

It is interesting that with the fourth paragraph the legislator predicted that for this criminal offense the criminal prosecution is undertaken after the request of the aggrieved. Such solution is not per the Istanbul Convention as it prescribes that providing services cannot be dependent on the readiness of victim to file a complaint or testify against any perpetrator (Art. 18 Par. 4 of the IC), or that crimes from the Istanbul Convention are valid independently from the nature of the relationship between the victim and the perpetrator (Art. 43 of the IC), as well as that the proceedings can be continued even if the victim withdraws his/her statement or complaint (Art. 55 of the IC) (Делибашић, Николић, 2017: 211-212).

Solicitation and facilitating of sexual intercourse

The criminal offense of solicitation and facilitating sexual intercourse (Art. 183 of the CC) has two forms. In the basic form (Par. 1) the act is the solicitation of a minor to commit sexual intercourse or the equal act or other sexual acts, and prescribed punishment is imprisonment from one to eight years and a fine, while the other form of the criminal offense (Par. 2) consists of facilitating the committing of sexual intercourse or the equal act or other sexual acts with a minor, and the prescribed punishment is imprisonment from six months to five years and a fine.

We should have in mind that this offense marks an underage person as the passive subject. Based on Art. 112 Par. 3 of the CC the underage person is a person younger than 18. That means that this term includes the child, or person under 14 years of age, and a minor, or person over 14 but under 18 years of age. The first impression can lead us to think that the passive subject of this offense can be a person younger than 14. Nonetheless, by criminal offense sexual intercourse against the child from Article 180 of the Criminal Code, and with criminal offense illicit sexual acts from Article 172 of the CC sexual intercourse, the

equal act to it or other sexual act committed against the child, meaning person under 14 years of age is incriminated. That further means that if someone would commit the criminal offense of solicitation or facilitating sexual intercourse against the child he or she would not be the perpetrator of this offense, but he or she would be an instigator or abettor in criminal offense of sexual intercourse against the child, or criminal offense of illicit sexual acts. Therefore, the passive subject of this criminal offense can only be a minor, meaning a person older than 14 and younger than 18 years of age (Стојановић, Шкулић, Делибашић, 2018: 234-235).

While having in mind that the passive subject of this criminal offense can freely decide whether or not they will enter sexual relations, and that having sexual relations with a minor is not incriminated a question of justification of the existence of this incrimination arises, as with this incrimination we arrive at the absurd situation that persons who have sexual relations with a minor is not culpable but the person who facilitates or helps in performing an activity which is not punishable is culpable.

Mediation in prostitution

The criminal offense of mediation in prostitution (Art. 184 of the CC) has a basic and a grave form. The activity of committing the basic form (Par. 1) is prescribed alternatively. First, the acts of instigation to prostitution are listed, which consists of leading and instigating others to prostitution. Then as the activity of the basic form helping in committing prostitution is defined, which consists of giving a person to another person for prostitution. In the end, the basic form includes propagation or advertising prostitution employing media or other similar means. A punishment of imprisonment from six months to five years and a fine is prescribed for the basic form.

If the act of committing would consist of instigation or helping in prostitution, and a juvenile would appear as the passive subject, and additionally a condition that the goal of the act is not the exploitation of prostitution, it would not be the basic form, but it would be a graver form of this criminal offense (Par. 2), whereas qualifying circumstance the age of the passive subject appears. For this form, the imprisonment from one to ten years and a fine are prescribed. Considering that the most frequent motive for this criminal offense is profit, meaning the exploitation of prostitution, such a situation will be very rare but not impossible in practice. For instance, the goal of the person who instigates or helps in prostitution can be revenge for a person close to the passive subject, who cares about the moral reputation of the passive subject or moral reputation of his or her family. Also, to the instigator to prostitution, or abettor to prostitution, unless he or she himself is involved in prostitution, the goal doesn't have to be exploitation of prostitution, but to find an adequate job company for himself.

Nonetheless, if the act of committing the offense would consist of some of the designated forms of instigation or abetting in prostitution, which regularly happens in practice, with a goal of exploitation of prostitution, and a juvenile appears as the passive subject, it would not be a grave form of criminal offense mediation in prostitution, but it would be criminal offense human trafficking from Article 388 Paragraph 2 of the Criminal Code. Such a solution imposes itself as terms *leads* or *instigates*, used for criminal offense mediation in prostitution are concurrent with the term *recruits* used for criminal offense human trafficking. The term *gives* is used for both criminal offenses. In that sense, we should have a fact in mind, that criminal offense human trafficking from Art. 388 Par. 2 of the CC, when the passive subject is a juvenile, it does not require instigation or abetting to be done in ways otherwise predicted by this criminal offense (Делибашић, 2010: 58-59). With the graver form of the criminal offense, premeditation must envelop the awareness that the passive subject is a juvenile.

Here the legislator in graver form must use the term underage person (a person younger than 18), which includes a child (less than 14 years of age) and a minor (between 14 and 18 years of age). Therefore it is important to stress that the graver form of criminal offense mediation in prostitution exists only if the passive subject is a juvenile, while if the passive subject were to be a child, it would be instigation or abetting criminal offense sexual intercourse against the child. In that sense, in situations where the passive subject is younger than 14, if it comes to prostitution, the person who uses such services would commit criminal offense sexual intercourse with a child from Art. 180 of the CC.

Displaying, acquiring and possession of pornographic material and exploiting of a juvenile for pornography

Abuse of children for pornographic purposes is a very serious global criminal problem of the modern age, and various sources present visibly unequal estimation of the number of Internet pages with child pornography as well as the total number of children exploited in the production of that content. Besides, although the literature mentions distribution of child pornography mostly in the context of the specific subculture of pedophiles and secret forums where an exchange of the content is done, by simply looking we can see that the situation in the cyber world is drastically different. It would not be untrue to say that the average Internet user would need only a few minutes to find materials where children are represented in a sexual context. Certain limitations are tied to special and rare content, such as a series of photographs of one child, or specific molestation scenarios. At numerous forums, the supply and demand of child pornography is a dominant part of communication. It is only a question of will to find and communicate with an Internet pedophile, and not of ability or time. Exchange of photo and video content through MMS, e-mail, phone software

reached such proportions that it seems impossible to identify and process all involved in this form of abuse (Павловић, 2013: 120-122).

The criminal offense of Displaying, acquiring and possession of pornographic material and exploiting of a juvenile for pornography (Art. 185 of the CC) is in the group of offenses against sexual freedom, and it is mentioned as a high-tech crime criminal offense due to its connection with the IT, in production of pornographic material, its distribution, and modality of making available to a wide circle of users by abusing the information technology (Бодржић, 2013: 145).

This offense includes several forms, and criminal offenses even, because the passive subject is the same (a child, a minor, and underage person), and are tied for pornography, united by the same article (Стојановић, 2012: 552). The basic form (Par. 1) is committed by persons who sells, displays or makes available texts, pictures, audiovisual and other objects of pornographic content or shows to him or her a pornographic show to an underage person, and a fine or imprisonment for up to six months is prescribed. The other basic form (Par. 2) is committed by those who use an underage person for the production of pictures, audiovisual or other objects of pornographic content or pornographic show, and prescribed punishment is imprisonment from six months to five years. The passive subject of this criminal offense is an underage person.

Grave form (Par. 3) exists if one of the two basic forms is committed against a child, meaning person younger than 14, and in that case imprisonment from six months to three years for Paragraph 1, or from one to eight years of imprisonment from Paragraph 2 is prescribed. In this form, the passive subject is a child, and that circumstance has to be enveloped by the premeditation of the perpetrator. If that circumstance is not enveloped by the premeditation of the perpetrator, the crime would be in its basic form.

A special form (Par. 4) is committed by those who procure for himself or the other, possesses, sells, displays, publicly exhibit or makes available electronically or in other way pictures, audiovisual or other objects of pornographic content created by the abuse of an underage person, and the prescribed punishment is imprisonment from three months to three years. The other special form (Par. 5) is committed by those who by IT means consciously access pictures, audiovisual or other objects of pornographic content created by the abuse of an underage person, and the prescribed penalty is a fine or imprisonment up to six months. For this criminal offense (Par. 7) a mandatory measure of seizure of objects, and depending on which form of this offense is committed, these objects will be objects used for committing a criminal offense, or object created by committing the criminal offense.

Leading the child to attend sexual intercourse

The basic form of criminal offense leading the child to attend sexual intercourse (Par. 1) is committed by those who lead a child to attend rape, sexual

intercourse, or equal act or other sexual act, and prescribed punishment is imprisonment from one to eight years. Graver form (Par. 2) exists if the offense is committed by using force or threats, and the prescribed penalty is imprisonment from two to ten years.

The exploitation of a computer network or communication by other technical means for performing criminal offenses against sexual freedom of underage persons

The legislator defines the activity of this criminal offense Art. 185b of the CC) as the exploitation of a computer network or communication by other technical means for performing criminal offenses from Art. 178 Par. 4, Art. 179 Par. 3, Art. 180, Par. 1 and 2, Art. 181 Par. 2 and 3, Art. 182 Par. 1, Art 183 Par. 2, Art. 184 Par. 3, Art. 185 Par. 2 and Art. 185a of the Criminal Code. The act implies the existence of intent of the perpetrator that with the goal of committing one of the mentioned criminal offenses, by using a computer network or communication by other technical means, agrees on a meeting with an underage person and to appear on that meeting. The passive subject in the basic form (Par. 1) is an underage person, and prescribed punishment is imprisonment from six months to five years, while the offense is in its graver form when the passive subject is a child (Par. 2), and in that case, the prescribed punishment is imprisonment from one to eight years. As the only form of guild premeditation is predicted, which must be directly due to the existence of special intent on the perpetrator's side, which must envelop the age of the passive subject.

Human trafficking

The criminal offense of human trafficking is most often committed with the goal of exploitation of the prostitution of the passive subject, or sexual exploitation, so if the passive subject of this offense is a child, then it is also sexual exploitation of a child. It is described in Article 388 of the Criminal Code and consists of several forms. The basic form (Par. 1) as an act of committing predicts, alternatively, the following acts: recruitment of another person, transportation, transfer, giving, selling or buying of another person, mediation in the sale, hiding or keeping another person. In the basic form of this offense, the act must be committed by force or threat, leading to and keeping in error, abuse of authority, trust, dependence, the hardship of others, keeping of personal identification documents or giving or receiving money or other goods. Therefore, for the existence of criminal offense human trafficking, it is not enough that some of the alternatively prescribed acts are committed, but the act must be committed in one of the alternatively prescribed ways. Nonetheless, for the existence of the basic form of this criminal offense, in addition to the fact that the act has to be com-

mitted in one of the prescribed ways, it also has to be committed because of a precisely defined goal. This criminal offense exists in a situation when the act is committed with the goal of exploitation of work of the passive subject, forced labor, committing crimes, exploitation of prostitution and other forms of sexual exploitation, panhandling, use in pornographic purposes, establishing of slavery or similar relation, for taking of organs or body parts or for use in armed conflict. For the basic form imprisonment in terms of three to 12 years is prescribed.

A special form of this criminal offense (Par. 2) exists when the act is committed against an underage person. Nonetheless, to be this form of a criminal offense, the perpetrator must not use force, threat, or some other form prescribed for the basic form of this offense. Prescribed punishment is imprisonment from three to 12 years. In contrast to the previous form, the graver form of this criminal offense (Par. 3) exists when the act is committed in one of the alternative ways prescribed in the basic form of this criminal offense. The act, committed in such a way, has to be committed against an underage person, meaning person younger than 18, where the age of the passive subject appears as a qualifying circumstance, and prescribed punishment is imprisonment in term of at least five years.

Conclusion

Despite the great need to give comprehensive protection to children, the basis for prescribing criminal protection to children from sexual abuse is the Constitution of Republic of Serbia, as well as a large number of international conventions that cover this field, while stressing that under the explicit provision of the Criminal Code (Art. 112 Par. 8) a person younger than 14 years of age is considered a child. There are many ways sexual abuse of children is done, starting with “voluntary” sexual relations with children, exploitation of children for pornography and prostitution, to the rape of children. All these acts are subject to criminal sanctions, or all the acts that are sexual abuse of children can be construed under the being of some of the criminal offenses against sexual freedom or human trafficking, prescribed by the Criminal Code, with harsh sanctions predicted. In that way, adequate criminal protection of children is given, regardless whether the protection is given due to object of the act of a concrete criminal offense is exclusively a child, or if a criminal offense transforms in its graver form if the act is committed against a child.

By prescribing of graver form of a concrete criminal offense against sexual freedom if it is committed against a child, the legislator gives increased criminal protection to the children, which is correct. Namely, such normative differentiating of the passive subjects according to their age is better suited to the needs of criminal policy, while it allows better criminal protection of the youngest age groups, for what the society is very interested, and that interest shall be clearly expressed in the framework of the criminal system (Шкулић, 2003: 481).

In the end, we shall say that we shall expect a serious reform of criminal offenses against sexual freedom, which includes harmonization of our legislation with the Istanbul Convention (although a part of obligations is already completed), but correcting some omissions the legislator made in Chapter XVIII where criminal offenses against sexual freedom are prescribed. Although criminal protection of children from sexual abuse is on a satisfactory level, even better results shall be expected in that field, but we always shall have in mind a fact that is often forgotten, that the criminal law is the last line, and that protection of children should be done by other means (education, for instance), and only when all the other means do not give results, we shall resort to criminal law.

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КРИВИЧНОПРАВНА ЗАШТИТА ДЕЦЕ ОД СЕКСУАЛНИХ ЗЛОУПОТРЕБА

Сажетак: У уводном делу се истиче озбиљност проблема сексуалне злоупотребе деце и наводе се, уз Устав Републике Србије, конвенције које су значајне за решавање овог проблема. Такође, у раду се указује да деца, односно лица млађа од четрнаест година, уживају посебну кривичноправну заштиту од сексуалних злоупотреба, тако што се прописују кривична дела, а затим се она и таксативно набрајају. Након тога се даје приказ сваког од тих кривичних дела уз кратку анализу и указивање на поједине проблеме или пропусте у њиховом прописивању. У закључку се констатује да је тренутна кривичноправна заштита деце на задовољавајућем нивоу, али да се и поред тога очекује измена кривичног законодавства у тој области због потребе додатног усклађивања са Истанбулском конвенцијом.

Кључне речи: педофилија, дете, сексуални деликти, силовање, права детета

PREVENTION OF CHILD SEXUAL ABUSE: PARENTAL AND SOCIAL INVOLVEMENT

Summary: Prevention of Child Sexual Abuse is essential in every society considering the perimeter and long term consequences that problem causes. Child Sexual Abuse is a multifaceted problem according to its characteristics, dynamics, causes and consequences. Risk factors for this form of child abuse vary in children's developmental stages and environments they are developing, including institutions (preschools, schools, sports clubs) where children have the opportunity to form close relationship with adults outside the home and out of parent's control. Numerous studies have shown that high level of Child Sexual Abuse happens by person who is very close to the children's family, so parent's role in preventive sense is crucial. Based on a literature review, international practice and analysis of relevant prevention programs, which has been used over the world, it is evident that parents have dominant role in the prevention and early detection of Child Sexual Abuse. The content of the prevention programs aimed to parents mainly involves teaching children protective behavior, identifying characteristics of the perpetrators and encouraging parents to report case of Child Sexual Abuse. Previous experience in our country suggests that most of prevention activities are focused on a tertiary prevention carried out by Criminal Justice System after the commission of the offense. The purpose of this paper is to analyze prevention programs in the world which has achieved good results in Child Sexual Abuse prevention, give guidelines for a better problem understanding by parents and relevant social factors as well as the organization and implementation of appropriate prevention programs in our child protection system. This paper explores some of the many advantages and disadvantages associated with primary and secondary prevention, as well as ways and means to overcome some problems.

Key words: Child Sexual Abuse, parents, prevention, pedophilia

Introduction

The consequences that children suffer and experience through various forms of neglect are large and numerous in all aspects of children's development. Children's need for safety and care, the feeling of helplessness and its depend-

* boro.merdovic@gmail.com

ence are a good ground for various forms of victimization (Bjelajac&Merdović, 2019: 192). Sexual harassment is a form of child abuse, in addition to physical, mental, emotional and social. It is one of the most difficult forms of abuse that has consequences on the children's psychophysical and social development. In most of the cases Child Sexual Abuse is accompanied by other forms of violence and abuse. The consequences of sexual harassment are not only current, but long term and usually leaves grave trauma on the victim that lasts a lifetime and are manifested through health, emotional, social, psychological and other problems related to victim's everyday communication. There are many definitions of Child Sexual Abuse and it's identified with terms of pedophilia or child molester. According to the Council of Europe's definition (Council of Europe / Convention on Protection of Children against Sexual Exploitation and Abuse. www.coe.int) sexual violence against children includes following:

- a) sexual intercourse with person who has not reached the legal age for sexual activity by the relevant regulations or State law;
- b) sexual contact with child is done by: force, using the threat; or abuses committed by person who child trusts to, or the authority which has influence over the child, including those ones within the family; abuse is committed against child who is in a particularly vulnerable situation, with special emphasis on mental or physical disability or a dependent position;
- c) child prostitution and child pornography, such as: child's employment as a prostitute or causing child prostitution; forcing the child into prostitution or profit-making business or otherwise exploiting child for such purposes; receive compensation from child prostitution; production of child pornography, offering or making available child pornography, distribution or marketing of child pornography; procuring child pornography for oneself or for another person; possessing child pornography; conscious access via information and communication technologies to child pornography.

Often unconsciously sex offender, who may or may not be pedophile are associated to people who suffers from pedophilia as a specific disorder of sexual preference, but that preference they've never demonstrated. In foreign literature is well established the term "Child Sexual Abuse" (CSA) since, in our literature is translated as 'sexual abuse of children'. Based on foreign and domestic literature we can conclude that Child Sexual Abuse is a term that describes sexual activity between child and an adult or older child. This act has been incriminated as serious criminal offense which always involves serious criminal penalties. It means physical contact such as an undesired touching, cuddling, masturbation, oral-genital contact, penetration and vaginal and anal intercourse. Also, children can experience sexual violence and abuse without physical contact and interaction through various comments, displaying pornographic material, observation, photographing and video recording of themselves (Finkelhor, 2008; Putnam, 2003). Typically Child Sexual Abuse is an abuse of trust, coercion, exploitation and/or use of children for the enjoyment and satisfaction of the sexual needs of adults. Conversely, pedophilia is considered as psychiatric disorder differently defined. According to the International Statistical Classification of Diseases and

Related Health Problems, (Chapter V - Mental and Behavioral Disorders - F00-F99; Personality disorders and adults behaviors - F60-F69), Pedophilia (F65.4) is defined as "Sexual affinity to children, boys/or girls, usually prepubescent or early pubescent" (<https://icd.who.int>). Although there is some difference, especially in the diagnosis, Child Sexual Abuse and pedophilia as social and medical problem, can't be seen and treated independently as some other. According to the results of a meta-analysis, the most of registered Pedophilic had been sexually abused during their childhood (Jespersen et al. 2009), which makes unbreakable bond between these two terms, despite the fact that pedophilia is always the most severe form of sexual abuse.

Even though Child Sexual Abuse were present throughout history it took a long time in order to be understood and accepted as a serious social problem that has devastating effects on the child's personality, but also the society aswhole. According to the results from two meta-analysis which included more than 9.9 million children from 6 continents, Child Sexual Abuse represents a serious international problem with an estimated global prevalence rate of 18-20% for girls and 8% for boys (Pereda et al., 2009; Stoltenborgh et al., 2011). Right because of this high prevalence as well as consequences society suffers for, the problem of Child Sexual Abuse must be put on a pedestal of social reaction. Since legal reactions indifferent countries happen to be involved only after the occurrence of the consequences, or after the commission of the offense, itends up being reduced to a formal legal approach applied by Judicial Authorities. This type of reaction can be subsumed under tertiary prevention focused on educational and corrective work with offender and perpetrator in penitentiary institution where they serve their penalty.

The State and society must be more focused on primary and secondary prevention of sex offenders whose victims are children, because that's the way the risk factors can be identified. Coordinated responses by all society stakeholders are crucial in preventing the consequences for children and society as a whole. Effective prevention initiatives will not only reduce the number of children who are victims, but will also significantly reduce the costs associated with sexual offenses (Knack et al., 2019:2). Prevention programs, regardless of the level (primary, secondary, tertiary) in the most of the countries are still under evaluation and testing by scientific research and study. However, the consequences caused by each and every form of Child Sexual Abuse are devastating for both, individuals and society, and cannot wait for perfect models and programs to neutralize these effects or reduce them to the minimum. Prevention is essential at all levels and requires a multidisciplinary scientific approach, cooperation and commitment of all relevant factors of society, including educational institutions, health care, social services, judicial authorities, Ministry of Interior, media and non-governmental sector with necessary financial assistance of the State as holder of all measures.

Risk factors for Child Sexual Abuse

Although there is no consensus about the real volume of Child Sexual Abuse because the percentages and research results fluctuate, it has been dominant view that we should make every effort to prevent such behavior. It doesn't exist just one type of sexual abuse or one type of abusers or victims. Even though scientific knowledge about this subject in recent years has been widened and improved, there are many unanswered questions about this topic. The situation is similar to predictive factors and those factors that contribute to the onset sexual offenses where the victims are children.

Risk factors of Child Sexual Abuse are numerous and diverse. Those factors differs in different children's developmental stages and depends on the environment child grows up in, including institutions where they reside outside the family and have contact and communication with adults (preschools, schools, sports clubs). The perpetrators of sexual abuse are usually family members or people close to the family (acquaintance) or person who spend time with children during the period of day when parents are not at home such as caregivers, teachers, educators, coaches, the priests etc. When we talk about children's age, researches shows that, children of all ages (particularly adolescents) are exposed to the risk of sexual abuse (Flaherty et al., 2013; Nelson, Caplan, 2014), while physical abuse or neglect happens more often at the age of 0 to 6. Children who are sexually abused are not special children with special characteristics; they are not of one age, one sex, one race, or one social class. The victim can become every child in our neighborhood, especially if we consider modern methods of communication, Smartphone's, computers, internet, social networks etc. It is evident that children from all ages, socioeconomic status, racial and ethnic groups are abused sexually (Finkelhor, 1994). Also children with disabilities are at greater risk than children without it. The reasons for this are varied and are related to individual factors and the environment, or the institution where child grows up (children who also have a disability and are not aware of certain actions and behavior, or have an increased sexual desire they can be violent) and the social environment the child is involved in. If we take a look over sex offenders, causality is also different and is related to biological, psychological and social factors, but it's usually a combination of all three. Psychiatric co-morbid conditions which are most common to patients pedophiles as mood disorders (60-80%), anxiety disorders (50-60%), an addictive disorder (50-60%), personality disorders (70-80%), and other sexual preference disorders (50 - 70%) (Fagan et al., 2002). Some researchers came to the conclusion that sexual preference towards children and adolescents, in certain percentage, is the genetic heritage (Alanko et al., 2013). History of sexual abuse is considered as one of the predictors of pedophilia and Child Sexual Abuse. When interrogated large number of pedophiles who have committed crime have reported that they had negative sex-

ual experience in their childhood before they turned 12 (Freund& Kuban 1994:555), but this doesn't mean that child with a traumatic sexual experience will become pedophile when it grows up.

Internet is also one of the most important risk factors. The internet aspect which attracts people the most is the opportunity to experience new things and explore their fantasies. Because of that, sexuality is a very popular topic on the Internet. The opportunity to explore one's fantasy sometime can lead to deviant behavior (Axelrod, 2009:121). Advances in Internet technology, digital audio-visual recording, and mobile phone technology, have opened a whole new world to pedophiles and purveyors of child pornography (Beech et al., 2008; Aslan, 2011). Sex offender uses internet for different purposes like: receiving and transmitting photos for their own needs, selling and distributing it, creating or joining an existing virtual networks and clubs of like-minded people who exhibit sexual affection towards children (Durkin, 1997: 16). According to the survey conducted in the United States, involving children aged 10-17 years, who regularly used internet on daily basis, 19% were exposed to inappropriate messages that could be subsumed under sexual abuse. 25% of them showed a certain level of stress after experiencing discomfort. The highest stress level was among children who were 10-13 years old, who have been using the computers out of parents control and experienced invitation to meet in-person (Mitchell et al., 2003). Because of the easy access to the modern phones, internet, computers, tablets and social networks, which have erased the boundaries between people with this type of sexual preference and children, it is very easy for child to become a victim of sexual harassment and abuse. The children are definitely the most vulnerable category when it comes to the virtual sex crimes. Every parent, teacher or institution dealing with children should know which action belong to the unallowed and illegal sexual activity in order to provide complete protection to their children.

Risk factors related to the family also applies to children who may become victims, but also potential sex offenders. The most common risk factors are listed as, incomplete families (without a biological parent), the absence of the mother, stepfather attendance, conflicts inside the family, family members socio-pathological behaviors, inadequate parenting skills etc. Some authors have studied the influence of each of those factors isolated (Pereda et al., 2009; Finkelhor, 1994). In one US research (Collins, 1996), the results showed that the risk factors most often involves families where the alcohol/drug abuse is present, families living in poverty, where parents did not pay enough attention and were not available to their children, where parents do not communicate well with their children and where the parents relationship is really bad. As it can be risk factor, the family represents the main factor of adequate child protection. Potentials of one healthy family are huge and are the basis of modern Studies of preventive programs.

Child Sexual Abuse consequences

The consequences of Child Sexual Abuse are numerous and difficult especially for victim but also for society as a whole as well as the perpetrators of sexual offenses. They can be acute and imminent (noticeable immediately after the event, such as physical injury, bruising) or direct and permanent (affecting the psycho-social life of the individual throughout whole life such as depression, anxiety, suicidal thoughts). Sexual abuse during childhood and forced sexual interaction in adolescence are associated with subsequent victims risk behaviors related to HIV, such as often partner changing, sexual relations with strangers, anal intercourse, low percentage of practicing safe sex methods or devices (such as condoms) usage. (Jewkes et al., 2002; Maman, 2000). Low self-esteem and difficulties in performing daily activities (Philips, et al., 1994), as well as problem of re-return to work and school, are consequences sexual victimization. In the literature we can find a large number of researches investigating potential link between Child Sexual Abuse and wide variety of psychological problems. Most of them suggest that Child Sexual Abuse is related to various mental disorders. However, there are fundamental questions about nature of the relationship between early sexual abuse and psychological problems (Maniglia, 2012: 99), we have no good evidence and explanation for. Literature review shows that sexual assault is connected to a wide range of symptomatic and pathological behavior of victims, including hopelessness for the future, psychosomatic illness, depression, anxiety, suicide attempt and poor academic achievement (Çeçen-Eroğul& Hasirci, 2013). Significant negative effects can be the result sexual abuse throughout childhood (Hunt& Walsh, 2011: 69), including emotional ailments and disorders, symptoms of post-traumatic stress disorder, behavioral problems, interpersonal relations and issues of cognitive functioning, which can lead to failure in school or dropout in general (Berliner& Elliott, 2002; Jones et al., 2004). However, negative outcomes are inevitable and appears to be related to several factors, including the extent and nature of abuse, the age of the victims, the relationship of the perpetrator to the victim, family functioning in general, way to overcome and the level of support that victim receives from family and other social factors (Putnam, 2003). One important consequence of Child Sexual Abuse, which is not given great attention to, and it is certainly important, is the guilt and shame and the fact that victim blames itself for what happened. The feeling of shame and guilt prevents child and interferes with their ability to entrust to someone else and tell their experience. Kids generally know that what happened to them was wrong and therefore they feel guilty. They feel that they should have done something to prevent that. The experience of abuse can be humiliating. Because of the feelings of shame for what happened, the child usually tries to suppress and hide from parents and adults in order to avoid the feeling of shame and condemnation.

Sexual abuse is associated with other forms of violence. There is a higher probability that the girl who has experienced sexual abuse in childhood throughout the life becomes victim of physical and sexual violence repeated by partners (Trickett et al., 2011). Trauma caused by sexual abuse in early childhood as a factor influences the occurrence of suicidal thoughts among those people in later period of life (Basile & Smith, 2011). Opposite opinion and experts disagreement about the economic consequences of Child Sexual Abuse are very common. On one hand, the cost of treatment and help due to the victims needs and experienced trauma (providing therapeutic facilities, psychologists, treatment, compensation for the sustained pain) and on the other hand the necessity of treatment of perpetrators (costs of court proceedings, prison, treatments in institutions, re-socialization). The long term effects of prevention activities include minimization or elimination of many personal, social, and financial costs associated with potential negative effects of sexual abuse (Letourneau et al., 2018). Costs related to development and implementation of prevention programs should not be an obstacle to their implementation, taking into account all potential savings (Aos et al., 2001). If we add those intangible costs, which includes pains and suffering of the victims (Piche et al., 2018:78), appropriateness and benefits of such projects should not be questioned.

Advantages and difficulties in the implementation of prevention programs

Child Sexual Abuse is a multifaceted problem that requires interdisciplinary approach with regard to the causes and consequences that we mentioned as well as the diverse population of perpetrators. An effective fight against Child Sexual Abuse and pedophilia requires development and implementation of action at primary, secondary and tertiary level (Knack, et al., 2019: 2). Each of those three levels of prevention includes a broad range of activities aimed at individual, group or society as a whole. Adopted in the field of public health, the three levels of prevention are described in the following way (Wortley & Smallbone, 2006: 13):

- Primary prevention includes wide range of initiatives aimed at the general public and are conducted before the onset of sexual violence in order to prevent even the initial incidents (general deterrence of crime, public education, adequate sex education in schools);
- Secondary prevention includes targeted interventions to those individuals who are at risk to exhibit behavior that is considered a sexual offense where the potential victims are children. This level of prevention is dealing with problems that are known as the risk booster of sexual assault (anonymous helpline for people who express sexual interest in children);
- Tertiary prevention is a reactionary approach after sexual offense occurred, aimed at preventing recidivism (treatment programs and treatment of persons who have committed a sexual offense and are commonly found in institutions for execution of criminal sanctions)

Tertiary prevention is essential and the most common in the research because the goal of any society is the crime does not happen again. But the consequences have already occurred and cannot be deleted after the felon identification and imposed penalties, and that certainly mean that perpetrator will spend the part of its life at the penitentiary institution. The stay in the institution for execution of criminal sanctions is necessary to be used for educational corrective work in order for offender to be resocialized and turned away from reoffending after release. In addition to the educational treatment it is often necessary to take a number of psychological, medical and psychiatric measures. Although necessary and indispensable, with a clear measures which needs to be taken, tertiary prevention is neither sufficient nor forehand because the child has experienced trauma and the child has been exposed to consequences. Therefore, in the last 20 years, great attention is paid to primary and secondary prevention of Child Sexual Abuse. Reviewing different studies, it is possible to make a conclusion that majority of the programs are primary and tertiary prevention oriented (McCartan et al., 2018), with clear intentional secondary prevention discrimination.

Primary and secondary initiatives are relevant, because almost 95% of sexual offenses against children are committed by person who has no criminal record (Sandler, Freeman, & Socia, 2008). The study showed that men who commit sexual crimes can fight with their sexual thoughts and instincts an average of 5-10 years before they commit sexual crimes (Knack, Holmes, Trunz, & Fedoroff, 2017; Piche, Mathesius, Lussier, & Schveighofer, 2018), which indicates that we as a society have a lot of time to prevent sex crimes before they manifests.

Primary and secondary prevention of Child Sexual Abuse have at least four potentially far-reaching benefits (Knack, et al. 2019: 6):

1. Prevention of children becoming victims of sexual abuse;
2. Helping people who are at risk of becoming sex offenders to receive appropriate treatment on time, improve their life quality and enable them to remain pro-social members of society;
3. Saving time and resources of the criminal justice by preventing sexual crimes against children, thereby reducing the number of offenders who should be prosecuted and detained because of these crimes;
4. Efforts reduction and resource savings in the health system by eliminating the possible physical and mental health consequences of sexual abuse.

The main goal of primary and secondary prevention is to strengthen protective factors. By strengthening protective factors we'll reduce the influence of different risk factors which contributes to Child Sexual Abuse. Support of all society is an important protective factor for both potential victims and individuals who have a sexual preference for children of preadolescence age. Secondary level of prevention is "Intervention approach," where the goal is early identification and intervention to prevent the structuring of delinquent behavior. The most

often this level of prevention is directed to adolescents and adults offenders, including the "situational" or "opportunistic" offenders who trespasses only in certain circumstances, such as those in the family, school or association, where the opportunity arises (Smallbone, et al., 2008: 160). Such persons, representing potential perpetrators, due to the need of their sexual interest and behavior hidden from family, friends and even health care providers, they experience a sense of alienation and social isolation (Malone, 2014). To motivate these individuals to seek help is the basis for the organization and implementation of preventive programs.

However, the implementation of the prevention of Child Sexual Abuse has identified many difficulties and deficiency, both by service users and by professionals responsible for their implementation. It is often stated that such programs are too expensive and require the activity of many factors of society without delivering the expected results, highlighting their uneconomical nature and the difficulty of evaluation. In the implementation of secondary prevention programs, lack of information is considered to be one of the specific shortcomings. Certain programs targeting at-risk groups or individuals with sexual preferences for children didn't produce the expected results because, despite the fact that they had motives and desires to seek professional help, they didn't do so because they didn't know who to turn to and didn't know that help service exists at all (Horn, et al. 2015). Labeling and stigmatization as well as feelings of shame and rejection, fear of legal repercussions (McCartan et al. 2018), privacy concerns and anonymity (Piche, et al. 2018) can all be significant interfering factors that prevent an individual from seeking help. A survey of self-identified persons with sexual preference for children found that 40% of participants wanted treatment for their sexual interest but did not seek it out due to fears that they would be misunderstood (85%), treated with disrespect (54%), or that treatment provider would be judgmental (63%), unethical (46%), or not respect confidentiality (51%) (Testa & West, 2010). In developed western countries (US and Canada), one of the factors that discourages an individual from seeking help is expensive psychotherapist treatments, which are not able to pay for themselves, and health insurance either doesn't have or doesn't cover the costs.

International experiences in the prevention of Child Sexual Abuse

The two programs that have most often been the subject of research and whose results have been interpreted in scientific circles are "The Prevention Project Dunkelfeld" and "Stop it Now!". Both programs can be classified as secondary prevention programs and are focused to at-risk groups and individuals who may be potential perpetrators of Child Sexual Abuse. The Dunkelfeld Prevention Project (PPD) is an effort founded in Germany to provide clinical and support services to individuals who are sexually attracted to children (pedophiles and hebephiles) and want to help controlling their sexual urges, but are otherwise

unknown to the legal authorities. The project started in Berlin in June 2005 with a large media campaign to contact pedophiles and hebephiles who wanted help from clinicians to manage their paraphilia (https://en.wikipedia.org/wiki/Prevention_Project_Dunkelfeld). The goal of the project was to motivate individuals with sexual preferences for children to voluntarily check in to expose their problem and to be given adequate help and advice. In order for an individual to apply for participation in a project, a media campaign should (1) show empathy and an understanding of their peculiar situation, (2) distance itself from discrimination of any individual for their sexual preference, (3) reduce fear of punishment by the justice system, (4) assure confidentiality and anonymity regarding all collected data, and (5) alleviate feelings of guilt and shame (Beier, et al., 2009: 546). This program has been the subject of research into numerous studies that have addressed its results, methods, evaluation, advantages, disadvantages, cost-effectiveness, etc.

The “Stop it Now” project is a hotline in the UK and Ireland that has been set up to address all those who have a problem with Child Sexual Abuse. Conversations on this line can remain anonymous without providing any identity information. All data connected to child endangerment or the perpetrated violence against the child collected this way would be forwarded to the competent authorities for urgent action. People who have behavioral and self-control problems may also contact this line. They get tips on how to identify their negative behavior and who to ask to for help. The line is also intended for people who have identified certain signs of sexual abuse in their children or children in their area. Experts working with sexually abused children may also receive useful information as well as adults who have been victims of childhood sexual abuse. Many studies have been analyzing the long-standing work of this project. Particularly examined were the results of this project which included motives of callers who presented their problems related to thoughts and sexual instincts towards children. The helpline contributed to the improvement of emotional, psychological and physical health, with one survey showing that 76% of participants experienced a greater degree of control over behavior and emotions, and 75% described a reduction in feelings of social isolation (Brown et al., 2014). Through the evaluation, this program has shown that the simple fact of existing someone they feel comfortable to disclose their sexual interests to, is a preventive action (McCartan et al., 2018: 562). Parents' experiences have also shown that the benefits of such hotlines and projects are multiple and significant. Some programs in England and Ireland are focused on educating children in schools. The objection to such programs is most often related to the fact that children are educated to protect themselves from external danger. It is recommended that children should be able to recognize the signs of sexual abuse in the family among their parents, relatives and close family members. But it is inevitable to work on educating parents who will prepare the child for the educational process at school having conversation with them, and only in combination these two approaches we can

expect children to be adequately educated to protect themselves against sexual assault.

Treatment for children and families at risk which deals with prevention of problematic behavior manifestation, including sexual violence, is also one of the programs which include the narrowest environment where the highest number of individuals who committed sexual offenses against children has been identified. One such program is the "Problematic Sexual Behavior Cognitive-Behavioral Treatment Program: School-Age Program" (PSB-CBT), designed for children with behavioral problems between the ages of 6-12 and their families. PSB - CBT is a family-oriented, cognitive-behavioral, psycho-educational, and supportive treatment group designed to reduce or eliminate incidents of problematic sexual behavior (Basile, et al. 2016). The treatment of the child focuses on detecting and identifying inappropriate sexual behavior, on learning the rules of sexual behavior and self-control techniques, and on sex education. Parents and caregivers receive information on developmentally normal and atypical childhood sexual behaviors and are taught skills to prevent and respond to a child's problematic sexual behavior. PSB-CBT has shown improvements in children's sexual behavior problems after treatment and / or follow-up (Cohen & Manarino, 1997) as well as a decrease in recidivism with children who have undergone a therapeutic cycle (Carpentier, et al.2006).

Research has shown that the most common way to know about the existence of prevention programs was through the media (television, radio, newspapers) or the Internet. All this indicates that in order for prevention programs to be effective, it is necessary to include the media as a resource that most influences creation of public opinion. Since the topic of Child Sexual Abuse and pedophilia is extremely sensitive, precaution must be taken especially regarding the meaning of messages being sent and how they will be understood by the public, health and legal professionals, policy makers and those who may be potential abusers. It is suggested that organizations and professionals working in the field of prevention should help shape these public messages through proactive engagement with the media and the relating of important information, such as the distinction between pedophilia and sex offender and the many potential benefits of primary, secondary and tertiary prevention initiatives (McCartan et al., 2018).

Support and assistance programs for children and families are provided and organized through numerous educational, medical, social welfare institutions, organizations, associations and non-governmental organizations (Merdović, 2019b:191) The concept that includes school and educational institutions and parental education are most commonly applied in the implementation of prevention programs. School is an important factor that, apart from family, is predominantly used in the psycho-physical development of the child, upbringing and education. In the process of organizing preventive activities to protect children from all forms of abuse and neglect, schools play a key role. This is where all school environment factors need to be considered. Teachers are a special fac-

tor in kid's life which in addition to parents has the greatest influence over the child. The way a teacher treats children depends on whether that relationship will be potentially protective or potentially risky for the child. Empathy and compassion, an adequate approach in communication can be a significant protective factor. Children with such teachers develop a sense of confidence and security and often from such a relationship children can confide teachers some of their secrets. The teacher-student relationship, the level of knowledge that the teacher possesses about Child Sexual Abuse, the way he or she communicates with children, empathy, and establishing a relationship of trust with the kids can increase the number of reported sexual abuse (Barron and Topping, 2010). Beside teachers, the school environment includes the complex of many other interactive factors such as: physical arrangement of classrooms and schools, appropriateness of syllabus, quality of peer relations, parent-teacher relationships, student-teacher relationships, mentoring and other student support services, the school organization, management and community where the school operates (Jindal-Snape & Miller, 2008) have also benefited and contribute to a sense of child safety.

Parental education is one of the most common preventative activities. The aim of such programs is to educate parents to recognize the importance of child abuse, how to gain child confidence, encourage parents to report abuse, encourage positive parent-child interactions, increase parental knowledge of child development, improve parental relationships with their child and/or parenting at all. Some parental programs are combined with educational programs at school. Encouraging parents of preschool children to discuss this topic with children at home can help with prevent abuse that begins at an early age before children have the opportunity to participate in school programs (Vurtele & Kenni 2010: 132). Educating parents to negotiate a close relationship with children has contributed to the secondary prevention of sexual abuse as it helps early detection and identification of children who may become victims. Most parents in the research studies pointed out that children are too small to talk about these topics, that such talk can scare children, that children do not understand, but that parents themselves are often not sure whether they will be able to talk in an appropriate way with appropriate vocabulary and terminology. Comparing the results of various studies presented by Babatikos, it's found that parents who did not receive education and training think that greatest danger to their children is unknown person, that physical evidence does not have to be present in cases of Child Sexual Abuse, that parents' estimation of the prevalence of abused children is unrealistic and that parents are skeptical about the possibility that child will report sexual abuse by itself (Babatsikos, 2010). Parents who have completed some form of training and education on Child Sexual Abuse yet express a different and optimistic opinion (Tutti, 1993). Certainly, one of the basic parent's capabilities, if they notice risky behavior in their child's environment, is to prevent contact with such persons or limit access to the potential perpetrator to their child. Some of the programs focus on improving the emotional well-being of

parents (teaching parents how to control their anger and stress). Numerous studies have explored parents' knowledge of physical, behavioral and emotional warning signs about sexual abuse. Some parents did not realize that physical evidence sometimes would not necessarily be present if child was sexually abused, yet they stated that in 95% of cases physical signs were not recorded with children who had experienced sexual abuse (Reppucci, et al., 1994).

Unfortunately, it often happens that parents do not recognize the signs of sexual abuse their child has experienced. Inadequate interpretation of the behavior of individuals from the child's immediate environment can often lead to the neglect of such signals that can turn into sexual abuse. The most common parental responses are that such suspicious behavior is harmless and such behavior is not harmful to their children. Parents decide to speak and react only when such behaviors develop into evident sexual orientation and activity towards children. However, this is sometimes not enough for parents to report the abuser, since it is most often a person from the child's immediate environment (relative, stepfather, close family member). How a parent reacts in such a situation depends primarily on their relationship with the person who committed the offense with their child. Parents most often hesitated to contact the authorities when incidents occurred with persons close to their families (Turner & Rogers, 2012: 61). The child often blames itself for what happened and feels ashamed and embarrassed, which is why it often avoids discussing the abuse it has experienced. It is imperative that parents and professionals encourage the child and remove the guilt from him or her in order to gain the confidence to talk and report sexual abuse. The parent's role is very important as well as teacher and educators at school, especially if elements of the adverse event and abuse are recognized in the child's behavior. Guidelines for how to react in such situations are as follows (McElvaney, 2016: 116):

- Children often feel that when bad things happen, it is their fault and they often blame themselves for being sexually abused. This is not necessarily 'logical' – it just is.
- As helpers we can be impacted by listening to children's stories about their experiences. We need to make sure that our own reactions do not contribute to children's feelings of shame and self-blame.
- We need to be careful about how we speak with children – children can be very sensitive to interpreting what we say as blaming them further.
- Children need to receive constant and persistent messages:
 - It was not your fault – it was his/her fault.
 - Children are never to blame for being abused.
 - It is okay to talk about what happened – talking helps.
 - It's good to stand up for yourself – you deserve to be treated with respect.

Sublimation of the results of earlier research concludes that parental education is a very important factor in the prevention of Child Sexual Abuse. The strategy should be aimed at educating parents or the benefits reported of any risky behavior of people in contact with children. Table 1. (Babatsikos, 2012: 65) lists activities that represent a mere parent's prevention of spreading Child Sexual Abuse that should be applied in daily communication with the child.

Table 1. *Child Sexual Abuse Prevention and Early Intervention Strategies for Parents*

Prevention strategies	<ul style="list-style-type: none"> – developing general communication strategies with children – normalizing sexuality – using teachable moments – establishing family rules about safety – providing age and developmentally appropriate information – clarifying questions asked by children – using humor to diffuse potentially uncomfortable or embarrassing topics – discussing protective behaviors with children – discussing secret-keeping with children – discussing internet safety – investigating social situations for safety – monitoring comfort levels of children – relying on social supports to protect children – using teaching tools
Early intervention strategies	<ul style="list-style-type: none"> – parents using instinct and own discomfort as early warning signs – providing specific but in direct warnings to children – reducing social contact with person who had crossed boundary with child – letting person who had crossed the boundary know that parents were aware of what they were doing through indirect verbal communication and/or body language – using direct confrontation – reporting incidents to authorities

It often raises the dilemma of whether family and parents should be carriers of Child Sexual Abuse programs, or should professionals take care of it. Studies in the US (Wurtele et al. 1992) and China (Chen and Chen, 2005; Chen, et al., 2007) have shown that most parents (over 90%) find that preventative programs are required to prevent Child Sexual Abuse to be realized in schools and pre-schools. However, the fact is that both factors have their advantages and only by acting together we can achieve the most optimal results in protecting children from sexual abuse.

Some projects in Canada have involved volunteers in reintegrating and re-socializing sex offenders by monitoring their behavior and free life activities. Such concept has raised one of the debates in the United States and the United Kingdom concerning the availability of sex offender data. One party endorse public access to registered sex offenders to the wider local community and all stakeholders, while the other party recalls human rights violations, stigmatization, labeling, and security threats. We, in our country, also have debates about the publicity of the pedophile registry and we believe that such a measure is justified. The fact that the local community knows that a particular person is a convicted pedophile and is prone to sexual offenses against children will increase the level of caution in that community. Also, feeling of shame the person with such preferences towards children can be an inhibiting factor in visiting places

where children gather and stay. The sighting of such a person near children will prompt the local community and the individual to report such person to the competent authorities, which will act in a timely manner and remove such person from such a location.

What can we do?

Identification of protective and risk factors is one of the basic ways of purposeful and adequate prevention programs in a society. Although numerous studies have examined some of these factors and their impact on the occurrence and prevention of Child Sexual Abuse, it is not possible to look at each one isolated. It is necessary to take into account their mutual influence and cooperation. Adequate assessment of the impact of particular factors in a particular social environment helps us to adapt prevention programs to increase their effectiveness. The design of primary and secondary prevention programs depends on many factors, including specific program objectives and target population, available resources and resources, program location (social environment, cultural differences, socio-economic status), and modes of service delivery. Evaluating the results of such prevention projects and programs gives us the opportunity to remedy the shortcomings or to implement such programs in other settings. However, it does not mean that a program applied to two different environments will produce equally good results (Barron, et al. 2015: 83) precisely because of the different influences of other factors in society (social status, cultural differences, material and economic status). Even though some programs do not produce the desired results, each of them gives at least a partial step forward in order to prevent sexual violence against children. The decision as to which program will be implemented in a given environment should be based on relevant facts and evidence as much as possible, since this depends on the effectiveness of the program itself, which also entails the protection of children from sexual abusers. Evaluating the effectiveness of individual programs shows that children who have participated in sexual abuse prevention programs in school show improvements in knowledge of self-care skills, and that participation in the program promotes greater detection of sexual abuse cases (Davis & Gidycz, 2000; Walsh, et al. 2015). In the case of individual programs planned for individuals, must be adequately prepared and adapted to the needs of the individual (medical treatment, psychotherapy, behavioral treatment, psychiatric services). What should be pursued is that in each project, a multidisciplinary team of experts should be involved. Where it is not possible to ensure the permanent presence of experts of different profiles (psychologist, psychiatrist, special educator, social worker, teacher), it is necessary to engage them at least occasionally or to facilitate the cooperation of the various institutions where these experts are employed. A multidisciplinary approach is necessary to meet the different needs of treatment us-

ers. It is especially important to adequately inform the public about the implementation of the program and its goals and opportunities. Successful advertising campaigns are crucial to the success of prevention initiatives, because even a well-developed program cannot be effective if its existence is unknown.

The internet is marked as one of the most common ways of communication sex offenders with children. Vulnerability of children on the Internet is the greatest and it is necessary to take all precaution measures to protect them. The most common problem is insufficient technological literacy and training for parents to recognize the problem with their children and appropriately and timely respond to it (Merdović 2019a: 283). Sexual predators interact with children in different ways like impersonates, asks children to send them photos of their naked body or intimate body parts, or they pass on vulgar photos to children, which is a form of sexual violence and abuse as well. Some prevention programs are focused on educating parents and children how to protect them self on the internet, how to control the time and content which children use on the Internet, which video games have a negative impact on children, how to identify a sexual offender, set up the limits and rules of internet use, etc. etc. It is especially important to build a parent-child trust relationship, so that parent always know who does their children are messaging/texting to, to make sure that child does not disclose communication with strangers, does not arrange a meeting with people he/she has met on internet, as well as not to send its own photos, not to continue a conversation that makes him/her uncomfortable, etc.

There is no one and unique program applicable in every country, society and environment, but it is certainly better using uniformed one than restraint or any preventive action. The literature and evaluation of prevention programs worldwide shows that prevention of Child Sexual Abuse is not only possible but mandatory. Although individual skills and self-protection for children are important, the approach taken by family, school, social environment, community and government is equally important for a comprehensive approach that can have the greatest impact on public health and the protection of children from sexual abuse. Primary prevention is essential because it prevents the occurrence of the consequence, but other levels of prevention should certainly not be neglected and ignored. Certainly preventative activities should train individuals (child, but also potential perpetrator), family, school, social environment and society as a whole. Although there are no developed programs in our country, we should not be discouraged but should use international experience and knowledge and use the law best to prevent sexual abuse. Adequate education of parents in order to raise awareness and knowledge of Child Sexual Abuse, engaging schools and the educational system in working with children, engaging social services and medical workers while working with a repressive state apparatus is the best they need to do.

Our legislation is in line with international laws and recommendations of the United Nations (UN) and the World Health Organization (WHO), but it also

has some shortcomings regarding the unknowns in the penal system. These unknowns relate to the non-transparency of data on treatment measures applied to persons in the penal institutions, the inadequacy of the records on those persons (socio-demographic characteristics). The Law of Special Measures to Prevent Sexual Offenses against Juveniles provides clear measures and sanctions against sex offenders who are victims of child abuse. The last exception of the Criminal Code prescribes life imprisonment for the crimes of child rape if a fatal consequence occurred. Certainly, this is a measure of general prevention, but not sufficient by itself, since it is necessary to work on the implementation of preventive programs that will prevent the occurrence of the consequence and not deal with the consequence. The first national study on Child Sexual Abuse was done in 2015. The study was conducted by the non-governmental organization “Incest Trauma Center”, and it primarily examined the attitudes of parents and students in primary schools. The results of the study are presented and based on these recommendations from the National Strategy for the Prevention of Sexual Abuse of Children. The results of the study are in line with research done in other countries, but they also have a number of limitations. It is certainly a pioneering effort in examining the prevalence of pedophilia in our country, but we should not stop there.

The focus should certainly be placed on the family and the school system and through them the available knowledge, experiences and facts proven in the prevention programs already implemented. Educating children from pre-school through primary school through adolescence is a way to empower each child to report it to a trusted person in the event of sexual violence.

Conclusion

Child Sexual Abuse is a serious health and social problem. The fact that studies would be implemented in international practice did not produce concrete and valid results due to numerous limitations (methodological, economic, social) should not discourage theoreticians and practitioners in our country to leave this topic. The results show that prevention of Child Sexual Abuse is possible, desirable and necessary. A multidisciplinary approach to solving this problem is the only right one. Multisectoral cooperation and inclusion of all relevant topics is inevitable and with no alternative. The carrier of preventive activities should become a school system or preschool institution in collaboration with medical professionals, social workers, psychologists and pedagogues. The non-governmental sector, through the implementation of individual programs aimed at target groups of offenders or children at risk, is currently an important driver that can contribute to reducing the number of children who have experienced trauma from sexual abuse. State support, with all its resources, implementation and organization of prevention programs, is compulsory and necessary primarily

through financial support to all actors involved in the creation of a policy to prevent Child Sexual Abuse. Media support is particularly expressed through the promotion of activities aimed at reducing and preventing Child Sexual Abuse, informing the public about the activities undertaken and the results with objective information without sensationalism, respecting the integrity and identity of the child victims. Finally, one of the very important components in the prevention of Child Sexual Abuse is the organization of a large number of scientific studies of this problem, conducting studies, evaluating programs and creating the most effective preventive measures based on scientifically based facts and data.

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ПРЕВЕНЦИЈА СЕКСУАЛНОГ ЗЛОСТАВЉАЊА ДЕЦЕ: АНГАЖОВАЊЕ РОДИТЕЉА И СОЦИЈАЛНЕ СРЕДИНЕ

Сажетак: Превенција сексуалног злостављања деце је од суштинског значаја у сваком друштву с обзиром на обим проблема и дугорочне и озбиљне последице које из њега проистичу. Сексуално злостављање деце је вишеструки проблем, изузетно сложен према својим карактеристикама, динамици, узроцима и последицама. Фактори ризика за овај облик злостављања деце варирају у дечјим развојним фазама и окружења у којима се развијају, укључујући институције (предшколске установе, школе, спортски клубови) у којима деца имају могућности формирања блиских односа са одраслима ван куће и ван контроле родитеља. Улога родитеља добија на значају с обзиром на резултате бројних истраживања која су показала да је висок степен сексуалног злостављања деце од стране особа које су познате породици. На основу прегледа литературе и анализе релевантних превентивних програма, који се примењују у свету и међународној пракси, уочава се да родитељи имају доминантну улогу у превенцији и раном откривању сексуалног злостављања деце. Садржај превентивних програма усмерених на родитеље углавном укључује подучавање деце заштитном понашању, препознавање карактеристика учинилаца и охрабривање родитеља да пријављују случајеве сексуалног злостављања деце. Досадашња искуства у нашој земљи указују да је већина превентивних активности усмерена на терцијалну превенцију коју спроводи кривично правни систем након извршеног кривичног дела. Циљ овог рада је да анализом превентивних програма у свету, који су постигли добре резултате у превенцији сексуалног злостављања деце, дамо смернице за што боље разумевање овог проблема од стране родитеља и релевантних друштвених чинилаца као и организовање и имплементацију адекватних превентивних програма, којих је у нашем систему заштите деце од свих облика злостављања изузетно мало. Овај рад истражује неке од бројних предности и мана повезаних са примарном и секундарном превенцијом, као и начине и могућности за превазилажење извесних проблема.

Кључне речи: сексуално злостављање деце, родитељи, превенција, педофилија

MARINA M. KOVAČEVIĆ LEPOJEVIĆ*
NIKOLETA M. GUTVAJN**
Institute for educational research
Belgrade

UDC 176:371(497.11)
Review work
Received: 24.04.2020
Approved: 07.05.2020
Page: 91-102

CHANGES IN SOCIAL REACTION TO CHILD SEXUAL ABUSE: TOWARDS SITUATIONAL CONTROL IN EDUCATIONAL SETTING***

Summary: Most of the treatment of sexual offenders is based on a cognitive behavioral therapy (within RNR approach) aimed to detect cognitive distortions, bad emotions and cognitive and behavioral change. Empirical evidence suggests that effect size is very much related to offender characteristics. There can be found different kind of perpetrators (e.g. online or contact perpetrators; situational, opportunistic, predatory types). The aim of this paper is reviewing most popular treatment programs in related to research evidences, discussing sexual abuse typologies and to present comprehensive model of situational control of child sexual abuse at the educational setting.

Situational approach is presented as additional model of society protection which is at the same time victim/perpetrator/context-based intervention. Some situational prevention techniques in educational setting involving the increasing efforts are: target hardening (e.g., support of the vulnerable groups of children), access control (e.g., predicting the rules and procedures for kindergartens/school/campus visitors), deflecting potential perpetrators (e.g. recommending school teachers not to communicate with students by their private e-mails or phone numbers). Formal surveillance (e.g. video surveillance) should increase the risk. Controlling prompts means identifying and removing situational triggers (e.g. programs with offenders). Reducing permissibility provides techniques that clarify responsibility, personalize victims, setting rule and clarify consequences (e.g. public education campaign, alcohol reduction measures).

Key words: child sexual abuse, treatment, situational control, educational setting, Serbia

Introduction to treatment of sexual abusers

Risk Need Responsivity (RNR) approach, for now is the most effective approach to sexual offender treatment(Andrews & Bonta, 2010). Approach is

* marina.lepojevic@gmail.com

** gutvajnnikoleta@gmail.com

*** This research was funded by the Ministry of Education, Science and Technological Development of the Republic of Serbia (Contract No. 451-03-68 / 2020-14 / 200018).

introduced by Canadian authors Andrews, Bonta and Hoge (1990), and it's based on empirically tested understanding of the reasons for which individuals engage in criminal behavior- the psychology of criminal conduct (Andrews & Bonta, 2010). It shows that treatment is most effective when programs: (1) target offenders who are at moderate to high risk to reoffend, (2) target changeable risk factors that are empirically linked to recidivism, and (3) ensure maximum benefits for individual offenders depending on their own circumstances and capabilities and doing so using a cognitive-behavioral approach. But, despite empirical support (Hanson & Yates, 2013), the RNR approach has not been widely adopted in the treatment of sexual offenders. As the most promising sexual offender treatment programs aim to change cognitive, attitudinal, affective, and behavioral patterns associated with sexual aggression, introduce adaptive patterns, and skills necessary to manage the dynamic risk factors associated with recidivism risk (Hanson & Yates, 2013).

A lot of other approaches are adopted to sexual offender treatment. For example, Relapse Prevention (RP approach) despite the absence of research support is widely recommended by therapist. It's originally developed within a medical model to assist alcoholic patients to maintain abstinence following treatment for alcohol addiction. Treatment within this approach is based on assisting sexual abusers to develop an understanding of those situations which place the individual at risk for recurrence of the problem behaviors, developing strategies to avoid these situations, learning skills and adaptive mechanisms to cope with high-risk situations (Marques et al., 2005).

Further, early treatment effort in implementing medical and pharmacological intervention are seeing as "innovative" (Wong, 2001). Common for these approaches are that are not supported by research and besides it's ineffective might be very harmful.

Good Lives Model (GLM) of offender treatment have been recently developed (Marshall et al., 2011). Although the GLM shares certain features of cognitive-behavioral treatment, its roots are in humanistic and positive psychology. GLM treatment assists offenders to meet their needs and goals in life in a manner that is appropriate and prosocial. According to the model, the attainment of life goals, well-being, and psychological satisfaction will diminish the attraction for offending and increase motivation for treatment. As this model is relatively new, there are some empirical evidence in reducing sexual offending (Marshall et al., 2011). PPD - The Berlin Prevention Project Dunkelfeld is another alternative approach. The aim of this project is to reach individuals with pedophilic and hebophilic interest by media campaign. The actual treatment program involves a combination of cognitive behavioral interventions, elements of the Good Lives Model, and, selectively, androgen-deprivation medications (Beiler et al., 2009).

In society based on humanity, public and practitioners need to know better than "lock and throw the key" politics related to sexual abusers. Similar, authors

refuse to see drastic medical and pharmacological intervention as “innovative”. Low risk sexual abusers have been treated the same as high risk, which might lead to increasing the risk. Child sexual abusers are most often treated the same as adult sexual abuser, which might be very wrong, ineffective and even harmful. Community based programs for child sexual abusers almost doesn't exist. Great number of child sexual abusers are not detected, and ex sexual offenders are coping with great temptation with almost any support. The aim of this paper is to explore some additional ways of social reaction, with special attention to educational context (maintain reaction to situation of child sexual abuse above pedophilia).

Typology of child sexual abusers

In legislation child sexual offenders are typically seen as one homogenous group. For example, in Serbian Criminal Code contact offender (Copulation with a Child, Article 180) and and pornographic, online and technology initiated offending are recognized (Exhibition, Procurement and Possession of Pornographic Materials and Exploiting Juveniles for Pornography, article 185; Incitement to Minors to Attend Sexual Acts, 185a; and Abuse of Computer Networks or other Technical Communication Means for Committing Sexual for Committing Sexual Offences against Sexual Freedom of Juveniles, 185b) (Official Gazette of the RS, 2005). However, these acts, do not cover all actions that may have consequences for the child's mental and physical health, and the qualification itself is often criticized by experts (Bjelajac, Merdović, 2019:196). Clinical studies of the offender behavior show the differences in criminal motivations, previous victimization/criminalization status, social competence, treatment and risk for recidivism, etc. (Groth & Burgess, 1977; Knight, Carter & Prentky, 1989; Danni & Hampe, 2000; Tener, Wolak & Finkelhor, 2015). Authors suggest that unlike sexual aggressors of women, child abusers cannot be grouped into a reasonably small number of categories (Beauregard & Proulx, 2016). Related to modus operandi characteristics it could be stressed to several key typologies (Table 1).

Table 1. Review of sexual abusers of children typologies

Criterion	Types	Description	Research studies
Motivation	Predatory	high-frequency, chronic offenders; most of them commit sexual and unsexual offences	Cornish & Clarke, 2003
	Mundane / opportunistic	occasional, low-level criminality; invoke neutralizations for offences	
	Provoked / situational	usually offended within the family, reacting to particular set of environmental circumstances	

Sexual gratification strategy	Sex force abuser	Sexual gratification through force (exploitive and sadistic subtypes)	Groth & Burgess, 1977
	Sex pressure abuser	Relative absence of physical force (e.g. engaging the child through persuasion)	
Abusers' psychological characteristic	Fixation type of abuser	Usually commits planned offences	Groth & Burgess, 1979
	Regression type of abuser	Commits offences triggered by situation	
Contacts with child	Interpersonal	Relationship or multiple contacts with the victim prior to the crime	Knight, Carter, Prentky, 1989
	Narcissistic	Selects stranger victims	
	Exploitative	Uses no more force than necessary to secure victim compliance	
	Muted sadistic	Non-damaging insertion of foreign objects in the victim, sadistic fantasies, and sodomy	
	Aggressive	Tendency to inflict severe physical injury on the victim	
	Sadistic	Intense sexual arousal with great pain and fear of victims	
Child victim characteristic	Pedophile abuser	Prefer pre-pubertal victims	Danni & Hampe, 2000 Pendergast, 1991
	Hebophile abuser	Prefer their victims to be post pubertal or orgasmic	
	Incest abuser	Usually has successful adult sexual relationships, high social competence, aggressive in family relations	
Patterns of online communication	Experts	More than one (and more) victim; selecting victims based on special preferences; online or/and offline abuse	Tener, Wolak & Finkelhor, 2015
	Cynical	Less sophisticated and less extreme comparing to experts; Less victims	
	Affection – focused	Genuine feelings of love, care, and affection for victims. Less manipulative behavior (if any) comparing to experts and cynical.	
	Sex – focused	Looking for immediate sexual encounters; generally presented their true identities; sexual intentions were explicit from both sides.	

Sexual abuse typologies must be considered with caution. Research suggests that some child sex offenders do not fit precisely into one typology, as pedophiles for example that are hard to categorize because of high manipulability of the offender (Danni & Hampe, 2000). Research suggest that both affection- and sex-focused are rarely aware of being sexually involved with underage partners and it's questionable if these types will benefit from the common treatment

strategies involving rehabilitation concept (Tener, Wolak & Finkelhor, 2015). Some categories of sexual abusers are intentionally missed, for example typology by gender or by age of a perpetrator. It seems to be that juvenile sexual abusers are not typical sexual offenders. For example, research studies show that majority of juvenile sexual offender has higher rates of nonsexual recidivism, and the relatively low rates of sexual reoffending, suggesting that a relatively small group goes on to commit additional sexual offenses or both sexual and nonsexual crimes (Righthand & Welsh, 2004). Even majority of sexual offenders are male, females commit sexual offences too, more likely to have a history of prior abuse or maltreatment perpetration than male sexual abusers and with the identification of their offending behaviors starting later in life than that of male (McLeod, 2015).

Authors present model for situational control in educational setting related to abusers' characteristics mentioned above.

Situational control of child sexual abuse in educational setting

Situational approach to crime prevention emerged inspired by the effectiveness of a problem-oriented approach to crime control which gained popularity because of its wide range of applicability to various criminal situations. According to definition, situational prevention means to identify, modify and control factors influencing a situation associated with criminal behaviour (Cornish, Clarke, 2003). The main question in this criminological approach is investigating immediate environments that encourage or permit crime to occur. After decades of focusing attention to rehabilitation of the perpetrators, situational prevention introduce attention to "potential" of crime scene situation. Creating safe environment instead of safe "individuals" becomes the priority (Wortley & Smallbone, 2006).

Considering that sexual abuse is not rational choice (mostly involves some emotional and psychological deficits), researchers would say that situational crime prevention has had very little to say about sexual offending. Critics say that situational prevention may be effective for prudent crimes (e.g. burglary) with a clear monetary gain involved, but application to crimes of passion (such as acts of expressive violence), or ones involving strong drives and deviant impulses (e.g. sex offenses) might be deeply questionable (Wortley, 2010). At contrary, it could be noticed that sexual abuse is not randomly distributed in time and space, it follows some patterns. Based on the Smallbone & Wortley research study (2001) key child abuser characteristics is summarized: late onset of the behaviour, low incidence of chronic sexual offending, high incidence of previous non-sexual offenses, low incidence of stranger abuse, low incidence of networking among offenders, low incidence of child pornography use, and low incidence of paraphilic (sexually deviant) interests. Based on the research of sexual abuse

in youth-oriented organizations, Leclerc & Cale (2015) summarized: the number of victims reported per offender was average 21 victims; average age of offenders at their first self-reported sexual offence was 23 years old; 78% had never been arrested for a sexual offence prior to being caught and convicted for their current offences; found that most episodes of sexual contact between offenders and their victims occurred outside the youth-oriented organization (most often in the offender's home); offenders reported having had worked in an organization for an average of 16 years before being caught; more than half of offenders sought work in a youth-oriented organization specifically for the purpose of gaining access to children, etc. Rare research studies involving sexual offenders in Serbia shows that sexual offenders do not start their criminal career with child sexual abuse (nor sexual abuse in general). For example, based on the prisoner statements they are on third and more place and almost all at the age over 21 (Lukić, 2012). Serbian official statistics show that number of child sexual abuse offenders grow with perpetrators age (especially after 30 years) (Statistical Office of Republic of Serbia, 2020).

Gottfredson and Hirschi (2016) stressed that crime prevention strategy should be based on relative stability of perpetrators tendency to offend. At first, it's necessary to meet the conditions under whom child abuse occurs, modus operandi and types of sexual offenders.

Based the classification of situational crime prevention techniques given by Cornish and Clarke (2003), situation prevention of child sexual abuse measures given by Wortley & Smallbone(2006), situation prevention of sexual child abuse in youth-oriented organizations given by Leclerc, Feakes & Cale (2015), actual context of Serbia, model of situational prevention of child sexual abuse in educational setting is suggested. Presented situational interventions involve general measures (typical for almost any offence) and set of measures that are specific for sexual abuse.

Increasing effort. In course of making it harder for potential offenders to obtain children to abuse it's can be use set of measures. Policies instituted by most educational facilities regulate access to the grounds by visitors. School Parental Council make the decisions at school level about hiring security officer or applying other security measure that requires parental financing (e.g. smart ID identification, which is experimentally applied, as access control measure in some schools and kindergartens). Access control can be regulated by teachers, students or school support staff (e.g. caretakers), but it's been suggested that about half of school practice secondary surveillance (Žunić-Pavlović, Kovačević-Lepojević & Merdović, 2011). It's very important to regulate minimal age for school children for walking home from/to school without parental supervision. Serbian Family Law (Article 69) and Draft of Serbian Civil Law (article 2206) outline parental obligation of supervision of preschool children. It's in accordance with practice of Serbian preschool and school administration. Nevertheless, it's questionable if 7-year-old child is capable for being out of parental

supervision after classes. The author recommends collecting children only by parents until 5th grade. Offenders reports that parents should have an open dialogue with their children, discuss with them the reality of sexual abuse and teach them to say no, in course of increasing children awareness but more importantly, building children's self-confidence and resilience (Leclerc, Feakes & Cale, 2015).

Educational institutions in Serbia practice screening employees to prevent people with previous convictions for sexual offenses from working with children. It might be very important, for example research suggest that child sexual abusers choose their profession because of the possibility to have easier access to potential victims (Leclerc & Cale, 2015; Sullivan & Beech, 2004). Educator child sexual abuse came in focus lately, especially female educator child sexual abuse (Knoll, 2010). It's important for education legislation to foreseen policies against educators in course of preventing child sexual abuse. For example, Title IX, a federal law that provides guidelines for prevention efforts and responses to school employee sexual misconduct in K–12 schools includes requirements for 1) comprehensive policies and procedures, 2) prevention efforts, 3) training for staff, students, and parents, 4) timely reporting, 5) thorough and coordinated investigations, and 6) effective response. The Law on Juvenile Offenders and Criminal Protection of Juveniles and The law on Special Measures to Prevent the Commission of Crimes Against Sexual Freedom of Minors in Republic of Serbia (publicly referred to as "Maria's Law") restricts perpetrators movements far from educational facilities (Article 9) and forbid employment related to children in 20 years (Article 6). Child focus programs helps as a strategy of target hardening as they include assertiveness component (e.g. learn how to say no). Study on effectiveness of the school-based child sexual abuse programs shows that all studies found a small but significant average gain in self-protective knowledge, but he impact of the programs on self-protection skills was unclear and in some cases the evidence was conflicting (Topping & Barron, 2009).Serbian school are still far of introducing sexual education, it seems that it might be space for gaining self-protective knowledge and skills related to child sexual abuse. In course of controlling tools, educational institutions should prohibit educator – student communication by private phones. Schools should regulate giving/accepting of presents.

Increase the risk. Increasing risks involves making it more likely that abuser's behavior will be detected. Increasing risk includes extending guardianship, strengthening formal surveillance, increasing natural surveillance, and utilizing place managers (Cornish & Clarke, 2003). Education facilities need to establish policy which prohibit educators to stay alone with child. Campus should regulate visits by educators and other visitors in special rooms with natural surveillance. Serbia started with a school police experimental programme in some schools in 2002. Today there are a total of 341 school police officers employed in 682 schools in Serbia (Politika, 2019). The school police officers are usually

engaged from 8:30 to 16:30 in schools operating in two shifts, and from 8:30 to 15:00 in schools operating in one shift. In schools that share one school police officer, the surveillance is organized in alternate visits to schools by the police officer. In order to successfully perform these tasks, it is recommended that the school police officer is present in the school at the beginning and at the end of classes, during the breaks and in other situations assuming a great number of students (Žunić-Pavlović, Kovačević-Lepojević&Merdović, 2011). Latest research stresses the importance of the role of the school recourse officer (e.g. besides law enforcement role, teaching and mentoring role) for school crime prevention (Devlin & Gottfredson, 2018). Security officers are supposed to assist the police in resolving potential incidents in school, visit critical locations in school, keep the school administration informed about potential problems, provide information to students how they can exercise their rights and refer them to the appropriate staff, promote the school code, escort visitors, assist the school administration in searching student closets, etc. Compared to the school police officers, they have limited powers, they are not as visible, do not wear uniforms or weapons, and therefore their capacity for formal control is lower (Nikolić, 2010). Educational facilities need to be covered by central monitoring system in local police stations which allows simultaneous monitoring of areas covered by all school cameras, zoom frame, rewind, retention and storage of records. Video surveillance in some Belgrade school include face recognition option, which might be important in access control of potential perpetrators of child sexual abuse (e.g. schools at Palilula municipality), and at the other side in some schools cameras are not so sophisticated, cover only the interior of the school, mostly the hallways, stairs and other places with the highest frequency of students (e.g. schools at Zvezdara municipality) (Kekić & Spasić, 2018). Covering all education facility area relevant for child sexual abuse might be of great importance. School uniform is easy way to separate students and visitors (unwanted). That is the way for reducing vulnerability of the victims related to socioeconomic status, etc. The authors note this is the most important factor in potential offenders' decision making.

Controlling prompts. Controlling prompts involves identifying and removing such situational triggers. In context of child sexual abuse it might be applying strategies against seeing children vulnerable and in some other way “provocative” for offenders. Practice of wearing student uniforms might help but security experts often disagree about it (Zhang, 2018). Wortley & Smallbone (2006) noticed that demonizing sexual offenders may be counterproductive because it leaves them struggling with temptations confused and provide specific programs instead.

Reducing Permissibility. Reducing permissibility should help for sexual abusers to see criminality of their behaviour and deliberating from various excuses. Specific techniques include clarifying responsibility, personalizing victims, rule setting and clarifying consequences. Policies against alcohol/drug con-

sumption at educational institutions is necessary. In course of discourage imitation, awareness sessions for educators and other staff on recent cases of unacceptable conduct should be provided. PICK (Plan, Identify, Check and Keep) is a model proposed for safer recruitment of adults seeking positions in youth-oriented organization (Cleary, 2012:128). Planning involves providing a clear definition of the role of staff, safeguarding responsibilities, values and actions of the organization. Expectations and procedures must be set clearly especially sanctions against those who fail to protect children. In course of identifying potential offenders, the model recommends a face to face interview to assess many of the factors just discussed above (i.e., motivations, preferences). The third step where checks are conducted should include the verification of references, criminal record checks, etc. At the end, fourth step involves keeping the focus thorough induction of new recruits, ongoing training, regular supervision and management of performance issues, the use of codes of conduct and whistle blowing policies. Leclerc, Feakes & Cale (2015) mentioned perpetrators among educators who are often covered by their colleges related to child sexual abuse. After “incidence” they usually change school and crime offence stays unreported.

Conclusion

Context-based child sexual abuse (situational) control approach comparing to psychological intervention, seems to be neglected in academic circles especially at the example of educational setting. Besides critiques that some of situational interventions applied in educational institutions might be considered as ethically questionable, in combination with existed intervention focus on perpetrators and children might be of great relevance.

If we are supporting child sexual abuse offenders only in correctional institutions, we cannot expect greater changes. RNS as well as GLM approach in sexual abusers’ treatment which incorporate positive psychology interventions and can be adopted in various contexts might be consider as promising at community level. Positive change involving security culture and prevention of sexual offences need to come from practice. Special value of situational prevention strategy is based on the analysis of child sexual perpetrators modus operandi related to context and perpetrators perceptions of child abuse prevention. Additionally, authors recommend that improvement in security practice in educational context should incorporate broader goals of well-being of all relevant actors.

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ПРОМЕНЕ У ДРУШТВЕНОЈ РЕАКЦИЈИ НА СЕКСУАЛНУ ЗЛОУПОТРЕБУ ДЕЦЕ: КА УСПОСТАВЉАЊУ СИТУАЦИОНЕ КОНТРОЛЕ У ОБРАЗОВНОВАСПИТНИМ УСТАНОВАМА¹

Сажетак: Већина програма намењених третману сексуалних преступника заснована је на когнитивно бихејвиоралној терапији (у склопу приступа Модел ризик-потреба-респонзивност) која је усредсређена на препознавање негативних мисли и осећања, као и на промену начина размишљања и понашања. Резултати бројних истраживања указују да ефективност ових програма варира зависно од карактеристика сексуалних преступника (на пример, онлајн, контактни; ситуациони, опортунистички и предаторски типови). Циљ овог рада усмерен је на преглед релевантних истраживања и приступа у социјалној контроли сексуалних преступника. Размотрене су различите типологије сексуалних преступника усмерених на децу, те на основу података о начинима извршења дела, дат свеобухватни модел ситуационе контроле сексуалне злоупотребе деце у образовноваспитним установама.

Модел ситуационе контроле сексуалне злоупотребе деце у образовноваспитним установама представљен је као додатан модел заштите друштва који је истовремено усмерен и на контекст, учиниоце и жртве. Неке од техника ситуационе контроле сексуалне злоупотребе деце у образовноваспитном контексту у правцу повећања напора учинилаца су: оснаживање мете (на пример, оснаживање рањивих група деце), контрола приступа (на пример, предвиђање процедура за посетиоце у вртићима, школама, ученичким домовима), одвлачење потенцијалних учинилаца (на пример, успостављање правила да наставници не комуницирају са ученицима путем приватних телефона или и-мејлова). Процедуре формалног надзора (на пример, видео надзор) би требало да повећају ризик за преступника да буде ухваћен. Контрола провокације представља идентификовање и отклањање ситуационих окидача (на пример, предвиђање ношења школских униформи). Редуковање оправдања подразумева технике којима се предвиђа одговорност свих актера, персонализују жртве, успостављају правила и разјашњавају последице (на пример, едукативне кампање, забрана употребе алкохола).

Кључне речи: сексуална злоупотреба деце, третман, ситуациона контрола, образовноваспитне установе, Србија

¹ Реализацију овог истраживања финансирало је Министарство просвете, науке и технолошког развоја Републике Србије (бр. Уговорa 451-03-68/2020-14/200018).

CRIMINOLOGICAL ANALYSIS OF PEDOPHILIA AND A REVIEW OF THE PENAL TREATMENT OF SEXUAL OFFENDERS

Summary: Child sexual abuse is a topic of great public interest. Pedophilia is a type of sexual inversions and whose primary interest is directed toward children, predominantly pre-pubertal age. Considering the criminological, medical, psychological, and also sociological specificity of child sexual abuse, it is important to consider the characteristics of the sexual offenders penal treatment, especially in the context of combating recidivism. The paper first analyzes are sexual perversions and inversions, then, the concept and forms of child sexual abuse, as well as pedophilia. Special attention is given to the characteristics and models of sexual offenders penal treatment. The goals of the treatment are certainly to influence the person to become sexually interested in adults, to alleviate the psychic “triggers” of pedophile behavior, to encourage prosocial behavior, to resolve intrapsychic conflicts, etc. The ultimate goal of any model of sex offender treatment is to prevent or reduce recidivism.

Key words: sexual perversions, sexual inversions, pedophilia, penalty treatment, recidivism

Introduction

Looking more closely at the context of violence against children, the division into primary groups of violent activities aimed at children may be identified. It is about physical, psychological and sexual violence. It should also be stressed in the beginning that strict boundaries between the two groups do not actually exist and that it is almost always a case of combined violence against a child, especially if it is a case of sexual violence.

The sexual violence in principle includes any form of exploitation of a child under the age of eighteen years, and for the purpose of sexual gratification

* jelena@pravni-fakultet.info

** jdragojlovic@pravni-fakultet.info

of adults, which means that a wide range of activities with legal, medical, psychological and sociological point of view can be subsumed under the term sexual violence against children and in fact all categories of minors can be considered a passive subject in a particular situation (child, young minor, older minor).

According to the definition in Article 2 and Article 3 of the Law on Juvenile Offenders and Criminal Justice Protection of Minors¹, a child (in terms of criminal responsibility for an offense) is considered to be a person who has not attained the age of fourteen, a younger minor is a person who has attained the age of fourteen and who has not attained the age of sixteen, and an older minor is a person who has attained the age of sixteen but not eighteen years old.

Bearing in mind the topic of the paper, the paper will first discuss the concept and types of sexual perversions and inversions as pathological sexual phenomena that often lead to sexual deviations (which also includes sexual abuse), then, the concept and forms of sexual abuse of children as a specific criminological category of abusive activities, and consequently pedophilia as a particular form of sexual abuse, bearing in mind that pedophilia is very often the first association with the notion of child sexual abuse, especially in the case of homosexual pedophilia. Special attention will be paid to the characteristics of the penal treatment of sex offenders.

The Concept and Types of Sexual Inversions and Perversions

Sexual drive disorders very often lead to sexual deviation and are therefore very often the subject of criminological and criminal investigations. According to Boskovic, "The common notion of sexual deviance is the attitude and behavior of individuals and groups avoiding heterosexuality, as the natural relationship of a man and a woman in satisfying the internal emotional and biological needs and function of extension of the species. Under sexual kinkiness-paraphilia, as forms of sexual deviance, mean abnormal sexual preferences, that is, manifesting aspirations and satisfying the sexual urge in an unnatural and, for certain culture and environment, morally unacceptable way, in cases where some of the forms of kinkiness are the only and exclusive, way of sexual satisfaction."²

Boskovic also states that "there are very diverse and numerous approaches in the categorization of sexual perceptions, but they are mostly reduced to sexual inversions and sexual perversions."³ Thus, the pathology of sexual urge encompasses various manifestations, and, depending on the mental and/or physical state of the person, may be manifested through different modalities of hypersex-

¹ Law on Juvenile Crime Offenders and Criminal Protection of Juveniles, Official Gazette of RS, No. 85/2005.

² Milo Bošković (2009). Kriminogeni značaj seksualnih devijacija, Zbornik radova Pravnog fakulteta u Novom Sadu, Vol. 43, No. 3, Pravni fakultet u Novom Sadu, p.p. 59-60.

³ Ibid, p. 60.

uality or hyposexuality, and may also manifest itself in the form of sexual perversions and sexual inversions. A topic that interests us in this subheading is sexual inversions, and a shorter conceptual overview of sexual perversions will be made.

As Stocanin states, "sexual behavior is, in fact, a learned behavior, where the individual develops his or her perception of sexual satisfaction, that is, what is socially acceptable within his or her environment. Human sexuality is no longer based on simple behavior, but based on learned behavior, activity, and fulfillment. Sexual perversion or kinkiness is a pathological sexual phenomenon manifested in the way of experiencing orgasm."⁴ Marinkovic explains sexual perversions as "unusual sexual behaviors," and generally considers paraphilia to be "strict antisexual upbringing, childhood sexual abuse (especially between the ages of five and eight), excessive exposure to stimulating sexual behavior, and deviant psychosexual development within the family."⁵

Boskovic includes sexual perversions: "sadism and masochism, exhibitionism, fetishism, transvestism, and voyeurism."⁶ Marinković defines sexual inversions in the sense of "inversion, or substitution, ie. reversal of sexual object."⁷ It should be noted here that some authors identify sexual perversions with sexual inversions, counting all their modalities into one group, most commonly called - sexual perversions. In this sense, Kron defines sexual perversions "as any form of sexual behavior that deviates significantly from current norms and is considered pathological in a given culture."⁸ However, Boskovic makes a clear distinction between sexual perversions and inversions, and includes the following modalities in the group of sexual inversions:

- Homosexuality, which "is broadly regarded as a sexual orientation in the relatively lasting emotional, spiritual and sexual appeal of same-sex individuals. It is also known as pederism/pederasty, uranism, third sex";
- Pedophilia and gerontophilia, where pedophilia is considered to be "an inverse form of sexual kinkiness, a tendency of adults towards children of the same or opposite sex, and predominantly manifested in sexual play with female or male children, or both, depending on the type of pedophile. In contrast, sexual orientation towards older people is referred to as gerontophilia";
- Necrophilia, which occurs "as a form of erotic in the exhibitionistic, sadistic or sexual gratification of human corpses, enjoying watching the bodies of the dead, or having sexual relations with them";
- Zoophilia (zoorastia), which is conceptually defined as the pathological phenomenon of sexual intercourse with animals."⁹

⁴ Selma Stočanin (2013). Pedofilija, jedan od oblika seksualne perversije, Kriminalističke teme, br. 3-4, Fakultet za kriminalistiku, kriminologiju i sigurnosne studije Univerziteta u Sarajevu, Sarajevo, p. 127.

⁵ Darko Marinković (2012). Kriminalistički relevantne klasifikacije silovanja, NBP - Žurnal za kriminalistiku i pravo, Vol. 17, No. 2, Kriminalističko-policijska akademija, Beograd, p. 54.

⁶ See more: Milo Bošković (2009)., op. cit., pp. 67-71.

⁷ Darko Marinković (2012)., op. cit., p. 54.

⁸ Lepasova Kron (1989). Psihološka tumačenja i istraživanja ličnosti sekularnih prestupnika, Beograd, JRKK, p. 72.

⁹ Milo Bošković (2009)., op. cit., p. 62-67.

Having said that, a concrete assessment of the existence of sexual deviance in a particular case depends on various factors that determine the attitude of the social community - primarily on sociological and cultural conditions, and also on the moral and ethical choices of society.

Explaining sexual perversions and sexual inversions as forms of sexual deviance, Boskovic concludes that "Sexual inversions are inclinations and phenomena where the sexual urge is unnaturally directed at the subject, while sexual perversions are characterized by the unnatural conditions under which a person experiences sexual arousal. Basically, the most serious forms of sexual abuse occur in some combinations of both of these forms."¹⁰

The Concept and Forms of Child Sexual Abuse

The definitions of child sexual abuse are numerous and varied, although, by their structure and scope, they are all equally taken into account when explaining sexual abuse more closely.

The Council of Europe definition was consulted in the text of the National Study on the Social Problem of Child Sexual Abuse in the Republic of Serbia¹¹ which refers to the following in the sexual abuse of children:

- "a) having sexual intercourse with a child who has not reached the legal age for sexual activity under the relevant regulations or state law;
- b) sexual intercourse with the child has been done: under duress, using force or threat; or the abuse was committed by a person the child trusts, authority or who has influence over the child, including those within the family; the abuse was committed against a child in a particularly vulnerable situation, with particular emphasis on mental and physical disabilities or a dependent position;
- c) child prostitution and child pornography, such as: employing a child in prostitution or causing child prostitution; coercing the child into prostitution or profit or otherwise exploiting the child for such purposes; receiving compensation from child prostitution; making child pornography; offering or making available child pornography; distribution or transmission of child pornography; obtaining child pornography for themselves or another person; possession of child pornography; aware access through information and communication technologies to child pornography."¹²

As Stevanovic explains, "sexual abuse of children means any contact or interaction between the child and the adults go through vaginal, anal or oral intercourse, as well as all other forms of contact with the child being implemented

¹⁰ Ibid.

¹¹ Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, Council of Europe Treaty Series - No. 201, Lanzarote, 25.X.2007.

¹² Ljiljana Bogovac, Stanislava Otašević, Viktorija Cucić, Dušica Popadić (2015). Nacionalna studija o društvenom problemu seksualnog zlostavljanja dece u republici srbiji – kratak preliminarni izveštaj, Incest trauma centar, Beograd, p. 11.

for sexual purposes".¹³ Zegarac says that "Sexual abuse means "to lead on or to force a child or young minor to engage in sexual activities."¹⁴

According to Milosavljevic, "sexual violence against children can be viewed in a narrower or wider sense. Thus, in the narrow sense, it will mean "any form of satisfaction of sexual needs and urges by physical, psychological or other force or superiority", while sexual violence in the broad sense will mean "any form of verbal, gestural or physical contact with the sexual content of at least two persons regardless of gender, on the scale of sexual messages, lascivious words, stories, and sexual offerings, to the point of showing sexual symbols, touching, attempting or having sexual intercourse and rape, if it is the result of the unwanted and unaccepted attitude of any participant in these relationships when it comes to adults and regardless of the existence or absence of will, desires, and knowledge when the object of such relationships is a minor."¹⁵

In summary, "The operationalization of child sexual abuse is very different in the literature, and one or more of the following forms of violence are commonly explored:

- no sexual contact (making compliments and requiring sexual content, exposing, showing,
- viewing private/intimate body parts and organs, etc.); with sexual contact (touching, caressing, kissing and more);
- violent sexual intercourse (oral, anal, vaginal);
- combined sexual violence."¹⁶

Given a large number of definitions of sexual violence against children, there are also several different phenomenological concepts of this phenomenon.¹⁷ Some characteristic manifestations of child sexual abuse, represented in practice, as analyzed in theory, are: pedophilia (which is also the first association with the concept of sexual abuse); incest; child prostitution, child sex tourism, child trafficking, child pornography, child grooming, child marriages as a form of child sexual abuse, child sexual abuse within religious institutions, child sexual abuse within social welfare institutions, female genital mutilation, etc.¹⁸ These are, therefore, just some of the characteristic forms of child sexual abuse that are most commonly identified in practice. What is a significant feature of the phe-

¹³ Ivana Stevanović (2002). Osvrt na neka pitanja seksualnog nasilja prema deci, *Temida*, Vol. 5, No. 3., Viktimološko društvo Srbije, Beograd, str. 41.

¹⁴ Nevenka Žegarac, (2004). *Deca koja čekaju: izazovi i trendovi profesionalne prakse u zaštiti dece od zlostavljanja*, Save the Children UK/Beogradska kancelarija i Centar za prava deteta, Beograd, p. 32.

¹⁵ Milosav Milosavljević (1998). *Nasilje nad decom*, Fakultet političkih nauka Beograd, p. 44. according to: Nikola Petković (2015). *Zanemarivanje i zlostavljanje dece u Srbiji – fenomenologija, etiologija i društvena reakcija*, doctoral dissertation, Fakultet za specijalnu edukaciju i rehabilitaciju Univerziteta u Beogradu, p. 35.

¹⁶ Љиљана Боговац et al., (2015). op. cit., стр. 12.

¹⁷ Željko Bjelajac, Aleksandar Filipović (2020). *Perspektive zaštite dece od zloupotreba na internetu*, *Kultura polisa*, Vol. 17, No. 41, Kultura-Polis i Institut za evropske studije, pp. 259-271.

¹⁸ See more: Nina Milenović (2013). *Seksualno zlostavljanje dece – oblici i učestalost*, master work, Pravni fakultet Univerziteta u Nišu, p. 27-50.

nomenon itself is that sexual abuse in general, especially against children, is a taboo topic that is still very little talked about today. The phenomenon is also characterized by the fact that the child's parents themselves are often included in the system of "cover-up", and one of the frequent reasons for such treatment is the fact that when entrusting the child, the parent does not believe or does not want to believe the allegations of abuse. For these and many other reasons, the dimensions and effects of child sexual abuse are best shown in data from the practice.

According to Petkovic and associates, "If we look at the data of the Incest Trauma Center as an organization that deserves extraordinary credibility in the Republic of Serbia when it comes to the topic of sexual violence against children, it should be noted that in the period 1994-2004. As many as 98.25% of abusers in Serbia were known to the child, while in the period 2004-2009. this share was 100%."¹⁹

According to data from the Incest Trauma Center presented in the National Study on the Social Problem of Child Sexual Abuse in the Republic of Serbia, among other things, the following principal conclusions were reached: "at the age of 10 to 18, there are 4 children in every school unit in Serbia that have survived some form of sexual assault and 4 other children who know someone who happened. At this point (2015), 2 children from each school department are exposed to sexual violence. In elementary school, children first disclose to their family, which they do not trust. Young people in high schools most often tell a friend or friend who is more likely to trust them. Of the 2/3 children who disclose what happened to them, more than half of the people they confided in do nothing. Only 7% of them report the case to the competent services."²⁰ The study also points out that "the most common place where violence occurs is at home, in 32% of cases, and certainly what creates concerns are social networks with 22% cases where the child received and was exposed to explicit sexual content. The data shows that acute sexual violence (violence that persists) is more common in primary school children. The average age at which sexual violence occurred was 14 years and the children dared to report trauma survivors for an average period of up to 2 years after the abuse."²¹

In the continuation of the paper, more emphasis will be put on pedophilia as a particular form of sexual abuse.

Criminological Analysis of Pedophilia

Pedophilia originates from the Greek word paidós - child and filéó - I love, love, and it represents sexual strangeness, ie. sexual preference for children of

¹⁹ Nikola Petković, Zoran Pavlović, Jelena Dimitrijević (2012). Krivičnopravna zaštita dece od seksualnog zlostavljanja (predlozi de lege ferenda), Specijalna edukacija i rehabilitacija, Vol. 11, No. 2, Fakultet za specijalnu edukaciju i rehabilitaciju Univerziteta u Beogradu, p. 312.

²⁰ Ljiljana Bogovac et al., (2015). op. cit., p. 7.

²¹ Ibid., p. 8.

the same or opposite sex.²² Korajlic and Muharemi state that a pedophile is, as a rule, "an adult who engages in any kind of sexual activity with persons legally defined as children."²³ Matulic states that "the World Health Organization's International Classification of Diseases and Related Health Problems Among Sexual Disorders includes Pedophilia (F65.5), which is described as a sexual preference for children, boys and/or girls, usually in the pre-pubertal or early puberty phase."²⁴ The terms of what pedophilia is referred to Ispanovic-Radojkovic and Ignjatovic say "contact activities, such as rape, forcing a child to have a vaginal, anal or oral intercourse, sexualized caressing, touching, using the child for adult masturbation, then non-contact activities within voyeurism, obscene speech or exhibitionism. in front of the child."²⁵

In this section, it is important to emphasize that the legislation of each state determines the age at which a person is considered a child, and what are the consequences of sexual and related contact with a person who is not considered a child but has not yet reached the age of maturity. As mentioned in the introduction, according to the provisions of the Juvenile Offenders and Criminal Justice Protection of Minors Act, a child is considered to be a person who has not attained the age of fourteen; a younger minor considers a person who has reached the age of sixteen and has not attained the age of eighteen. According to Radojkovic Ispanović and Zegarac, "under the Criminal Code²⁶ in Serbia, a child under the age of 14 cannot give his or her consent, that is, it is not valid in any case because the child is not yet mature enough - neither cognitively, emotionally nor socially. When a child reaches the age of 14, the court only assesses whether sexual contact with the minor was committed under duress, use of force or threat to directly attack the life or body of the child or his/her close person, or assess whether there was a relationship of subordination or dependence, or whether it is sexual violence against a person who is mentally ill, has a developmental disability, or whether the sexual intercourse is a result of the exploitation of powerlessness or any other condition of the minor in terms of inability to resist."²⁷ The same authors state that "certain adult-child relationships in which an adult has a special position of responsibility, trust and power in relation to the child (parents, guardians, foster parents, teachers, educators, health and other

²² Selma Stočanin (2013)., op. cit., p. 129.

²³ Nedžad Korajlić, Driton Muharremi (2011). Heuristička kriminalistika, Univerzitet Travnik, p. 625.

²⁴ Tonči Matulić (2018). Neki najrecentniji aspekti fenomena pedofilije u Crkvi, Bogoslovska smotra, Vol. 88, No. 4, p. 899.

²⁵ Veronika Ispanović Radojković, Tanja Ignjatović (2011). Oblici i pokazatelji zlostavljanja i zanemarivanja, u: Zaštita deteta od zlostavljanja i zanemarivanja primena opšteg protokola ed. V. Ispanović Radojković, Centar za prava deteta, Beograd, p. 31.

²⁶ Criminal Code, "Official Gazette of RS", no. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019.

²⁷ Veronika Ispanović Radojković, Nevenka Žegarac (2011). Definicije zlostavljanja i zanemarivanja deteta,; Zaštita deteta od zlostavljanja i zanemarivanja primena opšteg protokola ed. V. Ispanović Radojković, Centar za prava deteta, Beograd, p. 12.

public personnel) do not allow sexual activity with a minor a person over the age of 14, regardless of the child's understanding and consent to the activity."²⁸

According to the analyzes done by Mužinic and Vukota, the theory often cites the division of pedophilia into "primary and secondary." Secondary pedophilia is the result of another pathology (schizophrenic psychosis) that is not specifically related to pedophilia, while primary pedophilia stands as a separate psychiatric disorder."²⁹

In the context of this, "pedophilia may include, but is not limited to:

- forcing or forcing the child to engage in any sexual activity, contact or non-contact,
- the exploitative use of a child for prostitution or other unlawful sexual acts and the exploitative use of children in pornographic performances and materials ."³⁰

Considering the criminological, medical, psychological, and sociological specificity of sexual abuse of children in general, and pedophilia as a special form of this group, it is important to consider the characteristics of the sexual offenders' penal treatment, especially in the context of combating recidivism in committing crimes in this sphere.

Characteristics and Models of Penal Treatment of Sex Offenders

Analyzing the treatment of sex offenders throughout history, Lukovic and Petrovic conclude that the history of combating sex offender "records several different models of achieving this goal, from castration, through different dehumanized methods of influencing the integrity of the human personality, to attempts to re-socialize and return individuals to society."³¹

Most sex offender treatment programs today aim to effectively reduce the percentage of special returnees who commit this type of crime. Thus, the goal of a sex offender treatment program is to "reduce the risk of recidivism".³² However, it is often the case that all sex offenders are treated the same way, even though they have diametrically different treatment needs.

Primacy in the treatment of sex offenders is occupied by cognitive behavioral therapy (CBT). According to Lukovic and Petrovic, "The main components of cognitive-behavioral treatments are: treating cognitive distortions and denials, developing and increasing empathy for the victim, reducing intimacy and closeness deficits that enable attachment, developing emotion management skills,

²⁸ Ibid.

²⁹ Lana Mužinić, Ljiljana Vukota (2010). Tretman seksualnih delinkvenata i zaštita zajednice, Medicinska naklada, Zagreb.

³⁰ Veronika Išpanović Radojković, Nevenka Žegarac (2011)., op. cit., p. 13.

³¹ Milica Luković, Vera Petrović (2017). Modeli tretmana seksualnih prestupnika, Specijalna edukacija i rehabilitacija, Vol. 16, No. 3, Fakultet za specijalnu edukaciju i rehabilitaciju Univerziteta u Beogradu, p. 345.

³² Karen Gelb (2007). Recidivism of sex offenders research paper, Sentencing Advisory Council, Melbourne.

eliminating or reducing deviant sexual preferences, strengthening the ability to self-regulate (emotions, behaviors, cognitive and interpersonal regulation) of sexually delinquent behavior."³³

However, as Kuzmanovic points out, "there are many controversial issues when it comes to the application of specialized treatments in penitentiary facilities that apply to sex offenders. Questions such as: how long should a prison sentence last for sexual offenses (primarily against children); does the use of psychological treatment in prisons affect the risk of reoffending and how courts balance the need for rehabilitation for offenders and the need for society to protect their citizens, is tasked with finding the most appropriate treatment for sexual offenders."³⁴

Also, "statistics show that sexual delinquents will not commit recidivism if they increase their effectiveness in the treatment, mainly because of a modern model of behavior modification. Recidivism prevention teaches the offender to recognize a situation that is specific to the risk of recidivism."³⁵

Before treatment, "sex offenders must be clearly categorized. After categorization, treatment is most appropriate when it focuses on the sex offender and their specific needs."³⁶

In general, CBT is the most commonly used treatment for sex offenders. Research into the efficacy of this type of treatment shows "that the recidivism rate decreases by 85 to 95% when using models based on CBT."³⁷

According to Lukovic and Petrovic, "Some of the cognitive-behavioral treatment programs for sex offenders include the Community Sex Offenders Treatment Program (Community Sex Offenders Group work program, earlier West Midlands Program), the Clearwater Treatment Program (USA), Thames Valey Sex Offenders Group work Program and the Northumbria Sex Offender Program. These programs are generally implemented in penitentiary facilities, combined with imprisonment."³⁸

In addition to CBT, other models of sex offender treatment have been developed and implemented, such as Relapse Prevention-RP, Self-Regulation Mode-SRM, Risk, Need, and Responsivity -RNR and Good Lives Model-GLM.³⁹

³³ Milica Luković, Vera Petrović (2017)., op. cit., p. 347.; Pamela Yates (2003). Treatment of adult sexual offenders: A therapeutic cognitive-behavioral model of intervention, *Journal of Child Sexual Abuse*, Vol. 12, No. 3-4, Taylor & Francis Online, UK, pp. 195-232.

³⁴ Marija Kuzmanović (2018). *Uticaj specijalizovanog penalnog tretmana na redukciju rizika ecidivizma kod seksualnih delinkvenata*, doctoral dissertation, Fakultet za specijalnu edukaciju i rehabilitaciju, Univerzitet u Beogradu, p. 99.

³⁵ Ibid, p. 100.

³⁶ Ibid.

³⁷ Karl R. Hanson, Pamela Yates (2013). Psychological treatment of sex offenders, *Current Psychiatry Reports*, Vol. 15, No. 3, Springer, UK, article 348, 1-8.

³⁸ Milica Luković, Vera Petrović (2017)., op. cit., p. 348.

³⁹ Marija Kuzmanović (2018)., op. cit., p. 105.

Conclusion

Child sexual abuse is a topic of great public interest. The issue of criminal treatment of sex offenders (especially when it comes to pedophilia, as a very specific and particularly pronounced form of sexual abuse) certainly attracts considerable public attention.

The paper first analyzes the concept and types of sexual perversions and inversions, then, the concept and forms of sexual abuse of children as a specific criminological category of violent activities, and consequently pedophilia itself. Special attention is given to the characteristics and models of sexual offenders' penal treatment.

As can be inferred from all of the above, pedophilia is a type of sexual inversion whose primary interest is directed towards children, predominantly of pre-pubertal age. An important characteristic of pedophiles is that they are convinced that they are not doing anything illegal or bad and that their activities are normal, that they do not harm the psychophysical development of the child, and even go so far as to be convinced that the child, the victim of such behavior, enjoys these activities.

Penal treatment of sex offenders in general, and especially in the field of pedophilia, is therefore very specific, as it is mostly carried out while a person is serving a prison sentence or while in a psychiatric institution for mandatory treatment and care, under the same security measure.

One of the significant problems in applying some treatment model is the motive that causes the sex offender to approach the treatment itself. Very often, the motive is not a change in lifestyle and sexual habits, but a short-term benefit manifested in parole, contact with family members, especially if children are concerned, etc.

The goals of pedophilia treatment are certainly to influence the person to become sexually interested in adults, to alleviate the psychological "triggers" of pedophile behavior, to encourage prosocial behavior, to resolve intrapsychic conflicts, etc. The ultimate goal of any model of sex offender treatment is to prevent or reduce recidivism.

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КРИМИНОЛОШКА АНАЛИЗА ПЕДОФИЛИЈЕ И ОСВРТ НА ПЕНАЛНИ ТРЕТМАН СЕКСУАЛНИХ ПРЕСТУПНИКА

Сажетак: Сексуално зlostављање деце је тема која изазива велико интересовање јавности. Педофилија је врста сексуалних инверзија чији је примарни интерес усмерен ка деци, претежно предбубертетског узраста. Имајући у виду криминолошку, медицинску, психолошку, па и социолошку специфичност сексуалног зlostављања деце, значајно је сагледати карактеристике пеналног третмана сексуалних преступника, нарочито у контексту сузбијања рецидивизма. У раду су прво анализиране сексуалне перверзије и инверзије, затим, појам и облици сексуалног зlostављања деце, као и педофилија. Посебан осврт у раду учињен је на карактеристике и моделе пеналног третмана сексуалних преступника. Циљеви третмана су свакако утицање на то да се лице почне сексуално занимати за одрасле, ублажавање психичких „окидача“ педофилског понашања, подстицање просоцијалног понашања, решавање унутарпсихичких конфликта, итд. Крајњи циљ било ког модела третмана сексуалних преступника јесте превенирање или смањење рецидивизма.

Кључне речи: сексуалне перверзије, сексуалне инверзије, педофилија, пенални третман, рецидивизам

VLADIMIR V. KOZAR*
NENAD D. STEFANOVIĆ**
Faculty of Law for Commerce and Judiciary
Novi Sad

UDC 343.915:343.8
Review work
Received: 24.04.2020
Approved: 07.05.2020
Page: 115-130

COMPENSATION OF NON-PECUNIARY DAMAGES IN THE CRIMINAL PROCEEDINGS TO CHILDREN VICTIMS OF SEXUAL VIOLENCE

*Aliquorum maleficiorum supplicia exacerbentur, quotiens
nimium multis personis grassantibus exemplo opus sit
(The penalties for some offenses should be increased to
serve as a warning to many offenders)
Saturninus – D.48,19,16,10
(Stojčević, Romac, 1971: 36)*

Summary: This paper addresses the issue of compensation of damage to children who have been victims of sexual violence from a civil law perspective. In doing so, special emphasis was placed on the right of the child, as a victim, to receive adequate compensation for the suffered violence. Following the general remarks in the introductory section, the paper outlines the positive legal aspect of sexual offenses against a child, and subsequently explains the main problems that accompany the issue of non-pecuniary damage, from its establishment to the determination of the amount of an adequate amount of compensation. The jurisprudence is rich in examples of disputes concerning compensation of non-pecuniary damage, which is, to a certain extent, set out in this paper. As problems of compensation of damage from the perpetrator of violence may arise in practice, the authors, following contemporary trends in comparative and international law, put forward proposals *de lege ferenda*, modeled on individual solutions of other countries that have successfully changed their positive law and set up compensation funds for victims of criminal offenses from which compensation is paid to all victims, including children. The modalities and the way in which these funds are financed are presented in detail in the last chapter of this paper, as a solution to the current practice problem, which could be implemented *pro futuro*, in future laws.

Key words: children, sexual violence, non-pecuniary damage, victim, property claim, compensation fund, civil law

Initial consideration

Domestic violence is a negative social phenomenon that, in addition to directly affecting the life of the abuser and the victim, has wide repercussions on

* kozarv@yahoo.com

** nenad@pravni-fakultet.info

society in general. Each family individually shapes its behavior patterns, which are generally aligned with moral, cultural and socially acceptable patterns of behavior. In societies based on patriarchal and traditional grounds, the family, as the nucleus of every society and the legally regulated community of man and woman, is still primary. However, in such societies a certain hierarchy is established within the family, with the dominant and prominent position of the father as the "head of the family". This position of a man in the family hierarchy is one of the reasons why domestic violence was tolerated and considered socially acceptable and there was no appropriate response from society. Not only wives but also children were in a subordinate and oppressed position.

Until the adoption of the Law on Prevention of Domestic Violence in 2016, there was no generally accepted definition of domestic violence in Serbian positive law. The legal definition has greatly facilitated the identification of all deviant behaviors within the family, and thus their legal sanctioning: "Domestic violence, is the act of physical, sexual, psychological or economic violence of the perpetrator towards the person with whom the perpetrator is in the present or former marital or extra-marital or partnership relationship or with the person with whom the perpetrator is the blood relative in a straight line and in a sideline to the second degree or with whom the perpetrator is in-law to second degree or to whom the perpetrator is an adopter, adoptee, foster child or foster parent, or to another person with whom the perpetrator lives or has lived in a joint household."¹

As can be seen from the legal definition, violence can take many forms, and one of them is sexual violence against children. The legislator did not make a gender commitment on the perpetrator, which in our view is correct, because sexual violence can be committed by both men and women. The definition of domestic violence is not limited to marital and extramarital affairs or partner relationship, the circle of potential victims has already been extended to blood relatives in the straight line and sideline, in-laws, adopters, adoptees, as well as all other persons who live with the perpetrator in a joint household, which makes the circle of victims set quite wide. What is also notable about the fact that the Law on Prevention of Domestic Violence differs from the practice so far is that it changed the long-established terminology and adopted the term victim instead of the injured party. We also consider this a good solution and it is a terminological alignment of positive legal regulations with international regulations.

Violence against children of a sexual nature is not exclusively related to family relations, as it is possible for the perpetrator to be a person who is not in a family relationship with the child. Most often, the purpose of engaging in sexual intercourse with a child is coercion, force or threat, abuse of trust or influence over the child, as well as the child's vulnerable position in terms of physical or mental handicap or addiction.

¹ Law on Prevention of Domestic Violence, *Official Gazette, RS*, No. 94/2016, art. 3. par. 3. (*serb. Закон о спречавању насиља у породици*)

Sexual violence against children is not a new phenomenon and has been prevalent in all cultures throughout human history. Sexual violence has not changed, but society's attitude towards it has changed (Garza, 2002: 317). Children are not considered to be anyone's property and their rights cannot be so easily violated. Today, children are an integral and equal part of our community, so any form of violence against them must be strictly sanctioned.

Sexual offenses against children

Human sexuality is an inalienable part of human nature, and as such, it is not simply an act of satisfying sexual desire, but is also a psychological and biological need of each person, limited by moral, social, customary and cultural norms. Therefore, sexual delinquency is a complex model of behavior that deviates and violates the aforementioned social norms.

Sexual offenses represent one of the oldest types of amoral behavior, and the forms of social reaction to their appearance differed depending on which society and what historical period it was.² Today, sexual offenses are mostly sanctioned in all legislatures³, and especially their most serious form - rape. However, the rape offense was not treated and sanctioned in the same way because it differently views the manner of execution and the circle of victims of this crime. This is a consequence of different understandings in certain cultures, so rape is mostly viewed as an act that offends the morals and customs of a given environment, not as a crime that directly attacks the freedoms and rights of the individual and is a direct attack on the victim's bodily integrity. There is another major problem with regard to the crime of rape as regards its proving, especially in situations where no physical harm was caused by the act of rape. A feature of sexual offenses is that, apart from property offenses, they belong to the group of offenses with the highest rate of recidivism, which is a consequence of psychological and pathological disorders of the personality structure.

Sexual abuse and harassment of children as well as incest offenses are the most serious forms of sexual offenses by the category and age of the victim. They are characterized by the subordination and inability of the victim to effectively resist the perpetrator and prevent him from committing the crime the perpetrator intended to commit. At the same time, an important feature of this work is the subjective sense of superiority, the manifestation of power and dominance over the inferior victim. Child sexual abuse involves a fairly wide range of be-

² Thus, for example, in Roman law, the intercourse between blood relatives was not criminalized, but only marriage was forbidden among them. In the period of feudalism, the attitude towards incest was changed, the sentences were more drastic, and death sentences were pronounced for this act.

³ However, there are exceptions. Thus incest, if voluntary, is allowed in some European and Latin American countries: Turkey, France, Belgium, Brazil and Argentina. See: Бошковић, М. (2009): „Криминолошка обележја кривичних дела против полних слобода“, *Зборник радова Правног факултета у Новом Саду*, год. 43, бр. 2, стр.127.

haviors and actions: contact activities that include rape, forcing children to have sexual intercourse, touching, using the child for self-gratification, but also non-contact activities such as sexual abuse. Voyeurism and exhibitionism before the child. These can be isolated incidents committed by an unknown person, but also constant abuse by a family member for many years. In its most severe form, it can occur in the form of sexual exploitation through prostitution, pornography or pedophilia in terms of sexual strangeness and mental disorder manifested in sexual attraction to children of the same or opposite sex.

a) Child sexual abuse⁴ is any act of exploitation of children for sexual gratification, and includes all forms of sexual intercourse in which the dependent position of children is used and their powerlessness in relation to the perpetrator of the crime. "Studies of sexual violence state that girls are more likely to be victims of this type of violence."⁵ "In criminal terms, these are all forms of sexual intercourse (intercourse and prohibited sexual acts) with a child without the consent of the child or, even with his consent, if he is under 14 years of age for the purpose of sexual satisfaction" (Бошковић, 2009: 125). The two most serious types of sexual delinquency are rape and incest (in terms of sexual intercourse with a close blood relative in a straight line). The aforementioned UNICEF report states that of all forms of violence against children registered at social welfare centers (*serb. "Centar za socijalni rad"*), sexual abuse is the least represented with "only" 1.8% of the 6520 cases recorded.⁶

b) Sexual harassment is a lighter form of sexual offenses that most often consists in verbal and physical acts of sexual connotation directed at another person or child. It is also important to mention a specific form of sexual abuse in the form of sexual exploitation, which, as an emergent form, "represents the introduction of a child into child prostitution or the use of a child for pornographic film, photography, or as a pornographic model" (Грбић – Павловић, 2010: 164). According to some data, "every other identified victim of human trafficking in Serbia is a child" (Бјелајац, 2013: 220).

The Criminal Code of the Republic of Serbia⁷ (hereinafter CCRS) incriminates several manifestations of sexual delinquency. Of all the standardized, some

⁴ UNICEF National Report for 2017 entitled: "Violence against children in Serbia - determinants, factors and interventions" on page 25. states that: "Child sexual abuse involves a wide range of behaviors: contact activities such as rape, coercion of a child to sexual intercourse, touching, the use of the child for adult self-gratification, as well as non-contact activities such as voyeurism, exhibitionism in front of the child. It can be an isolated incident committed by an unknown person, but also continuous abuse of a family member over the years, or it can occur in the form of sexual exploitation through prostitution and pornography."

⁵ *Ibid.*, pg. 13.

⁶ On the other hand, according to research by the Belgrade-based Incest Trauma Center, the results are not encouraging. Based on their research, one in three girls survives sexual abuse by the age of eighteen. Information available at:

<http://www.incesttraumacentar.org.rs/files/onlinebiblioteka.pdf> (19/MARCH/2020)

⁷ Criminal Code of the Republic of Serbia, *Official Gazette, RS, No. 85/2005, 88/2005 –corr., 107/2005 –corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 и 35/2019 (serb.Кривични Законик Републике Србије)*

have a special weight because they have minors for the victim. Of all sex offenses, juvenile offenses are:

- Sexual Intercourse with a Child (*art. 180 CCRS*),
- Sexual Intercourse through Abuse of Position (*art. 181.CCRS*),
- Prohibited Sexual Acts (*art. 182. CCRS*);
- Sexual Harassment (*art. 182a. CCRS*);
- Pimping and Procuring (*art. 183. CCRS*);
- Mediation in Prostitution (*art. 184. CCRS*);
- Showing Pornographic Material and Child Pornography (*art. 185. CCRS*);
- Induce Minor to Attend Sexual Acts (*art. 185a. CCRS*)
- Abuse of Computer Networks or other Technical Means of Communication for Committing Criminal Offences against Sexual Freedom of the Minor (*art. 185b. CCRS*);
- Incest (*art. 197. CCRS*) and
- Human trafficking (*art. 388. CCRS*).

The criminal offense of intercourse with a child is the most serious of this group of offenses, which the CCRS standardizes in basic and two more serious, qualified forms. The basic form of an intercourse with a child is that it was executed with the consent of the victim (otherwise it would be a criminal offense of rape) and for it the CCRS foresees imprisonment for five to twelve years. (*art. 180 par. 1 CCRS*) For the first qualifying form, if a serious bodily injury to a child is committed by the perpetration of an act or the act is committed by several persons, or if the act results in pregnancy, the CCRS provides for imprisonment ranging from five to fifteen years. (*Art. 180 par.2 CCRS*) As a particularly qualified form of this atrocity, when the death of a child negligently occurs as a result of the perpetration of an act, the CCRS foresees a minimum sentence of ten years, or life imprisonment. (*Art. 180, par. 3 CCRS*) This legal provision has undergone changes in 2019 regarding the severity of the prescribed sentence. Namely, for all the most serious acts in which there was a legally prescribed maximum sentence of imprisonment of 30, i.e. 40 years was replaced by life imprisonment for: aggravated murder, rape, intercourse with a child, pregnant woman and helpless person, acts against the constitutional order and murder of representatives of the highest state bodies.

The purpose of this incrimination is to protect all those persons who have not reached the appropriate level of sexual, biological, social and intellectual maturity. "Children as victims are understood to have special protection needs because of their vulnerability and sensitivity to secondary and repeated victimization, intimidation and retaliation." (Шкулић, 2018: 54).

The basis and the legal framework for non-pecuniary damage compensation to children

Unlike domestic violence, where family members appear as the perpetrator and the victim, in the case of sexual offenses, the perpetrators may be third par-

ties, who indirectly contact the victims, i.e. children. Viewed in a historical context, the traditional dominance of men in the family over women and children has created an atmosphere of tolerance for violence, and in some societies (e.g. Saudi Arabia)⁸ violence against other family members is still socially acceptable. Therefore, the right to compensation (especially non-pecuniary) damages resulting from such violence is also questionable. Legal rights and obligations between parents and children have varied throughout history. In Roman law, the *pater familias*, as head of the family, had absolute authority (*patria potestas*) over the persons under his rule (*alieni iuris*). (Стефановић, 2020: 235-244) This authority also included deciding the life and death of subordinates, but the father was not responsible for the damage he would cause by his behavior. Therefore, it was also pointless to speak of any compensation for pecuniary and non-pecuniary damage to the child by the father. In the Middle Ages, the position of the child was slowly improved and its right to own property was recognized, and society recognized the need to impose moral and legal sanctions on abusive parents (Hollister, 1981: 491). Today, the right of children to claim damages (both pecuniary and non-pecuniary) is not disputed in either legal theory or jurisprudence. However, the question is how achievable it is in practice for many reasons. Children, as a particularly emotionally sensitive category of persons during court proceedings and participating in it, may again go through all the traumas experienced by the act of sexual violence, which can have a negative impact on their psychic and mental health. Since it is the practice of criminal courts not to rule on a claim made in property, victims are forced to seek compensation for non-pecuniary damage in a new, civil procedure, which causes a recurrence of stressful situations and a recapitulation of a relentless event.

The legal sources on which the basis for non-pecuniary damage compensation is based could generally be divided into domestic and international ones. The two most important international instruments governing the issue of compensation for victims of domestic violence are: *the European Convention on the Compensation of Victims of Violent Crimes*, which promotes the idea of a State obligation to compensate victims of crime⁹ and *the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*.¹⁰

“Damages may be awarded for compensation for non-pecuniary damage only in legally prescribed conditions and independently of pecuniary damage” (Бећировић-Алић, Ахматовић-Љајић, 2018: 141-144). From national sources, as the primary and most significant, certainly it is the Law on Contracts and

⁸ The website of an international human rights watchdog organization (Human Rights Watch) has published a ruling by the Supreme Court of Saudi Arabia recognizing the right of a husband to physically discipline his wife and children, to the extent that this leaves no visible trace. available at: <http://www.hrw.org/news/2010/10/19/uae-spousal-abuse-never-right>, 10.03.2020.

⁹ *European Convention on the Compensation of Victims of Violent Crime*, 24.11.1983.

¹⁰ *Declaration of basic principles of justice for victims of crime and abuse of power* – GA Res. 40/34, Annex 1985.

Torts (hereinafter LCT)¹¹ which lists all legally recognized forms of non-pecuniary damage that exist in our law:

1. For physical pains suffered (*art. 200 par. 1 LCT*),
2. For mental anguish suffered due to reduction of life activities (*art. 200 par.1 LCT*),
3. For mental anguish suffered for becoming disfigured (*art. 200 par. 1 LCT*),
4. For mental anguish suffered for offended reputation and honor, (*art. 200 par. 1 LCT*),
5. For mental anguish suffered for offended freedom (*art. 200 par. 1 LCT*),
6. For mental anguish suffered for offended rights of personality (*art. 200 par. 1 LCT*),
7. For mental anguish suffered for death of a close person (*art. 200 par. 1 LCT*),
8. Fear suffered(*art. 200 par. 1 LCT*),
9. For mental anguish suffered in case of death or serious disability (*art. 201 LCT*),
10. For mental anguish suffered for criminal offence of unlawful intercourse or lewd act by deceit, force or misuse of a relationship of subordination or dependence, as well as a person being a victim of some other criminal offence in violation of personal dignity and morale (*art. 202 LCT*),
11. Damages for future general loss if, according to regular course of events, it became certain that it will continue (*art. 203 LCT*).

Apart from the Law on Contracts and Torts, the Law on Prevention of Domestic Violence of 2016, the already mentioned Criminal Code of the Republic of Serbia, as well as two procedural laws: the Law on Criminal Procedure (which contains norms on property claims) and the Law on Civil Procedure (which standardizes the civil procedure for compensation of pecuniary and non-pecuniary damage) are undoubtedly of great importance.

Compensation of non-pecuniary damage caused by sexual violence against children

Compensation for non-pecuniary damage is one of the most controversial issues in the field of contract law. Historically, in legal doctrine regarding non-pecuniary damage, legal theorists have represented conflicting opinions, and jurisprudence has offered rather restrictive solutions. "It was thought that mental and physical pain could not be expressed in money. In addition, there was a fear that commercialization of a person's personal goods might be contrary to the purpose of this institute" (Bubalo, 2012: 273). After the Second World War, due to the lack of positive legal regulations, in Yugoslavia were in force regulations valid prior to the war, and consequently, non-pecuniary damage was not recognized. A pivotal year for a change in attitude on this issue was 1968, when the judges of the highest courts of the SFRY stood in defense of the view to alleviate the rigid attitude hitherto and move towards more liberal recognition of non-pecuniary damage. All this created a long-standing jurisprudence, so that by the time the Law on Contracts and Torts was passed in 1978, the jurisprudence had

¹¹ *Official Gazette SFRJ*, No. 29/78, 39/85, 45/89, 57/89, *Official Gazette SRJ*, No. 31/93, *Official Gazette RS*, No. 18/2020 (serb. Закон о облигационим односима)

already taken positions on this issue and they had been adopted in the Law on Contracts and Torts. "Today, the existence of the right to compensation for non-pecuniary damage is no longer in dispute in either legal theory or case-law, but the question of the form of compensation, the circle of entities entitled to compensation for non-pecuniary damage, and in particular the question of the criteria for determining the amount of compensation, remain controversial issues that deserve full attention to both legal science and jurisprudence" (Радованов, 2010: 22-23).

The purpose of compensation is to eliminate the adverse effects caused by the action of a person and possibly to return to a previous state. Pecuniary damage can be repaired, however, in non-pecuniary damage there is no way to restore it to previous state (*restitutio in integrum*). Pursuant to Article 155 LCT, the damage is divided into: simple loss i.e. diminishing one's property and for the profit loss, that is, preventing one's property from increasing. As a criterion for determining the amount of material damage compensation, the court takes the principle of full compensation, i.e. reparations. In determining the amount of non-pecuniary damage compensation, a problem arises in the practice of the courts: how to measure the fair amount of non-pecuniary damage compensation, while ensuring complete satisfaction of the injured person? As it is not possible to establish a prior condition in non-pecuniary damage, the only way is to achieve the purpose is by paying monetary compensation in order to achieve satisfaction for the injured parties, i.e. to the victims.

The jurisprudence has over time established criteria for determining the amount of just compensation for certain types of non-pecuniary damage, as well as the views on some other contentious issues concerning non-pecuniary damage. Thus, regarding the basis of non-pecuniary damage at the Counseling held on problems related to non-pecuniary damage, the following attitude was taken: "Non-pecuniary damage within the meaning of the Law on Contracts and Torts refers to physical pain, psychological pain and fear. Therefore, compensation to the injured party for non-pecuniary damage can only be awarded when the injury has manifested itself in one of the aforementioned forms of such damage and provided that the severity and duration of pain and fear and other circumstances justify it, in order to restore the injured person's mental balance."¹²

Particularly interesting is the decision of the Supreme Court of Serbia regarding the statute of limitations on claims (Кастратовић, 2013: 56-60) compensation for certain types of non-pecuniary damage: "Obsolescence for non-pecuniary damage compensation for physical pain - starts from cessation of pain, for fear – starts from cessation of fear, mental pain due to impairment of life

¹² Conclusion of the Consultation of Representatives of the Federal Court, Supreme Courts of the Republics and Autonomous Provinces and of the Supreme Military Court on Problems of Non-pecuniary Damage of 15 and 16 October 1986 - *Bulletin of the case law of the Supreme Court of Serbia*, No. 3/2008, Intermex, Belgrade.

activity – starts from termination of treatment and knowledge of permanent impairment of life activity or deterioration of health status – starts from the day of finding out about a new grave consequence.”¹³ Pursuant to Article 376 of the LCT, the claim for damages becomes obsolete within the subjective period of three years from the knowledge of the injured party for the damage and the perpetrator, or objectively, within five years from the occurrence of the damage.

With regard to interest on monetary sums awarded as a result of non-pecuniary damage, Article 277 of LCT provides that "A debtor being late in the performance of a pecuniary obligation shall owe, in addition to the principal, default interest, at the rate determined by federal law." While the stance of the jurisprudence is: "The default interest on just monetary compensation for non-pecuniary damage shall run from the day of the first-instance judgment by which the compensation was determined. In deciding the amount of equitable remuneration, the court will also take into account the time elapsed from the occurrence of the damages to the decision, if the length of the wait for satisfaction and the other circumstances of the case warrant it."¹⁴ We consider this jurisprudence position to be applicable for pecuniary damage. If a payment has been made and the debtor's obligation has grown into a monetary obligation, it is logical that the default interest will start to run from that day. However, the question is why would interest on the monetary sums awarded in respect of non-pecuniary damage start from the day the judgment was rendered? We believe that a different legal solution would have an impact on the procedural economy if the law provided that interest would start from the filing of a lawsuit. In that case, the perpetrator would have no interest in delaying the proceedings, and the number of judgments rendered within a reasonable time would certainly be higher.

The decision of the Court of Appeal in Novi Sad upheld the first instance judgement of the Higher Court in Novi Sad, awarding non-pecuniary damage to a minor female child as a result of mental distress suffered as a result of violations of honor, reputation, freedom, personality and dignity, as well as fear suffered. and because of sexual abuse and incitement to underage prostitution. The Court explains its decision as follows: "The fact that the Plaintiff did not contribute in any way to the damage suffered or made it greater than it was, since as a juvenile she had been misused without fault by an organized group of defendants who by unlawful actions and the use of methods of intimidation, violence and threats led and maintained the Plaintiff in a situation of sexual misconduct, and, on the other hand, the facts about the existence and intensity of the mental pain and fear Plaintiff suffered in connection with the situation in which she found herself by the guilt of the defendants."¹⁵

¹³ Decision of the Supreme Court of Serbia, Rev 1427/05 of 26 May 2005 - *Bulletin of the case law of the Supreme Court of Serbia*, no. 4/2005, Intermex, Belgrade.

¹⁴ Joint Session of the Federal Court, Supreme Courts and Supreme Military Court of 29 March 1987 - *Bulletin of the case law of the Supreme Court of Serbia*, No. 3/2008, Intermex, Belgrade

¹⁵ Judgment of the Court of Appeal in Novi Sad, Gž.3536/13 of 28 November 2013.

The number of claims for non-pecuniary compensation for sexual violence against children is small. It is assumed that the reasons are as follows: the overall representation of these crimes is, overall, compared to other crimes, small, even when prosecuted and a substantive claim in criminal proceedings, the courts generally refer the injured party i.e. victim to litigation. The situation is similar in foreign law, where only a small number of cases are compensatory (Cobley, 1998: 228), and the problem of a fair assessment of the amount of compensation for non-pecuniary damage suffered by the child victims is attempted to be solved through a lump sum method (Swanston, Parkinson, Shrimpton, O'Toole & Oates, 2001: 58).

Comparative overview of positive legal solutions in French and German law as representatives of the continental legal system

Comparatively speaking, the position of the injured party in criminal proceedings under European and common law legislation differs greatly. "Common law legislations most consistently accept the model of exclusion of a victim of a criminal offense from criminal proceedings, which is why there are no procedural possibilities for the injured party to be involved in criminal proceedings other than as a witness, nor to obtain a claim for damages (Mrviћ-Petroviћ, 2018: 1). Continental legal systems are divided into two groups: Roman and Germanic, whose most typical representatives are French or German legislation. A comparative legal analysis of these legislations will show the position of the injured party and therefore the child as a victim of the crime and his / her right to claim damages.

Since the position of the injured party, i.e. victim in common law legislation reduced to the role of a witness, without the possibility of filing a claim in criminal proceedings, its position will not be analyzed, but only solutions of continental law countries with a focus on France and Germany shall be presented.

a) French law, as a typical representative of the Roman subtype of continental law, is characterized by a long tradition and a strongly incorporated position of the injured party as a claimant of civil claim in a criminal proceeding. All of this results in cheaper and faster criminal proceedings than litigation.

The concept of injured party which is injured by the perpetration of a criminal offense (*personne lésée*) i.e. the victim is directly related to the concept of damage suffered, and on the basis of it is defined, and according to the rules of the French law on contracts (Art. 1382 and 1166 of the French Civil Code - *Code civile*). "Any conduct that causes harm to another creates an obligation on the offender to compensate for that harm"¹⁶Children who have been victims of sexual violence are the immediate victims (*la victime initiale*), but the adverse

¹⁶ In the original the provision reads: "Tout fait quelconque de l'homme, qui cause à autrui un dommage, oblige celui par la faute duquel il est arrivé à le réparer. "

consequences can extend to the indirect victims (*victimes per ricochet*), such as family members or other close persons. The peculiarity of this legal system is that the injured party can initiate criminal proceedings if it has not already been initiated by the decision of the public prosecutor or if it has already started, to join it by filing a civil lawsuit seeking damages from the defendant (*l'actio civile*). In this way, the injured party, by emphasizing his claim, becomes a private party (*partie civile*) in a public-law criminal proceeding. Filing a claim for damages in criminal proceedings is a matter of choosing the injured party as it may also initiate civil proceedings and seek damages in a lawsuit. However, once the injured party chooses to go to trial, civil or criminal, the decision cannot be changed. (Stipulated by Art. 3, 4 and 5 of the French Criminal Procedure Code) The court shall only decide on the claim for damages if the defendant pleads guilty. If this is not the case, the court directs the injured party to litigation. (Mrviћ-Petroviћ, 2018:18-22).

b) In German law, the term "victim" (*Opfer*) is defined in the Law on Compensation for Victims of Violence¹⁷ which by the term "direct victim" implies the person who personally suffered the harm, and by the term "indirect victim" implies the relatives of the person to whom the violence was committed. Given that in German law criminal proceedings are initiated and conducted *ex officio* by the public prosecutor, the injured party, apart from being a witness, appears in the proceedings as a prosecutor in a secondary, adhesive procedure as an incidental prosecutor.¹⁸

Authorized claimants in the criminal proceeding (which are stipulated by Art. 403 to 406 of the German Criminal Procedure Code) are the injured party and its successors as well. The position of the injured party has been significantly improved since 2004, when the Law on Improvement of the Position of the injured party in the criminal proceedings was enacted.¹⁹ There are numerous advantages of the adhesion proceeding. By applying it, it is possible in a simple and less formal way than a civil proceeding, to obtain a claim for damages in a criminal proceeding. The request can be filed at any moment during the proceedings, until the conclusion of the main hearing. The criminal court may approve a property claim, but not adjudicate negatively on a civil action brought in criminal proceedings, but only refer the injured party to civil proceedings. An injured party may file a property claim alone or through its attorney, which in the case of children who have been victims of sexual violence, would be a *condio sine qua non* given that they are persons without litigation capacity. Since litigation is

¹⁷ Gesetz über die Entschädigung für Opfer von Gewalttaten (OEG), 11. Mai 1976 (BGBl. I S. 1181), Letzte Änderung durch Art. 28 G vom 17. Juli 2017 (BGBl. I S. 2541, 2572).

¹⁸ The position of the injured party as an incidental prosecutor is regulated in Art. 395 to 402 of the German Criminal Procedure Code in a similar manner to that of the Serbian Criminal Procedure Code.

¹⁹ Gesetz zur Verbesserung der Rechte von Verletzten im Strafverfahren (Opferrechtsreformgesetz – OpferRRG), vom 24. Juni 2004 (BGBl. I S. 1354).

related to legal capacity, children could take legal action through their legal representatives. Germany has done a lot to protect and recognize the rights of victims of crime, including children victims of sexual violence. Thus, in addition to the aforementioned laws, the Law on Securing the Civil Claims of Victims of Crime in 1998 (*Opferanspruchssicherungsgesetz*) was adopted earlier.²⁰ Work on improving the situation of victims has been continued in this century, and in September 2004 the Law on the Improvement of the Rights of Victims of Criminal Procedure (*Opferrechtsreformgesetz*) was adopted,²¹ and in October 2009 the Law on Strengthening the Rights of Victims and Witnesses in Criminal Procedure (*Zweiten Opferrechtsreformgesetz*).²²

De lege ferenda propositions

Effective implementation of any reform in the legal system is not possible unless there is a national strategy, which currently does not exist in the Republic of Serbia. It is necessary to establish a national body tasked with creating a strategy and overseeing all activities related to victim assistance. Formation of the State Compensation Fund is required²³ which primary function would be: compensation of all costs of crime victims, and therefore compensation for non-pecuniary damage to children who have been victims of sexual violence. Reference is also made to the United Nations Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power. The basic purpose and point of forming such funds are found in moral and humane reasons, which would express social solidarity with powerless members of society who have been victims of crime. This symbolizes that the state is in solidarity with the victim of the crime, as well as in solidarity with other citizens who find themselves in social need or fall victim to war, natural disasters (floods, earthquakes, etc.) or other disasters caused by human factor (for example, ecological catastrophes, traffic accidents, etc.). Therefore, the conditions under which this compensation is granted must be set very rigorously. The compensation is given only exceptionally, in limited amounts and under extremely strict conditions. Beneficiaries can only be victims of serious crimes committed intentionally (for example: victims of the crime of murder, persons who have been seriously injured, victims of rape

²⁰ Shortened: OASG, Gesetz zur Sicherung der zivilrechtlichen Ansprüche der Opfer von Straftaten (*BGB I*, 1998, S. 905).

²¹ Gesetz zur Verbesserung der Rechte von Verletzten im Strafverfahren, *BGB I* 2004, S. 1354.

²² Gesetz zur Stärkung der Rechte von Verletzten und Zeugen im Strafverfahren (2- Opferrechtsreformgesetz), *BGB I* 2009, S. 2280.

²³ Some authors have been pointing to the formation of compensation funds for a long time. See more: Мрвић-Петровић, Н. и Ћирић, Ј. (2013): „Обештећење жртва насиља из јавних фондова“, *Социолошки преглед*, год. 47, бр. 2, стр. 211-229; Бачановић, О. (2009): „Фонд за обештећење жртва кривичних дела“, *Стање криминалитета у Србији и правна средства реаговања* (ур. Игњатовић Ђ.), Шстр. 368-381.

and other sexual offenses, robbery, terrorism, etc.). Children who have been victims of sexual violence would be at the top of the list of priority beneficiaries of the Fund. An additional requirement is that no compensation can be regularly obtained from the perpetrator of the crime (for example: because he is insolvent or not caught) and that the resulting damage cannot be recovered from insurance (social, health or accident risk insurance or death).

A property claim is one of the most important civil law institutes that guarantees victims of a crime that they will not be harmed by the perpetration of the crime. However, there is no such law in the Republic of Serbia that regulates the existence of a Fund to compensate for the damage caused by the criminal offense.²⁴

Budgetary funds are not sufficient to finance the Fund and therefore alternative ways of financing need to be found. Based on the experience of other states that have already enacted the aforementioned law, the most effective sources for filling the Fund are gambling proceeds, amounts paid through deferred prosecution and plea agreements, as well as foreign and private donations.

Concluding Remarks

The jurisprudence in Serbia, as well as abroad,²⁵ indicates to us that in the past there has been a limited number of cases that had for a subject compensation of non-pecuniary damage to victims of sexual violence, especially children. However, this does not mean that sexual violence against children is low. One of the forms of prevention are certainly campaigns that would raise the awareness of the population about sexual abuse of children.

Non-pecuniary damage compensation is the ultimate measure intended to compensate the victim for all the pain, fears and trauma the child endured during and after the sexual act. However, the fact is that compensation is more of a comforting character because the consequences remain for the rest of their lives.

Although compensation for non-pecuniary damage has often been contested in the past and its application made difficult, there is a clear shift in the

²⁴ Regarding neighboring countries, in Montenegro, as of 2015, there is a Law on Compensation for Victims of Violent Crime (*Official Gazette of Montenegro*, No. 35/2015 – *Serb.* “Закон о накнади штете жртвама кривичних дјела насиља”) enacted on the basis of the European Convention on Compensation for Victims of Violent Crime, bringing the Montenegrin justice system in line with European standards. However, the application of this law has been delayed until Montenegro's accession to the European Union. In 2008, the Republic of Croatia adopted the Law on Financial Compensation for Victims of Crime. (*Official Gazette*, No. 80/08, 27/11, *cro.* “Закон о новчаној накнади жртвама казених дјела”) It regulates the right to financial compensation to all victims of intentional crime. Interestingly, the aforementioned Law provides for the right to compensation of damages to both the direct and indirect victims (spouse and partner, child, parent, adopter, stepmother, stepfather...) (Art. 5 par. 2, 6 and 7).

²⁵ See more: Cobley, C. (1998): Financial compensation for victims of child abuse. *The Journal of Social Welfare & Family Law*, 20(3), 221.

sense that neither jurisprudence nor legal theory call into question its application anymore. Special attention should be given to children as victims of sexual violence. Children and young minors as victims of sexual violence have the same rights as victims of serious crimes: the right to an attorney financed from budget funds, the right of secrecy of personal data and the right to exclude the public from the proceeding. Considering that this is a socially sensitive category of the personas who need additional help in the realization of their rights and prominent demands, we consider justified the proposal put forward in this paper, and that is to establish as soon as possible a Fund from which the compensation would be paid to children victims of sexual violence under the legally prescribed conditions.

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НАКНАДА НЕМАТЕРИЈАЛНЕ ШТЕТЕ У КРИВИЧНОМ ПОСТУПКУ ДЕЦИ, ЖРТВАМА СЕКСУАЛНОГ НАСИЉА

Сажетак: Овај рад се бави проблемом накнаде штете код деце која су била жртве сексуалног насиља и то из угла грађанског права. При том је посебан акценат стављен на право детета, као жртве, да добије адекватну компензацију за причињено на-

сиље. У раду се након општих напомена у оквиру уводног разматрања, излаже позитивноправни аспект сексуалних деликата над дететом, да би се након тога објаснили главни проблеми који прате питање нематеријалне штете, од њеног утврђивања до одређивања висине адекватног износа накнаде. Судска пракса је богата примерима у вези спорних питања који се тичу накнаде нематеријалне штете, што је и изложено, у извесној мери, у овом раду. Како се у пракси могу јавити проблеми накнаде штете од починиоца насиља, аутори су, пратећи савремене трендове у упоредном и међународном праву, изнели предлоге *de lege ferenda*, по узору на поједина решења других земаља које су успешно измениле своје позитивно право и формирале фондове за накнаду штете жртвама кривичних дела насиља из којих се исплаћује обештећење свим жртвама, укључујући и децу. Модалитети и начин како би се финансирани ти фондови детаљно су приказани у последњој глави овог рада, као решење актуелног проблема из праксе, који би се *pro futuro* могао имплементирати у будуће законе.

Кључне речи: деца, сексуално насиље, нематеријална штета, жртва, имовинско-правни захтев, фонд за накнаду штете, грађанско право