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ОРИГИНАЛНИ НАУЧНИ ЧЛАНАК

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DEVIANT CHILD BEHAVIOR: A CHILD AS A VICTIM OR AN OFFENDER

Abstract: *The subject of this legal research is the child displaying deviant behaviour and the special need to provide for his legal protection and care. The paper points to the need to take adequate measures to overcome deviant forms of behaviour in adolescents. The report advocates the view that the effectiveness of these measures depends mostly on how the child displaying deviant behavior is perceived and defined in today's complex reality: as a victim who violates the accepted standards of behaviour, or as an offender who does not respect and abide by the established principles in society.*

Key words: *child, protection, deviant behavior, victim, offender.*

1. Introduction

Deviant behavior¹ is an adverse phenomenon affecting any and all areas of life in the contemporary society. The sustainably large number of antisocial activities of minors and adolescents is a certain signal to the state and society that the young generation needs increased attention and special care. The occurrence of such unacceptable behaviour is triggered by different factors and causes. What is common to all of them is that antisocial activities of children are a specific form of self-expression. Due to the lack of life experience and knowledge, they respond to the problems in their immediate environment the only way they know. Thus, in order to show their dissatisfaction with their way of life, to

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1 The word *deviant* has a Latin root (*deviare*) meaning "to turn out of the way." In psychology, deviant behaviour is described as behaviour of the individual based on motives and orientations which do not correspond to the accepted standards and values of society, as defined by the relevant regulations, customs or traditions of the respective social environment.

feel important rather than rejected and lonely, they deviate from the generally accepted rules of conduct; they respond to the aggression and violence in their lives with aggression and violence; they respond to the unknown and alien with mistrust and reluctance to change. Accordingly, the purpose of this legal research is to analyze the dual nature of minor's deviant behaviour: whether the children displaying deviant forms of behaviour are *victims* or *delinquents*. The thesis implied in this context is that children displaying deviant behaviour are, in the first place, victims of today's complex reality due to violation of the universal norms of behaviour.

2. Factors and Measures for Deviant Behaviour of a Child

In legal theory and practice, the normal development of children and the protection of their rights and legitimate interests is allegedly a top priority of any government policy worldwide. It is generally accepted that when or if teenagers violate the universal norms of behaviour they should be approached with due care and understanding, carefully and individually, in order to reduce eventual recurrences as much as possible. Experience proves that prevention is the most effective way to counteract not only minors' antisocial activities but also delinquency.

The antisocial activities of minors and adolescents are a serious issue in the Republic of Bulgaria. There is an almost stable negative trend observed in the country. Data provided by the National Statistical Institute for the last few years show that the average number of individuals sent to the Juvenile Delinquency Prevention Centres for having committed antisocial activities is approximately 6,600 per year, predominantly including running away from home, consumption of narcotics and vagrancy (see Table 1).

Table 1

Number of minors and adolescents sent to the Juvenile Delinquency Prevention Centres for commonly committed antisocial activities

Antisocial Activity	2010	2011	2012	2013	2014
Running away from home	1494	1665	1745	1744	1550
Consumption of narcotics	326	446	437	517	532
Vagrancy	390	407	378	387	239
Prostitution	119	137	78	62	59
Begging	281	223	236	215	115

The major social factors that contribute to such deviant behaviour include the following:

- Family problems,
- Lack of education,
- Unsuitable friendships,
- Negative effect of media,
- Inappropriate leisure time activities,
- Poor medical care,
- Poverty, etc.

The family, as the basic unit of society, is burdened with the primary responsibility and concern for the proper development and upbringing of children. Besides, the family has a crucial role in the early prevention of antisocial activities of minors and adolescents. Children develop their personalities and shape their patterns of behaviour by communicating with adults. The family, however, does not always manage to perform its socializing and educational function with regard to adolescents. The lack of adequate attention, care and control is an important prerequisite for the manifestation of deviant behaviour in children.

Here we should note another disturbing fact related to the child-parent relationship. Unfortunately, statistics show that domestic violence is present in every third family in Bulgaria, as the most frequent abusers of children are their own parents.² It should also be noted that, due to the special character of this type of violence, many of the victims do not find place in police reports. The ultimate result is a vicious circle: a child who recognizes violence as the only form of family relations can hardly behave differently in relations with others.

In order to address deviations in the behaviour of children living in dysfunctional families, there is an urgent need to institute adequate measures and case-specific actions (such as: working with families at risk of criminalization, family counselling, implementing programs for the prevention of domestic violence, implementing programs for child abuse prevention, implementing programs for responsible parenthood, supporting large families in order to provide the necessary parental care and prevent children from falling into criminogenic risk, etc.).³

2 News feed BTV from <http://btvnovinite.bg/article/bulgaria/vsyako-treto-semeistvo-strada-ot-domashno-nasilie.html>.

3 Strategy for Crime Prevention in the Republic of Bulgaria (2012-2020).

The lack of education or poor quality education has also been underscored as a major reason for the occurrence of deviant behaviour in children. Failure to attend school, leading to a lack of education or getting inadequate education, may be due to different economic, social, educational or other reasons, such as the poor economic situation of the family, adherence to certain cultural stereotypes, and lack of any interest in learning. In this sense, the Republic of Bulgaria has taken relevant steps aimed at: carrying out preventive work with children not attending school, implementing programs for prevention of violence in schools, familiarizing children with patterns of safe behaviour to protect them from victimization, etc.⁴

In this context, it should be noted that school environment contributes to a great extent to the formation of different types of behaviour. A relatively new social phenomenon has started spreading recently, i.e. violence in school, which takes second place in incidence after violence in the family. It turns out that in most schools children do not receive the needed support and understanding, which in turn leads to increased incidence of violence and aggression in educational institutions. This gives rise to the necessity of providing additional special training for teachers, school counsellors and school psychologists how to deal with this issue, as well as envisaging more preventive rather than repressive measures to control it. An appropriate measure in this area would be, for example, the introduction of mediation in schools.

The economic crises and the related poverty and unemployment also contribute to the occurrence of deviant behaviour among children. Therefore, those at risk are mainly children from large families, children with a single parent, children living in families where no one is employed or where only one parent is employed. Moreover, the consequence of poverty in children is the fact that it results in restriction or deprivation of minors and adolescents of a number of rights and opportunities for future development. For example, this often leads to situations where adults use or force children, or involve them in various illegal acts, such as stealing, begging, etc. By behaving in this way, adults give an example of a negative feedback to adolescents, facilitate the manifestation and perception of deviant behaviour as something natural and normal. By failing to fulfil their obligation to take care of their children and to provide the necessary living conditions for their development, adults violate the right to a standard of living corresponding to the needs of the child's physical, mental, spiritual, moral and social development⁵. This right is also implied in the conception of child poverty used by the UNICEF Innocenti Research Centre: "*child poverty is a*

4 Strategy for Crime Prevention in the Republic of Bulgaria (2012-2020).

5 Article 27, Convention on the Rights of the Child.

situation where the child's standard of living does not contribute to their physical, mental, spiritual, moral and social development.” (Social Monitor, 2004: 4).

Naturally, in order to overcome this serious problem, especially in terms of ensuring an adequate living standard to children, the State and adults need to exert joint efforts to support and assist the families at risk. This would help reduce the number of children who have their families but who have been placed in specialized social institutions due to various difficulties (mainly economic ones) encountered by parents in the course of their upbringing.⁶ Yet, we should not forget that poverty is a multifaceted social phenomenon which includes a number of factors other than the lack of income.

3. Systems for Protection of a Child displaying Deviant Behavior

In the above context, it can be concluded that the reasons for the occurrence of deviant behaviour in children are strongly interlocked. As previously noted, children are at risk in all areas of social life and, therefore, they must be provided relevant protection by the law. The state is obliged to protect and guarantee the fundamental rights of children, to serve their interests, to support their need for attention, regardless of age, health, social status, mode of expression, form of behaviour, etc. By implementing this basic obligation, the Republic of Bulgaria has adopted two effective legislative acts: the Child Protection Act and the Act on Combating Juvenile Delinquency.

The Child Protection Act provides that the protection of children is to be ensured by using different protection measures, such as: placing a child with family relatives, placing the child with a foster family, police protection, raising awareness on the rights and obligations of children and parents, ensuring preventive measures for protection and security, etc.⁷

The Act on Combating Juvenile Delinquency regulates the activities pertaining to the prevention and control over antisocial behaviour of adolescents, as well as activities aimed at ensuring the proper development and education of juvenile perpetrators by means of: imposing special educational measures (such as: warnings); imposing an obligation to apologize to the victim; imposing an obligation to participate in consultations, training and programs aimed at overcoming deviations in behaviour; placement under educational supervision by

6 A national survey of the State Agency for Child Protection in the Republic of Bulgaria shows that, in 2006, more than 80% of children placed in specialized institutions had a family but were placed social institutions due to the parents' inability to raise them in a family or family-like environment.

7 Article 4, Child Protection Act, State Gazette, SG. 48/2000.

a social educator; prohibiting minors to leave their current address; placement in boarding schools, etc.⁸

The law provides that both systems are to act quite independently or simultaneously. Meanwhile, practice has shown that they are oriented towards almost the same target groups, since “children at risk”⁹ who are subject to protection may often be delinquents. Therefore, children with deviant behaviour require a comprehensive legal protection. There is no doubt that they should be imposed with measures of primarily educational and corrective impact. However, those measures should also have a warning effect. Children should not be left with a sense of impunity, simply because they are children. The measures should help them understand, depending on their age and psychological abilities, that their acts were wrong and that the adverse consequences they suffer were caused by their deviant behaviour. In the Republic of Bulgaria, this important task is performed by imposing educational measures. Those special measures are imposed for the purpose of managing the deviant behaviour, combating the delinquent conduct, preventing future violations, and reintegrating the juvenile offenders into the society. Therefore, they act as both corrective and preventive measures for managing juvenile delinquency.

In most cases, along with the above educational measures, the competent authorities have to exert even greater efforts to impose the (so-called) protection measures. In that case, it is of significant importance to examine the cause of the manifested behaviour, to work closely with the child’s family, to explore their school and friends environment. This also complies with one of the measures set out in the National Child Protection Strategy of the Republic of Bulgaria (2008-2018), specifying that “antisocial actions of children under 14 years of age shall be a reason for implementing the provisions of the Act on Combating Juvenile Delinquency and designating them as children at risk, and accordingly, for applying the measures under the Child Protection Act.” The antisocial behaviour of adolescents aged between 14 and 18 years is assessed on the merits of each individual case.

8 Article 13, Act on Combating Anti-social Behaviour of Juveniles (Juvenile Delinquency Act), State Gazette, 13/58.

9 “Child at risk” is a child: a) whose parents are deceased, unknown, deprived of parental rights or whose parental rights have been restricted, or the child who has been deprived of parental care; b) who is a victim of abuse, violence, exploitation or any other inhuman or degrading treatment or punishment either inside or outside the family; c) who is exposed to danger or risk of harm to the child’s physical, mental, moral, intellectual and social development; d) who is afflicted with mental or physical disabilities and refractory diseases identified by the specialist; e) who is at risk of dropping out of school or who has dropped out of school (§ 1, item 11, Additional Provisions, Child Protection Act, 2000).

4. Conclusion

Ensuring child welfare is a priority of each country. Naturally, children displaying socially unacceptable deviant behaviour need special attention and care to overcome the deviations in their behaviour. The legal analysis confirms the findings of other authors that children displaying deviant behaviour are a particularly vulnerable social group, highly susceptible to external influences and prone to committing antisocial juvenile delinquency acts. Furthermore, the research has supported the selected thesis that children displaying deviant behaviour are primarily victims of different social circumstances in today's complex reality who become offenders by violating the generally accepted norms of behaviour. Active participation of the state, social institutions, family and juveniles is necessary for breaking this vicious circle. Only a combination of educational, corrective, preventive and protective measures may have a positive effect on these children's conduct.

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ДЕВИЈАНТНО ПОНАШАЊЕ ДЕЦЕ: ДЕТЕ КАО ЖРТВА ИЛИ ПОЧИНИЛАЦ

Резиме

Идеја о потреби постојања јединствених стандарда који би посебно регулисали права деце широм света настала је крајем Другог светског рата. По први пут у историји људских права, Уједињене нације су 1959. године усвојиле Декларацију о правима детета, чиме је званично препознато право деце на посебну заштиту. Од тада, државе почињу да спроводе политику чији је циљ признавање, обезбеђење и заштита права и интереса детета.

Предмет овор рада је правна заштита једне посебно осетљиве групе: деце која показују разне облике девијантног понашања. Основно обележје девијантног понашања је да се прелазе границе уобичајеног социјалног понашања, што је неприхватљиво и подлеже друштвеној критици.

У разним фазама свог раста и развоја, деца су веома подложна спољним утицајима, преосетљива и изузетно рањива у свим сферама јавног живота. С обзиром на то, она лако могу бити укључена у извршење разних антисоцијалних активности, и испољити опасне и асоцијалне видове понашања који се одређују као девијантно понашање. Тиме се ствара зачарани круг: дете које је жртва различитих друштвених околности крши правила друштвеног понашања и постаје починилац кривичног дела. Да би се овај зачарани круг прекинуо потребно је активно учешће државе, друштва у целини и сваког појединца. Ради остваривања тог циља, потребно је предузети посебне правно-васпитне мере које ће представљати адекватан одговор друштва на девијантно понашање деце, као и одговарајуће превентивне мере које ће елиминисати или бар ограничити узроке таквог понашања. Само комбинација ових мера може имати позитиван утицај на понашање деце.

Кључне речи: дете, правна заштита, девијантно понашање, жртва, починилац кривичног дела.