



Research Article

© 2023 Arta Mehmeti Ademi

This is an open access article licensed under the Creative Commons Attribution-NonCommercial 4.0 International License (<https://creativecommons.org/licenses/by-nc/4.0/>)

Fundamental characteristics of juvenile delinquency

Dr. Arta Mehmeti Ademi

DOI: <https://doi.org/10.2478/ejels-2023-0006>

Abstract

Juvenile delinquency represents a serious social problem, and as such should be understood by society, considering the seriousness, importance, danger, and long-term consequences that this problem can have.

Crime as a negative phenomenon has always aroused the interest of society because through criminal actions the most basic goods of humanity are damaged.

It is undeniable that today crime is a fundamental problem that society must face to prevent it. Criminality as a negative social phenomenon is not only characteristic of the adult population, but often also minors appear as actors of criminal behaviour (Sahiti and Murati, 2013).

The problem becomes even greater when minors appear as perpetrators of criminal acts, due to their specific age and not fully formed personality. In this context, juvenile delinquency is a sensitive and delicate phenomenon for many reasons.

Minors who still do not understand and weigh their actions sufficiently are presented as actors of delinquent behaviour, for that reason they are more likely to fall into conflict situations more often.

When we treat juvenile delinquency as a problem and try to solve it in the most efficient and useful way, we must consider many other factors that have a dominant role in juvenile delinquency and thus the delinquency of minors is presented to us as a chain of problems in the links of which there are many factors that require solutions.

Juvenile criminality is an integral part of general criminality. However, due to the age of minors as well as many other characteristics - sociological, psychological, criminological - political, legal, etc., minor perpetrators of criminal offenses have a more lenient, more favourable treatment compared to major criminal perpetrators (Salihu, 2018).

Adolescence is that stage of a person's life, in which he is formed, and which is accompanied by a large number and variety of physiological and psychological changes. Minors as an integral part of society represent a relatively special world, with special ways and special reactions to the external world's stimuli.

Therefore, special care should be taken in dealing with them, both when undertaking preventive and repressive measures.

Young people are the future of a society, and with this in mind every society is interested in creating better conditions for life to enable young people to grow and develop properly, resulting in a healthy and capable youth to face life's challenges.

Keywords: characteristics of juvenile delinquency, age, gender.

1. Age – the parameter for determining the criminal responsibility of minors

The age of juvenile offenders is an element that distinguishes juvenile offenders from adult offenders. In this regard, the age of juvenile perpetrators is a constitutive element of the definition of juvenile criminality (Arnaudovski, 2007).

In the Republic of Moldova, according to the Juvenile Justice Law, there is a distinction between children and the age groups of minors who are criminally responsible. Thanks to this, minors who, at the time of committing the act that is defined by law as a criminal offense or misdemeanour, have not reached the age of fourteen are considered children, then minors who are considered criminally responsible are minors between 14 and 16 years - younger minors, who at the time of committing the criminal offense have turned 14 but have not turned 16 and minors from 16 to 18 years - older minors who at the time of commission of the criminal offense they have reached 16 years but they have not reached 18 years.

Such terminological definition does not correspond to the international terminology, which operates only with the notion - child, as a synonym for any minor under the age of maturity (in the North Macedonian legislation 18 years; this is also the case in the Convention on the Rights of Children) (Kambovski, 2007).

Also, a special regime of treatment is foreseen for the category of young adults, who at the time of the trial have not reached the age of 21, and the sanctions provided for minors can be imposed on them.

Sanctions provided for by law cannot be applied to minors who, at the time of committing the criminal offense, have not reached the age of 14 - children at risk.¹ Aid and protection measures are applied to this category, namely the child at risk (Article 14 of the LDM). However, because the aforementioned criminal-legal sanctions cannot be applied to children, other possible consequences are not excluded due to the fact that a criminal offense has been committed; his accomplices may be held responsible for the minor's act, or all his property benefit may be confiscated, and other items created by the commission of the criminal offense may be taken.

Regarding this category of minors, i.e., children at risk, the application of criminal-legal sanctions and the initiation of criminal proceedings are categorically excluded (Kambovski, 2007).

Younger minors - who have committed a criminal offense between the ages of 14 and 16 can only be imposed educational measures (Article 18 of the LDM).

Under the conditions provided by the Criminal Code, a security measure may be

¹ According to the Juvenile Justice Law, a child at risk is a minor who, at the time of committing the act that is defined by law as a criminal offense or a misdemeanor, has reached the age of seven and has not reached the age of fourteen; a child at risk is also considered a minor up to 14 years of age - addicted to the use of drugs, psychotropic substances or alcohol, children with developmental disabilities, children - victims of violence and children abandoned in terms of education and the social one found in such a situation in which it is difficult or impossible to realize the educational function of the family, or the child is not included in the education and training system or is given to begging, wandering or prostitution, which due to such conditions is or can contradict the law (Article 12 of the LDM).

issued to minors in the direction of educational measures or punishment, as well as to irresponsible minors under the conditions determined by the Criminal Code, a security measure may be issued to them (Article 8 of the LDM).

Regarding the older minor who at the time of committing the criminal offense was 16 years old but not yet 18 years old, educational measures may be imposed, with the exception of punishment or an alternative measure. The adult minor can be released from punishment under the general conditions defined by the Criminal Code. Sanctions for misdemeanours defined by the Juvenile Justice Law may be imposed on minors for actions that are defined by law as misdemeanours. Security measures for minors are imposed according to the conditions defined by the Criminal Code and the LDM (Article 28 LDM).

The age limits defined in this way are one of the possible solutions for determining the upper or lower limit of maturity.

In the criminal legislations of some countries of the world, there are various solutions. In terms of the lower limit of minors, which once also serves to define the size between children and minors, there are countries that do not define the lower limit of criminal responsibility of minors, while other countries define this limit. between the ages of 7 and 16. Also, in terms of determining the upper limit, which serves as a definition between minor and maturity (adult age), there are big differences between 15 and 21 years (Velkova, 1999).

Achieving adulthood and minors is an evolutionary process in which they pass from one age to another, it is a process of continuous maturity in the psychological, character and emotional sense, it is an individual process that develops in a given time frame, which although legally limited, still by the nature of the case is a process that can at least be limited by law.

In the psychological sciences, the opinion is universally accepted that there are no two individuals who at the same age are mature in the same way and to the same degree, even if the conditions in which they live are the same or similar. This conclusion is even more valid when it comes to people who live in different social circles - political, economic, cultural, social, etc.

This also includes geographical, biological, climatic factors as well as other factors, which may have a certain influence when determining age limits in certain legal and criminal systems.

In the legal-penal systems of different countries, the age limits are set in certain time intervals, starting from 7 to 16 years for the lower limit, and from 15 to 21 years for the upper age limit. minors.

Countries such as Egypt, Burma, Iraq, Syria, Sri Lanka, India have the lowest minimum age limit of only 7 years, while the USA, Israel, the Philippines, Jordan, and some other countries have the minimum age limit of are set at 9 years, Great Britain at 10 years, Turkey and Iran at 11 years, France, and Poland at 13 years, while the highest number

In most countries (including North Macedonia), the lower limit is set at the age of 14. These are the countries: Austria, Bulgaria, Hungary, Romania, Norway, Albania, Kosovo, and others. Denmark and Finland set the lower limit at 15 years, while Chile

sets it at 16 years.

Numerous differences also exist in terms of determining the upper age limit, which serves to determine (separate) minors from maturity (adult age).

Iraq and Egypt have the lowest upper limit - 15 years, Pakistan, India, Burma, and Israel - 16 years, while most often the upper age limit is set at 18 years, which includes the countries: Austria, Germany, Hungary, The Netherlands, Denmark, France, Albania, Kosovo and others. Japan has set the upper age limit at 20 years, while Finland, Sweden and some US states have set the upper age limit at 21 years (Velkova, 1999). Both age limits, such as the lower one and the upper one, have different meanings in certain legislations. Thus, in some countries the lower limit excludes any responsibility of persons under this age, while in some countries only the possibility of applying the sanctions foreseen by the general criminal system is excluded (Jasovic, 1988).

Even with regard to the upper age limit, the situation is similar, which in certain countries only serves to separate minors from major perpetrators of criminal offenses and represents the limit up to which a special procedure is applied, and special measures are applied to youth. However, in some legislations, this limit has the role of determining the age up to which mild or reduced sanctions will be applied, which are otherwise applied to adult perpetrators of criminal offenses.

Regarding the lower age limit, in different countries of the world, we mainly have three solutions:

- a) Some countries do not define this limit. This applies to some Latin American countries such as: Colombia, Peru, Mexico, and others, as well as some European countries such as Belgium, Netherlands, Spain, Portugal (Jasovic, 1988);
- b) some countries, such as Yemen and Saudi Arabia, which do not have a Penal Code (penal law) but are guided by the Koran, when determining this limit they start from the degree of biopsychic maturity, which the court verifies in each specific case (Jasovic, 1988) and
- c) the largest number of countries that have fixed the lower age limit, which ranges between 7 and 16 years (Jasovic, 1988).

In theory and in practice, there are opinions that indicate the need for the lower age limit for juvenile perpetrators of criminal offenses to be lowered to 12 years. This approach is more the result of the literature and various criminological research which note that among minor perpetrators of criminal offenses there is an interesting phenomenon of shifting the limit of the beginning of the criminal career in the earliest (new) years (Arnaudovski, 2007).

Some authors think that this way of determining the age limit of minor perpetrators of criminal offenses is very artificial and does not reflect reality at all, and they think that the age limits should be removed, and full individualization of judicial treatment and other treatment should be done. With this, the principle of individualization, as one of the leading principles in this field, will have full application (Jasovic, 1988).

However, in relation to this in theory there are objections since excessive individualization will result in the arbitrariness and inequality of judicial practice, and will bring into question legal certainty, will endanger the legality and equality of citizens before the law (Jasovic, 1988).

Despite the aforementioned complaints of criminal law, the attitude still prevails that age limits cannot be completely eliminated. In favour of this position, the theoretical-methodological and practical difficulties surrounding the proof of bio-psychological and especially social maturity are mentioned, as well as the fact that not all the necessary social conditions are mature. In the absence of scientific and social prerequisites, age limits serve as an instrument-tool for the regulation of legal action with juvenile offenders.

Under these conditions, the existence of age limits in the criminal-legal field is reasonable.

2. Gender – the parameter for determining the number of criminal offenses committed by minors

In criminological research, gender as one of the characteristics of the perpetrator of the criminal offense attracts scientific and criminological-political attention, primarily because the female gender, both in general criminality and in juvenile delinquency, has a relatively small participation (Arnaudovski, 2007).

The link between gender and criminality, despite being addressed in various studies, has not been sufficiently evaluated by researchers. Classical theories, as the first scientific explanations of crime, have failed to explain the disparity between the number of male and female perpetrators (Hysi, 2005).

There is a general impression that criminality is a typical male phenomenon. According to criminological research done in many countries of the world such as: USA, Germany, France, England, Japan, and other countries, until the latest time, the male gender, namely the perpetrators of criminal acts of the male gender, have dominated in absolute way (Chadlovski, 2006).

In this aspect, even the Republic of Macedonia is not an exception, we can even conclude that in North Macedonia, women are rarely presented in the role of perpetrators of criminal offenses. It is worth underlining the fact that the representation of minors is almost twice as small compared to adult women who are represented in criminality. So, in the recent years, it has been observed that minors participate in criminal behaviour with 3 to 4%, while adults between 6 and 7%. (Stankovska, 2006).

3. Conclusion

In theory, there are various explanations regarding the small participation of women in criminal activities. Without overlooking the biopsychological characteristics and the differences that exist between women and men, still during the explanation of women's participation in criminality, primary and decisive importance should be given to those elements that determine the socio-economic and social position of women in society.

Also, the disproportion of the involvement of women and men in crime has been explained with different arguments, such as: official statistics do not show the truth (women and the studies about them are not developed enough), for some types of

crimes committed by women not in all cases the police arrest them (infant murder, child neglect, child abandonment), the social role of women in society, their different treatment in society, the biopsychic structure of women, as being unable to adapt to difficulties (Hysi, 2005).

It is well known that until recently, that is, until contemporary society, women have not been included in the general processes of life. Therefore, now in contemporary society, the situation has changed significantly because women, more and more, are taking part in criminal behaviour. Although the percentage of female participation in criminal behaviour and actions is very low, it should still be noted that in some criminal behaviour and criminal acts, female participation is greater. According to some findings in the literature and on the basis of statistical records of criminality, it is observed that women participate in the commission of crimes against human honour and dignity, against life and body, against property, and are especially expressed in criminal activities related to prostitution. A characteristic of women's criminality is the fact that they rather participate in the commission of crimes as helpers, instigators, and less as direct perpetrators or as organizers of certain crimes. Thus, with the increasing emancipation and inclusion of women in all spheres of life and work, the increase in their participation in criminal activities is also observed (Halili, 2016).

References

- Aleksoski, S. (1991). Social, personal and psychosocial determinants of juvenile delinquency in the Republic of North Macedonia, Skopje.
- Chadlovski, G. (2006). Criminology and Psychiatry, Skopje.
- Halili, R. (2016). Kriminologjia. Pristina.
- Hysi, V. (2005). Kriminologjia, Tirana.
- Jasovic, Z. (1988). Juvenile Delinquency, Skopje.
- Kambovski, V. (2007). Criminal law - the general part, Skopje, 2007, Albanian edition.
- Marjanovic, G. (1988). Criminal law - general part, Skopje.
- Marjanovic, G. (1998). Macedonian Criminal Law, Skopje.
- Osmani, A. (2010). Criminal Code of the Republic of Macedonia, Complete text, elaborated in the Albanian language with instructions and clarifications, alphabetical index, Skopje: Furkan.
- Sahiti, E. Murati, R. (2013). E drejta e procedures penale.
- Salihu, I. (2018). E drejta penale per te mitur.
- Stankovska, G. (2006). Child and youth psychopathology – collection of lectures for student needs, Tetovo.
- Velkova, T. (1999). Recidivism among juvenile offenders, Shtip.
- Law on Justice for Children ("Official paper of the Republic of North Macedonia" No. 148/13, and "Official paper of Republic of North Macedonia " no. 152/19 and no. 275/12).
- Law on the rights of minors, Official paper of the Republic of North Macedonia, no. 07 – 3100/1, no. 87, dt. 12.07.2007.
- Law on the execution of criminal sanctions of the Republic of North Macedonia.
- Convention on the Rights of the Child, ratified by the Law on Ratification, RSFJ Official paper no. 15/90 – Official paper of the Republic of North Macedonia, 1993.
- The optional protocol of the Convention on the rights of the child regarding the sale of children,

child prostitution and child pornography, ratified by the Law on ratification, Official paper of the Republic of North Macedonia no. 44/2003, dt. 03.07.2003.

The Optional Protocol of the Convention on the Rights of Children regarding the involvement of children in armed conflicts, ratified by the Law on Ratification, Official paper of the Republic of Macedonia no. 44/2003, dt. 03.07.2003.

The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), approved by General Assembly resolution 40/33, dt. 29.11.1985.