

Criminal etiology of juvenile delinquency

Eziologia criminale della delinquenza minorile

Fatmire Krasniqi

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Corresponding Author: Fatmire Krasniqi
email fatmire.krasniqi@unigjilan.net

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Abstract

Juvenile delinquency continues to be a concerning negative phenomenon within Kosovo society. Hence, the presence and repercussions deriving from this pronounced phenomenon continue to be evidenced every day. However, beyond evidence of the presence and repercussions, efforts towards preventing and combating juvenile delinquency are not lacking.

Viewed in a broader context and in function of a more effective prevention and combating of the pronounced phenomenon, the importance of addressing the process towards researching for the main causes, reasons of the occurrence of such a negative phenomenon should not be overlooked. Only a concrete, meticulous and analytical research could contribute even more not only to the reflection and real presentation of the phenomenon of juvenile delinquency, but at the same time would directly contribute towards its prevention.

In this regard, the purpose of the research will be focused specifically on presenting the general data, but at the same time of specific fundamental notions related to the criminal etiology of juvenile delinquency, in order to continue further with the follow-up of criminal liability of these subjects of law, without neglecting the punitive policy based on current criminal legislation.

In addition to the treatment of continuity defined above, the policy of preventing and combating juvenile delinquency, will be also the main focus of treatment particularly through research, detection and concretization of criminogenic factors.

The treatment of the topics chosen for the study will be based on the application of: analytical method and comparative method.

Keywords: criminal etiology, juvenile delinquency, covid pandemic 19, juvenile justice code.

Riassunto

La delinquenza giovanile continua a essere un fenomeno preoccupante all'interno della società Kosovara, con ripercussioni percepibili nella quotidianità. Tutto ciò nonostante i molteplici sforzi fatti in prospettiva di prevenzione e contrasto della delinquenza giovanile. Nella prospettiva della scelta delle misure di prevenzione e contrasto della delinquenza minorile più efficaci, è fondamentale il ruolo della ricerca, orientata alla comprensione delle cause principali, delle ragioni che sottendono un fenomeno così rilevante. Solo un'attività di ricerca concreta, meticolosa e analitica può contribuire sia a delineare i contorni reali del fenomeno che alla sua prevenzione. Scopo della presente ricerca è la presentazione di dati relativi al fenomeno, ma anche dissertare delle specifiche cause eziologiche della delinquenza minorile, proseguendo poi con il follow-up di questi soggetti alla luce dei provvedimenti giudiziari assunti in termini di responsabilità penale, senza tralasciare analisi della politica punitiva basata sulla vigente normativa penale.

Oltre al trattamento di continuità sopra definito, la politica di prevenzione e contrasto della delinquenza giovanile sarà anche l'obiettivo principale del trattamento, in particolare attraverso la ricerca e l'individuazione dei fattori criminogeni. La trattazione degli argomenti scelti per lo studio sarà basata sull'applicazione di metodo analitico e metodo comparativo.

Parole chiave: cause del crimine; delinquenza minorile; pandemia covid 19; codice di giustizia minorile

Prof. Ass. Dr. Fatmire Krasniqi, full time professor in the subjects of criminal law, at the Faculty of Law of the Public University "Kadri Zeka", in Gjilan. She currently holds the position of Vice Dean at the Faculty of Law.

Criminal etiology of juvenile delinquency

1. Introduction

One of the current concerns not only in our society, continues to be the presence of juvenile delinquency. The concern is even increased for the very fact of the gradual increase of such a criminal phenomenon with an inclusive trend beyond our society. In the circumstances when the *high number* of juvenile delinquency is added to the gradual increase of the pronounced negative phenomenon, then the issue rightly becomes even more worrying. However, another fact which in certain cases falls within the juvenile delinquency is the phenomenon of committing criminal offenses by the mentioned subjects, accompanying such behavior with the application of *violence or even rudeness*.

Apart from the accompanying elements highlighted above the presence of antisocial behavior of juveniles, are elements that seemingly often make the behavior of juveniles many times more dangerous than the antisocial behavior of adults, thus, questions that can rightly be asked are what are the circumstances, situations, reasons, roots and source of such behavior of persons who are still in the process of shaping their personality, whilst, with their actions are already *involved* into illegal activities. Moreover, identification of the motivating and stimulating factors of antisocial behaviors of juveniles, could contribute towards the elimination of such behaviors, and as a result could positively contribute towards reducing criminal cases in society.

Taking into account the seriousness of the current situation, we will first present some of the fundamental notions which in one way or another are related to juvenile delinquency, in order to continue with the presentation of the main part of the study which is specifically related to the research, finding and concretizing the *criminogenic factors* within our society, which are thought to be the main factors of the emergence and negative phenomenon of juvenile delinquency.

In addition, we will also look at the analytical aspect of the legal framework which is dedicated to juveniles as subjects of law, from which we will not only get some of the semantic definitions of the basic notions of the studied field, but at the same time, the positive legal framework will be as a research basis from which, we will follow up on issues related to the determination of criminal liability of juveniles as well as explicitly defined criminal sanctions, which could be applied to them, in order to prevent persons from committing criminal offenses in the future and to exert educational influence on them, (Salihu, 2015, pp. 530-531), ie, even in the circumstances when juveniles appear as perpetrators of antisocial acts.

Meanwhile, an indispensable part of this study will be the issue of preventing and combating juvenile delinquency, which our society and in particular the state institutional mechanisms try to pay special attention to.

2. Criminal etiology of juvenile delinquency

When referring to juvenile delinquency, we must initially emphasize some of the basic notions which are directly related to the studied topics. In this regard, pursuant to the positive legal provisions of our country, a *juvenile* is considered a person who has reached the age of fourteen (14), but has not reached the age of eighteen (18). (*Juvenile Justice Code*, Code no. 06 / L-006, October 2018, article 3, para. 1, subparagraph. 1.2). Such a legal stipulation is important for the fact that persons under the age of fourteen (14) are outside the criminal zone, implying that no criminal proceedings can be instituted against them, regardless of the type of committed criminal offense, while persons who are eighteen (18) years of age are considered as adults.

On the other hand, when we refer to *juvenile delinquency* with the notion of criminality, it implies the totality of all crimes committed in a certain time, space and period, (Halili, 2016, p. 21) which in our case is related to juveniles as subjects of law, who also appear as perpetrators of antisocial acts. Moreover, in conjunction with this phenomenon, we must emphasize that juvenile delinquency is a complex phenomenon, the explanation of which requires full knowledge of the causes and circumstances of its occurrence. This harmful phenomenon, due to the many specifics that characterize them (sociological, psychological, legal aspects, etc.), in the contemporary society is now being tackled separately from the criminality of adults. (Hajdari, 2010, p. 7). When looking at the analytical aspect of the legal framework of our country, it becomes clear that the issues which refer to juveniles, are indeed regulated by special legal provisions.

In addition, as we have already pointed out, the juvenile delinquency continues to be a concerning phenomenon for our society as well. However, efforts towards its prevention and combating are ongoing. In this context, an important role is undoubtedly played by the research in the field of finding the reasons for the occurrence of such a negative phenomenon. Consequently, *criminal etiology or factors on criminality* are related to identifying the sources, roots and determining circumstances of crime. These issues are studied and analyzed by criminal etiology. (Halili, 2016, p. 236). Thus, it is precisely the criminal etiology that even in the situation of juvenile delinquency tries to explain the causal link between *circumstances or*

sources on the one hand and the occurrence of delinquency on the other. Undoubtedly, the etiological data are extraordinary, particularly due to the fact that the clarification of such a causal link offers the possibility of a concrete response in terms of preventing and combating juvenile delinquency, particularly in terms of attempting to eliminate the so-called criminogenic factors.

3. Criminogenic factors of juvenile delinquency

By researching *criminogenic factors* which are rightly defined as risk factors, situations or matters that affect the emergence or occurrence of crime in individuals, groups, communities and societies, (Walsh & Beaver, 2009, p. 269), we can emphasize that even in the situation of juvenile delinquency in Kosovo society, there are some criminogenic factors which in the last instance are considered to have more influence. In this regard, viewed from the analytical point of view, the factors that are most present in the role of criminogenic factors in the situation of juvenile delinquency are as follows: *unemployment, poverty, difficult housing conditions, population migration, war, mass media, family, school, drug addiction and finally, the current situation of Covid pandemic 19 which has had a significant impact as well.*

Unemployment, viewed in terms of the criminogenic factor, affects juveniles almost indirectly. Since the minimum age for establishing an employment relationship is eighteen years old (Nikqi, 2008, p. 947), the unemployment in our society initially affects the parents and gradually its consequences affects the juveniles within the family, with unemployed parents. Because of this, parents and especially juveniles fail to meet the fundamental requirements of life, for which in many situations with their behavior result by being involved into illegal actions. In essence, defining unemployment it is not easy. It means being out of work (Giddens, 2004, p. 481) and in this sense, being without the necessary income, and being insecure. As a result, the possibility of the emergence of poverty as other criminogenic factors increases. Such a criminogenic factor in our society is extremely pronounced.

Poverty is one of the other criminogenic factors that derives precisely from the criminogenic factor that we have already conveyed above and is often considered as the key criminogenic factor of the occurrence of deviant behaviors. In our country, poverty has an extremely harmful role because in most cases which present illegal cases of juveniles (almost in all of them), perpetrators are juveniles who come from families with a low standard of living conditions.

Difficult housing conditions, as criminogenic factors are also present in Kosovo society. In fact, every person has the right to a dignified life and that it is a state obligation to help parents and other responsible persons for the child to exercise this right and, if necessary, to provide financial support and support programs, especially in relation to

food, clothing and housing (*Convention on the Rights of the Child*, 1989, Article 27, para. 3) whilst, the juveniles who come from families with a low standard of living under the influence of difficult living conditions, with their illegal actions very often fall into the criminal zone, which fact is also specified in court acts.

Population migration, in certain situations can also be presented as criminogenic factor. However, based on the 2011 census data, the population of Kosovo can be described as a migrant population. Migration data collected during the population census relate to the last change of residence or municipality, whenever it occurred. Out of the total number of 1.739.825 persons registered in the population census (April 2011), 517,992 thousand of them or about 30% of them have experienced at least one migration. Such a number of migration (about 30%) represents a great experience in terms of adapting to different living conditions and enriching the overall culture of a person that can be an asset for the whole country. (*Kosovo Agency of Statistics*, 2014, p. 53), but such practice has shown that the inability of persons to adapt and meet their living conditions in the new environment, very often have been the cause, respectively the stimulant towards commitment of their illegal actions.

The war as criminogenic factor, present in kosovar society during the period 1998-1999, has undoubtedly influenced the emergence of various illegal behaviors. In reality, it is our society that is still suffering the consequences of the war. The great losses in people's lives, rapes, great property damage, etc., have left extremely serious consequences. Although not directly but indirectly still this criminogenic factor is present in our society.

Mass media are bodies that broadcast information to a wide public through technical means. The mass media include: print, radio, television and internet. (Musai, Godole & Abdurrahmani, 2011, p. 4). Meanwhile, as the most pronounced criminogenic factor at present is considered to be the Internet, through which very often are broadcasted fake data, fake news, actions with content of violence, narcotics and other anti-social activities where juveniles as potential offenders very often fall under their negative effect.

The family is one of the most important institutes and represents a special and specific form of social relations. (Sadikaj, 2005, p. 130). Although its positive role in the life of each of its members is extraordinary, however, there are situations when it is the family that can become a criminogenic factor. Such cases, although smaller in terms of numerical data, are present especially *in deficient families and degraded families* in terms of the presence of anti-social phenomena within them. Such a criminogenic factor is also present in our country.

The school as an institution plays an important role in the adequate formation of the personality of young people. However, in modern conditions, in almost all countries of the world and especially in some, the school is going through great difficulties of transformation. In many countries, schools as educational institutions, espe-

cially their education and training programs have not yet been transformed and adapted to the latest conditions and circumstances in the contemporary world (Halili, 2016, p. 283), and when to this we add the fact of the obstacles emerging as a result of holding the lessons especially *during the pandemic period*, where the whole educational process for a long period of time has been shifted to the online form, and where students began to leave the school institution and contact with teachers and peers, for which the school failed to fulfill its positive purpose. Consequently, although the effects of the pandemic situation still persist, the consequences remain to be seen in the future, even in terms of the extent of juvenile delinquency, taking into account that the data for the period that we are talking, takes time and remains to be reflected in the future.

As other criminogenic factors is drug addiction. As far as narcotics are concerned, it is already universally known that their negative effects are highly undesirable. (Latifi, 2014, p. 294). However, recently in our society there is a greater presence of people who use narcotics. Even more worrying is the fact that the number of users of such substances is increasing among juveniles, which can be rightly concluded that this criminogenic factor is undoubtedly present and has a direct effect on illegal behavior of juveniles. It is quite easy to point out that, juveniles addicted to narcotics are extremely much more prone in committing possible illegal behaviors, compared to their peers who are not influenced with such a socio-pathological phenomenon.

Covid pandemic 19, can be considered as one of the current criminogenic factor not only in our society. The negative effects yielded by this pandemic, can be considered as a direct attack on the life of persons, their physical and psychological health, legal-property relations and other social relations in the full sense. Consequently, the pandemic situation, in addition to the negative social aspects highlighted above, in many societies also brought unemployment, poverty, emotional crisis, inability of young people to adequately attend the learning process, etc. The pandemic accompanied by all the aforementioned elements, of course has influenced and continues to negatively influence the behavior of juveniles as well. Although, currently there are no concrete statistical data about its impact on this specific social situation, the future will tell its negative impact on the occurrence of illegal behavior of juveniles, as a result of the consequences of the Covid pandemic 19.

4. Criminal liability of juveniles based on the criminal legislation of Kosovo

Even the *United Nations Standard Minimum Rules for the Administration of Youth Justice* (Beijing Rules) underline the idea of developing a special and specialized legal system for young people. Juvenile justice is valued as part of the democratic process in a country. (Hysi, 2015, p. 334).

In this regard, even in our society there is a special legal framework and mechanisms that are dedicated specifically to the administration of juvenile justice.

However, when we are referring to the criminal liability of juveniles, we emphasize that the perpetrator of the criminal offense will be criminally liable if he/she is mentally capable and has committed the criminal offense intentionally or negligently. A person is criminally liable for the criminal offense committed by negligence only if this is expressly provided by law. The person is not criminally liable if at the time of the commission of the criminal offense he/she was under the age of fourteen (14) years. (*Criminal Code of the Republic of Kosovo*, No. 06 / L-074, 23 November 2018, Article 17, paragraphs 1, 2 and 3).

On the other hand, as mentioned above and explicitly defined through legal provisions is the fact that, for a child under the age of fourteen (14) years, the court proceedings will not be initiated. If the child is under the age of fourteen (14) years at the time of the commission of the criminal offense, any legal proceedings initiated shall be terminated immediately and the custodial body shall be notified by police in conjunction with the case after consultations with the juvenile state prosecutor (*Justice Code for Juvenile*, Code No. 06/L-006, October 2018, Article 8, para. 1) while a legal act issued by the Government of the Republic of Kosovo regulates the manner of protection of children committing criminal offenses under the age of criminal liability, protection program, protection of the child under the age of criminal liability in urgent situations, mediation between peers, legal aid and treatment of this category of children, always based on the best interest of the children. (*Juvenile Justice Code*, Code no. 06 / L-006, October 2018, article 8, para. 4).

5. Punitive policy towards juveniles according to the criminal legislation of Kosovo

The development of technology, communication, greater opportunities for the movement of goods and services have created greater facilitations for the transfer of criminal activities. The number and types of victims have increased, while human rights are being violated not only in developing countries or with unconsolidated democracies, but also in the countries of Western democracies, including European ones. The growing fear of organized crime, terrorism, and urban crime, shows that these balances have been disturbed to the detriment of human rights violations. In the name of fighting crime and ensuring public safety, various countries, including those with consolidated democracies, have designed and implemented criminal policies. (Latifi, Elezi & Hysi, 2012, pp. 147-148). The Kosovo legislator has also established a criminal policy for protection from illegal actions of juveniles. Moreover, taking into account the fact that in certain situations the illegal actions of juveniles can be many times more dangerous compared to the illegal behavior of adults.

In this regard, the framework of the criminal sanctions has been determined based on the criminal policy. Regarding the juveniles, the main purpose of imposing the criminal sanctions is focused on the fight against dangerous social actions that violate or endanger the social values protected by criminal legislation. (Latifi, 2003, p. 154).

Explicitly defined in the *Juvenile Justice Code*, it is stated that diversity measures, educational measures, and punishments can be applied to juveniles.

When referring to *diversity measures*, the purpose of diversity measures is to prevent, where possible, the initiation of legal proceedings against the juvenile perpetrator, to assist in the positive rehabilitation and reintegration of the juvenile into his or her community in order to prevent the recidivist conduct (*Juvenile Justice Code*, Code no. 06 / L-006, October 2018, Article 19), on the other hand, the diversity measures that may be imposed on the juvenile perpetrator are: reconciliation between the juvenile perpetrator and the injured party, including a pardon from the juvenile to the injured party; reconciliation between the juvenile and his/her family; compensation of the injured party on the basis of a mutual agreement between the injured party, the juvenile and his/her legal representative, in accordance with the financial situation of the juvenile; regular attendance at school; acceptance of employment or training in an adequate profession with its skills and abilities; performing community service without payment in accordance with the ability of the juvenile perpetrator to perform such work. This measure may be imposed with the consent of the juvenile for a period of ten (10) to sixty (60) hours; education in traffic rules; psychological counseling; engaging in charitable activities; payment of a certain amount of money intended for charitable purposes or in the victim compensation program in accordance with the financial situation of the juvenile; engaging in sports and recreational activities and counseling between juvenile families; refrain from any contact with certain individuals that may have a negative impact on the juveniles; to not visit certain places or environments that may have a negative impact on the juvenile and to refrain from drug and alcohol use and police reprimand. (*Juvenile Justice Code*, Code No. 06 / L-006, October 2018, Article 20, paragraph 1, sub-paragraph 1.21, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15 and 1.16).

When we are referring to *educational measures* we can emphasize that the purpose of educational measures is to contribute towards the rehabilitation, resocialization as well as the adequate development of the juvenile perpetrator, by providing protection, assistance and supervision, vocational education and training, developing personal responsibility and thus preventing recidivist behavior (*Juvenile Justice Code*, Code no. 06 / L-006, October 2018, Article 22) while the types of educational measures that can be imposed on juvenile perpetrators are: judicial reprimand, enhanced supervisory measures and institutional measures. (*Juvenile Justice Code*, Code no. 06 / L-006, October 2018, Article 23, paragraph 1, subparagraphs 1.1, 1.2 and 1.3).

Although the punishment is the most intrusive and degrading sanction of society (Herring, 2013, p. 9), however in certain situations it can also be applied to juveniles as perpetrators of illegal behavior. Based on the legal framework defined by the Kosovo legislator, it becomes clear that *punishments* against juveniles can be imposed, such as imposing a fine, sentencing for community service and imprisonment.

In general, we can emphasize that the purpose of juvenile detention is to contribute to the rehabilitation, resocialization and development of the juvenile perpetrator, especially in juvenile education, specialized education, professional skills and proper personal development. In addition, juvenile detention should have a positive impact on the juvenile through protection, assistance and supervision towards preventing the recidivism. (*Juvenile Justice Code*, Code no. 06 / L-006, October 2018, Article 33). Regarding the imposition and execution of imprisonment for juveniles, it is said that it is usually imposed on juveniles aged 16-18. (Halili, 2014, p. 271). It should be noted that such a concept of measures and punishments provided for juvenile perpetrators is defined based on paragraph 5.1 of Article 5 of the *Beijing Rules*, which explicitly provides that the objective of juvenile justice system is the welfare of the juveniles and considers that the reactions of young perpetrators should always be in proportion to the specific circumstances of the perpetrator and the offense. (Salihu, 2018, p. 46). Above all, the administration of justice is closely linked to the judiciary (Omari, 2012, p. 115), a power which has already experienced positive changes in terms of its organization and functioning, which is also being shown more efficient in terms of law enforcement.

6. Preventing and combating juvenile delinquency

With the development of the society and processes, certain preventive, repressive means and methods have been chosen in order to be efficient in terms of reducing and eliminating the total crime within the society (Krasniqi, 2019, p. 219), and in this sense of juvenile delinquency.

When referring to *preventive measures*, its main focus is the commitment towards the elimination of *criminogenic factors*, in order to continue further towards the realization of awareness activities on *risk factors* into which juveniles may fall, but without leaving aside for a moment the various tactical activities in terms of checks, police patrols and other forms of cooperation with citizens and other relevant institutions.

The repressive *measures* aim at combating juvenile delinquency. The justice institutions are oriented towards the application of measures and punishments provided by the criminal legislation established for juveniles.

Nowadays, the pedagogical and educational measures must be dominant and the prevailing approach in this fight, which will enable positive development of the juvenile's personality, solution of social and family problems,

their professional training, and the guarantee of their perspective. However, in addition to preventive measures, every society is obliged to impose criminal measures and sanctions on juvenile perpetrators of criminal offenses, which in terms of their concept and content differ from the measures and sanctions that are imposed on adult perpetrators of criminal offenses. (Hajdari, 2010, pp. 7-8).

7. Conclusion

Based on the treatment of data related to the criminal etiology of juvenile delinquency in Kosovo society, we can conclude that criminogenic factors in our society are diverse and are present. Although the Kosovar society with all its capacities, continues its efforts towards their elimination, given the fact that some of the pronounced criminogenic factors are as a consequence of the political situation that our country has gone through, which factors continue to be present and result in the negative impact.

On the other hand, the *Covid pandemic 19* which inflicted outstanding damages to society worldwide, without a doubt inflicted damages to Kosovar society as well. In addition, some of the existing criminogenic factors until the time of its occurrence, have become concerning factors, despite the continuous institutional efforts towards their elimination and in this context by conditionally *stimulating* even the anti-social behaviors of juveniles.

We reiterate that such a state of Covid pandemic 19 continues to exist, whilst its consequences will probably be noticed even more in the future.

However, state institutions and other social mechanisms continue their activities in terms of preventing and combating illegal behavior and activities which are explicitly defined by concrete legal provisions.

It is extremely important to emphasize that regarding the determinability of the punitive policy in relation to juveniles, our country has embraced a wide system of existence of various measures including also penalties which can be applied in case of existence of illegal behavior of juveniles. The *Juvenile Justice Code* envisages even a greater number of diversity measures which in the previous legal framework were not foreseen. Such an institutional action clearly shows that all state, institutional and social capacities are centralised on the juveniles with the main goal of its rehabilitation, re-education and social reintegration, in cases of the presence of anti-social behaviour committed by the juveniles.

Taken as a whole, when the focus is on the administration of justice for juveniles, the current functioning of the judiciary system is promising even in the field of preventing and combating the juvenile delinquency in more effective manner within Kosovo society.

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