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PRVI DIO

NAUČNI RADOVI PREZENTIRANI NA ENGLESKOM JEZIKU

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PRVI DIO

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1. DEFNICIJA RATNOG NASILJA I POMIRENJE U PRIČAMA PREŽIVJELIH POSLIJE RATA U BOSNI I HERCEGOVINI

Sažetak

U ranijim istraživanjima ratnog nasilja, tokom rata u Bosni i Hercegovini, naglašavana je važnost priča ŽRTAVA ali fokus analize nije bio usmjeren na priče o ratnom nasilju, niti su analizirani poslijeratni intervjui kao produkt međuljudske interakcije. Ovom studijom pokušava se popuniti ta praznina analiziranjem priča osobe koje su preživjele rat u sjeverozapadnoj Bosni i Hercegovini. Prvi cilj studije je analizirati verbalne opise ratnog nasilja, drugi cilj je analizirati diskurzivne modele koji učestvuju u produkciji fenomena ”ratno nasilje”. Analiza pokazuje da se međuljudske interakcije koje uzrokuju nasilje nastavljaju i nakon što se nasilna situacija zavrsila. Sjećanja na počinitelje i žrtve nasilja iz rata ne postoje samo kao verbalnih konstrukcija u današnjoj Bosni. Priče o ratnim nasilnim situacijama se prepričavaju nakon rata i sa time bivaju važne za pojedince kao i za društvenu zajednicu. Individue koje su protjerane iz sjeverozapadne Bosne tijekom rata su, u pravnom smislu, priznata su kategorija žrtava. Nekolicina počinitelja je osuđena od strane Haškog tribunala i Odjela za ratne zločine suda Bosne i Hercegovine. Prema optužnici Radovana Karadžića i Ratka Mladića, zločini počinjeni na području sjeverozapadne Bosne su kvalificirani kao genocid. Svi intervjuisani u ovoj studiji su doživjeli i preživjeli rat u sjeverozapadnoj Bosni. Ove individue su takođe i dio današnje društvene zajednice: Nekolicina živi permanentno u sjeverozapadnoj Bosni, a jedan dio, iz instanstva provodi ljeta u sjeverozapadnoj Bosni. Institucije administrativnog entiteta Republike Srpske (kojem najveći dio sjeverozapadne Bosne administrativno pripada) negiraju genocid, i ovaj institucionalni pristup zločinima za vrijeme rata je izuzetno bitan za buduće analize fenomena "ratno nasilje" i "pomirenje". Stoga, je veoma važno analizirati kontekst konfliktnog odnosa političkih elita prema ovom pitanju koji se producira i reproducira između ostalog i raportiranjem Haškog tribunala, Odjela za ratne zločine suda Bosne i Hercegovine, kao i raportiranjem bosanskih medija. Čini se da su priče u mojem empirijskom materijalu pod uticajem (ili u koherentnoj vezi) sa retorikom koja se prezentira na ovim forumima. Kada informanti u studiji naglašavaju istrebljenje i sistematizaciju nasilja tokom rata, oni produciraju i reproduciraju sliku međusobne borbe na kolektivnoj razini. Čini se da je cilj ove borbe, da verbalno opisana djela ratnog nasilja dobiju status genocida poslije rata.

Ključne riječi: nasilje, rat, počinitelj nasilja, izloženi nasilju, prepričana iskustva, Bosna i Hercegovina.

ORIGINAL SCIENTIFIC PAPER

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DEFINITIONS OF WAR VIOLENCE AND RECONCILATION IN NARRATIVES OF SURVIVORS FROM THE

WAR IN BOSNIA AND HERZEGOVINA

Abstract

Previous research on violence during the war in Bosnia and Herzegovina have emphasized the importance of narratives without focusing on narratives mentioning war violence, but they have not analyzed stories on war violence that were the product of interpersonal interaction and meaning-making activity. The aim of this study is to fill this knowledge gap by analyzing the narratives of survivors of the war in northwestern Bosnia in the 1990s. The focus lies on analyzing interviewees' description of war-time violence and also analyzing discursive patterns that contribute in constructing the phenomenon "war violence". Analysis shows that the interpersonal interactions that caused the violence continue even after the violent situation is over. Recollections from perpetrators and those subjected to violence of the war do not exist only as verbal constructions in Bosnia of today. Stories about violent situations live their own lives after the war and continue being important to individuals and social life. Individuals who were expelled from northwestern Bosnia during the war in the 1990s are, in a legal sense, in a recognized violence-afflicted victim category. Several perpetrators were sentenced by the Hague Tribunal and the Court of Bosnia and Herzegovina on War Crime. The crimes committed in northwestern Bosnia are qualified as genocide according to indictments against former Serbian leaders Radovan Karadžić and Ratko Mladić. All interviewees in this study experienced and survived the war in northwestern Bosnia. These individuals have a present, ongoing relation with these communities: Some live there permanently, and some spend their summers in northwestern Bosnia. Institutions in the administrative entity Republika Srpska (to which northwestern Bosnia now belong administratively) deny genocide, and this approach to war-time events becomes a central theme in future, post-war analysis of the phenomena "war violence", and "reconciliation". Therefore, it is very important to analyze the political elite's denial of the systematic acts of violence during the war that have been conveyed by the Hague Tribunal, the Court of Bosnia and Herzegovina on War Crime, and Bosnian media. The narratives in my empirical material seem to be influenced by (or coherent with) the rhetoric mediated in these fora. When informants emphasize extermination and the systematization of violence during the war, they produce and reproduce the image of a mutual struggle on a collective level. The aim of this struggle seems to be that the described acts of violence be recognized as genocide.

Keywords: violence, war, perpetrator of violence, subjected to violence, narrative, Bosnia.

INTRODUCTION

The starting point of this article is the war that took place in northwestern Bosnia and Herzegovina and more specifically interpersonal interpretations of violence and the biographical impact of war-time violence. Serbian soldiers and police targeted their use of violent force directly against the civilian populations in northwestern Bosnia. In their quest to expel Bosniacs and Croats from this area, Serbian soldiers and police used mass executions, forced flight, systematic rape, and concentration camps (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT; Case No.: IT-95-8-S; Case No.: IT-97-24-T; Case No.: IT-98-30/1-A; Case No.: IT-99-36-T; Greve and Bergsmo 1994).

Earlier research concerning violence during the war in Bosnia presents a one-sided picture of the phenomenon "war violence" as well as of the actors—the "violent perpetrator" and those "subjected to violence." These studies develop a picture of the phenomenon "war violence" based on analyses of sieges and bombings of cities, killing, rape, and the expulsion of civilians, both adults and children. Examples of violent perpetrators are presented through images of soldiers and police who have killed, raped, and expelled civilians. As an example of "subjected to violence," we often see images of killed or raped and expelled civilian adults and children (Basic 2015, submitted 1,2,3,4,5; Bougarel, Helms and Duijzings 2007; Houge 2008; Maček 2009; Mannergren Selimovic 2010; Skjelsbæk 2007; Steflja 2010; Stover and Weinstein 2004). Researchers have discovered the importance of post-war narratives but have not paid attention to stories on war violence or analyzed the stories on war violence as a product of interpersonal interaction and as a meaning-creating activity (Blumer 1969/1986; Garfinkel 1967/1984).

The aim of this article is to fill this knowledge gap through analyzing the stories told by survivors of the war in northwestern Bosnia during the 1990s. The purpose is to analyze how the survivors describe war-time violence and which discursive patterns emerge in the construction of the category "war violence." My questions are as follows: How do the interviewees describe war-time violence? Which categories of violence are highlighted in the stories? How do war survivors describe sexual violence and other sexual abuse during the war? In this study, I seek to touch on the phenomenon "war violence" by analyzing the narratives of the informants, namely their descriptions in relation to themselves and others (Riessman 1993, 2008).

The phenomenon "war violence" is a consistent theme in this article. I found that earlier research regarding violence during the war in Bosnia was insufficient for this analysis (Basic 2015, submitted 1,2,3,4,5; Bougarel, Helms and Duijzings 2007; Houge 2008; Maček 2009; Mannergren Selimovic 2010; Skjelsbæk 2007; Steflja 2010; Stover and Weinstein 2004). As an aid for the analysis, I therefore used a somewhat more general sociological research on violence based on interpersonal interaction (Åkerström 2002; Betz 1977; Collins 2008; Katz 1988; Presser 2013; Schinkel 2004; Stanko 2003).

This analysis will show that the interpretation of the biographical consequences of war violence is intimately related to the subject's own war experiences. In the following, I try to highlight how the creation of the concept "war violence" is made visible when the interviewees , in the empirical material, talk about (1) a new social order in society, (2) human suffering, (3) sexual violence, and (4) slaughter of humans.

STORIES OF WAR VIOLENCE AND NEW SOCIAL ORDER

Earlier research concerning violence during the war in Bosnia and Herzegovina has noted the importance of post-war stories (Basic 2015, submitted 1,2,3,4,5; Bougarel, Helms and Duijzings 2007; Houge 2008; Maček 2009; Mannergren Selimovic 2010; Skjelsbæk 2007; Steflja 2010; Stover and Weinstein 2004).

Stories about the “war violence” phenomenon in my study produce and reproduce the image of disintegration of the social order that existed in the society before the war. Daily use of violence, during the war, is organized and ritualized, thus becoming a norm in society rather than an exception. The stories on war violence reveal how the existing social order from before the war is rejected, and in its place is the war-time social order that is upheld.

The war made its entrance in Ljubija at the end of spring 1992 when Serb soldiers and police took over the local administration without any armed resistance. Several villages in the Ljubija region (for example, Hambarine, Briševo, and Biščani) were shelled by Serbian artillery while media spread propaganda about “Muslim and Croat war crimes against Serbs” to create panic. The residents of these villages were unarmed and sought shelter in the mountains and valleys surrounding Ljubija. A large number of refugees were caught by Serbian soldiers and police. Some were instantly executed in the woods, and some were transported to Ljubija where they first were battered in the central square in Ljubija or at the Ljubija football stadium. Finally, they were executed in the stadium or at other locations around Ljubija (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT; Case No.: IT-97-24-T; Case No.: IT-99-36-T; Greve and Bergsmo 1994). One of the interviewees, Vlado, recounted a violent situation from the central square in Ljubija that he witnessed:

I will never forget when there were 15 Muslims lying on their bellies in the center while Serbs beat them and sang “who is saying, who is lying that Serbia is small.” Such uniformed savages, damn it. They jumped on their backs and kicked their heads, which moved lifelessly, like a football. It still echoes in my head how these poor people screamed. The singing too, “who is saying, who is lying.”

Collins (2008) means that it is difficult to take to violence but not impossible. Doing so usually requires charging—you must be trained or drilled by an army or in other ways induced to take the leap, bypassing the tension and fear that usually hold us back when in an escalating confrontation. Vlado’s story retells an episode “in the middle” of an event that had probably been going on for some time. The United Nations, Hague Tribunal, and Bosnia and Herzegovina Tribunal on War Crime report on events that were ongoing a long time before the war started. These reports and sentences present years of Serbian propaganda, mobilization, identity-creation in contrast to others, and the production of degrading images of Croats and Bosniacs. There are concrete examples of glorification of violence and the revival of Serbian ideals from earlier wars (Court of Bosnia and Herzegovina 2015; Case No.: IT-97-24-T; Case No.: IT-99-36-T; Greve and Bergsmo 1994; ICTY 2015a; ICTY 2015b). Something must also have happened in the central square in Ljubija before the soldiers started jumping on the subjected-to-violence bodies. The soldiers probably underwent some sort of identity change when enlisted in the Serbian army, when they received their uniforms and weapons. The song itself should, using Collins’ conceptual apparatus, be interpreted as a way to evoke violence, similar to chants mustering support for a sports team.

Vlado dramatizes the described situation, aiming at presenting the perpetrators’ actions as morally despicable (“Such uniformed savages, damn it”) and the subjected-to-violence position as a typical example of submission and weakness (Åkerström 2002; Betz 1977; Collins 2008; Wrong 1979). Those stricken by violence lie “on their bellies” and are weak, almost non-acting. I write “almost” because there is one activity that Vlado notices: These individuals scream while being battered. These screams appear in this story 14 years after the described situation. The image of the perpetrators and those subjected to violence does not seem to exist merely as a construction of the mind. Vlado says that it still “echoes” in his head and that he “will never forget.” It seems that stories about perpetrators and those subjected to violence still live, even long after the war.

Another thing that still echoes in Vlado’s head is the song: “who is saying, who is lying that Serbia is small.” Vlado portrays the perpetrators as a coherent violence-exercising group. In his description, he makes an ethnic generalization of the perpetrators and the subjected-to-violence (Katzs 1988: 237-273). Thomas Hylland Eriksen (1993) argues that ethnic identity is an ongoing process of relations between actors who perceive themselves as distant from members of other groups with whom they have or feel having a minimum of regular interaction. Ethnic identity is based on the contrast to the others. Hylland

Eriksen believes that ethnic identity is most significant when it is perceived as threatened. Vlado did not call the perpetrators soldiers or policemen; he said that “Serbs” used violence and sang a Serbian nationalist song. To ethnically generalize those subjected to violence, Vlado constructs the abused in the situation as “Muslims.” He makes a generalization based on opposing positions between categories.

Through his story on war violence, Vlado highlights the decay of social control which, according to his view, occurred at the beginning of the war. Such a display of violence could not be seen in Ljubija before the war. The social control of the pre-war society could not have accepted a situation in which a group of individuals is beaten publicly in an open square, screaming out loud while the perpetrators sing.

It is interesting to see how the perpetrators and the public describe the violent situation in Ljubija’s central square. Vlado’s story characterizes the perpetrators as confident during the use of violence, so secure that they even sing. Vlado expresses his disgust, but he does not say anything about the public’s reactions. Collins (2004, 2008) argues that the use of violence that is justified as a punishment for an alleged crime can verify and enhance the collective opinion, emotions, and conception and thus the social solidarity.

Coherence between those using violence and the public was retold by several of the informants during my field work in Ljubija. (I personally witnessed some parts of that situation during the war; I also asked about it during my field work, and I analyzed parts of my experiences in Basic 2005: 31-35). During a field interview, Samira told me how she had seen a lifeless body being kicked repeatedly by several individuals in the Ljubija central square while spectators were cheering. The background story is that the media had singled out a pre-war policeman for an assault against Serbian soldiers. A couple of months later, Serbian soldiers captured him in the forests surrounding Ljubija. In Samira’s story, his lifeless body is thrown from a lorry on to Ljubija’s central square. Samira says that she was standing at a window overlooking the square from a rather high position. She told me that when the information about the capture was released in Ljubija, a “mob” came running from a street into the square as she was watching. She said that hundreds of Serbian soldiers, policemen, civilians, women, and children had come to the square. Several individuals were shooting firearms into the sky, cheering, and at the same time kicking the policeman’s lifeless body. Samira particularly spoke of her neighbor and his family participating in this violent situation. In her story, the neighbor, a former employee in the iron mine, is now uniformed and armed. His son is also participating, and he is also armed. He is shooting in the air. The neighbor’s wife and daughter are also participating. The wife is dressed in a house-gown (a practical dress only used in and around the home), and the daughter is wearing sports clothes. These two are kicking the lifeless body. After this episode, which happened on the main square in Ljubija, Samira heard that the policeman had been instantly executed when they caught him in the forest, and after the sequence in the square, they transported him to Hambarine where the soldiers roasted him on a spit (field notes).

Presser (2013) means that the social reality is versatile, especially in a war situation. In the eyes of the perpetrators and the audience, this “policeman” was a deviator who did not respect the current social order (or rather the current disintegration of social order according to Vlado’s and Samira’s perspective) and therefore should be punished. The punishment was carried out with public use of violence and through audience participation. It seems the cheering and joy expressed by the audience encouraged the perpetrators, who thus received confirmation for their actions. The participation of a large number of individuals enables this ceremony, which fulfills the community systems needed to preserve a new social order that allows this type of violence.

Pre-war social control did not allow executions in the woods or kicking a lifeless body in public, in the square. However, during the war, these events served the purpose of empowering unity and enabling the future use of violence. In the mentioned example, we have a situation where the use of violent force increased dramatically in the war society. Collins (2008) argues that the ritualized use of violence, i.e., that which is done on a daily basis, is organized and becomes a norm in a war society. In this case, new deviants and new crimes emerged, for example, refusing to participate in war-time use of violence. An old social order is rejected, and a new one emerges and is preserved.

STORIES OF WAR VIOLENCE AND HUMAN SUFFERING

Stories of the phenomenon “war violence” produce and reproduce the image of human suffering during the war. In these stories, a correct moral behavior is constructed as a contrast to the stories of suffering during the war. The stories of war violence paint the picture of the perpetrator as someone who is dangerous, evil, and the ideal enemy, as a real but distant criminal who is seen as a clear threat to the existing social order from before the war.

The new war order normalized the existence of concentration camps in society (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT; Case No.: IT-95-8-S; Case No.: IT-97-24-T.; Case No.: IT-98-30/1-A.; Case No.: IT-99-36-T.; Greve and Bergsmo 1994). The interviewees who were detained in concentration camps told me that inmates died in great numbers because of food shortage, diseases, battering, and planned executions. Firearms were seldom used; instead, they used baseball bats or knives. According to the interviewees, all inmates lost between 20 and 40 kg of body weight and were so emaciated that they had trouble standing up and moving. The general atmosphere and the ritualized use of violence in the camps made the inmates apathetic, and at times, it seemed that they just waited to be killed to end the pain (Basic 2007: 46). Nesim, a former concentration camp detainee, explains:

“Behind your back, Goran (Nesim addressing the interviewer by name), just one meter behind you, they slaughtered and flayed people. There was screaming and commotion. It happened beneath the feet of those lying in the last row, I think I was lying in the fourth. I don’t know if you’ve ever heard a man’s shriek of agony, torment, and pain while being tortured. It is totally different from the cries you hear when someone is in emotional distress. I feel chills to this day when I hear someone crying. People were crying because of the torment, they begged to be killed to escape the pain. This makes your blood freeze. /…/ No one got worse off than Stipo (a person from Prijedor whom both I and Nesim know), they strapped him between four vans, I could hear this. They tortured him /…/ They battered him several days in a row while drinking and singing: 'there’s no guard garde without “kokarde” (Serbian cockade) nor no soldier but the “četnik”' (chetnik – Serbian paramilitary soldier).

Nesim, like Vlado, emphasizes the “scream,” beating, and nationalist songs when describing this violent situation. Moreover, Nesim notes the slaughter of humans, torture, a human “agony,” and pain. A special importance is given to the sounds in Nesim’s story. That which he hears can be seen as the discursive basis of his presentation of the perpetrator and those struck by the violence. Nesim says, “I feel chills to this day when I hear someone crying,” which shows the importance this described situation has in his present life.

The narratives about sexualized war violence also give an example of how the violence persists in its effects to the present day after the war in Bosnia. Milanko says: “I feel sick from it, they put on their uniforms and go out to the villages to rape and kill women,” and Radovan too: “Who gives us the right to rape someone’s sister and mother.” Rada reveals: “During the war, in this apartment, when Briševo was massacred, I was severely beaten by Serbs and my neighbor was raped.” Nada also told me that she saw soldiers and policemen through the window as they were “partying by the Glass house. They raped women there. Drunk.” The drunk group of soldiers and policemen “continued and raped Gara (Nadas neighbor who was raped).” Bela gives us instance of the personal, individual aspect of this violence and how it carries into post-war social life. She says that “Ranka and Anka (both friends of the interviewee) became pale-white, I asked them what was wrong, and they answered, here comes Laic. He had raped them lots of times during the war”

Even the stories from the concentration camps contain episodes of sexualized war violence; Zahir’s story is one example of this: “Savages (Zahir refers to guards), they forced old Adnan (another inmate) to rape a girl, and she was not older than 15 years. They have also forced men on each other.”

The rapes described seem to have a ritualized element with the "putting on the uniforms" and other systematized factors, and appear to have been ethnically targeted. Stories about war violence and human suffering serve to support my argument that war violence in this war was more personalized/individualized—in many cases these are neighbors committing these crimes against people they know or ”who are” (People) in their social networks. In many cases violence was of an individualized and personalized nature (people knew each other, (they) were neighbors) with this characterization of the perpetrators as sadistic, powerful and distant monsters.

Interviewees depicts the perpetrators as big, strong, evil, and non-human. The suffering created by the perpetrators is making them distant actors and a threat. The portrayal of the perpetrators produces and re-produces the picture of those submitted to this violence as weak and inferior. By categorizing the perpetrators as such, interviewees also instructs others to identify the results of the perpetrators' actions. By pointing out the perpetrators' position, interviewees implicitly points out the perpetrators' complementary contrast—those subjected to violence. Note how perpetrator and the subjected to violence, in the previous empirical example, are constituted simultaneously. The perpetrators' actions are clearly shaped through a concrete dramatization and an explicit designation.

Implicitly, interviewees creates the correct morality when they rejects the actions of the perpetrators. In other words, interviewees rejection, which reveals itself during the conversation, contains a moral meaning. Presser (2013) argues that a connection exists between war-time violence and the social order. What interviewees tells us could be seen as a verbal reaction to his unfulfilled expectations. These expectations—for example, helping a human in distress—are morally correct actions, which from interviewees perspective are absent in the violent situation they retell. Nesim and Zahir seems surprised by the guards' extreme use of violence and the suffering they caused. They implicitly constructs the morally correct action regarding the violent situation in contrast to that which they told us.

Stories about war violence and human suffering are examples of a certain war interaction that includes upholding normality in different relations, partly between perpetrators and those subjected to violence, and partly between the perpetrators and the narrator. These stories are permeated with retold distance between actors where the war's social order is defined. The interviewed in this study portray the perpetrators as dangerous, mad, and evil—on one hand as a clear threat to the pre-war prevailing order, and on the other, as an ideal enemy, a real but distant criminal.

STORIES OF WAR VIOLENCE AND SLAUGHTER OF HUMANS

Narratives on the phenomenon “war violence” produce and reproduce the image of de-humanized, violence-affected actors, often portrayed as slaughtered in violent situations. The narrator's dramatization of violent situations reveals his own experience of threat to his or others' physical existence and ethnic identity; the description of a violent war situation is emphasized through a symbolicism of ritualized ethnic violence. The use of violence is described as something carried out both through bureaucratic planning (using lists) and without it. The perpetrators are presented as spontaneous, organized, and rational.

The de-humanization of the non-Serb population in northwestern Bosnia led to the killing of more and more people. Bosniacs and Croats were progressively taken to the concentration camps, and beatings and torture occurred on a daily basis in police stations and the military police headquarters. There were several cases of non-Serb killings at mid-day, in front of or behind their homes, in front of their families and neighbors (Case No.: IT-97-24-T; Case No.: IT-99-36-T; Greve and Bergsmo 1994).

The interviewees' stories on war violence depict de-humanized and violence-struck actors. These individuals are often mentioned as being slaughtered in violent situations. Alma was arrested together

with almost all residents in her village, and the group was guarded by soldiers and police in a schoolyard. She recounted a series of violent situations taking place in her village during the war:

There was the famous “Vojvoda” (warlord). He gathered his neighbors at the beginning and cut the throat of them all. They recently found that mass grave and dug up 13 to 14 people. They cut off one man’s head and then impaled it on a pole, then they called his wife and said that her husband wanted to talk to her.

Stories about war violence and slaughter of humans show that violence in this war were more personalized and individualized. Alma described Vojvoda as a sadistic monster who is in charge and of another ethnic group but who carries out his acts against his own neighbors, thus, personalized, distinct from the typical industrial violence during the Holocaust (Bauman 1991; Browning 1992; Megargee 2013a,b).

How the war violence turned into another part of everyday life is described by Irfan, who said, “We had all been chosen for the slaughter, we were to be annihilated, full stop. They started with the intellectuals, none of them survived.” The perpetrators in northwestern Bosnia had at their disposal lists of people who were “known” in the society, for example, local leaders, intellectuals, politicians, criminals, and wealthy people who were often imprisoned, robbed, and executed (Case No.: IT-97-24-T; Case No.: IT-99-36-T; Greve and Bergsmo 1994). Irfan says, “They started with the intellectuals,” and in this way, retrospectively, the perpetrators are presented as organized and rational in their violent actions.

Even stories from the concentration camps contain examples of organized, rational, and spontaneous perpetrators. According to the interviewees, it was common that perpetrators came to the camps looking for people from their lists to batter or kill. Usually, it was after the third beating that the person died. It was also common that murders were carried out on someone’s order. One former concentration camp detainee said, “They selected people from an order to be slaughtered.” According to the interviewees, someone may have wanted to get rid of a wealthy neighbor who was detained in the camp, in order to take over his property and capital, and the guards therefore got paid to murder. This happened on a daily basis, according to all interviewees who were detained in concentration camps during the war. The interviewees say that the perpetrators usually searched individuals by name, and sometimes in the morning, they could see that person on a pile of corpses in front of the “white house.” (Case No.: IT-95-8-S; Case No.: IT-97-24-T.; Case No.: IT-98-30/1-A.; Case No.: IT-99-36-T.; Greve and Bergsmo 1994).

Several interviewees describe a widespread ritualized use of violence during the war in northwestern Bosnia, and those descriptions often portray an uncivilized and savage slaughter of humans. These stories are filled with images of how fearsome these perpetrators are, for example, when Alma says that “Vojvoda” rules and has the power, his strength cannot be questioned. The perpetrator is often designated as supreme—he is, for example, capable of killing, mutilating, and exterminating families.

The dramatization of the war-time situation is amplified with symbolicism of ritualized ethnic violence (Collins 2008, 2004; Hylland Eriksen 1993; Katz 1988: 237-273; Presser 2013). The individuals who were slaughtered in the previous empirical examples are Bosniacs and Croats, and those slaughtering them are Serbian police and soldiers. Alma uses the term “vojvoda.” During the Bosnian war, the term “vojvoda” was used only when talking about Serbian forces warlords. The meaning of the term “vojvoda” is “Serbian warlord.” The importance of ethnic identity is greatest when it is perceived as being threatened (Hylland Eriksen 1993). The referred description depicts the identities of the narrator and those submitted to violence as being just as threatened as their physical existence.

The bureaucratic charge (lists) in the stories on ritualized use of violence during the war could in post-war stories indicate a vindication of violent acts during the war (Presser 2013). The image created suggests that the perpetrators had some kind of permission and “right” to kill those subjected to violence, and that those “visible” in society had a stamp on them that made them especially susceptible to war violence that

became normatively accepted in society. Reality is versatile, according to Presser (2013), especially during a war. Something that is considered the worst atrocity by most people, such as aiming violence against civilians, might be seen as an act of heroism among others, probably depending on whether the war has ended or not or if the violent sequence is retold or observed, and depending on who is telling the story.

CONCLUSION

Earlier research on the war in Bosnia and Herzegovina recognized the importance of post-war narratives (Basic 2015, submitted 1,2,3,4,5; Bougarel, Helms and Duijzings 2007; Houge 2008; Maček 2009; Mannergren Selimovic 2010; Skjelsbæk 2007; Steflja 2010; Stover and Weinstein 2004). However, these analyses do not focus on narratives about the "war violence" phenomenon itself. In an attempt to fill this knowledge gap, my primary purpose is to describe how the actual actors portray violence during the war. My secondary goal is to analyze which discursive patterns participate in creating the category "war violence." My empirical material is analyzed using research on violence based on interpersonal interaction. (Åkerström 2002; Betz 1977; Collins 2008; Katz 1988; Presser 2013; Schinkel 2004; Stanko 2003).

This study shows that after the war in Bosnia, the interpretations of biographical consequences of violence are intimately connected to previous war experiences. Narratives on the phenomenon "war violence" depict a decay of pre-war social order. The use of violence during the war is described as organized and ritualized, which implies that the use of violence became a norm in society, rather than the exception.

The narratives on the phenomenon "war violence" produce and reproduce the image of human suffering and slaughter. Those subjected to violence are portrayed in a de-humanized fashion and branded as suitable to be exposed to it. In these stories, morally correct actions are constructed as a contrast to the narratives on war violence. In these descriptions, the perpetrator is depicted as a dangerous, evil, and ideal enemy. He is portrayed as a real and powerful yet alien criminal who is said to pose a clear threat to the social order existing before the war. The narratives on wartime violence, war perpetrators, and those subjected to violence during war are enhanced with symbolicism of ritualized ethnic violence ("cockade," "chetnik," "Serb," "Muslim," "warlord"). On one hand, the narrators make an ethnic generalization based on the differences between the ethnic categorizations; on the other hand, they present their own physical existence and ethnic identity and that of those subjected to violence as being threatened by the violent situation.

The disintegration of the existing, pre-war social order produces and reproduces a norm resolution that enables the ritualized war-time use of violence. This development allows the normalization of war violence in this time period even though the result, as this study shows, means human suffering and the slaughter of humans. This study presents this development in society ambivalently, as both allowed and normatively correct (during the war) and as prohibited and condemned (primarily in retrospect, in post-war narratives). It seems as if the category "war violence" means different things depending on whether it happened during war or not, whether it is retold or observed, and who is telling the story. For some persons, violence targeting civilians during the war is an act of heroism (see also Basic 2014: 216).

The Holocaust during World War Two was in many cases highly efficient and industrialized; the typical goal was to kill from a distance, impersonally (Bauman 1991; Browning 1992; Megargee 2013a,b). Researchers have noted that those who climbed the ranks to leadership positions or were in charge at concentration camps seemed to have engaged in very personal, sadistic acts in Germany during WWII. Is there an interaction of rank/power in wartime and level of motivation/energy input required for violence (ie,

those in charge require less energy input because of the factors that put them in charge in the first place)? The stories and phrasing in this paper emphasize a distant, evil, and/or powerful leader who motivates the crowd (perhaps in part by symbolically reducing an ethnic target to something like a dog or rat) or gives orders, with the distinction from Holocaust violence that the leaders in these stories were neighbors, etc., of those they were harming and killing.

In general contrast, the war violence in Bosnia was more broadly characterized by the individualized use of violence, in which the perpetrators often knew those subjected to violence. The stories reveal that firearms were seldom used; instead, the weapons were baseball bats or knives. These features can be compared to examples of violence in Rwanda, e.g., Hatzfeld (2005), where the violence was more similar (and even more "savage") to that in my material than the typical examples of industrialized extermination violence of World War Two.

The perpetrators in this study are often portrayed as people who enjoyed humiliating, battering, murdering, and inflicting pain in different ways. This characterization is a contrast to Collins (2008), who suggests that soldiers are not good in acting out close violence and that individuals are mostly inclined to consensus and solidarity. An explanation, in my study, of the soldiers' actions can be that soldiers in a war are pressured into being brave in close combat, the aim being to reign over the Others, the enemy. During war, enemies are targets of violence, to be subjected to it and neutralized. Soldiers and police in northwestern Bosnia were not close to any battlefield, and civilians thus were framed in the enemy role. By exposing civilians to violence, soldiers proved their supremacy over the enemy even when the enemy was an abstract type, unarmed and harmless (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT; Case No.: IT-95-8-S; Case No.: IT-97-24-T; Case No.: IT-98-30/1-A; Case No.: IT-99-36-T; Greve and Bergsmo 1994). Another explanation might be found in the degree of mobilization and emotional charge that occurred before the war, through the demonization of the enemy. People were probably brutalized through this process.

Those interpersonal interactions that caused the violence continue even after the violent situation is over. Recollections from perpetrators and those subjected to violence of the war do not exist only as verbal constructions in Bosnia of today. Stories about violent situations live their own lives after the war and continue being important to individuals and social life. Individuals who were expelled from northwestern Bosnia during the war in the 1990s are, in a legal sense, in a recognized violence-afflicted victim category. They suffered crimes against humanity, including most types of violent crimes (Case No.: IT-95-8-S; Case No.: IT-97-24-T.; Case No.: IT-98-30/1-A; Case No.: IT-99-36-T; Greve and Bergsmo 1994). Several perpetrators were sentenced by the Hague Tribunal and the Court of Bosnia and Herzegovina on War Crime (Court of Bosnia and Herzegovina 2015; ICTY 2015a; ICTY 2015b). The crimes committed in Prijedor and Ljubija are qualified as genocide according to indictments against former Serbian leaders Radovan Karadžić and Ratko Mladić (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT). All but two of the interviewees in this study experienced and survived the war in Prijedor and/or Ljubija. These individuals have a present, ongoing relation with these communities: Some live there permanently, and some spend their summers in Prijedor and/or Ljubija (Basic submitted 3). An analysis of the processing of experienced or described violent situations in a society that exists as a product of a series of violent acts during the war must be conducted in parallel both at the institutional and individual levels. Institutions in the administrative entity Republika Srpska (to which Prijedor and Ljubija now belong administratively) deny genocide, and this approach to war-time events becomes a central theme in future, post-war analysis of the phenomena "war violence," "victimhood," and "reconciliation" (compare Becirevics' [2010] analysis of denial of genocide in Bosnia). The existence of Republika Srpska is based on genocide committed in Prijedor, Ljubija, and other towns in Bosnia and Herzegovina (Case No.: IT-09-92-PT; Case No.: IT-95-5/18-PT; Case No.: IT-97-24-T; Case No.: IT-99-36-T; Greve and Bergsmo 1994). Therefore, it is very important to analyze the political elite's denial of the systematic acts of violence during the war that have been conveyed by the Hague Tribunal, the Court of Bosnia and Herzegovina on War Crime, and Bosnian media. The narratives in my empirical material seem to be influenced by (or coherent with) the rhetoric mediated in these fora. When informants emphasize extermination and the systematization of violence during the war, they produce and reproduce the image

of a mutual struggle on a collective level. The aim of this struggle seems to be that the described acts of violence be recognized as genocide.

Another interesting aspect of the phenomenon “war violence,” to be examined in a future analysis, regards the stories of perpetrators describing violent situations (Athens 1997; Katz 1988). Conversations with these actors and an analysis of their stories might add a nuanced perspective of the phenomenon “war violence.” Another question that emerged during my work on this article is, What importance is given to stories told by the perpetrator of violence and those subjected to violence in the development of a post-war society? I believe it is of great importance to study stories in both categories. By recounting their stories, those subjected to violence could obtain recognition and some degree of self-esteem and the perpetrators be given a chance to explain to themselves and others, display shame over their actions, and possibly restore their social status. Without this type of process, those who are subjected to violence risk a life without recognition, and the perpetrators risk being permanently bound by their war-time actions, a clearly unstable foundation for the future development of a post-war society.

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IZVORNI NAUČNI RAD

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2. OTKRIVANJE SEKSUALNOG NASILJA NAD DJECOM

Sažetak

Seksualno nasilje nad djecom je problem društva i pojedinca. Usprkos tome, u modernom društvu raste osjetljivost prema detekciji seksualnog zlostavljanja djece, jer su djeca često žrtve takvih kaznenih djela. Stereotipi i mitovi u vezi seksualnog zlostavljanja djece su još uvijek vrlo važni, zato što imaju tendenciju da se razriješi odgovornost počinitelja „stavljanjem krivnje na žrtvu“ (okrivljivanje žrtve) i ometajći otkrivanje i prikupljanje odgovarajućih dokaza.

Ovaj rad predstavlja istraživanje o karakteristikama otkrivanja seksualnog zlostavljanja djece u Sloveniji. Studija koja je provedena u 2010. i 2011. godini u Sloveniji podijeljena je u dva dijela. U prvom dijelu predstavljeno je 70 nasumično odabranih slučajeva iz 2003. godine, sa fokusom na ispitivanje izabranih policijske spisa. U drugom dijelu, proveden je intervju sa tužiteljima i kaznenim istražiteljima djece u slučajevima seksualnog zlostavljanja kako bi se stekao uvid u praksu otkrivanja i istrage seksualnog zlostavljanja djece.

Studija pokazuje da je 84% seksualno zlostavljanje djece poznavalo osumnjičenika prije zlostavljanja. Međutim, seksualno zlostavljanje djece u porodici otkriveno je u 39% slučajeva. Većina zlostavljanja trajala tri ili više epizoda, što znači da je seksualno zlostavljanje djece proces u kojem su žrtve seksualno zlostavljane tijekom dužeg vremenskog razdoblja. Velika većina djela koja nisu prijavljena odmah nakon zlostavljanja dogodila se u zatvorenim mjestima sa domaćim okruženjem, što dodatno ometa otkrivanje i prikupljanje dokaza. Dodidrivanje je najčešći oblik seksualnog zlostavljanja djece (bludne radnje).

Fizička sila se koristi u 19% svih slučajeva, ali u 61% slučajeva žrtve ne pokazuju nikakve fizičke znakove zlostavljanja. Nalazi pokazuju da seksualno zlostavljana djeca imaju više psiholoških znakova i društvene traume u isto vrijeme. Međutim, fizički znaci koji su vidljivi na tijelu žrtve uglavnom doprinose otkrivanju takvih krivičih djela.

Seksualno zlostavljanje djece se najčešće prijavljuje od strane žrtava i njihovih majki. Nalazi pokazuju da djeca žrtve seksualnog zlostavljanja radije otkrivaju zloupotrebu kada navodni počinitelji nisu članovi porodice.

Uloga odgojno-obrazovnih ustanova i odgoj djece u vezi otkrivanja seksualnog zlostavljanja djece važniji su od uloge policije koja se obično ne susreće s djecom tokom institucionalnog rada. Uloga policije, dakle, vrlo je specifična. Njihov glavni zadatak je utvrđivanje istine o prijavio za sekusalno zlostavljanju djece.

Ključne riječi: seksualno nasilje, seksualno zlostavljanje djece.

ORIGINAL SCIENTIFIC PAPER

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DETECTION OF CHILD SEXUAL ABUSE

Abstract

Sexual violence against children is a problem of society and of individuals. In spite of modern society's growing sensitivity to detection child sexual abuse, children are still often victims of such criminal offenses. Stereotypes and myths concerning child sexual abuse are still very important because they tend to alleviate offenders' responsibility by placing the blame on the victim and obstruct adequate evidence detection and collection.

This paper presents a research on characteristics of child sexual abuse detection in Slovenia. The study conducted in 2010 and 2011 in Slovenia was divided into two parts. In the first part a review of 70 randomly selected cases from 2003, focused on examining police records was performed. In the second part, a focus group interview with prosecutors and criminal investigators of child sexual abuse cases was conducted to gain insight into the practice of detecting and investigating child sexual abuse.

The study indicated some 84 percent of child sexual abuse suspects were familiar with the child before the abuse. However, child sexual abuse within the family was detected in 39 per cent of cases. The most of the abuse spanned three or more episodes, which indicates that child sexual abuse is a process in which the victims are sexually abused over a longer period of time. The great majority of offences that were not reported immediately after the abuse occurred within closed sites of domestic settings, which additionally obstructs evidence detection and collection.

The most frequent form of child sexual abuse was touching. Physical force was used in 19 percent of all cases, but in 61 percent of the cases the victims did not show any physical signs of abuse. The findings indicated that sexually abused children show more psychological signs and social trauma at the same time. However, the physical signs that were visible on the victim's body mostly contributed to the detection of such crimes.

Child sexual abuse was most often disclosed by the victims themselves and reported by their mothers. The findings indicated that child sexual abuse victims are more comfortable to disclose abuse when the alleged perpetrators are not family members.

The role of educational and care institutions regarding child sexual abuse detection is more important than the role of police which is usually not encountered with children during their institutional work. The role of police is therefore very specific. Its main task is determining truth of reported child sexual abuse.

Keywords: sexual violence, sexual abuse, children.

INTRODUCTION

Children have been victims of violence from the earliest days of human existence. In the past, they were sacrificed, beaten, abandoned and crippled as a result of religious beliefs, lack of appropriate family planning, cultural and ritual ceremonies, superstition, parental disciplining and monetary gains. Parents were the owners, who could do what they wanted with their children. Child abuse is, therefore, a socially conditioned concept formed by people, history, and culture, and it has always been present in the world (Burtenshaw in Bašič, 2002). It is also a social problem and not only a problem of an individual or a particular family, and a fact which is real and present in our technologically advanced civilization. Many children are still neglected, and lack the basic needs for medical attention and development. On the threshold of their life, they have to face different types of abuse which greatly affect their life's path in the future. They can be physically and emotionally mistreated, neglected or sexually abused. Children often witness assaults as well (Selič, 2006). Individual forms of abuse do not exclude themselves mutually and can happen simultaneously.

By ratifying first the Convention on the rights of the child (1989) and then the European convention on the exercise of children's rights (1996), and by signing the Council of Europe convention on the protection of children against sexual exploitation and sexual abuse (2007), Slovenia has joined the ranks of countries where children are awarded special protection against sexual offenses.

Child sexual abuse most often happen in places familiar to the child and is usually committed by people he or she knows and trusts. In Slovenia child sexual abuse is still a taboo, even though public awareness is rising. Adults, who harbour their own sexual prejudices, often do not educate their children appropriately about sexuality and their right to not be sexually violated and exploited, thus children seek information from other sources. No doubt, ignorant children are easier to subdue and manipulate. Offenders have an easy job of influencing and abusing them because they exploit the fact that children are naive, obedient, easy to subordinate, and that they are also curious about their own developing bodies and sexuality. Many adults still believe in certain stereotypes and myths that mitigate the burden of guilt for offenders, and shift at least some of the blame onto their victims. These attitudes can interfere especially with the detection of child sexual abuse cases as many people, due to ignorance and fear, deny the abuse and are not able to recognize the signs which could indicate that a child was sexually abused. In Slovenia, however, over the last period some major child sexual abuse cases (for example Slovenian Friztl[1]) were detected, which indicate that the Slovenian society has become more sensitive about recognizing the child sexual abuse, which has an important impact on the investigation, and prosecution of such cases.

METHODOLOGY AND DATA GATHERING

Qualitative and quantitative research methods (Đurić, Popović Ćitić, & Meško, 2010; Ragin, 2007; Vogrinc, 2008; Yin, 2011) used in examining the research question of study presented in this paper focusing on criminal investigation aspects of child sexual abuse evidence detection and collection provided a more comprehensive insight into the research problem and increased the validity and reliability of the data. The study conducted in 2010 and 2011 in Slovenia was divided into two parts. The first, a review of 70 randomly selected cases from 2003, focused on examining police, prosecution and court records pertaining to all the stages of the procedure, from the detection to the conclusion in a pre-trial or trial procedure, provided a broader insight into this problem and helped identify the key problems and dilemmas in detection, investigation and providing of evidence of child sexual abuse. In the second part, a focus group interview with prosecutors and criminal investigators of child sexual abuse cases was conducted to gain insight into the practice of investigating and proving child sexual abuse, as well as to learn, through their experience, about the problems they encounter in their work.
The study limitations were mainly the lack of data in some reviewed records and the absence of judges in the focus group interview.

DEFINITION OF CHILD SEXUAL ABUSE

[1] The 62 - year old man has been abusing his minor daughters for several years. One of them gave birth to his baby (D. K., 2009; M. R., 2012).

Child sexual abuse[2] is a form of violence that occurs when an adult or adolescent molests or abuses a child to get sexually aroused and/or to satisfy their sexual lust (Frei, 1996). Child sexual abuse is "a situation in which a child or adolescent participates in sexual activities that break social and legal taboos which they themselves do not understand or are not developed enough to understand, and therefore cannot give permission" (Bautista Vallejo, 2005: 77). It is defined as participation of neglected/dependent children in sexual activities with an adult or adolescent who is older or bigger than them. The child is abused as a sexual object to fulfil sexual needs or wishes of this person, and cannot consent to this sexual activity due to unequal power in this relationship. We talk about child sexual abuse when an adult or someone who is bigger than the child uses their power and influence over the child and abuses their trust and respect and deceives them into a sexual activity (Združenje proti spolnemu zlorabljanju, 2002). The abuse may involve making foul remarks, undressing, exposing genitalia, watching a child, taking photographs of a child, showing pornography, kissing in a way typical for adults, inappropriate touching, masturbation, fellatio, cunnilingus, anal and/or vaginal penetration with a finger, vaginal and/or anal penetration with the penis, "dry sex", bestiality, or exhibitionism (Bašič, 1997). All children are vulnerable to abuse, irrespective of race, religion, social, or financial setting, and their living arrangements.

CHILD SEXUAL ABUSE IN SLOVENIA

Children can be abused at home, in a care facility, by a social facility, by their foster parents, adoptive parents, in school, while attending after-school activities, etc. Children can be abused by a family member, their caretaker, someone they know or by a complete stranger. Boys and girls of all ages (even babies) can be abused (Bain & Sanders, 1996). Statistics show that the percentage of abused girls increases with age. The analysis of police reports on sexual assault against a minor under 15 in Slovenia shows that 83 % of the victims are girls, 14 % of the victims were under 7 years old, 68 % were between 7 and 14 years old, and 18 % between 14 and 15 years old (Mušič, 2006). We have come to similar conclusions as our study indicated that victims were mostly females between 7 and 13 years of age.

At first, people believed that the majority of abuse occur outside the domestic settings. Later, research showed that the majority of abuse happen within the family (Gil; Pelton; in Kanduč, 1998). Our study indicated that the most common place of child sexual abuse was a closed site in domestic settings. Children are often victims of sexual assaults in an environment that should have been the safest for them. They are often abused by the people that should protect them. Our study indicated that some 84 % of child sexual abuse suspects were familiar with the child before the abuse. However, child sexual abuse within the family was detected in 39 % of cases. Most of the abuse spanned three or more episodes, which indicates that child sexual abuse is a process in which the victims are sexually abused over a longer period of time.

Offenders use different persuading strategies (intimidation; portraying abuse as part of a game, searching for an invisible object on the floor; showing love, shifting blame onto the mother or the child, etc.) (Dvoršek, 2003) to force the child into keeping their secret. This often happens because the child feels as this was all a dream or unreal because of the suggestive methods used by the offender (Waiss & Galle, 2001).

Most offenders who sexually abuse children lead a socially acceptable life. They are often married or in a partnership and have children. It can happen in every social setting and group, also in seemingly respectable or perfect families (Tomori, 2006) despite the common belief that this only happens to troubled and socially endangered families (Wiehe, 1998). Offenders can be male or female, and of all ages. However, our investigative practice shows that overwhelmingly (in 98 %) they are male (Mušič, 2006). The study also indicated that the suspects were mostly men, aged 34.7 years at the beginning of the abuse and 36.6 years at the disclosure, on the average. To similar conclusion came Smallbone, Marshall, & Wortley (2008) who pointed out that most of the offenders firstly abuse a child when they are over 30 years old. At that age most of them are in contact with children due to their parental duties or due

[2] The Penal Code of the Republic of Slovenia (Kazenski zakonik Republike Slovenije, 2012) defines child sexual abuse as a sexual assault on a child under the age of fifteen. For the purposes of this paper, we only analysed sexual abuse cases involving children younger than fifteen.

to their line of work. The majority of offenders are not committed sex-offending specialists but act when given an opportunity; they often have more issues with self-control than with sexual deviations. Many offenders are not preferential paedophiles, but rather people who like to abuse situations and their superiority over the child for their sexual pleasures. Children are more easily controlled than adults and many adult males also see a child as a sexual object. The majority are able to control this type of urge their whole life, but some men succumb in certain situations (Smallbone et al., 2008).

One of the main reasons for many offenders to sexually abuse a child lies in the fact that an opportunity presents itself (Smallbone et al., 2008: 160). Children are easy targets as they are trusting, naive, submissive, and are taught to obey adults. They are also curious, especially regarding their bodies which change considerably while growing up. These characteristics are what offenders use to their advantage. They present abuse through different strategies as something ordinary, normal, acceptable, nice, as part of a game, showing affection, and so on. Certain sexual activities are shown to a child without using force or threats (Filipčič, 2002), but the emotional manipulation is always present (Donnellan, 1998). Offenders often use the subordinate position of the child and the emotional attachment to the abuser (Filipčič, 2002). They make the child feel obliged to cooperate, for example, in return for a favour (Waiss & Galle, 2001). Offenders rationalise and justify their actions by using different excuses. They minimize their actions; blame the child for “seducing” them; they see their abuse as an act of love; they see themselves only as “assistants”; they claim that it is not their fault, as they have been abused when they were young; they cannot control themselves; they blame the alcohol, and say it only happened once (Bašič, 2002).

DETECTION OF CHILD SEXUAL ABUSE IN SLOVENIA

Child sexual abuse is far more difficult to detect as some other forms of crime where crime scene provide visible traces, or damage caused by offender is so much noticeable that someone report to the police.

Official police statistics show that in Slovenia we have registered an annual average of 190 offenses of sexual assault on a person younger than 15 years (Figure 1), which means an average of 9.2 offenses per 100,000 inhabitants.

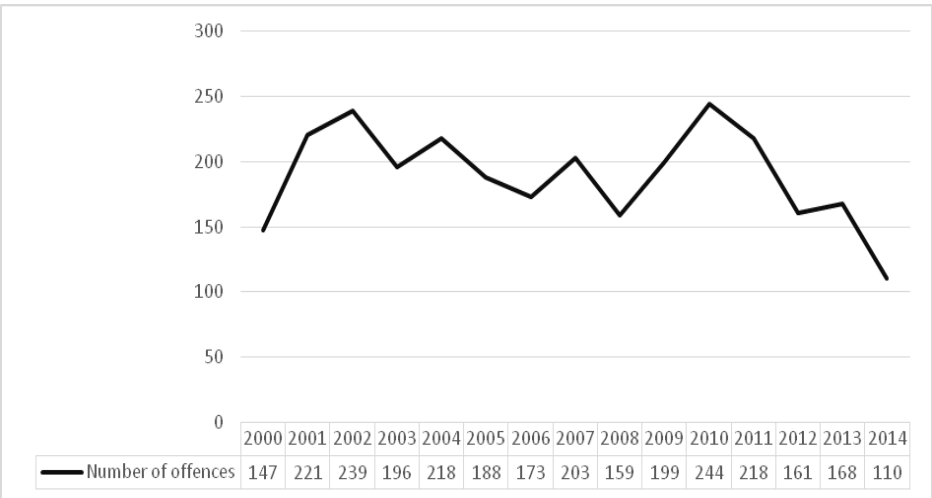

Figure 1: Official police statistic 2000-2014 of reported child sexual abuse in Slovenia (Source: Policija [Police], 2001-2015)

Police annually detect about 13 % of all reported crimes with its own work. Others (the public, institutions, NGO's, etc.) usually report all the other crimes. There is no data how many percentages of child sexual abuse is detected by police itself. But due to the fact that majority of these crimes happen in closed domestic settings and by offenders who are already familiar with a victim we assume that there are only a few cases per year primarily detected by police itself. However, we had some cases in Slovenia where police detected child sexual abuse when investigating some other crimes.

In all these years the percentage of clearance rate in Slovenia is above 90 % (Policija [Police], 2001-2015). The reasons for the high clear-up rate lie in the fact that most criminal offences are committed by offenders known to the child. In these cases police usually know the name of the potential offender upon receiving the report. Sexual abuse of an unknown child demands more effort and planning. Offenders are, therefore, more likely to abuse a child they know.

Child sexual abuse is usually reported very late (Vrhovno državno tožilstvo [Supreme Public Prosecutor's Office], 2003). Our study indicated that on the day of the abuse or on a day after the abuse only 17 % of 70 cases were reported (Table 1). On average, child sexual abuse was reported in 2.1 years after the abuse. This is further confirmed by disclosure of several high-profile cases of child sexual abuse after longer period of time. Dark figure of crime is therefore expected to be high in this crimes.

Table 1: Time of the report of child sexual abuse

Time of the report of child sexual abuse	**n**	**%**
On the day of the abuse	9	13,0
1 day after the abuse	3	4,3
2-10 days	1	1,4
11-30 days	4	5,8
31-100 days	6	8,7
101-365 days	22	31,9
366 days-3 years	12	17,4
3-5 years	3	4,3
5-10 years	6	8,7
Over 10 years	3	4,3
SUM	**69**	**100,0**

The reasons for late reporting are different. In many occasions, the abuse is not detected because there is no evident crime scene as the crime is committed in domestic settings. In this cases crime scene is also a residence of an offender and/or a victim, where offender can provide controlled circumstances with no eyewitnesses. Further, due to different strategies used by offender to win child "trust" and "keeping of secret" (gifts, money, etc.), many children cannot recognise the acts (games, expression of "love", etc.) as something "wrong" or as crime. Offender rarely use physical force to overcome a child. When talking about child sexual abuse we usually cannot talk about visible traces of crime (e.g. bruises, fractures, etc.). Nevertheless, there are always some other signs that indicate the abuse. Our study indicated that physical force was used in 19 % of all cases, but in 61 % of the cases the victims did not show any physical signs of abuse (Table 2).

Table 2: Physical signs of child sexual abuse

Physical signs	**n**	**%**
Signs on the genitals	21	42,9
Pains and medical issues	12	24,5
Bruises and scratches	11	22,4
Neglect	5	10,2
SUM	**49**	**100,0**

Psychological signs (fear, changes in behaviour, lack of interest, introversion, etc.) were present in 70 % of cases (Table 3). Victims experienced social trauma (changed verbal communication, fear of adults, incontinence, etc.) in 43 % of cases (Table 4).

Adults, however, rarely comprehend psychological signs and social trauma as a sign of the abuse. The reasons lie mainly in the lack of knowledge about child sexual abuse, lack of understanding of this crimes, and misinterpretation of noticed singes. Some signs can be interpret also as a part of growing up process and puberty (lack of interest, coming late from school, deterioration of relations within the family, use of alcohol and illicit drugs, etc.); therefore extra attention for finding out the reason for child's unusual behaviour or behavioural changes is important. Our study indicated that sexually abused children show more psychological sings and signs of social trauma at the same time. When they were also victims of physical force and showed some physical signs (visible traces) on their bodies (such as bruises, signs of beating, scratching, etc.), the crime was reported faster. The reasons adults (especially the parents) do not recognise the signs as an abuse can be found in the emotional connection between the suspect and

parents; parents due to their own beliefs do not expect that their children may be sexually abused; parents expect a certain service or support from a suspect (e.g. kindergarten) and they trust him/her (e.g. coach) (Crosson Tower, 1989).

Table 3: Psychological signs of child sexual abuse

Psychological signs	**n**	**%**
Fear	23	17,6
Sexual behaviour of victim towards others	16	12,2
Changes (decline or success) in school	16	12,2
Violent behaviour and irritability	12	9,2
Joylessness behaviour	10	7,6
Knowledge of sexuality and interest in it	9	6,9
Lack of interest	8	6,1
Introversion	6	4,6
Lack of interest in school activities	4	3,1
Poor sleep	4	3,1
The general lack of interest	3	2,3
Restlessness	3	2,3
Masturbation	3	2,3
Depression	2	1,5
Dodging friends	2	1,5
Shame	1	0,8
Other psychological signs	9	6,9
SUM	**131**	**100,0**

Our study indicated that child sexual abuse was most often disclosed by the victims themselves (58 %), and they most often disclosed the abuse also in the cases where the reporters were adults. The findings indicated that child sexual abuse victims are more comfortable to disclose abuse when the suspects are not family members.

In five cases the abuse was disclosed after the initiative was given by the adult. In 23 % adults perceived the signs of the abuse by themselves. Data from this study show that only 9 % of cases were disclosed by adults who were in contact with a victim on daily basis (Table 5).

Table 4: Signs of social trauma of child sexual abuse

Social trauma	**n**	**%**
Changed behaviour and victim‘s verbal communication	17	29,8
Fear of adults	12	21,1
Incontinence	9	15,8
Refusing contact with suspects	9	15,8
The inability of socialization	4	7,0
Premature leaving or coming in late from school or extracurricular activities	3	5,3
Use of illegal drugs	2	3,5
Fear of foreigners	1	1,8
SUM	**57**	**100,0**

Table 5: Methods of detection of child sexual abuse

Methods of detection	**n**	**%**
Child himself	38	58,5
Person who reported perceived the signs	15	23,1
Witness of the abuse	5	7,7
Police	3	4,6
Other methods	4	6,2
SUM	**65**	**100,0**

The majority, 30 % were reported by parents of the victims, followed by the centre for social work (16 %), school (9 %) and others (Table 6).

Table 6: Person who reported child sexual abuse

Person who reported	**n**	**%**
Parents (mothers – 19 %, fathers – 10 %, both – 1 case)	21	30,4
Centre for social work	11	15,9
School	6	8,7
Counsellors	6	8,7
Police	5	7,2
Heath care	4	5,8
Child‘s friend	4	5,8
NGO‘s	3	4,3
Other institutions	3	4,3
Relatives	2	2,9
Child himself	2	2,9
Others	2	2,9
SUM	**69**	**100,0**

Some parents, however, do not report to the police when a child disclose the abuse. They can overhear the child disclosure or can assess the information as not serious enough to involve the police. Finkelhor (1994) argued that 50 % of parents decided not to report to the police because to their belief, the abuse was not serious enough, and that 90 % of parents did not want to deal with the police. The reason for this can be fear of re-victimization. Sauzier (1989) argued that almost half of the families of sexually abused children experienced the procedure as harmful, especially the interviewing of a child, which can be unpleasant or even very painful (Selič, 2003).

CONCLUSION

Child sexual abuse is hard to detect and the ability to recognise the sings of the abuse is still difficult for many people, especially if the abuse is committed in closed domestic settings and by a family member. The presence of different stereotypes and myths among people is showing that these crimes are still a taboo topic, which gained lots of media interests in the past few years, but more in the terms of individual case studies then in terms of understanding such crimes in general.

Children, however, tend to express their distress through their behaviour which suggest they are being abused. This may be in the form of "acting out" behaviours or behaviours which reflect the child's attempt to cope with or hide the abuse. The findings of our research indicated that sexually abused children show more psychological signs and social trauma at the same time. However, the physical signs that were visible on the victim's body mostly contributed to the detection of such crimes. The findings further indicated that child sexual abuse victims are more comfortable to disclose abuse when the alleged perpetrators are not family members. The role of educational and care institutions is therefore very important, especially in cases where a child is allegedly abused in domestic setting. The role of the police is in these cases very specific, because they are usually not encountered with children during their institutional work. Their main tasks are gathering evidence and performing criminal investigation of reported child sexual abuse.

To increase the disclosure of child sexual abuse we should: pay attention to child's verbal communication, changed and/or violent behaviour, drug problems, etc.; listen to the child's messages and try to understand his way of expression; identify the stereotypes and myths that may affect the perception of the child sexual abuse and the understanding of these crimes; and identify situations that could contribute to child sexual abuse in domestic, public and institutional setting.

Detecting, investigating and proving child sexual abuse is especially challenging area of work due to the nature of abuse and the fact that victims are children (sometimes even babies). Cooley and Turvey (2007) stated that investigators should recognize the potential bias in the investigation and the impact of their expectations about the work of forensic experts. Their work should therefore be carried out as objectively as possible and they should be able to recognize situations in which they are directing the investigation only in one direction due to the atrocities suffered by the victim. Pavšič Mrevlje (2011a) detected that investigators in such crimes are exposed to traumatic events and/or its consequences,[3] where key strategies to deal with stressful situations are at most importance as well as the potential impact of post-traumatic symptomatology in (mental) functioning of investigators, which are not so obstructive that they would affect the quality of their work (Pavšič Mrevlje, 2011b).

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[3] Such indirect exposure to trauma may elicit psychological responses, which are very similar to posttraumatic stress disorder, called secondary trauma (Pavšič Mrevlje, 2011a).

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3. KRIMINALITET BELOG OKOVRATNIKA U TRANZICIONOJ SRBIJI: KRIMINALITET POJEDINCA ILI ORGANIZOVANI KRIMINALITET

Sažetak

Prema zvaničnim podacima, problem kriminaliteta belog okovratnika u Srbiji je gotovo zanemarljiv. Međutim, medijski izveštaji i rezultati retkih istraživanja, uglavnom o percepciji javnosti o korupciji, ukazuju na postojanje sumnjivih slučajeva poslovanja manje ili više „važnih“ pojedinaca i organizacija koji dovode do ozbiljnih društvenih, kriminoloških i ekonomskih posledica.

Cilj ovog rada je da ukaže na karakteristike kriminaliteta belog okovratnika, kao i na probleme i specifičnosti u utvrđivanju stvarnog obima ovog oblika kriminaliteta u Srbiji. Specifičnosti evidentiranja kriminaliteta belog okovratnika u Srbiji biće analizirane na primeru evidentiranja kriminaliteta od strane Ministarstva unutrašnjih poslova.

Polazeći od primera poznatih afera kriminaliteta belog okovratnika koji su se u Srbiji pojavili u vezi sa tokom procesa tranzicije, autori će pokušati da ukažu na sponu ovog oblika kriminaliteta sa organizovanim kriminalitetom sa jedne, i političkim kriminalitetom, sa druge strane.

Ključne reči: Srbija, kriminalitet belog okovratnika, evidentiranje kriminaliteta, politički kriminalitet, organizovani kriminalitet.

ORIGINAL SCIENTIFIC PAPER

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WHITE COLLAR CRIME IN TRANSITIONAL SERBIA: CRIME OF INDIVIDUAL OR ORGANIZED CRIME

UNDERSTANDING OF WHITW COLLAR CRIME IN SERBIAN CRIMINOLOGICAL THEORY:SOCIAL

Abstract

According to official data, the problem of white collar crime in Serbia is almost insignificant. However, media reports and results of rare surveys, mostly on public perception of corruption, indicate the existence of questionable cases of business of less or more “important” individuals and organizations that results in serious social, criminological and economic consequences.

The aim of this article is to point out the characteristics of white collar crime, as well as difficulties and specifics of measuring actual extent of this type of crime in Serbia. Specifics of recording white collar crime in Serbia will be analyzed in relation to recording the crime by the Ministry of Interior.

Starting from the known examples of white collar crime scandals that have emerged in Serbia in connection with or during the transition process, the authors will try to point out the link between this type of crime and organized crime on the one hand, and political crime, on the other hand.

Key words: Serbia, white-collar crime, crime recording, political crime, organized crime.

TRANSITION AND THE "TRANSITION OF CRIMINALITY"

According to the official data of the state authorities, white-collar crime in Serbia is almost negligible. On the other hand, reports of printed and electronic media indicate pervasive criminal behavior of persons in positions of power in different areas of business, such as education, health, security, judiciary, police, customs and sports, which leads to serious moral, social and economic consequences. Scientific studies of the phenomenon of white collar crime and its various manifestations are rare. Basically, all surveys of this type of crime end up testing the public opinion on corruption of the representatives of some public services.

The term "crime in suits" is related to the work of Dutch Marxist Willem Bonger, from the beginning of the 20th century. This author is considered to have had a crucial influence on the formulation of Sutherland's theory of white collar crime (Braitwaite, 1985: 2). Decades following, researchers reviewed the elements of the original definition, by following the impact of social changes on the performance of white collar crime. This led to a different conception of the term. Established belief that offenders from this category were exclusively people in high positions and of high socio-economic status, had empirical confirmation. Researches that have been undertaken in the seventies in America have shown that the amount of fines for offenses from this group grows proportionally to the height of the position and socio-economic status (Wheeler, Weisburd, Bode, 1982). Based on an analysis of cases of white collar crime in America, there is the information that the perpetrators are mostly of the middle class and that the number of the elite criminals of this kind is very small. Contemporary authors call into question the claim that white collar crime is committed by persons of high social and economic status (Weisburd, Waring, 2001: 11). As time passes, the realized economic profit becomes the major issue in the study of white collar crime and it is related to the concept of economic crimes which are combination of fraud, deception or conspiracy (Shapiro 1980, according to Wheeler, Rothman, 1982). In defining white collar crime, criminological theories in Serbia start precisely from the source definition given by Sutherland in 1939, according to which this form of professional crime implies a crime "committed by a person of respectability and high social status in the course of his occupation" (Slapper, Tombs, 1999: 3; Strader, 2002: 1; Konstantinovic-Vilic et al., 2010: 191).

Besides the original definition, considering structural changes made in crime of the so-called criminal elite ("criminal aristocracy"), a wider definition is increasingly being used, according to which white collar crime implies abuse of legal professions (Croall, 2001: 17). In this way the circle of perpetrators is extended to all persons who, within their legal professions, by abusing their powers, inflict particular, primarily, material damage to wider social interests and resources. The theory and practice of criminal law in Serbia do not recognize the concept of white collar crime because, as is the case with the legislation of most modern societies, a broad range of different criminal behavior, in the basis of which is the violation and abuse of legal authority business, is incriminated. Furthermore, in the Republic of Serbia, this form of professional crime is mostly associated with economic crime, organized crime, and often with a political crime understood in a broad sense.

The introduction of a multiparty system, the transition from a planned and strictly controlled economy to a market economy and the replacement of a totalitarian, autocratic political regime with a democratic social order, have brought to Serbia a variety of social and political challenges. The whole situation was complicated by armed conflicts in the region which, although were not occurring directly on the territory of Serbia, had a big influence on the life and functioning of legal institutions of formal control. In this period, Serbia has faced new challenges: the NATO bombing, economic sanctions and a large number of refugees from areas directly affected by the conflict (Selih, 2012). In such circumstances the ideal opportunity for the development of various forms of, primarily, organized crime was created. Since in the period of socialism Serbia wasn't familiar with the criminal behavior in the area of legal business, by transition and all the changes that this

process brings about, executive judicial authorities in Serbia faced a "new" criminal behavior of, until then, untouchable and highly respected social subjects. Today, as is the case with most other societies in transition, white-collar crime is reflected in the growth of corruption and various peculations and fraud in the area of privatization, insurance, donations and humanitarian aid.

Regarding the correlation of white collar crime with economic crime in Serbia, there is an evident breakthrough of modern crime into legal financial and economic business, and abuse of economic-financial methods of business with the aim of acquiring illegal material gain or for its legalization ("money laundering"). It is usually impossible without the help of people who are in the executive, and, mostly, senior positions in the sector of economic and financial business operations. As economic crime "involves criminal behavior and activities that occur in economic relations, and in connection with that relations in the economic and non-economic activities, they are directed against the economic system, regardless of the present forms of property, and as such are incriminated by criminal law" (Boskovic, 2005: 285) the connection, and even partial matching of economic crime and white collar crime is evident. This connection is particularly strong in the area of money laundering which, according to Hinterseer, is excellent example of white collar crime (Hinterseer, 2002: 109). This relation between economic crime and white collar crime stems from the fact that individuals invest their material resources acquired through criminal activity in legitimate commercial and economic trends, whereby, at the same time, individuals within their legal business powers, resort to use of illegal methods. This correlation certainly does not necessarily indicate the ambit of white collar crime in Serbia in the area of economic and financial affairs. This connection does not certainly point to the necessary field of activity of white collar crime in the area of economic and financial affairs in Serbia.

The experience shows that for the perpetrators of white collar crime self-interest as a motive for criminal behavior is dominant. At the same time, the field of activity extends to different levels in all areas that are suitable for any abuse of authority. This happens either because individuals are in such positions that they can, within their legal occupations, provide services that are necessary but not easily available, or "just" because they have the opportunity to make large profits by "petty" frauds. Money acquired through smuggling and drug trafficking is usually laundered by investing in real estate and the privatization of public enterprises. It is most often impossible without involvement of structures from the area of politics and the economy. It was supposed to be the modus of Darko Saric, fugitive narco boss sought by Interpol who is accused of smuggling 5.7 tonnes of cocaine from Latin America. In Serbia, media is running a real campaign about the whereabouts of his alleged 27 billion dollars acquired through drug trafficking. Given that the Saric's trial is in progress, revealing the names of politicians, civil servants and businessmen with whom Saric collaborated, would constitute a violation of the presumption of innocence."

Social changes have inevitably led to changes in the structure of white collar crime in Serbia. In the beginning, legal powers were abused by individuals, primarily clerks in the area of health care, local self-management and civil rights. Today, Serbia is faced with a variety of scandals that, by all criminological and criminal law criteria, are forms of organized crime. Of course, the question is to what degree this is the legacy of that previously planned and (un)controlled social order, and what are the manifestations of the contemporary social order and progress.

This claim can be illustrated by numerous of cases, some of which will be presented in other parts of the paper. For this occasion, perhaps the most interesting are these examples: the crucial moment for the beginning of the social, political and economic reform in Serbia is supposed to be October 5, 2001, when authoritarian regime of Slobodan Milosevic was dismissed. All the reforms, especially reforms of the social and political system are sluggish and "painful". Probably the most difficult changes to be made are those in the patterns of behavior of public officials, that have largely been determined by the psychology of greed and overall permissibility under the patronage of the regime. Since these allegations and claims that follow will be illustrated by showing more specific affairs and cases of white collar crime, what will be mentioned this time is "continuity" of the abuse of public enterprises, managed by Republic of Serbia. In fact, after the famous "democratic change of fifth of

october", Serbia has changed a total of 6 government, with the fact that the several governments experienced reforms and changes of ministers. At the same time, several individuals were ministers in almost all these governments, and party led by Slobodan Milošević (Socialist Party of Serbia) is coalition partner and participate in the work of the last three government. During Slobodan Milosevic's mandate, all public companies were managed by the party cadre. After the overthrow of Slobodan Milosevic, all governments have propagated exemption of party influence in public sector and introducing of proven experts in the management of certain public companies. Nevertheless, almost all the time, the media in Serbia has been overwhelmed with the headlines of scandals about abuses that involve leaders of public companies who are, as a rule, the personnel of certain political parties. In this regard, the question arises: what has changed in the management of public companies after the "democratic change of fifth of october"? According to the abuses that executives of public companies conducted for the reasons of personal enrichment, for enrichment of their "political friends" and funding of political parties, it is evident that the change is made only when it's about individuals-leaders, who are now coming from other political parties. The first serious steps on replacing the managers of public enterprises have been undertaken by last government, in the first half of 2014, when the idea of forming a Government Commission for supervising the work of public enterprises was born, and when dispacement of various executives of public companies began because of presupposed abuses of official capacity.

This connection between white collar crime and politics is most emphasized in the area of so-called corruption offenses, that is, the corruption that, on the one hand, involves organized criminal groups, and, on the other hand, representatives of (legislative, executive, judicial or local) governments, companies, financial institutions, public services and international - intergovernmental and non-governmental organizations (Mijalkovic, Bajagic, 2012). This argument is best illustrated with affairs "Citostatik" and "Agrobanka"

In fact, in mid-2010, in Belgrade were arrested N.B., director of the Institute for Oncology and Radiology, his deputy, Z.T., chief of pediatrics at the same Institute and head of the Pharmacy I.P. In addition to bribery of almost one million Euros from three pharmaceutical companies, they are suspected of giving double or triple doses of cytostatics to patients with cancer disease diagnosis. More specifically, it is suspected that 20 patients, including many children, were receiving inadequate treatment. Half of them were given double or triple doses of cytostatics, and the other half were given medicines, although there was no need for that. In this regard, after 14 month lasting investigation, in cooperation with the Ministry of Health, in the police operation called "Crab", director of the Belgrade office of pharmaceutical company Roshe V.P., director of the oncology sector in the "Farma Svis" A.S. and P.M. from the company "Astra Zeneca" were arrested for suspicion of bribery. The company Roshe confirmed that its office in Belgrade is under investigation. Nevertheless, as they say, Roche will cooperate with the authorities and will further engage to gather all the necessary information in order to clarify the whole situation.

An investigation of the affair "Agrobanka" was opened because of the suspicion that one of the state banks lent more than 7.9 billion and about 84 million of loan to companies that did not bring them back, nor were given adequate guarantees for them. During the trial for the affair a former agriculture minister, former prime minister and two former governor of the National Bank of Serbia were invited for interrogation. Here is an example of just one of the abuses: the owner of company "Panto market" P.V., (who is also the major shareholder of related companies "Živinoprodukt", "Žitopromet", "Kraljevačka industrija mesa", "Pantomarket stočar" and "Panto Group doel") then the responsible person of "Živinoprodukt" V.R., an expert witness B.R., president of the Credit Committee of "Agrobanka" B.P. and a member of the Executive Board of "Agrobanka" B.Z. were all arrested. Criminal charge will include also the Chairman of the Board of "Živinoprodukt" N.N. Police suspected that P.V., with the help of the other suspects, in December 2010, applied to "Agrobanka" in the name of "Živinoprodukt" for the allocation of a short-term loan and guaranteed that the loan will be repaid with the assets of the company, whose estimated value was significantly lower than the one given by the Tax Office in Vranje. It is suspected that the funds approved for the loan were used to settle the liabilities the company owed to "Agrobanka".

Repayment of the loan that P. V. took has not started yet, and company "Živinoprodukt" is in bankruptcy proceedings. In this way, the suspected allowed the acquisition of unlawfully acquired property gain to the companies he managed in the amount of 2.4 million euros to the detriment of "Agrobanka".

At the same time, as is the case with economic crime, we must not overlook the fact that there are some differences in form between organized crime and white collar crime in Serbia. While the ultimate goal of both types of crime is actually the same - illegal profit, white-collar crime is the unlawful activity of individuals and institutions that have entered a business to make profits legally, which is not the case with organized crime, which has been created with the purpose of illegal activity. Consequently, white-collar crime may be, but not necessarily, nor is it always, manifested in Serbia revealing all the characteristics of organized crime (Boskovic, 2005: 596). Certainly the most difficult cases of "white-collar" crime are those with the features of organized crime, as a rule, economic crime, which is indicated by the affairs "Azotara" and "Luka Beograd".

Because of the theft of fertilizer in Pancevo Azotara in amount of about 4, 5 million euros and around 184 million dinars, 17 people were arrested. Among them are the former Minister of Agriculture, the owners and directors of the three companies, Chairman of the Board of Azotara, former deputy director of Azotar, former director of Krusevac Institute of Forage Crops, former directors of two agricultural farms and eight directors of private companies. Although the Government of Serbia allocated fertilizer to agricultural entities with shared state ownership, fertilizer was sold to private companies that further distributed it at a much higher price.

In mid-2013 former Minister of Economy of the Republic of Serbia P.B. and seven more people were arrested under suspicion of abuse of official capacity during the sale of the state package of shares in the "Luka Beograd", which caused the damaged of the state budget for more than 5.7 million. Abuse of official capacity consisted in alleged omission of former minister to perform his official duty to inform the government and the Prime Minister of the Republic of Serbia on the real value of the shares of "Luka Beograd", which according to preliminary estimates of the Institute of Economic Sciences in June 2005, amounts 22-23 Euros per share. Instead, the shares were sold at a price of only 800 dinars (6 Euros). In this way, the state budget is damaged for 21 million Euros. This is the amount that buyers of shares appropriated illicitly. At the same time, customers are believed to be organized in criminal group during 2005 in which everyone had a role with the same aim: to buy shares below their real value. They committed an offense of conspiracy to commit a crime. In addition to the minister, the police detained also M. Dj., Former director of the Privatization Agency, G.M., former Executive Director of the Agency for Privatization, A.M., former director of the Capital Market Center in the Privatization Agency, A.G., former director of the Equity Fund, J.D., former director in the Sector for analysis, preparation and organization of the sale of the Equity Fund, M.D., former director of the company "Luka Beograd" and D.K., the former financial director of "Luka Beograd".

Finally, a connection was noticed in the theory of criminology and security studies in Serbia between white collar crime and political crime understood in its wider sense. Namely, the attitude of world criminologists by which political criminality is characterized by two groups of offenses is adopted: 1) crimes that threaten the internal or external security of the country, which in criminal law are incriminated as political crimes, mostly against the constitutional order and security of the country, and 2) acts that are crimes of the abuse of power, such as crime of the ruling class such as illegal enrichment, use of power to prevent criminal prosecution by providing immunity in such cases, and fighting political opponents by using prohibited means; and crimes committed for ideological reasons (Ignjatović,1998: 216-217). In connection with that, white collar crime can be attributed to the concept of political crime understood in a broader sense, as the crime of the ruling. This kind of white collar crime with a hint of political crime was present before, and, also, at the beginning of the transition process in Serbia. However, one has to be careful because white-collar crime does not have to be an act of someone who has the power; at the same time, the concept of political crime in a broad sense includes many other types of crimes (e.g., terrorism).

Therefore, white collar crime does not have to be a form of a political crime, but it is in the wider sense of the word, in the cases of the so-called. *crimes of the rulers.* So the obvious examples are those of former ministers in the Government of the Republic of Serbia: in March 1993, Minister of Trade S.V. and person in charge of Industry Sector in the Government of the Republic of Serbia, V.M. were arrested under charges of abusing official capacity to take "fee" of up to 2.115000 Deutschmarks. The indictment charged them for demanding the leaders of "Jugodrvo" to increase the oil price by eight pfennig per liter, while the price difference goes to them; former Minister of Agriculture S.D., owner of consulting company "Ces Mekon" Z.N. and nine more persons were arrested in 2013 under charges of illegal sale of subsidized fertilizer damaging state budget that way for more than four and a half million euros; former Minister of Environment and Spatial Planning O.D. was arrested in 2013 under suspicion of abuse of official capacity in the case of laying fiber optic internet cables with the Slovenian company "Nuba Invest", which had been assigned to implement the job of laying fiber optic cables in Serbia without tender; former Chief of Serbian Prime Minister Zoran Djindjic's Cabinet, N.K. was arrested in 2013 under suspicion of having committed the crime of abuse of official capacity in connection with the privatization of the Forge "Sartid" in 2002 and 2003, during which creditors of forge "Sartid" were damaged for at least 16.9 million of dollars.

White Collar Crime Recording: **Potential Measurements**

Considering the mentioned scarcity of scientific research of white-collar crime in Serbia, we can make conclusions about its extent and characteristics exclusively on the basis of official data of the formal social control institutions, and speculate on the basis of media reports. Improving the methodology of recording white collar crime is not significant and useful only for the work of government authorities, but also for the improvement of the overall security situation. Therefore, a great potential for understanding, and also for reduction of white collar crime in the Republic of Serbia consists of increasing transparency of the work of the public and economic sector. One of the best ways is to present the data on crime, through reports on the work of state authorities (police, prosecution, judiciary, law enforcement of criminal sanctions, etc.), and reports on the temporal and spatial presence of some forms of the white-collar crime. Below, the possibilities and features of recording and measuring white collar crime in the records of the Ministry of Interior of the Republic of Serbia will be discussed, as the first link in the chain of crime recording by the official authorities.

As for the records of the Ministry of Interior of the Republic of Serbia, they are characterized by strict confidentiality, with the limitations of data availability in accordance with the Law on the Protection of Personal Data. Therefore the information on the methodology of the police crime recording (which does not apply to statistical indicators of crime) is almost impossible to obtain from public sources (literature, media, internet, etc.).

The problem concerning the registration and measurement of white-collar crime in the police records of the Republic of Serbia stems primarily from the fact that the categories of police analysis and its information system and records do not match with the criminological terminology. Namely, in the methodology of the police recording of crime some expressions are used that are contained in the Criminal Code and other laws (e.g. crimes against life and body, crimes against sexual freedom, crimes against property, etc.). On the other hand, the scientific disciplines that study criminal behavior (criminology, criminalistics, victimology, security, etc.) have inherent conceptual and categorical apparatus (e.g., white-collar crime, economic crime, juvenile delinquency, political crime, etc.). In this sense, white collar crime in the police records is not recorded as it is, but as a criminal offense according to qualifications from the Criminal Code and special laws.

In addition to standard records on crime, some so-called non-standardized documents are made in the Ministry of Interior. It is about the so-called studies on crime, crime analysis, security assessments, and related documents are made according to the needs of the specific security situation, or as ordered by an authorized officer. In these documents it is possible to come up with information about the individual forms of white collar crime , such as corruption, crime in the sphere of privatization of companies, etc.).

After examining the records of the Ministry of Home Affairs of the Republic of Serbia, it can be concluded that since there are no records of systematized data on white- collar crime, their applicability in the measurement of this type of professional criminality is limited. The reason of the limited police records stems from the fact that the Criminal Code of the Republic of Serbia does not recognize the term white-collar crime, but some forms of white collar crime are recorded as different groups of crimes against economy, against justice, against official duty, against health, and many others. In fact, the most detailed is the so-called 'JIS' (Unified Information System) of the Ministry of Interior nomenclature for recording offenses in unique information system of the Ministry of Interior of the Republic of Serbia, where some forms of white-collar criminality are recorded by the same methodology as the other crimes. In the 'JIS' nomenclature there are records *Criminal offenses and offenders,* the direct use of which makes it possible to obtain more extensive information on specific crimes, but also to aggregate data on the spatial and temporal distribution of certain types of crime or specific offenses. The 'JIS' contains police records on identity cards and travel documents, citizenship, permanent and temporary residence, record of registered motor vehicles and firearms, criminal records of misdemeanor and criminal offences, records of crimes and perpetrators, etc.. The data from these databases are used in the operational work of the police and are used in investigative and evidentiary proceedings as evidence. Possibilities of using this database are great and the search criteria are, in fact, the operationalization of the so-called "golden questions of criminalistics" (what happened, when it happened, where it happened, who is the perpetrator, who is the aggrieved party, how the offense was committed, wherewith the act was committed, what are the traces and evidence, who are witnesses). So, for example, it is possible to search all the cases in which it was discovered that senior executives of business entities committed the crime of giving bribe in order to allow their companies to win the tender for the provision of certain public institutions, business services, within a specified period of time. Search results are usually displayed in tabular form, in the form of absolute numbers and percentages. More modern statistical methods, such as rates, average values, trends, crime situation indexes and the like, are applied in cases of analytical treatment and research, which by order of an authorized officer are conducted by the analysts of Analytics Directorate of the Ministry of Interior of the Republic of Serbia.

However, already mentioned searches of *Criminal offenses and offenders* records are allowed only to authorized police officials, in carrying out official duties. Unauthorized internal interested persons (employees of the Ministry of Interior) and external interested persons (citizens, government agencies, researchers, media, etc.) cannot obtain neither the information that is confidential, nor personal information. Therefore, in the purpose of exchanging data with these interested parties, a system of internal and external communication is developed, i.e. the system of informing and reporting. It has already been mentioned that there are no police records, which register exclusively white collar crime, and that there is no common understanding about the types of crimes committed. Regarding this, it is impossible to obtain information without detailed searches of police records. More specifically, the Ministry of Interior can provide information on the trends of crimes for which a particular appeal has been filed specifying the name of the offense, article, paragraph and point of incrimination and the legal regulations that incriminated the act. Besides that, it is necessary to specify the period of time, as well as the part of Serbia's territory to which the requested data refer. Otherwise, this data is not difficult to obtain, according to the newly adopted Law on Access to Information of Public Importance.

Individual or Organized White Collar Crime - new "mafia"

In accordance with social changes in recent years, and competition in the sphere of legal business, white-collar crime in Serbia begins to resemble organized criminality. It seems that when one media story about a corruption affair ends, different areas of economy and public business are affected by another, even greater material damage. So today there are many popular, new Serbian "mafias", such as "bankruptcy mafia", "health mafia ", "football mafia", "road mafia", "Report card affair " etc.Going through a transition process, Serbia faced the abuses of the economic elite in the area of public procurement, privatization of private enterprises, carrying out public works, export and import operations. This is boosted by corrupt political structure which makes it easier for the laundered money to be invested in the realization of various business projects. It is also important to highlight legal social structures' tendency to connect to criminal structures in transitional societies. Namely, in most cases, these connections are established through the corruption of holders of political offices, financing political campaigns and through a mutual economic interest (Mijalković, 2009: 119–132).

Legitimate businesses that allow coupling of white collar crime and organized criminality refer to construction industry, construction of road and energy infrastructure, manufacture of food products, tobacco industry, pharmaceutical industry, banking and exchange operations, higher education and many other economic activities

"Bankruptcy Mafia"

In domestic practice, the most common abuses in the process of ownership transformation were manifested through intentional reducing the value of social capital during the valuation of the capital (fictional enlargement of obligations and debts, partial coverage of the assets, reduction of the company's assets with the aim to prevent fr ee subscription of shares to persons outside the company, and the like.); illegal decision making about the process of ownership transformation, converting the debt that is not due in the statutory deadline into shares of creditor, or it is unreasonably enlarged, which makes it possible for the management of the company, together with the creditors who are usually private companies, to illegally acquire property in other ways (Boskovic, 2011: 75–76). Related to this, abuses in bankruptcy proceedings referred to as 'bankruptcy mafia' are especially common, impairing social, state or small shareholders' assets.

Abuses related to companies' privatization and their bankruptcy are, precisely, the product of transition. At the very beginning of transition from socialist to capitalist regime, Serbia faced not adequately developed legal system in the area of economic and financial affairs, as well as undeveloped mechanisms of supervision over the above mentioned system and affairs. Abuses in bankruptcy proceedings are most often manifested through setting aside of valuable assets from bankruptcy estate (corruptive practices) as arranged with individuals belonging to bankruptcy authorities, and buying assets of companies in bankruptcy at bargain-basement prices; lease of facilities at elite locations and transfer of the use of property or technology at bargain prices (corruptive practices), as arranged with the individuals belonging to bankruptcy authorities; making contracts with the companies that are run by people who are in 'close' relations with t he trustee in bankruptcy or other bankruptcy authorities, and which are harmful for the assets of

the company in bankruptcy; abuses during the sale of the company in bankruptcy, and other activities that can be harmful for the company in bankruptcy (Simonovic, 2004: 621).

The list of dubious privatizations and bankruptcy proceedings in Serbia is quite long. It is enough to say that the authorities, as ordered by European Parliament, are currently reviewing twenty-four disputed privatizations of private enterprises, which have, up till that process, operated very successfully. The symbolic term 'mafia' comes from the organized activities of a large number of executors who precisely by the abuse of their legal powers acquire large illegal proceeds on the one hand, and on the other hand inflict great damage to the budget of Republic of Serbia. En example of such organization is the case of 'bankruptcy mafia' whereby the indictment included thirty-six employees in senior positions in various areas of public business, executive and judicial powers. The damage inflicted by the actions of this criminal group is estimated at over fifty million euros (Boškovic, Mijalkovic, 2008: 79–101).

"Banking Mafia"

In transitional Serbia white-collar crime has also penetrated in the area of banking business, and consequently a new phrase appeared - banking mafia. It refers to the abuse of authority in running business affairs related to reference interest rates, financial transactions,money laundering, lending and the like.

The currently ongoing affair in banking operations in the Republic of Serbia is the 'Agrobanka's affair. Namely, there is a reasonable doubt that it has been illegally taken around € 300.000.000 from the bank by various abuses and speculations. There is a suspicion that the executive board of the bank illegally extended loans worth millions to the economic entities or enterprises that did not actually exist, and that they did not have any mortgage guarantees for the repayment of funds credited. In that manner, one "phantom company" was granted loan in the amount of €5.000.000 and the guarantee for the repayment of the loan was the mortgage on a house whose value was fictively estimated at € 10.000.000. By estimation auditing, it was determined that its real value was barely € 50.000. In addition, many enterprises were granted loans under preferential conditions (whereby credit facilities for clients inflicted damage to the bank), and large number of debtors did not return the money they gained by loans. Finally, some companies had extremely unfavorable conditions for borrowing, and very high interest rates. During the first action of the Serbian Department of Interior, several members of the Executive Board of 'Agrobanka' were arrested, as well as several managers of companies which were based in the country or abroad. There is a suspicion that there has been similar practice in a few other banks in Serbia[2.]

The above mentioned and similar affairs have a negative influence on the financial security of the country and the stability of financial institutions, primarily the banking sector. The loss of profitable business; problems with liquidity through withdrawal of funds; termination of correspondent banking options; the costs of researching into problems; seizure of assets and punishment; losses on loans; reduction in the total value of shares of financial institutions; reputation at risk in terms of business practices; the loss of confidence in the integrity of an institution and discontinued operations are only some of its consequences (Bosworth-Davis, 1998: 257–262).

'Customs Mafia'

Whenever citizens of Serbia are interviewed about the perception of corruption of government officials, the representatives of the customs service take up the top positions. Unfavorable social and economic situation has caused the growing willingness to give or to accept particular material or goods compensation in the field of customs operations.

'Customs mafia' is a slang name for the unscrupulous members of the customs authorities who, motivated by criminal intents of unlawful acquisition of proceeds through the abuse of public office, have teamed up to commit criminal acts of violating customs control (Mijalkovic, Bajagic, 2012: 221). This leads not only to corruption, but also to smuggling of various legal and illegal goods.

Knowing that personal incomes of customs officers in countries of south-eastern Europe, especially in the Republic of Serbia, are rather low, and that, at the same time by performing their duty, they come into contact with significant financial resources, individuals turn to the abuse of their positions. On the one hand, there is a person dealing with the international trade in goods and services who finds it more cost-effective to transport their goods without disturbance with the help of a small amount of money given to an officer, while on the other hand, there is a state official who acquires material gain because he does not fulfill his duty. In this manner, unlawful proceeds are acquired by both the above mentioned person and official, connections are made and positions gained within the structures in customs, damaging the state budget. These phenomena, due to the nature of international transport of goods and services, are necessarily followed by falsifying customs documentations (Mijalkovic, Bajagic, 2012: 221-222). During recent years, several criminal proceedings have been initiated in Serbia against the so called customs mafia that damaged the state budget for the multimillion dinar amounts.

This has to do with the organized „white-collar" crime in the sphere of economic and financial dealings (tax evasion, smuggling, corruption).

"Trafic Mafia"

Recently, the phenomenon of traffic mafia has appeared in Serbia, and its scope of action involves insurance fraud. The basis of criminal activities of traffic mafia makes rigging accidents, that is, falsification of facts and circumstances of the real accidents on account of insurance premiums. Due to that, enormous sums of money are charged from insurance companies (Mijalkovic, Bajagic, 2012: 224). Considering the specific method of execution, these criminal activities involve aggrieved parties, representatives of different professions whose job description implies taking part in resolving the issues in realization of compensation for damages caused by the accident. Therefore, as perpetrators of criminal behavior belonging to white collar crime related to insurance peculation and fraud in Serbia, there appear police, investigating judges, forensic experts, damage appraisers, lawyers, judges, officers of insurance companies, as well as citizens who knowingly and voluntarily participate in such peculations (Mijalkovic, Bajagic, 2012: 225).

“Educationa Mafia”

Corruption, abuse of power and other illegal activities of employees within the educational system with the aim of acquiring unlawful proceeds, are not new in our society. They certainly existed during socialist regime, but they have become almost regular and normal phenomena during recent social changes. Such organized action of a group of teachers has a slang name ‘educational mafia’. Besides some indications, up till

2007 there have not been discovered cases of organized criminal activity in the area of white collar crime related to teaching staff. However, not even these cases had a famous epilogue in the court. The still ongoing example of the so called ‘Report Card’ affair is based on the organized action of a group of eminent professors at the Faculty of Law in Kragujevac who were accused to have awarded students grades and inscribed them in their report cards, although they did not even take the exam, that is, they did not have the minimum knowledge in order to pass them. Among the professors there were individuals who were state officials (Deputy Minister of Education, an MP, President on the Assembly Committee on Education, a Constitutional Court judge) but also creators of some statutory laws. These cases were disclosed at the beginning of 2007, by the announcements of the police and the prosecution to the public. The indictment was expanded thirteen times, and it included as many as 87 people charged with the commission of more than 100 offenses (Mijalkovic, Bajagic, 2012: 232). Presently, almost six years later, the procedure has not ended, fake diplomas have served to employ a number of alumni of Faculty of Law, and the time distance from the issuance of the indictment to the present day bears the risk of limitation of prosecution of accused professors. The abuse referring to passing exams is realized through intermediaries who arrange taking exams and mediate in making payments. Certain faculties have specifically determined ‘tariffs’ for passing particular exams, what is an ‘open secret’. Apart from professors, corrupt clerks in student services are also involved in criminal activities that often, without knowledge of professors, enter data about the taken exams into the faculty’s database.

Selling of both faculty and high-school diplomas takes place in a similar manner, what makes the educational institutions suffer considerable material damage. Dean of the Faculty of Engineering Sciences in Kragujevac, M.B., was arrested in May 2013 on suspicion that for the six years during his mandate unlawfully appropriated over 200 000 euros and damaged the budget of a state for more than 400 000 euros by forgery and tax evasion, a numerous of financial malversations and by abuse of official capacity. In fact, he was concluding unlawful agreements on authorship with itself allocating the money to himself of the Ministry for science intended for scientific research. The same money was being used for paying phone bills for his family members. He was concluding contracts on office space's lease with various companies without informing the relevant Property Directorate of the Republic of Serbia. The money from renting has not been not paid in to the budget of the Republic of Serbia, but unlawfully appropriated. Damage to republic budget was done by paying in the money in the name of copyright works to the employees which include lower tax base than a regular monthly income. He had help of the head of service for accounting and finance who forged the documents.

’Health and Pharmacological Mafia’

The areas of health and pharmacological industry make especially financially viable areas for committing various offenses. Manipulation of human health and suffering bear almost no cost. From ‘petty’ bribery, that is, paying bribe to doctors in order to b

e 'placed on the waiting list' for a diagnostic procedure and operation, over conditioning of operational procedures that may sometimes influence someone's life, to the organized action of eminent representatives of health institutions. The victims are patients, members of their families, people fighting for their lives. It seems somehow that this aspect of white-collar crime is morally the most wrong, but, nevertheless, the consequences of the loss of confidence in health system are neglected. The emphasis is, only and exclusively, on the material damage.

The first specific case of organized white-collar crime in the field of health is still ongoing so-called 'Cytostatic' affair where, the accused is not only the director of the Institute for Oncology and Radiology of the Clinical Center of Serbia, but also a number of doctors, employees at pharmaceutical companies, and representatives of Ministry of Health responsible for allowing certain treatment protocol of cancer patients. The specifics of the case stems from the fact that for the first time in court practice apart from persons, the legal entity has been called to account. The basis of the case make peculations in the change of the treatment protocol of cancer patients, and prescribing exact cytostatics of the exact pharmaceutical company, whereby in return doctors obtained considerable financial compensation and other valuable presents, and pharmaceutical companies gained multimillion profits from the sale of medicines. Related to this case, there are peculations referring to collecting humanitarian aid for buying mobile mammography devices. According to the indictment, the president of the NGO that collected the humanitarian aid for women with breast cancer and procurement of equipment for early diagnosis used the collected money for her own private purposes, without giving it to those who initially was intended for.

Abuses in pharmacological industry come down to cooperation between the representatives of a pharmaceutical company and doctors, with the purpose of prescribing medicines of a particular company; consequently, both doctors and pharmaceutical companies achieve mutual benefit. In addition, one can only speculate about the material gain acquired by this criminal action. Apart from the material damage, a severe, irreparable damage is inflicted on human lives and health (Mijalkovic, Bajagic, 2012:236).

Conclusion

In the Republic of Serbia, the indigenous criminological thought about white- collar crime is not sufficiently developed. The current range of criminological theories is, actually, the result of the analysis and interpretation of the Anglo-Saxon criminological thought.

The range of understanding of this aspect of criminal goes from the definitions of narrower scope ('crime of the so called criminal elite') to definitions of broader scope ('abuse of the legal professions'). One of the reasons for such state is, also, a very modest scientific treatment of white-collar crime, not only in the field of higher education, but also in the field of scientific research.

At the same time, criminal law theory and practice do not recognize the concept of white-collar crime, so that criminal lawyers mean by this a wide range of crimes made by violations and abuse of legal business authority. In the broadest sense, white-collar' crime is related to economic crime, organized crime, and, often, political crime taken broadly (as the crime of political authorities). In this manner, a new 'specter' of white collar crimes appear as a

consequence of the penetration of crime in contemporary financial and economic development, and the abuse of method of business and financial operations, with the aim of acquiring unlawful proceeds: 'money laundering';; the abuse in the process of privatization of companies with majority state ownership ('privatization mafia');; the abuse related to bank ruptcy process of undertakings ('bankruptcy mafia');; appearance of the so called

new Serbian 'mafia' like 'road mafia', 'health mafia', 'football mafia', 'traffic mafi a', 'educational mafia', 'banking mafia', ' customs mafia';; then corruption offenses where the representatives of (legislative, executive, judicial or local) authorities take part, as well as representatives of economic organizations, financial institutions, public services and international-intergovernmental and non-governmental organizations; and each abuse of power by holders of a particular public or private functions, with the aim of acquiring unlawful material gain. Such current attitude towards white-collar crime phenomena has been radically changed comparing the original understanding, according to which white-collar crime is the abuse of powers by individuals, primarily by bureaucratic officials in the areas of health, local self- government and pursuing various civil rights.

With respect to recording white-collar crime, there are no official records of formal social control, because criminal legislation does not recognize the term ' white collar'. In that sense, research of white-collar crime requires collection and analysis of data about specific crimes (which are assumed to belong to the field of white-collar crime), what also requires specific criminal law qualifications (section, paragraph and point of a specific legislation). Otherwise, these data are not difficult to obtain, on the basis of the newly passed Law on Access to Information of Public Importance. In addition, one should bear on mind that the 'dark number' of this aspect of crime is large, as well as the politicizing of numerous revealed cases of 'white collar' crime, so that every research will face numerous limitations.

It is obvious that white-collar crime in the Republic of Serbia is highly developed. At the same time, it is obvious that it has not received a proper scientific treatment. In that sense, it is necessary to initiate more research projects that would examine the etymology, phenomenology, victimology and consequences of white-collar crime, as well as criminal-political and criminal methods for its prevention and suppression. Also, it isnecessary for the institutions of higher education, which primarily recruit future members of the authority of formal social control (The Faculty of Law, Faculty of Security Studies, Academy for Criminalistic and Police Studies), to introduce new academic disciplines within which the above mentioned issues would be explored. Special emphasis should be placed on the reform of national criminal legislation that would be based on research done and recognize international legal standards about the qualification and treatment of the phenomena of white-collar crime. Finally, it is of considerable importance to improve the safety culture of citizens and members of the security sector while realizing the importance and social danger arising from this aspect of crime.

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4. TERORIZAM KAO TRANSNACIONALNI PROBLEM I IZAZOV

Sažetak

Sve više i više čujemo krikove i zapanjeni smo stravičnim scenama kao posljedicama terorističkih napada u svijetu. Virus za terorizam dobija razmjere epidemije i najrazvijeniji društaveni sustavi nisu imuni i otporni na ovu destruktivnu moć. Postoje neke dijagnoze simptoma novih zlih oblika ove sablasne bolesti koja prouzvodi velike materijalne i ljudske gubitke. Nadalje popis objekata koji su izabrani kao mete napada, kao i krug ljudi koji su se infiltrirali u terorističke jedinice, koriste terorističke arsenal za postizanje određenih ciljeva i zahtjeva nisu mogli postići na drugi način: pravni, legitimni i institucionalni način. Sa turbulentna globalizacijom pojavljuje se takozvani međunarodni terorizm koji se manifestira u dva glavna oblika i sa međusobnim varijacijama. Prvi dolazi iz muslimanskog fundamentalizma s promjenom u religijskoj dogmi i fanatičnom indoktriniraju koje teži stvoriti svijet islama zajednice. Drugi jedan od svjetskih sila u gladijatorsku arenu pod velom demokracije i pomogao ekonomskom, vojske, i politički širenje oni posegnuti za suptilne sofisticirane terorističkih napada s ciljem postizanja nove horizonte svjetskog poretka organiziranog kriminala i terorizma dvije strane medalje. Oni su oboje povezani istim neprijateljem države, njezinih institucija, državnih predstavnika i određene skupine građana. U bića organiziranog kriminala jedan je međusobna tvar. Dobar dio financijskih bušotina iz profitabilne aktivnosti organiziranog kriminala kao ilegalne trgovine drogom, oružjem, ljudima, pranje novca prijenos iz terorističkih organizacija, dvije strukture djeluju u zavjeri u okviru laboratoriju

Dobar dio financijskih bušotina iz profitabilne aktivnosti organiziranog kriminala kao ilegalne trgovine drogom, oružjem, ljudima, pranje novca prijenos iz terorističkih organizacija, dvije strukture djeluju u zavjeri u okviru labirint oni koriste istu infrastrukturu, oni stalno zaposliti sljedbenika , proširiti na susjedne zemlje, a želite dobiti međunarodni karakter.

Uz simbiozi i isprepliću organiziranog kriminala i terorizma postoje značajne razlike. Prvenstveno se razlikuju u cilj i metoda koji je način postupanja u uspeva projicirane ciljeve. Cilj terorističke organizacije je stvaranje političkih, ideoloških, teološke, nacionalni dnevni red i iskonski cilj kriminalne skupine je dobit.

Ključne riječi: terorizma, organiziranog kriminala, žrtve egzekutor je.

ORIGINAL SCIENTIFIC PAPER

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TERRORISM AS A TRANSNATIONAL PROBLEM AND CHALLENGE

Abstract

More and more we hear the shrieks and we are astonished by the creepy scenes as a result of terrorist escalations in the world. The virus of the terrorism is getting epidemic proportions and the most resistant societies systems are not immune to its destroying power. There is some diagnosis to symptoms of new evil forms of this ghostly illness that takes great material and human losses. Furthermore the list of objects that are picked for attack as the circle of people who are infiltrated in terrorist cells and use terrorist arsenal for achieving certain goals and demands they couldn't achieve other way- legal, legitimate and institutional way.

The turbulences of the globalization have surfaced the so called international terrorism that manifests in two major and mutually variations. The first one comes from the Muslim fundamentalism with the changing of the religious dogma and the fanatic indoctrinate that tends to create the world of Islam community. The other one of the world powers in the gladiator arena under the veil of democracy and helped by the economic, army, and political expansion they reach for subtle sophisticated terrorist attacks with the aim of reaching new horizons of the world order

Organized crime and terrorism are two sides of a medal. They are both connected by the same enemy of the state, its institutions, state representatives and certain group of citizens.

In the beings of the organized crime there is one mutual substance. Good part of financial wells is from the profitable activities of organized crime as illegal drug traffic, weapon, human trafficking, money laundering transferring from the terrorist organizations, the two structures act in conspiracy in under labyrinth they use the same infrastructure, they permanently recruit followers, widen to the neighboring countries and want to get an international character.

Beside the symbiosis and intertwining of organized crime and terrorism there are important differences. Primarily they differ in the goal and methods that is the manner of acting in succeeding projected goals. The aim of a terrorist organization is making a political, ideological, theological, national agenda and the primordial aim of a criminal group is profit.

Keywords: terrorism, organized crime, executor's victims.

DEFINING THE CONCEPT OF TERORISM AND SOME CLARIFICATION OF THE ASPECTS RELATED WITH THE TERORISM

The word terror (from the French word terreure) in political terms means an act of violence, intimidation and mercilessly break of the resistance (Political Encyclopedia-Modern administration, Belgrade, 1975, str.1079) .Terror (Latin - terror) means horror, fear and trembling, use of intimidation, political violence (Minor encyclopedia-IP Education, Belgrade, 1970, p.94).

In the literature circulate more views on the definition of the concept, characteristics and identity attributes of terrorism. The differences that exist between them are not from essential nature, which means among all these commitments can find a common denominator in terms of determining the substantive elements that make up the essence of terrorism.

Although there is not yet established a universal definition, in most definitions one may note some common elements. Namely, for all of them, the element of force, violence, intimidation, and trends through practicing terrorism to argue and provide certain benefits, are common and accepted.

In order to strengthen the legal aspects of the fight against terrorism, the following definition of the term terrorism can be used.It is a threat or use of unlawful violence or other acts that threaten the lives and generate serious damage to people, property and other economic interests, or there is a significant disturbance or interruption in the operation of some basic services, facilities, capital infrastructure systems or resources.It is performed by a non-state actor. The intention is to perform intimidation or coercion of a particular group or population of a state government with the ultimate goal of achieving certain political, social or religious purposes (Slavevski, C, Security System, European University of Macedonia, Skopje, 2009, p .55).

So, a terrorist act shall be any organized individual and illegal use of force expressed using weapons (biological, chemical, radiological, nuclear) or threat to use force against people or property because of coercion or intimidation as a means of achieving political, ethnic, religious or ideological goal (Dimovski, W, terms, scientific and institutional down terrorism, scientific edition horizon,,, University St. KlimentOhridski ", 2010, str.349).

Alex Schmidt, in his monumental work, entitled “Political terrorism” deeply analyze the essence of 109 definitions of terrorism. Moreover, as relevant material extracted 22 elements that are common denominator of all definitions and calculates how often they meet. The results he obtained are shown in the following table:

According to his determination: “Terrorism is a method of repeated violent action, driven by anxiety, and carried out by (semi-) clandestine individual, group or state actors. The reasons are idiosyncratic, criminal or political, which - unlike the assassination - direct targets of violence are not the main targets.The human victims of violence are usually elected by free choice (random targets) or some criteria (representative or symbolic targets) from the target population and serve to transfer a message.Communication processes between terrorist (organization), (imperiled) victims, and main targets, based on the threat or violence are used to manipulate the main target (audience / s), with the main goal turns into a target for terror target request or order of attention, depending on whether the main requirement is intimidation, coercion, or propaganda "(Shmid, P. Alex, Jongman, J. Albert, Political Terrorism: A New Guide to Actors, Authors, Concepts, Data Bases, Theories and Literature, Amsterdam, North-Holland Publishing Company, 1988; Gelke, A new era of terrorism and international political system (translation from English to Macedonian), Skopje, Magor, 2009 str.20-21).

Element	Repeatibility %
Violence, force	83,5
Political	65
Fear, teror	51
Threat	47
(Psychological) effects and (expected) reactions	41,5
Difference between victim-target	37,5
Intentional, planned, systematic, organized activity	32
Method of fight, strategy, tactics	30,5
Abnormality, abuse of accepted rules without any humanitarian limits	30
Coercion, blackmail, causing obedience	28
Publicity	21,5
Arbitrariness; Impartial, any character; non-discrimination	21
Civilians, people who are not involved in military actions, neutral outsiders for victims	17,5
Intimidation	17
Pronounced innocence of the victims	15,5
Group, movement, organization as executors	14
Symbolism, showing something to other	13,4
Mental disorder, unpredictability, abruptness of the occurrence of violence	9
Secret, conspiratorial nature	9
Repetition; serial or campaign character of violence	7
Crime	6
Requests from third parties	4

Schmidt establishes definition ofterrorism that is based on 16 of the 22 minutes of elements shown in the table.

The main elements that make up “the core “of terrorism are:

- political motivation, using terror to achieve certain political goals of society, which includes awareness of the goals and the means by which this can be achieved

- recruitment of like-minded people in the terrorist organization based on ideological, political, philosophical or religious beliefs;

- perpetrating violence and generating effects of the so-called secondary effects, in other words creating general danger, uncertainty and mistrust in institutions, creating an atmosphere of fear and anxiety lasting for extortion certain change of political character;

- use of force to extort certain behavior of people against their will;

- existence of danger, which causes uncertainty and uncertainty causes fear;

- existenceof awareness among executives of what they like, and they has earned;

- use of brute force and exposing the lives of innocent citizens to mortal danger, women and children, in order to achieve the so-called secondary effects;

- achieving a greater publicity to the performance of the terrorist act that performs reverse stimulating effect on like-mindedand terrorists

- taking care of cost during execution of terrorist actions, in other words it is used the most minimal usage of resources in terms of people, resources, etc., to accomplish the larger “results ";

- terrorism can apply to state and non-state subjects. Political motivated terrorism is implemented by non-state terrorist organizations, and to terrorism can resort even some countries through clandestine terrorist acts and public acts of terrorism.The conspiracy actions are usually performed by secret services or specialized state authorities domestically or internationally, while public state terrorism internationally is reflected through regular engagement special armed forces in strictly defined and restricted stock (Pashanski, M,, Contemporary kamikaze "literary news, Belgrade, 1987, p.40).

The main elements that make up the substrate and the identity characteristic of the crime of terrorism are: **objective being of the case, the action of execution, consequences of the case and motives of execution**.

Objective being of the case - a person (or persons) will be punished if have hostile motives to the state that will cause an explosion, fire or take other generally dangerous act or an act of violence that can create a sense of personal insecurity among citizens or with a group of citizens.

The action of execution is to take on a generally dangerous act or performing any act of violence. As generally dangerous act may qualify the action that causes danger to persons or undefined properties. This action is a danger not only to that person against whom it is intended, but for others, or other property.

The consequence of this work is the creation of a sense of personal insecurity among individual citizens or groups of citizens. The individual citizen can be a passive subject of this work (person who performs a public or social function), while under the group of citizens are meant to be people who live in the district or working in the same institution. The feeling of insecurity as a result of this feature is a crime, but it is not the only consequence arising from the execution terrorism. Primordial consequence of terrorism is always a threat and devastation of the foundations of social order and security of the country.

Motive of the case - for the existence of this work is necessary to establish that the perpetrator acted from motives hostile to the state. Intention constitutes “the core "of this crime. So, the work is performed intentionally, in order to threaten the constitutional legal order and security of the state.

It is difficult to penetrate into the mindset of terrorists and it can draw reasonable grounds for terrorist activities. You could say that there is some obscure and mystical philosophy of violence or mentality is common feature for all terrorists, although not all of them share the same political ideology.

The biggest puzzle in deciphering of terrorism is that it is very difficult to understand the motives of terrorists, or to appreciate the political goals of their work and to understand how they see the moral content of the funds that are used.Lacking convincing and relevant information for understanding the terrorists, in the literature can be found explanations that show terrorists as computational robotic machines or mentally disturbed people (Gelke, A new era of terrorism and international political system (translation from English to Macedonian), Skopje, Magor, 2009, p.18).

Most of the literature that is devoted to terrorism, stresses the psychological impact of terrorism, not the direct victims caused by it. The paradox is that the number of people who died in the terrorist activities worldwide is very small. Most of the statistical estimates of the death toll in the terrorist acts are related to

international or transnational terrorism. These analyzes show that the number of people killed since the end of the sixties of the twentieth century to the present is only a few thousand (ibid, str.7-8).

However the astounding rise of terrorism, whose epilogue consists of a huge number of victims, primarily embodied in the attack on America on eleventh of September 2001, overturn and reverse the assumption that a common feature of terrorism in all its manifestations is having a large audience but few casualties.

Also, in the conflicts in Iraq and Afghanistan, as a consequence of suicidal bombings and other violent actions of terrorism, the death toll was so high, when compared with the number of victims of terrorism worldwide turns out that these two cases are responsible for most deaths from terrorism in the world.

SIMILARITIES AND DIFFERENCES BETWEEN THE TERROSIM AND THE ORGANISED CRIME

Areterrorism and organized crime “Siamese twins” or the terrorism is an unbreakable thread of tissue of organized crime?

In an article on the US Library of Congress are noted and shown three basic types of connection between terrorism and transnational organized crime. They are:

1.Alliance for common benefit, in which terrorists in agreement with transnational organized criminal groups provide funding for themselves, without their direct involvement in criminal activities;

Argument that can be bent in order to confirm the above thesis is a joint collaboration between Al Qaeda and Sergei Mogilevich to act in cooperation with Morocco and Victor Bout in Libya.. Namely, on one side of the spectrum is anchored Al Qaeda as a terrorist organization, and on the other side arms dealers.

2.Direct involvement of terrorist groups in organized crime;

In addition to the second thesis can highlight the example of a group responsible for the bombings in Madrid in March 2003. It is a Takvir Val Hijrah - terrorist cell of al Qaeda, specialized in organized criminal operations, primarily drug trafficking and weapons in order to realize a profit to finance “holy jihad ".

3. Replacement of ideological aims for profitable ones, as a main operation motif

The basis of the third thesis is drawn from the actions of members of the Abu Sayyaf in the Philippines, whose originally rooted aims were ideological and nationalistic. Later, they resort to another movement trajectory as kidnapping foreign delegations, tourists, etc., in order to gain profit (Nikolovski, M, whether terrorism is a form of organized crime? Yearbook of the Faculty of Security, Skopje, 2008, p.99).

Louise I. Shelley, stresses the following points of connection between terrorism and organized crime:

1.Terrorists are involved in organized criminal activity for acquiring financial assets;

2.Organised criminal groups and terrorists often operate in a network structure, so the terrorists can hide in the bowels of transnational criminal organizations;

3.And organized criminal groups and terrorist groups operate in areas with weak state control, weak law enforcers and propulsive open borders;

4.Both organizations strive and resort to corrupt representatives of local and state authorities in order to achieve their goal more efficiently and effectively;

5.The same methods of communication are often used, using modern and sophisticated technology;

6.They launder money, using the same methods and operators to move funds (Louise I. Shelley, The nexus of Organized International Criminals and Terrorism, p.1).

Besides multidimensional relationship and entanglement, in literature there are views that terrorism and organized crime are seen as two different types of crime.

In this context, organized crime, is mainly aimed at accumulating economic profit and establishing illegal distribution market, while terrorism is primarily motivated by ideological goals and desire for political change, which is an essential difference between the two phenomena.

TYPES OF TERRORISM

1.**Criminal terrorism**. The main characteristic and essential feature of this kind of terrorism is taking up more mechanisms of intimidation aimed at gaining profit or psychological gain.

2.**Narcoterrorism.** Twenty-first century, which won he epithet “century terrorism", tossed a brand new term on the surface, in whose bosom nested terrorism and organized crime, and that is the concept narcoterrorism. This notion may equally cover the war in Afghanistan and South America and confirm the thesis that it is impossible the terrorism and organized crime to be considered as a dichotomous phenomena.

The groups dealing with organized crime, through financial support provide survival of terrorists, while the last ones provide care to the groups about the channel that perform transportation of drugs, weapons and so on.

3.**Cyber terrorism**. According to FBI-US, this phenomenon is defined as “intentional", politically motivated attacks against information, computer systems, computer programs and data that result in violence against targets that are not military, but there are performed by the sub national groups or spies (http://searchsecurity.techtarget.com/sDefinition/0,,sid14_gci771061,00.html).

The US Commission on Critical Infrastructure Protection defines the terrorist attacks as designed to cause physical violence or extreme financial harm, while possible targets of cyber terrorists are banking industry, military installations, power plants, air control centers of flights and water systems of the country (http://searchsecurity.techtarget.com/sDefinition/0,,sid14_gci771061,00.html)

4.**Ideological terrorism**. The intention of the members who are rooted and indoctrinated with the premises of this kind of terrorism, is attack and demolition of the current ruling political nomenclature.It is sometimes claimed that the ideological terrorism includes the revolution, but it is not always the case. For example, some governments have used death squads whose actions might look like works of oppressive power, but they could be a continuation of revolutionary terrorism. This kind of terrorism sometimes includes political killings, which were mostly performed by the Communists / Marxists, who had killed their political opponents off the battlefield in order to strengthen their power.As most brutal genocide of this type is the 75 year regime of the Soviet Union, especially during the Stalin period of 1928 to 1953, when 49.5 million people were killed for political motives.

5.**Nationalistic terrorism**. This kind of terrorism is characterized by activities that support the interests of an ethnic or nationalist group. These features may or may not include language, religion and ethnicity (Peter H, the notion of global security, Skopje, 2009, Tabernakul, p.76).

National self-determination, i.e. the belief that every nation has a right to their own sovereign state, has given a rise to a number national liberation movements, through which it is most explicitly recognized the dilemma related to terrorism: whether the supporters and members of such movements are freedom fighter or secessionist terrorists.

6.**State sponsored terrorism**. This kind of terrorism is established when the regimes in power will use violence or will threaten with usage of violence in international relations outside the established diplomatic protocol.

The reasons why states may sponsor terrorism are : exercise of foreign policy goals that could not be achieved in any other way by using political or military means; expanding its power and influence between ideological movements; stifling domestic opposition by killing dissidents abroad etc.Terrorism sponsored by the state is an efficient and effective way of conducting foreign policy, by supporting terrorists in assistance in weapons or explosives, means of communication, travel documents and a safe haven for training operatives.

The most known states - sponsors of terrorism are: Iran, Syria, Afghanistan, Chile, El Salvador, Libya and other (Michael, D, Lyman and Gary W. Potter, Organized Crime, 4th edition, Pearson Education, 2007, p .373).

7.**Revolutionary terrorism**. The purpose of the entities that promoted this kind of terrorism consists in causing fear among government representatives, i.e.within the political leadership and their supporters, demolition and substitution of the current government with structures that share the views and beliefs of terrorists. Common tactics that revolutionary terrorists benefitare the skillfully designed kidnappings, bombings and assassinations, as a result of which the current government is forced to respond with repressive measures.

8.**Religious terrorism**. This kind of terrorism assumes transcendental dimension and the executors of it do not undergo political, moral or practical constraints. Religious terrorists resort to violence, because they considered it as morally justified and effective tool to achieve their goals.

Religious and secular terrorists have completely different perception of themselves and the violent acts they practice.Secular terrorists perceive violence as a means or time to correct errors in the system which is basically good, or as a means to establish the contours of a new system.

In contrast, religious terrorists do not feel like an integral component of the system, but as “outsiders "and consequently they channel the overall energy and capacity in terms of a general overhaul of the existing social order. This sense of alienation has stimulating and catalytic effect on their destructive expedition.

CONCLUSION

Deciphering the riddle of terrorism is not a simple mission. Difficulties in crystallizing the concept of terrorism can be divided into five categories: first, the scope of the word that is extensible category and is constantly expanding; Second, the problem caused by the fact that the term does not mean what it says; Third, the fact that causing fear is not the only feature of terrorism; Fourth, strong emotional overtones that generates terrorism; and fifth, his ideological side.

Terrorism may qualify as a pathological phenomenon, which affects the vital organs of the state and social organisms, causing their failure and paralysis. Malignant cells of the terrorism metastasize and terrorism progressively get form of international political and legal “ominous disease " but in the content of its being are increasingly intertwined attributes of crime and political misdemeanor.

Terrorism knows no borders, it penetrates even the strongest bulwarks, and its devastating effects are not immune to any state-law works with functional institutional structures. To combat this asymmetric transnational threat, it is necessary to build a consistent security systems and other specialized institutional entities, both nationally and internationally.

In order to have an effective cushioning, the multidimensional and far-reaching destructive implications which are produced by terrorism, it’s necessary to require mass mobilization and synergistic action in which all relevant international actors would have participated. Also it is required a wide range of systemic, institutional, complementary and mutually interdependent and complement measures, instead of empty declarative floccules and demagogic massaging statements.

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5. NATO BOMBARDIRANJE JUGOSLAVIJE - ?

PROTIVNO MEĐUNARODNOM HUMANITARNOM PRAVU

Sažetak

Od 24 ožujka-10 lipnja 1999. godine NATO je provela zračnu kampanju protiv SRJ, kodnog naziva Operacija "Allied Force". Jugoslavenski mediji su izjavili da su tisuće civila ubijeno u zračnim napadima NATO-a. Međutim, civilna cestarine smrti date u detaljnim računima države SRJ u rasponu od 400 do 600. NATO nije objavio službene procjene civila ili ubijenih boraca SRJ.

NATO je tvrdio da je njegova zračna kampanja protiv SRJ urađena najpreciznije i sa najnižom kolateralnom štetom proouzročenom zračnom kampanjom u povijesti. Međutim, došlo je do ozbiljne zabrinutosti o tome u kojoj su mjeri NATO snage koje su sudjelovale u operaciji „Allied Force“ poštovale pravila međunarodnog humanitarnog prava u vezi vođenje neprijateljstava, posebno ona propisana za zaštitu civila i civilnih objekata. Na temelju dostupnih dokaza, uključujući i NATO-ove vlastite izjave i pojedinačne incidente, postoji uvjerenje da su NATO snage počinile teška kršenja zakona rata u nizu slučajeva sa nezakonitim ubojstvima civila.

NATO nije uspio ispuniti svoje zakonske obveze u odabiru ciljeva i odabiru sredstva i metode napada. U jednom slučaju, napad na sjedište srpskog državnog radija i televizije (RTS), NATO je pokrenuo izravan napad na civilni objekat, u kojem je ubijanjo 16 civila. Takav napad kršenje člana 52 (I) Protokola I. (uz Ženevske konvencije iz 1949. godine, koji se odnosi na zaštitu žrtava međunarodnih oružanih sukoba), te stoga predstavlja ratni zločin. U drugim napadima, uključujući i Grdelica željeznički most, automobilski most u Lužanima i Varvarin most, NATO snage nisu obustaviti svoj napad nakon što je bilo očito da su udarile na civile, protivno članku 57. (2) (b) Protokola I. U ostalim slučajevima, uključujući i napade na raseljene civile u Đakovici i Korišu, poduzete su nedovoljne mjere opreza kako bi se smanjile civilne žrtve.

Svrha rada je revidirati i analizirati tvrdnje da je tijekom NATO bombardiranja SRJ 1999. godine, došlo do ozbiljnih kršenja međunarodnog humanitarnog prava. Upravo zbog toga, analizirat ću dva posebna slučaja: napad na Grdelica željeznički most i napad na RTS.

Ključne riječi: međunarodno humanitarno pravo, povrede, ratni zločin, civilne žrtve, kolateralne štete

REVIEW SCIENTIFIC WORK

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NATO BOMBING OF YUGOSLAVIA – VIOLATION OF THE INTERNATIONAL HUMANITARIAN LAW?

Abstract

From March 24th to June 10th 1999 the NATO conducted an air campaign against the FRY, codenamed Operation "Allied Force". Yugoslav media have stated that thousands of civilians were killed in NATO air raids. However, the civilian death tolls given in detailed FRY government accounts range from 400 to 600. NATO has not released official estimates of civilians or FRY combatants killed.

NATO has claimed that its air campaign against the FRY was the most precise and lowest-collateral damage air campaign in history. However, there has been serious concerns about the extent to which NATO forces participating in Operation Allied Force adhered to the rules of international humanitarian law on the conduct of hostilities, specifically those laid down to protect civilians and civilian objects. On the basis of available evidence, including NATO's own statements and accounts of specific incidents, there is a belief that NATO forces did commit serious violations of the laws of war leading in a number of cases to the unlawful killings of civilian.

NATO did not always meet its legal obligations in selecting targets and in choosing means and methods of attack. In one instance, the attack on the headquarters of Serbian state radio and television (RTS), NATO launched a direct attack on a civilian object, killing 16 civilians. Such attack breached article 52 (I) of Protocol I (Additional to the Geneva Conventions of 1949, relating to the Protection of Victims of International Armed Conflicts) and therefore constitutes a war crime. In other attacks, including the Grdelica railroad bridge, the automobile bridge in Lužane, and Varvarin bridge, NATO forces failed to suspend their attack after it was evident that they had struck civilians, in contravention of Article 57 (2) (b) of Protocol I. In other cases, including the attacks on displaced civilians in Djakovica and Koriša, insufficient precautions were taken to minimize civilian casualties.

The purpose of the paper is to revise and also analyse the claims that during the NATO bombing of FRY in 1999, there were serious violations of the international humanitarian law. In doing so, two particular cases will be analysed: the attack on Grdelica railroad bridge and the attack on the RTS.

Keywords: International humanitarian law, violation, war crime, civilian, collateral damage

INTRODUCTION

The NATO bombing of Yugoslavia was a military operation against the Federal Republic of Yugoslavia (FRY) during the Kosovo War. The operation was not authorised by the United Nations (UN) and was the first time that NATO used military force without the approval of the UN Security Council (SC). It was also first time that NATO used military force against a sovereign nation that did not pose a threat to members of the alliance . The strikes lasted from March 24th to June 10th, 1999. The official NATO operation code name was Operation “Allied Force”.

The legitimacy of the NATO bombing of the FRY has been subject to question by individuals such as Noam Chomsky , as well as many NGO’s focusing on the human rights such as Amnesty International and Human Rights Watch. The main criterion concerning the legality, as of any act of war, is the international law. In this particular case, the legality of the NATO bombing will be analyzed taking into consideration the NATO charter and the UN charter. Both of them were drafted in accordance with preexisting international regulation. As such, the issue has been blurry at all times with proponents of both viewpoints citing particular legislation that substantiate their claims on whether the bombing was or was not legal.

Since the early 1990s, Kosovo has been facing state organized oppression: Albanian language radio and television were restricted and newspapers shut down, whereas Kosovar Albanians were fired in large numbers from public enterprises and institutions. With time, Kosovar Albanians started an insurgency against Belgrade when the Kosovo Liberation Army (KLA) was founded in 1996 and two years later, in 1998, armed clashes between two sides broke out. A NATO-facilitated ceasefire was signed on October 15th, but both sides broke it two months later and fighting resumed. The critical event that gave a reason to NATO to interfere was when the Račak massacre was reported in January 1999, when 45 Kosovar Albanians were killed. NATO decided that the conflict could only be settled by introducing a military (peacekeeping) force to mediate between the two sides. After the breakdown of the Rambouillet Accords on March 23rd, FRY authorities rejected an external peacekeeping force, and that was the point when NATO started preparing and planning installment of the peacekeepers by force.

The NATO bombing of the FRY marked the second major combat operation in its history, following the 1995 NATO bombing campaign in Bosnia and Herzegovina. The bombing of the FRY resulted in withdrawal of Yugoslav forces from Kosovo as well as the establishment of United Nations Mission in Kosovo (UNMIK), putting an end to the Yugoslav Wars of the 1990s.

NATO's objectives in the Kosovo conflict were stated at the North Atlantic Council meeting held at NATO headquarters in Brussels on April 12, 1999:

- An end to all military action and the immediate termination of violence and repressive activities by the Milosevic government;
- Withdrawal of all military, police and paramilitary forces from Kosovo;
- Stationing of UN peacekeeping presence in Kosovo;
- Unconditional and safe return of all refugees and displaced persons; and
- Establishment of a political framework agreement for Kosovo based on Rambouillet Accords, in conformity with international law and the Charter of the United Nations.

However, there were different opinions about the NATO mission that was about to start. Italy was reluctant to agree to the NATO operations because of the possibility of tens of thousands of refugees

coming to Italy during and after the operation. There were also other NATO member-states that were reluctant too, as well as the new members at that time: Poland, Hungary and Czech Republic. Between the non-NATO countries condemning the bombing were Russia, China, Syria, Belarus, India, Algeria, Iraq, Libya and Iran.

On the same day the bombing started, Russia was urging for a meeting of the UN Security Council. Russia was trying to stop or postpone the operation of the NATO against the FRY: they drafted a resolution, together with Belarus and India, demanding "an immediate cessation of the use of force against the FRY". The resolution was not adapted and soon after the bombing started. There were only three votes in favor (Russia, China and Namibia) and twelve against. Argentina, Bahrain, Brazil, Gabon, Gambia, Malaysia, and Slovenia, along with NATO members the US, Britain, France, Canada, and Netherlands voted against it.

During the NATO bombing campaign that lasted for 78 days, NATO aircraft conducted over 38,000 combat sorties, including 10,484 strike sorties, against targets in the provinces of Kosovo and Vojvodina, Serbia proper and the Republic of Montenegro.

Human Rights Watch, in its report “Civilian Deaths in the NATO Air Campaign”, documented some 500 civilian deaths in 90 separate incidents. It concluded that "on the basis available on these ninety incidents that as few as 488 and as many as 527 Yugoslav civilians were killed as a result of NATO bombing. Between 62 and 66 percent of the total registered civilian deaths occurred in just twelve incidents”.

Human Rights Watch also found the FRY Ministry of Foreign Affairs publication “NATO Crimes in Yugoslavia” to be largely credible on the basis of its own filed research and correlation with other sources. A review of this publication indicates it provides an estimated total of approximately 495 civilians killed and 820 civilians wounded in specific documented instances.

ATACK ON THE RTS

As mentioned above, the NGO’s and civilian rights organizations find that there are at least couple of attacks when NATO violated the International humanitarian law and caused civilian deaths. Among them, one of the most controversial actions in NATO’s 78-day air war was the attack on the RTS headquarters.

Describing RTS as the FRY presidential “ministry of lies”, NATO still claims it was a legitimate target because it was spreading out propaganda in support of the regime.

On April 23rd 1999, NATO aircraft bombed the headquarters and studios of Serbian state television and radio (RTS) in central Belgrade. There was no doubt that NATO had hit its intended target. The building was occupied by working technicians and other production staff at the time of the bombing. There were estimated to be at least 120 civilians working in the building at the time of the attack. At least 16 civilians were killed and additional 16 were wounded. A news broadcast was blacked out as a result. RTS broadcasting resumed about three hours after the bombing.

Soon after the bombing campaign ended, the families of those killed in the RTS building accused Milosevic of “sacrificing” their lives in order to score political points against NATO, as it was clear the government had known the building was a target.

After the NATO campaign was over, the president Slobodan Milosevic was overthrown in 2000. Two years later, the director of RTS at that time, Dragoljub Milanovic, was sentenced to 9,5 years in prison for failing to carry out an order to evacuate the broadcaster.

However, the relatives of the dead and the NGOs who had campaigned alongside them were not satisfied with the verdict. They argued that Milanovic was effectively made a scapegoat because he could not have acted against the wishes of superiors who were known to exercise direct influence over RTS.

In 2001, six Yugoslav nationals had brought a case in front of the European Court of Human Rights in Strasbourg against NATO, over the bombing of Belgrade's main TV station during the NATO's bombing of FRY. The case was brought on behalf of the station's employees, saying the attack, which killed 16 people, was in breach of Europe's human rights charter. They argued that the air strikes were illegal under the charter, which governs the right to life and freedom of expression, and asked for compensation. The European Court of Human Rights has thrown out the case, declaring it inadmissible. The lawyers for the 17 defendants (the European members of NATO) had argued that the human rights court did not have the right to judge because the bombing took place in a country which is not a signatory to the European Convention of Human Rights.

NATO Headquarters justified the bombing with two arguments; firstly, that it was necessary "to disrupt and degrade the command, control and communications network" of the Yugoslav Armed Forces, and secondly, that the RTS headquarters was a dual-use object which "was making an important contribution to the propaganda war which orchestrated the campaign against the population of Kosovo".

While giving a speech on the evening of April 22nd 1999 EST at the Grand Hyatt Hotel in New York City, U.S. envoy to Yugoslavia Richard Holbrooke reacted to the NATO's bombing of the RTS headquarters almost immediately after it took place: "Eason Jordan told me just before I came up here that while we've been dining tonight, the air strikes hit Serb TV and took out the Serb television, and at least for the time being they're off the air. That is an enormously important event, if it is in fact as Eason reported it, and I believe everything CNN tells me. If, in fact, they're off the air even temporarily, as all of you know, one of the three key pillars, along with the security forces and the secret police, have been at least temporarily removed. And it is an enormously important and, I think, positive development."

A report conducted by the International Criminal Tribunal for the former Yugoslavia (ICTY) entitled "Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign Against the Federal Republic of Yugoslavia" said: "Insofar as the attack actually was aimed at disrupting the communications network, it was legally acceptable … NATO's targeting of the RTS building for propaganda purposes was an incidental (albeit complementary) aim of its primary goal of disabling the Serbian military command and control system and to destroy the nerve system and apparatus that keeps Milošević in power" In regards to civilian casualties, it further stated that though they were, "unfortunately high, they do not appear to be clearly disproportionate."

It is a fact that NATO intentionally bombed the RTS (as the NATO officials have always stated) and the persons killed or injured were civilians. Some of the questions that arise and that are of particular interest for this paper are: was the station a legitimate military objective and; if it was, were the civilian casualties disproportionate to the military advantage gained by the attack?

For the RTS to be a military objective, according the definition in Article 52 of Protocol I, the following criteria need to be fulfilled:

a) Its nature, purpose or use must make an effective contribution to military action, and

b) Its total or partial destruction must offer a definite military advantage in the circumstances ruling at the time.

The International Committee of the Red Cross (ICRC) list of military objectives from 1956, drafted before the Additional Protocols, included the installations of broadcasting and television stations of fundamental

military importance as military objectives. Taking into consideration what we just said, the attack appears to have been justified by NATO as part of a more general attack aimed at disrupting the FRY Command, Control and Communications (C3) network, the nerve center and apparatus that kept president Milosević in power, and also as an attempt to dismantle the FRY propaganda machinery. Looking from this point of view, it looks like the attack was actually aimed at disrupting the communications network, making it look like legally acceptable.

According the “Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign against the Federal Republic of Yugoslavia” , assuming the station was a legitimate objective, the civilian casualties were unfortunately high but do not appear to be clearly disproportionate.

Although NATO alleged that it made "every possible effort to avoid civilian casualties and collateral damage" , some doubts have been expressed as to the specificity of the warning given to civilians by NATO of its intended strike, and whether the notice would have constituted "effective warning … of attacks which may affect the civilian population, unless circumstances do not permit" as required by Article 57(2) of Additional Protocol I.

Evidence on this point, providing early warning of the attack, is somewhat contradictory. On the one hand, NATO officials in Brussels are alleged to have told Amnesty International that they did not give a specific warning as it would have endangered the pilots. On this view, it is possible that casualties among civilians working at the RTS may have been heightened because of NATO’s apparent failure to provide clear advance warning of the attack, as required by Article 57(2). But on the other hand, foreign media representatives were apparently forewarned of the attack, according the Amnesty International Report. As Western journalists were reportedly warned by their employers to stay away from the television station before the attack, it would also appear that some Yugoslav officials may have expected that the building was about to be struck . Consequently, UK Prime Minister Tony Blair blamed Yugoslav officials for not evacuating the building, claiming that "they could have moved those people out of the building. They knew it was a target and they didn’t…It was probably for…very clear propaganda reasons."

Although knowledge on the part of Yugoslav officials of the impending attack would not divest NATO of its obligation to forewarn civilians under Article 57(2), it may nevertheless imply that the Yugoslav authorities may be partially responsible for the civilian casualties resulting from the attack and may suggest that the advance notice given by NATO may have in fact been sufficient under the circumstances, according the ICTY report. As already mentioned, a Serbian court jailed the former head of state television for nine and a half years for failing to protect 16 workers who were killed when NATO bombed the TV station in 1999. The court ruled that Dragoljub Milanovic had not ensured the safety of his staff even though he knew the building could be hit by NATO.

Analyzing the press conferences and interviews of NATO officials, it seems very logical to conclude that, assuming the RTS building to be a legitimate military target, it appears that NATO realized that attacking the RTS building would only interrupt broadcasting for a brief period. Facts are that broadcasting recommenced within hours of the strike, thus raising the issue of the importance of the military advantage gained by the attack versus the civilian casualties incurred. The FRY command and control network was alleged by NATO to comprise a complex web and that could thus not be disabled in one strike. As noted by General Wesley Clark, NATO "knew when we struck that there would be alternate means of getting the Serb Television. There’s no single switch to turn off everything but we thought it was a good move to strike it and the political leadership agreed with us." In this context, another NATO spokesperson, at a press conference on April 27th 1999, similarly described the dual-use Yugoslav command and control network as "incapable of being dealt with in "a single knock-out blow."

To sum up, after allegedly analyzing all the aspects and facts about the legality of the NATO bombing of the RTS, the UN International Criminal Tribune for the former Yugoslavia concluded that “on the basis of the above analysis and on the information currently available to it, the committee recommends that the OTP not commence an investigation related to the bombing of the Serbian TV and Radio Station.”

ATACK ON GRDELICA RAILROAD BRIDGE

On April 12th 1999, a NATO aircraft launched two laser guided bombs at the Leskovac railway bridge over the Grdelica Gorge and Juzna Morava river, in eastern Serbia. A 5-carriage passenger train, travelling from Belgrade to Ristovac on the Macedonian border, was crossing the bridge at the time, and was struck by two missiles. The various reports made of this incident concur that the incident occurred at about 11.40 a.m. At least ten people were killed in this incident and at least 15 individuals were injured. Another report investigating the event, the one of the Human Rights Watch, shows that at least 12 people were killed in the incident. The report of the HRW says that 20 people were killed, a figure which includes five persons whose remains were unidentified and three missing persons.

According NATO officials, the designated target was the railway bridge, which was claimed to be part of a re-supply route being used for Serb forces in Kosovo. They do not deny that they have hit the train, but the explanation they give for the incident is that the real target of their bomber was the bridge.

The next day of the incident, on April 13th 1999, General Wesley Clark himself, NATO's Supreme Allied Commander for Europe, had a press conference. He explained that the pilot's mission had been to destroy the railroad bridge. He launched the weapon from a distance of several miles unaware that the train was heading towards the bridge: "All of a sudden at the very last instant with less than a second to go he caught a flash of movement that came into the screen and it was the train coming in. Unfortunately he couldn't dump the bomb at that point, it was locked, it was going into the target and it was an unfortunate incident which he, and the crew, and all of us very much regret."

In his further explanation, General Clark tried to describe how it happened that the pilot, although already aware that he had hit a civilian train, launched the second bomb: "The mission was to take out the bridge. He realized when it had happened that he had not hit the bridge, but what he had hit was the train. He had another aim point on the bridge, it was a relatively long bridge and he believed he still had to accomplish his mission, the pilot circled back around. He put his aim point on the other end of the bridge from where the train had come, by the time the bomb got close to the bridge it was covered with smoke and clouds and at the last minute again in an uncanny accident, the train had slid forward from the original impact and parts of the train had moved across the bridge, and so that by striking the other end of the bridge he actually caused additional damage to the train."

Still, there are couple of things that are confusing, even after this press conference. On the same press conference, a video of the cockpit view of both attacks was shown. Several months later it was reported in Germany's Frankfurter Rundschau newspaper that this video was shown at three times speed; giving the impression to viewers that the civilian train was moving extremely fast. The US air force attributed the speeded-up film to a technical fault, which they "discovered" months after the videotape was shown but they did not consider it useful to publicly disclose this information after it was uncovered. Jamie Shea, NATO spokesperson, told Amnesty International in Brussels that, due to the volume of videotape that analysts had to review each day during the campaign, the tapes were speeded up to facilitate viewing. He said that the press office was at fault for clearing the tape for public screening without slowing it down to the original speed.

Mr. Wenz Ekkehard, a German national who was the first one to go in public that the footage from the cockpit is actually speeded up, also suggests the aircraft involved was an F-15E Strike Eagle with a crew of two and with the weapons being controlled by a Weapons Systems Officer (WSO) not the pilot. This raises another question, which was raised in the New York Times on 14 April, and which reported that while NATO officials had refused to name the type of weapon or aircraft involved, officials in Washington had said that the plane had been an American F-15E, firing an AGM-130 bomb. General Clark had only referred to the aircraft pilot as being involved, but the F-15E carries a crew of two: the pilot and a weapons officer who controls the bombs. According to this report, the AGM-130 is at first guided by

satellite, but as it nears its target, the pilot or weapons officer can guide it, using a video image. One reporter's account cited witnesses as identifying the attacking aircraft as a Harrier jet, which hovered within sight of the bridge before firing the second missile. Other witnesses reported that two additional bombs were dropped on an adjacent highway bridge .

Amnesty International argued that the attack should have been stopped when the train had been struck, and that the second bombing had violated the principle of proportionality. According AI, "even if the pilot was, for some reason, unable to ascertain that no train was travelling towards the bridge at the time of the first attack, he was fully aware that the train was on the bridge when he dropped the second bomb, whether smoke obscured its exact whereabouts or not. This decision to proceed with the second attack appears to have violated Article 57 of Protocol I which requires an attack to "be cancelled or suspended if it becomes clear that the objective is a not a military one ... or that the attack may be expected to cause incidental loss of civilian life...which would be excessive in relation to the concrete and direct military advantage anticipated."

Although many NGO's and human rights organizations such as Amnesty International and Human Rights Watch have asked from the International Criminal Tribune for Former Yugoslavia to investigate the attack on Grdelica Bridge because of violations of the International Humanitarian Law, the ICTY concluded, similarly as for the RTS bombing, there should be no investigations for both the incidents.

"It is the opinion of the committee that the bridge was a legitimate military objective. The passenger train was not deliberately targeted. The person controlling the bombs, pilot or WSO, targeted the bridge and, over a very short period of time, failed to recognize the arrival of the train while the first bomb was in flight…It is the opinion of the committee that the information in relation to the attack with the first bomb does not provide a sufficient basis to initiate an investigation. The committee has divided views concerning the attack with the second bomb in relation to whether there was an element of recklessness in the conduct of the pilot or WSO. Despite this, the committee is in agreement that…this incident should not be investigated. In relation to whether there is information warranting consideration of command responsibility, the committee is of the view that there is no information from which to conclude that an investigation is necessary into the criminal responsibility of persons higher in the chain of command. Based on the information available to it, it is the opinion of the committee that the attack on the train at Grdelica Gorge should not be investigated by the OTP."

CONCLUSION

Since the NATO bombing of the FRY in 1999, there have been a lot of accusations toward NATO for violating the International Humanitarian Law. According some NGO's focusing on the human rights such as Amnesty International and Human Rights Watch, during the bombing campaign there were serious violations of the IHL. Both of the organizations made internal investigations about the NATO operation in FRY and concluded that at least in some occasions there were violations of the IHL. They accuse NATO for war crimes and causing unnecessary civilian damage. Additionally, a prominent linguist and philosopher, Noam Chomsky, on several occasions have stated that NATO is responsible for the war crimes in FRY. Just shortly after the attack on the magazine Charlie Hebdo in France in January 2015, Chomsky warned about the West's double standards on terrorism, simply by making comparison with the NATO attack on the Serbian national TV and radio station during the NATO campaign in FRY in 1999 .

However, the International Criminal Tribune for the Former Yugoslavia, responsible for investigating violations of the International Humanitarian Law on the territory of the Former Yugoslavia, have concluded that there are no basis for investigating any violations of the IHL made by NATO during the 1999 bombing.

In the paper, some facts were presented and an attempt was made to show that there might be violations of the IHL by NATO during the Operation “Allied Force”. As an illustration, only two cases were shown in the paper were possible violations might have occurred: the attack on the RTS and the attack on Grdelica railroad bridge.

The findings of the paper are that the some of the attacks made by NATO during the bombing campaign against FRY in 1999 were violations of the International Humanitarian Law. In the case of the attack of the RTS, NATO breached article 52 (I) of Protocol I (Additional to the Geneva Conventions of 1949, relating to the Protection of Victims of International Armed Conflicts) and therefore constitutes a war crime. In other attacks, including the Grdelica railroad bridge, the automobile bridge in Lužane, and Varvarin bridge, NATO forces failed to suspend their attack after it was evident that they had struck civilians, in contravention of Article 57 (2) (b) of Protocol I. In other cases, including the attacks on displaced civilians in Djakovica and Koriša, insufficient precautions were taken to minimize civilian casualties.

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REVIEW SCIENTIFIC WORK

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6. VICTIMS – TERMS AND TYPOLOGY OF VICTIMS

Abstract

In this paper, the author talks about the Victimology as the international scientific discipline and about the types of Victimology (primary, secondary and tertiary). In addition, the author determines the subject of research of the Victimology and the objectives that Victimology seeks to realize through its existence. Hereinafter, there will be some of the typologies included that have been determined by the representatives of Victimology: Typology of Hans von Hentig (1948); Mendelsohn typology (1956) according to the level of guilt of the victim; Typology of Ezzas Fattahi (1967); The classification of victims according to Zvonimir Separovic as well as the categorization of victims according to the conclusions of the Committee on the Prevention of Crime and the treatment of the offender.In the conclusion of the paper, the proposal for a comprehensive and inclusive of victim, which would include all persons who were in any manner violated or threatened by crime, war or other forms of violations of human rights as well as natural disasters, is presented.

Key words*:* victimology, victim, victim typologies

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VICTIMS – TERMS AND TYPOLOGY OF VICTIMS

Abstract

In this paper, the author talks about the victimology as the international scientific discipline and about the types of victimology (primary, secondary and tertiary). In addition, the author determines the subject of research of the victimology and the objectives that victimology seeks to realize through its existence. Hereinafter, will be included some of the typologies that have been determined by the representatives of victimology: Typology of Hans von Hentig (1948); Mendelsohn typology (1956) according to the level of guilt of the victim; Typology of Ezzas Fattahi (1967); The classification of victims according Zvonimir Separovic as well as the categorization of victims according to the conclusions of the Committee on the Prevention of Crime and the treatment of the offender.

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VICTIMOLOGY – CONCEPT AND OBJECTIVES OF RESEARCH

Victimology, as a young scientific discipline, which is in development, has the task of investigating the crime victims, the perpetrators and the circumstances in which the crime was committed. Name of Science victimology is made up of two words Victim - Latin victim and logos - Greek science, on the basis of which the shortest victimology can be defined as the science of the victims. More specifically, victimology is international science of all kinds of suffering, and thus victims, then the causes of victimization, the circumstances under which the process takes place victimization, consequences of victimization and rights, and justice for the victims. Today, the victimology has developed to such an extent that, in addition, there are general and special (criminal) victimology, but generally the subject of victimology concerns are:

1. causes or factors on victimization;

2. exploration risk victims;

3. phenomenological characteristics of the offender;

4. and prevention to prevent foundation victim.

Special victimology involves treatment of a victim of a particular crime or a crime, so we have a special victimology that investigates only:

1 victims of violent crime;

2 victims of war crimes and crimes against international law (genocide, civil

population, the wounded and sick, ethnic mass rape);

3 victims of terrorism;

4 victims of abuse of power;

5 victims of blatant and intense human rights violations;

6 murder victims;

7 victims of suicide;

8 victims of sexual assault;

9 victims of domestic violence;

10 victims of psychological stress;

11 victims of environmental crime;

12 victims of traffic accidents;

13 victims of blood feuds.

Some authors speak of Tertiary victimization (experiencing themselves as victims and internalization of

the role of the victim because of the two previous stages of victimization, internalization is again a term that means the transfer of certain external norms, standards, relationships and actions to internal, mental plan, who are thus seen as own).

Study of personality and situation of the victim, forms and causes of human suffering socially relevant to preventing or alleviating the suffering of people. Therefore, it is meaningful in the context of the target, victimology experiencing as a science that should facilitate "paths of justice" for the victims.

It follows that the task of victimology that:

1. analyzes the multiplicity of suffering (victimization);

2. to develop a system of measures for the reduction of human suffering;

3. explanation on causes suffering (victimization).

Also, Victimology has preventive significance, because it deals with detecting and eliminating all the causes that contribute to victimization, or the origin of the victims, and dealing with the consequences of primary and secondary victimization.

"It is believed (Ostroumov-Frank) that the social-psychological level is of great importance to the role of the theory of basic elements: status, position, role. Status of a victim of crime is determined by the total rights and duties, the scope of the injured in the framework of criminal proceedings, and beyond its limits as victims of a system of relations with other people. Degree of a victim to the peculiarities of behavior and relation ships among "injured, aggrieved", among them the so-called. onlookers along the way and, of course, the victim and the criminal, injured and judge, and others. Particular, it is important to take into account the role of the victim in the commission of the crime, which often expresses the status and position of the injured party".

Based on this brief explanation of the significance of victimology, is reflected in:

1 contribution in a more efficient and successful detection of offenders;

2 prevention or elimination of the causes of victimization;

3 dealing with the consequences of victimization.

Therefore, the objectives of which is trying to implement throughout its existence victimology are multiple and are reflected in:

- detection causes on victimization;
- exploration risk victims;
- testing and proving predisposition on victimization;
- testing phenomenological features of the relationship between the offender and the victim;
- prevention foundation of the victim;
- restitution consequences on crime-victim acts;

- easier detection of perpetrators;
- justice for victims

Therefore prof. Zvonimir Šeparović in his work, "Victimology: A Study of the victims," he concludes: "victimology as a science and practical activity (scientific and practical activities) about the suffering of the people, is a constitutive element of social protection. Victimology knowledge and help people self-protection, and the society from suffering, pointing out the phenomenon, forms, causes and prevention measures, removal and neutralization of the threat of suffering people".

Victimization is often individual phenomenon, but it can take and the extent of collective victimhood. "Victimization can also be primary and secondary.

I *primary victimization* (when a person becomes a victim of the offense);

- When a victim suffers or object on which the force manifests or violence.

II *secondary victimization* (inadequate - a negative reaction, or lack of appropriate response from the social environment, law enforcement agencies, courts and other services);

- Reliving "the trauma" or damage to the victim subsequently applied.

FIRST VICTIM – DEFINITIONAL AND CENCEPTUAL DEFINITION

The term includes not only the victims of crime victims, but the victims are considered as those who have been injured by the institutions of government, or labor organizations, as well as those who are victims of natural disasters or catastrophes. Social science that deals with the study of phenomena, the causes and solutions to the problems the victim or suffering people in the world victimology.

"The traditional criminology and victimology, depart from the legal definition of crime by heuristic formula: "One man violates a norm". According to Hans Gopinger the victim and the perpetrator are the subjects of the crime. Speaking on the contribution of the victims of crime, Hans von Hentig said: "The victim becomes a victim through the criminal actions of perpetrators, with their own behavior, the reaction of social control on the behavior of the offender and the victim, and the acceptance of the role of the victim. "Victimology, obviously, can serve the prevention of crimes and accidents. However, can not predict that a particular person will become a victim, but it is possible generally say that a certain type of person in a certain situation can become a victim".

"From the standpoint of Criminology/victimology science, the term victim is defined as the interaction of perpetrator and victim participation in the act of crime, with a particular situation, as well as favoring factor in the commission of the offense." The victim and the risk factors that are conducive to victimization are part of the special victimology (criminal), which draws heavily on criminology. Just the risks of becoming a victim are numerous, and are reduced to: biological, psychological, social and situational circumstances".

Biological factors are the age of the victim, sex-specific traits that are genetic. Psychological factors are the specific features or specific features of the mind-set of figures under which imply aggression, hatred, arrogance, suggestibility, pliability, backwardness and masochistic tendencies. The social factors we mean education level of general knowledge, the certainty of his own personality, and establishment indigenous creatures. "The position of human potential and actual victims of the legal system, as well as in our own, does not meet his human rights, notably the right to life, health and safety needs to be improved".

The risk of becoming a victim is composed of the following factors:

1 personal (biological and psychological) - age, sex, mental illness, aggression, restlessness,

mental limitations;

2 Social - profession, unfit, living outside the law;

3 situational (the circumstances of the case) ------ to Z. Separovic.

Thus, we can rightly say that the possibilities of victimization that is why many. The legal system must be designed so that justice is possible through the realization of justice, and by other state institutions, compensation, restitution and victim assistance.

Between international documents on the rights of victims of crime, characteristic the understanding contained in the United Nations Declaration of Basic Principles of Justice in relation to the victims of criminal offenses and victims of abuse of power done 1985 years.

This declaration means that the victim as victims criminal acts, also and Victims of human rights violations that are not prescribed as criminal act (victims of abuse of power) and regardless of whether the perpetrator is known, arrest, charged or fated, regardless of family ration between the victim and perpetrator, as well as any characteristics of the victim. Under the victim is understood, directly or indirectly, individually and collectively injured, as well as persons who are injured while to assist victim or while to prevent victimization. By its width defined in the Declaration on Principles of Justice for Victims of Crime and abuse of power, it is similarly definition of the World Victimology Society. This definition is included in proposal on Convention for justice and boost on victims of criminal acts and abuse of power. The only difference is the fact that the draft Convention emphasizes that the concept of included victims and victims of terrorism and human trafficking. This definition is part of the EU Framework Decision on the standing of victims in criminal proceedings (2001). According to the Declaration, the person may be considered a victim regardless of whether the offender is identified, apprehended, prosecuted or convicted and regardless of the possible family ties between the offender and the victim. Provisions of the Declaration apply to all victims, regardless of their personal characteristics, such as race, color, sex, age, language, religion, nationality, political or other opinion, beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Declaration of Fundamental Rights of victims of crime and abuse of power, which was adopted by the UN General Assembly in 1985, adopts a three-term victim:

- victims of conventional crime;
- victims of abuse of power within national jurisdictions that are not foreseen in the Criminal and civil law;
- of these forms of suffering and sacrifices that include people who are affected in different ways by violating the norms of international criminal law.

TYPOLOGY OF VICTIMS

The victim is always someone, a person or organization, moral or public order, that is some act or omission compromised, damaged or destroyed. In criminal law, the victim is considered as a person whose personal or property right are violated or endangered by a criminal offense.

Mendelsohn believes the victim and one of the natural disasters, but in the concept represented by the

lonely. "In our opinion, the victim should be seen as people who are vulnerable, injured or destroyed by any act or omission of another (human or some structure, organization, or institution) and that the victims believe those who were killed or threatened any criminal offense (ie not only the offense but and other criminal activities such as offenses, economic offenses, violation of duty) or accident (accidents, traffic, household, etc..). "he's doing it all legislation must suffer change, because the victim in the criminal law to now defined as "injured" or "injured party", and the development of victimology indicates the possibility of influencing the victims of the criminal and the crime. was also no difference between the victims as individual phenomena and abstract victim, it is not clear classification of victims and therefore many legal systems seems slow or unjust in the realization of justice for victims.

In most cases, the victim is viewed as a criminal act of another person or group or organization. So, the victim is unthinkable without crime, and vice versa, no crime without victims.

Victims are generally divided into:

1. Victims of Crime

2.Victims of abuse of power, force, authorities.

Also a distinguish between:

1.Individual victims and

2.Collective victims.

According to a source of suffering victims can be divided into four categories:

- Victims of crimes,
- Victims of an accident,
- Victims of natural disasters
- abstract victims.

In the previous researches of victimology are offered numerous typologies or classification of the victims, but we will take this time to look back only to typology by Henting, Mendelsohn, Fattah and Sheparovic.

The victimology factors along with the complementarity of personality cause a person to become a victim. The offender and the victim, in this way are completely independent and stand as independent phenomena side by side.

The type of the victim is a complex of several interconnected, very close and similar features, with identical or analogous features. The type dictates the profile of victim. Hereinafter, will be included some of the typologies that were found by the representatives of victimology.

I. Typology according to Hans von Hentig (1948)

- Boys,

- Women

- The elderly,

- Mentally ill and the injured,

- Settlers,

- Minorities,

- Stupid, normal,

- Depressed,

- Lusty,

- Loners,

- Mentally very broken people.

II Mendelsohn typology (1956) according to the degree of guilt of the victim

- A completely innocent victim is the ideal victim;

- The victim of a slight curve and the victim on the basis of unconsciousness;

- Victim equivalent to blame as the perpetrator;

- Type of a victim who is more to blame than the perpetrator (provoking and careless victim);

- The exclusive fault of the victim.

III Typology according to Ezzas Fattah(1967)

1.Victim who does not participate (with two features: 1. ignoring and distasting for work and 2.deficient contribution acts in violation of law);

2.latent or predispose victim;

3. provoking victim

4.victim of the participating;

5.wrong victim.

IV classification of victims according SEPAROVIC:

1. Willing, befitting or voluntary victim;

2.Unknown victim;

3.Reckless or negligent victim;

4.Simulating victim;

5.Victim of the attempted crime.

Further in the work, will be presented categorization of victims according to the conclusions of the Committee on prevention of crime and the treatment of the offender to:

1.Victims of conventional crime;

2.Victims of crimes of violence against people;

3.Victims of abuse of power (economic and political);

4.Victims of organized crime;

5.Victims of discrimination;

6.Victim to exploitation.

Towards a holistic and inclusive approach to the understanding of the term victim

The discrepancy between the criminal legal recognition of a small number of victims and the large number of victims who never get legal status of victim, basically reflects the tension that follows the overall development of Victimology. The tension that exists between legal and wider social understanding of the term victim may be lead with the existence of two key ideologies that have shaped the movement for the rights of victims since its creation in middle 1960 to the present (Elias, 1993; Goodey, 2005; Spalek, 2006). On one hand is the instrumental and retribution ideology, which care for the victims is only a tool to fight against crime (rhetoric "order and peace"). In other words, care for victims comes down to care for victims who appear in criminal proceedings, while the rights of victims, primarily bound to punish the enforcement agent. The ideology of social protection attends to the needs and interests of victims independent of whether they appear in a criminal case or not (Sheparovich, 1985).The retribution ideology binds the conservative the political fractions, while the ideology of social protection is inherent in progressive parts of the movements for the rights of victims, such as the women's movement and the movement for the rights of children. The dominance of one or another ideology in different ways influenced the development of the rights of victims in different countries. The care for victims with their putting in the function on combating crime, before the needs and interests of the victims themselves, particularly evident in the new time tied to victims of human trafficking (Goodey, 2004; Nikolić –Ristanović, 2010). Unfortunately, since 1980, with the new expansion of neoliberalism and conservatism, especially after mass victimization in armed conflicts and terrorist attacks in the US and Europe in early 2000, instrumental of victims and the restriction of human rights of the accused, but and all other citizens, in order to control crime, it becomes a global trend.

Bearing in mind the consequences of selective inclusion or exclusion of persons who suffer the consequences of the behavior of the term victim, is determined the need for necessary review of comprehensive PIM victim, which will include all people who are in any manner harmed or threatened of crime (whether it applied and whether it is related to platoon criminal procedure) through a war or other forms of suffering, and who need help. In other words, it is considered very serious consideration based on assignment to promote the widest fixing of the notion victim that of the very start of development of Victimology, it is proposed by one of its pioneers, Benjamin Mendelsohn (1956). This term should cover the victims of all forms of crime, including the crime of the elite in power, the states, corporation, discrimination and human rights violations, all victims of war and victims of elementary disasters and similar events. The new "victimization", which even in 1980 advocated Elias, encompassing all or as

many victims may become (applied) science, driven not by the interests of law and order and politics, but with progressive democratic purposes and social changes. (Elias, 1986).

Some new researches and practical initiatives, confirm the accuracy of the path. Dutch follower on victimology, of the younger generation, Pemberton (2010), for example based on the results of their research, highlights that psychological consequences of victimization and problems related to the recovery, is what connects the victims of crime with other victims of suffering. In this regard for example there is greater similarity between the victims of natural disasters and individual forms of crime (eg between victims of traffic criminal acts and victims of the earthquake) than between the victims of different types of crime (for example between the victims of pick-pocketing and rape).

Accepting the widest understanding of the notion of victims, would have significant consequences on improving the total position of all victims. That improvement should be achieved in the following ways: by adopting a general legal regulation, which should refer to all who have been injured or damaged and that would ensure recognition of the equal rights of all victims; enabling access to assistance and protection to all victims without discrimination, including support for exit from the victim role, giving greater importance of psychosocial assistance to victims, instead of focusing on victim assistance in connection with uncertain criminal proceedings ; adoption of minimum standards in the treatment with all victims. Finally it is necessary to work on the replacement of the term victim with adequate term that would encourage injured people to seek help and also to contribute to the removal of stereotypes about the ideal victim, and also potentially to reduce the political and medium abuse of victims.

PERSONALLY DETERMINATION OF TERM VICTIM

Personal determination of term victim refers to the determination of the person who is injured or damaged.

The injured person who perceives itself as a victim can have a double relationship in view of social and legal recognition the status victim. The person may itself be viewed victimized and to strive for achieving victim status, expecting that this way they will satisfy the needs that occurred with victimization and that way they will get their rights and justice for themselves.

Her only recognition as a victim may be in line with broader social recognition in that way, but it can be independent.

On the other hand, it happens the victim herself to be considered as injured person, However does not want recognition of the status of victim. In this situation, the victim believes that there will be more harm than benefit from this (with stereotypes that bind to the notion victim - passivity, helplessness) as well as with origin, racial, ethnic and classic identity.

This is characteristic towards the victims of family violence, victims of corporate crime, victims of human trafficking and smuggling of people.

SOCIAL FIXING OF THE TERM VICTIM

Famous Italian follower on victimology , Emilio Viana, in 1989 perceived existence of four stages in the

process of the social recognition of victim status. This process begins with damage suffered, with the injury or with pain (this is the first phase of the process). The second phase is a personal recognition of victimization and viewing herself as victim. The third phase is claim for recognition of the status and role of victim of other, and the fourth is getting social recognition and support. Getting social recognition of victim status, or the realization of certain rights and getting help and protection, depends on many factors. This influence broad historical, social and cultural processes and relations in these processes towards human activities, such as crime, mass suffering, war, etc. The social construction of the term victim is under the influence of legal and political fixing of the term victim, as well as the balance of power between the sexes. These determinations, further transfer to the moral attitudes, mediums, institutional values, public opinion and everyday behavior.

The legal fixing of the term victim, primarily binds to the provisions contained in national laws and their application in practice. National legislation under victim (in Republic of Macedonia is used the term damaged) basically determines the physical and legal persons directly and indirectly harmed by the actions (by act or omission, with cost or omissions) as crimes.

In Republic of Macedonia, according to the new provisions of the LCP under victim of a criminal act is any person who has suffered harm, including physical or mental injury, emotional suffering, material loss or other injury or endangerment of their rights and interests as a result of a crime. Damaged, despite the victim, is another person whose personal or property right is harmed or threatened with criminal act and what besides the general fixing of the notion victim - ie damaged, there are specific determinations that are contained in the incrimination of certain criminal acts, which are usually recognizable in the sense of creating the basis for the exercise of certain rights, such as protection, services for the victim service etc. Contemporary Criminal Law incriminate whole range of criminal acts, including victims of crime tied to white collars, victims of gender based violence, genocide, crimes against humanity, war crimes, terrorism and organized crime.

CONCLUSION

Victimology is international science of all kinds of suffering, and thus victims, then the causes of victimization, the circumstances under which the process takes place victimization, consequences of victimization and rights, and justice for the victims.

Different understandings of the notion victim, from the aspect of width in coverage of different victims, there are from the beginning of the development of Victimology and ranged from closest definitions that are covered only natural persons - immediate victims of criminal behaviors that are prescribed as a crime to widest that encompassing (direct and indirect) victims of crime, human rights violations and natural disasters. The overall development of Victimology marked the debate over the width in determining of the notion victim, which is often associated with the width of its subject, but also with the width of the recognition of various rights to different categories of people in different ways to suffer the consequences of harmful behaviors. Even in the first decades of the development of Victimology, selective recognition of the victim was criticized as service of the narrower political interests. It is stressed that at the base of it stands getting political points by combating crime and stricter the penal policy, not social and humanitarian response to the needs of people who suffer (ELIAS, 1986).

With expansion of the massive violations of human rights, including those who are made through

humanitarian interventions, introduction of democracy and the fight against terrorism (Nikolic - Ristanovic, 2008; Butler, 2004) and major natural disasters (with and without a responsible human factor), this topic becomes a concern to the scientific and professional community.

Interest to the victim by the media and the presence (directly or indirectly) to the victim in the public space, is on the rise in recent years, both in here and in the world. It can be concluded that some victims rarely or never become visible and recognized as such. That asks the question: What victims are socially visible and which are not, why is that so and what are the consequences? It is necessary to identify the factors that affect the selective recognition of victim and coming to a proposal for a way to overcome the negative effects, selective social recognition and acceptance of people who need help because of the consequences of certain behaviors or certain events.

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PREGLEDNI NAUČNI RAD

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7. POTUPANJE SA ŽRTVAMA TRGOVINE LJUDIMA

Sažetak

Trgovanja ljudima smatra se jednim od najozbiljnijih kršenja ljudskih prava, dostojanstva i integriteta naroda. Trgovina ljudima je zapravo moderni oblik trgovine robljem koji su postojali u prošlosti. Žrtve su danas prisiljene na prostituciju i druge oblike seksualnog iskorištavanja, prisilni rad, ropstvo, i vađenje organa. Prepoznajući ogromne negativne implikacije ove vrste kriminaliteta o ljudskim pravima, međunarodna zajednica, kako bi se suprotstavila, prakticira razne mehanizme koji su utemeljeni prvenstveno u međunarodnim konvencijama, a što podrazumjeva suradnje na međunarodnoj i lokalnoj razini tijela nadležnih za sprječavanje i suzbijanje ovih zločina. To su mjere i aktivnosti za koje su vlasti pravnu sposobnost da ih, u slučaju trgovine ljudima, a koji značajno određuju ishod cijelog procesa. To se posebno odnosi na žrtvama ovog teškog vrste kriminala koji se rukuje s posebnim oprezom, prije svega kako bi se izbjeglo njihovo sekundarne viktimizacije i njihovu zaštitu od utjecaja tijekom sudskog postupka, ali i nakon njegovog završetka, omogućujući njihovo puno i učinkovito reintegraciju.

Ključne riječi : liječenje, žrtve, trgovina ljudima.

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TREATMENT OF VICTIMS OF HUMAN TRAFFICKING

Abstract

Human trafficking is considered as one of the most serious violations of human rights, the dignity and integrity of the people. Human trafficking actually is a modern form of slave trade that existed in the past. Today victims are forced on prostitution and other forms of sexual exploitation, forced labor, slavery, and extracting organs.

Recognizing the huge negative implications of this type of crime on human rights, the international community, in order to oppose, practices various mechanisms that are based primarily in the international conventions, and which mean cooperation at international and local level of the authorities responsible for dealing with this crime. That are measures and activities for which the authorities are legally competent to take them, in case of human trafficking, and which significantly determine the outcome of the whole process. This especially refers to the victims of this difficult type of crime that are handled with special caution, primarily to avoid their secondary victimization, and their protection from impacts during the court procedure, but also after its end, allowing their full and effective reintegration.

Keywords: treatment, victims, human trafficking.

TERM OF HUMAN TRAFFICKING

The period of transition, as a period of social change which perform changes in many spheres of the social life undoubtedly influenced on the crime, with creating new unconventional forms of criminal. Among them, the biggest swing took the organized crime, a crime that knows no geographical limits of nature, and that especially suits the open market of the countries in transition.

The human trafficking is one of the most difficult injuries of fundamental human rights and freedoms and a negative world phenomenon particularly present in undeveloped or less developed countries impoverished by war or transition, where the institutions are not functioning in accordance with the legally prescribed responsibilities, primarily due to the high level of corruption and developed forms of organized crime. For this phenomenon we can speak from two aspects:

- from the aspect of human rights violations;

- from the aspect of the fight against the organized crime.

Art. 3 of the UN Protocol (known as the Palermo Protocol) to prevent, suppress and punish trafficking in persons especially women and children, provides that: "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The criminal - legal projection in the Republic of Macedonia of this unlawful conduct arising from the signing of the Palermo Protocol with the inclusion of Article 418 in the Criminal Code of the Republic of Macedonia entitled "Human trafficking" says:

(1) A person who by force, serious threat, misleading or other forms of coercion, abduction, fraud, abuse of position or a position of pregnancy, weakness, physical or mental disability of another, or by giving or receiving money or other benefits to achieve the consent of a person having control over another person, or otherwise recruits, transports, transfers, buys, sells, harbors or accepts persons for the purpose of exploitation through prostitution or other forms of sexual exploitation, forced labor or servitude, slavery, forced marriages, forced fertilization, illegal adoption or similar relationship or illicit transplantation of human body parts, will be punished with imprisonment of at least four years.

(2) A person who takes or destroys an identity card, passport or someone else's identification document for committing the offense under paragraph (1) of this article will be punished with imprisonment of at least four years.

(3) A person who uses or allows another to use sexual services or other exploitation of persons who knew or was obliged to know that is a victim of trafficking will be punished with imprisonment from six months to five years.

(4) If the offense from paragraphs 1,2 and 3 of this Article is committed by an official person while performing official duties, it will be punished with imprisonment of at least 8 years.

(5) The consent of the victim of human trafficking to the intended exploitation in paragraph 1 won't be of importance for the existence of the crime of paragraph 1.

(6) If the crime from paragraph 1 is committed by a legal person, it will be punished with a money penalty.

(7) Real property, items and the vehicles used for committing the crime will be confiscated.

VICTIMS OF HUMAN TRAFFICKING

What initially must be noted when it comes to victims of trafficking is the lack of a "unified" profile of the victim who absolve all the features that the victim possess. But surveys have shown that the potential victim often has the following characteristics:

- The potential victims are aged between 18 and 30 years, but the lower age limit is constantly decreasing.

- The potential victims are commonly recruited from small rural environments or medium-sized cities in poor regions.

- The potential victims are mostly unemployed and poor people.

- The potential victims are people with low education and very rarely speak foreign languages, but this is not a rule because you can meet well educated and even victims who have high education.

TREATMENT OF VICTIMS OF HUMAN TRAFFICKING

Authorized officials usually come into contact with victims of trafficking in three ways: through criminal charges of the victims who succeed to run away from the place where they were involuntary accommodated and exploited, through organized actions of police (rarely in routine controls), and through notification from diplomatic and consular missions of their countries in the Republic of Macedonia.

Treatment with any (potential) victim of human trafficking requires extreme care in handling, primarily because of the enormous torture that these people suffered in all stages of the trade. If it is obvious that the person is in a specific physical position, preferably is to talk first with psychologist and then with an official. Desirable is, first of all to place the person on location where it will be safe and take a break if it is necessary, and then proceed with the examination.

The information that should be obtained from the person are of different nature, but usually it's began with disclosure of the identity of the victim through its personal data or presentation of any identification document. Of particular importance is to discover the relationship that the victim has with the carrier /

potential trader i.e. how they have met, how long they know each other, in what relationships they are (friendly, love, family...). Particular attention is paid to the conditions under which the victim was promised work, i.e. how she was recruited, where the experienced criminalist can recognize elements of recruiting, even if the victim is unaware that became a victim of trafficking. This is in cases where she is in a kind of "debt relationship" with the carrier (due to inability to pay, the carrier and promises that she will be able to do after starting of work placement) or in cases when the accommodation or shipping need to be paid later. The contact with the closest can be a strong indicator whether the person is a victim of human trafficking. If the victim declares that is not acquainted with the details about the job that has to work or have already worked, as well as ordered it will be obvious that it comes to human trafficking.

The assessment of the authorized officials acting upon the obtained information should always be created primarily to protect the safety of the victim.

It is especially important the person to be treated professionally and with full respect for human dignity and integrity. The unprofessional attitude can lead to inability to obtain basic information, which are particularly valuable because they come from a person directly involved in the criminal environment, but above all to secondary victimization of the person.

The person must be placed in the Transit Centre for Foreigners in Skopje, in which are accommodated persons identified as victims of human trafficking by the Ministry of Interior who stay in it until their voluntary return to their countries, through the International Association for Migration and the Border police, and the Department of organized Crime and Non-governmental Organizations (NGO).

BASIC RIGHTS AND OBLIGATIONS OF INSTITUTIONS INVOLVED IN PROVIDING HELP OF VICTIMS OF HUMAN TRAFFICKING

The transit center for foreigners has responsibilities in providing ongoing care and care by the medical team, but also from the NGO representatives specially trained to provide appropriate and professional post - traumatic, social - reintegrative, psychosocial support, and ensuring free legal aid.

The Ministry of Interior has responsibilities related to identifying of the potential victims and ensuring their wellbeing and protection, but also in coordination with the competent authorities, social services (if the victim is a child), relevant authorities in the Ministry (Department for Organized Crime, Department for Foreigners etc.). Ministry manages the Transit Centre for Foreigners and is responsible for the overall security of the same.

International Organization for Migration (IOM) has responsibilities that mainly refer to the assistance of the victims after their identification as such.

And perfectly set responsibilities won’t achieve the objective if they are not well coordinated. The task of coordination in the Republic of Macedonia has the Ministry of Interior, which coordinates the members of the Ministry of Interior, Ministry of Labour and Social Policy, International Association for Migration (IOM) and NGOs.

4. CONCLUSION

Human trafficking as a form of organized crime, perhaps has the most difficult consequences for the person who become a victim of this type of organized crime. Seen from a psychological point of view, the consequences for the victims of this type of organized crime, leave a lasting mark on their psycho-physical health in their further life, making the process of re-socialization very difficult. We can conclude that the fight against this scourge of modern times, in our country is not on satisfactory level, for what speaks the fact that the Republic is Macedonia is transit destination of the victims of human trafficking and the huge number of migrants who in the search existence often end up as victims of this type of organized crime. As a main reason for this appears the insufficient functionality of the institutions, the freshest example of this is the large number of migrants from nearby Eastern countries, mostly from Afghanistan, which as we see, free and smooth transit through the territory of the Republic of Macedonia, mostly not located and accepted by law enforcement authorities.

This points to the need for continuous improvement of knowledge and skills of persons responsible for combating this phenomenon, and the need to invest in improving conditions, primarily for security on our borders, as well as the services, and finally of the capacity for accommodation and treatment of victims of this type of organized crime.

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