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ROLI I FAMILJES NË JETËN E FËMIJËS

УЛОГАТА НА СЕМЕЈСТВОТО ВО ЖИВОТОТ НА ДЕТЕТО

THE ROLE OF THE FAMILY IN THE CHILD'S LIFE

Abstract

The family, as a social community, is one of the most important factors in the development and formation of a child's personality. As a special social institution, the family has multiple functions and duties in the formation, education, upbringing, development, and affirmation of its members, especially children and young people.

The family is the parents, or guardian of the child, blood relatives in the direct line, brother, sister, spouse, as well as other persons with whom the child lives in a joint family.

According to the Convention on the *Rights of the Child*, a child is defined as all human beings under the age of eighteen, except in cases where national laws recognise an earlier age of majority.

In the preamble and in articles 5, 10 and 18, the Convention on the Rights of the Child specifically refers to the family as the fundamental group of society and as the natural environment for the upbringing and well-being of its members, especially children.

Keywords: *family, children, education*

Introduction

The family and family life represent the first step in the education and development of the personality of the minor; therefore, it is necessary and in the social interest to provide assistance to the family

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in carrying out its function, in providing assistance and in educating the younger generations.

Throughout history, the family has undergone great changes, changes which are especially pronounced today. Families as an institution have been and are quite dynamic, which is reflected primarily by the type of family, such as family size, family history, mode of functioning, etc.

In family relations, according to the law, there are specific obligations between family members, including financial support, food, education, and upbringing. Financial support is required only between close family members. Therefore, according to the law, relatives are obliged to support their children. This obligation refers to a child, a person who has not reached the age of eighteen (18). This means that any person under the age of 18, who, according to the Convention on the Rights of the Child, is considered a minor, and in our juvenile justice code the same legal formulation is provided.

1. Definition of child

The Convention on the *Rights of the Child* defines a child as all human beings under the age of eighteen years, except in cases where national laws recognise an earlier age of majority.

The purpose of the Juvenile Justice Code of the Republic of Kosovo² is that within the criminal procedure, a measure or sentence is imposed against juveniles, as persons committing a criminal act, ensuring achievement of his best interest, or that such juvenile's interest is achieved without carrying out the criminal procedure against him/her, respectively by suspending of the proceeding initiated against the juvenile when the reasons require so, and when such non-prosecution of the juvenile or such suspension of proceedings against him/her may be conditioned with fulfilment of certain liabilities by the juvenile.

Definitions, some of the expressions used in the juvenile justice code have these meanings:³

Juvenile- a person between the ages of fourteen (14) and eighteen (18) years, this age is determined because every action of a minor at this age carries criminal liability;

² Neni 1 i Kodit për drejtësinë për të mitur të R. së Kosovës.

³ Ibidem.

Young juvenile- a person between the ages of fourteen (14) and sixteen (16) years old. According to the Juvenile Justice Code, there is a division for 14-18-year-olds and then another division for 14-16-year-olds. A young juvenile is a juvenile who, at the time of committing the act that is legally considered a criminal offence, has reached the age of fourteen but has not yet reached the age of sixteen. At this age, persons are still in the psycho-physical development phase, and criminal responsibility is still questionable. Consequently, the division aims to differentiate the sanctioning of juveniles as perpetrators of criminal offences between the ages of 14 and 16.

Adult juvenile- A person between the ages of sixteen (16) and eighteen (18) is a minor who, at the time of committing an act that is considered a criminal offence by law, punishable by a fine or imprisonment of up to three years or a misdemeanour, has reached the age of sixteen but has not reached the age of eighteen or is addicted to drugs, psychotropic substances or alcohol. A minor with developmental disabilities and a minor abandoned in terms of education and social care who is in a situation in which the realisation of the educational function of the family is difficult or impossible, which, due to such circumstances, is or may be in conflict with the law; A person at this age, according to the Juvenile Justice Code, has a greater responsibility even though they are still in psycho-physical development, and if we look at the Juvenile Justice Code and the Criminal Code of Kosovo, these age groups have more severe sanctions than the above-mentioned age groups.

Adult - a person who has reached the age of eighteen (18) years.

The same terms for minors are encountered in the Law on Juvenile Justice of the Republic of North Macedonia.

According to Article 19 of the Law on Children's Rights⁴ the expressions and notions used in this law have the following meaning:

- **A child** is defined as any person who is under the age of 18.

- **A child at risk** is defined as any child who has reached the age of **seven** but has not reached the age of 18 who has a physical or mental disability, is a victim of domestic violence, is uneducated and socially disadvantaged, is unable to fulfil the educational responsibilities of parents or guardians, is not enrolled in the educational system, is addicted to begging or prostitution, uses drugs or other psychotropic substances or alcohol, and may come into contact with the law as a victim

⁴ Ligjit mbi të drejtat e fëmijëve i R. së Maqedonisë, (Gazeta zyrtare nr.143, viti 2013)

or witness of an act classified as a misdemeanour or criminal offence due to these conditions.

- **A child at risk**, up to 14 years of age, is considered any child who, at the time of committing an act that is defined by law as a criminal offence for which a fine or imprisonment of over three years is provided, or an act that is defined by law as a misdemeanour if he has reached the age of seven but has not reached the age of 14.

- **A child victim** is considered any child up to 18 years of age who has suffered injuries, including physical and mental, emotional suffering, material loss or other damage, or endangerment of rights as a result of the consequences of committing acts that are defined by law as a criminal offence.

Whereas, according to the Code on Criminal Justice for Juveniles in the Republic of Albania⁵ the following terms have the following meanings:

Juvenile- is any person under the age of 18.

A juvenile in conflict with the law - is any person who has reached the age of criminal responsibility under the age of 18, against whom there is a reasonable suspicion of having committed a criminal offence, who has been taken as a defendant and/or who has been convicted by a final court decision for committing a criminal offence.

Juvenile victim - is any person under the age of 18 to whom moral, physical or material damage has been caused as a result of a criminal offence.

Best interest of the child - means the right of the child to have a healthy physical, mental, moral, spiritual, and social development, as well as to enjoy a family and social life appropriate for the child.

2. The role of the family in the education of children

The family has a special importance in the formation and education of children's personalities. In many cases, the family circle has many negative influences; this is not only the case of broken or separated families but also of complete ones in which relationships are unstable and not healthy⁶.

⁵ Neni.3, Kodi i drejtësisë penale për të mitur, janar, 2018, R. e Shqipërisë.

⁶ Vesel Latifi, Kriminialistika e delikuençës së të miturve, Prishtinë, 1982, pg. 77.

Family- are the parents or guardians of the child, blood relatives in the direct line, brother, sister, spouse, as well as other persons with whom the child lives in a joint family.⁷

Every child has the undeniable right to life, and all possible measures should be taken to ensure the survival and development of the child.⁸ Children have the right to live with their parents except in cases where it is impossible to live with them. Every child has the right to live with a family that cares for them.⁹

Parents have the obligation to educate their children. The education of the child aims to:¹⁰ develop the full potential of the child's personality, gifts and mental and physical abilities and prepare the child for a responsible life in a free society, in the spirit of understanding, peace, tolerance and equality among all peoples, ethnic groups, and national and religious groups.

In the preamble and in articles 5, 10 and 18, the Convention on the Rights of the Child refers specifically to the family as the fundamental group of society and the natural environment for the upbringing and well-being of its members, particularly children. States are obliged to respect the primary responsibility of parents for the care and guidance of their children and to support them by providing them with general support.¹¹ States parties respect the responsibilities, rights and duties of parents or, where appropriate, members of the extended family, legal guardians or other persons legally responsible for children, to ensure to the child, in accordance with the evolving capacities of the child, appropriate direction and guidance in the exercise of the rights recognised in the present Convention (Article 5).

2.1 The rights of the child

The family and family life represent the first step in the education and development of the personality of the minor; therefore, it is necessary and in the social interest to provide assistance to the family in carrying out its function.¹²

⁷ Article 19, të Ligjit mbi të drejtat e fëmijëve i R. së Maqedonisë së Veriut.

⁸ Ibidem, Article 6.

⁹ Ibidem, Article 9.

¹⁰ Article 29, i Konventës për të drejtat e fëmijëve.

¹¹ Ismail Zejneli, *Delikuenca e të miturve*, Tetovë/Prishtinë, 2018, pg. 149.

¹² Ibidem, pg. 154.

The Constitution of Kosovo, in Article 50, guarantees the rights of children, as follows: Children enjoy the right to protection and care necessary for their wellbeing, children born out of wedlock have equal rights to those born in marriage, every child enjoys the right to be protected from violence, maltreatment and exploitation. Later, in paragraph 4 it is guaranteed that all actions undertaken by public or private authorities concerning children shall be in the best interest of the children. Whereas in paragraph 5 it is foreseen that every child enjoys the right to regular personal relations and direct contact with parents, unless a competent institution determines that this is in contradiction with the best interest of the child.

Meanwhile, the 1996 Hague Convention on the Protection of Children aims to ensure international cooperation in the protection of children across borders, particularly in cases involving parental responsibility, guardianship and placement of children. However, it was signed in 2019 but has not yet been ratified.¹³ Similarly, the 2007 Hague Convention on Child Support and its Protocol on Applicable Law, which set out cross-border procedures for securing financial support for children, were also signed in 2019 but remain unratified.¹⁴

Children's rights must be respected at all times, with a focus on upholding the best interests of the child.¹⁵ Institutions should not use discriminatory or degrading language in any way. The following principles should be applied in institutions' communications with children:¹⁶

- The dignity¹⁷- of the child must be preserved at all times, and the language used must not degrade, victimise or embarrass the child.

- Accuracy¹⁸- the portrayal of children must not be manipulated or sensitive in any way. Images and stories must provide a balanced depiction of the child's life and circumstances, showing the progress that children make.

- Privacy¹⁹- any information that could be used to identify a child or to put them at risk should not be used. Information about children and photographs of children will be kept in secure files, including information stored on computers.

¹³ Raport analitik mbi të drejtat e fëmijës, Shkup, 2025, pg. 5.

¹⁴ Ibidem.

¹⁵ Politika për mbrojtjen e fëmijës –Qendra për arsim e Kosovës, Shkurt, 2024, pg. 12.

¹⁶ Ibidem.

¹⁷ Ibidem.

¹⁸ Ibidem.

¹⁹ Ibidem.

Thus, regarding the protection of children in Kosovo, the Independent Media Commission has approved the Regulation on the Protection of Children and Minors in Audio-visual Media Services.²⁰ The regulation aims to protect children and minors from content in programmes that negatively affect their physical, mental and moral development or reveal their identity. The regulation also determines the manner of categorisation, signalling and broadcasting time of programmes that negatively affect the physical, mental, emotional and moral development of children and minors.

Due regard shall be paid to the dignity of children and minors who are part of or involved in programmes. This rule shall apply regardless of any consent given by a parent, guardian or other person over the age of eighteen who represents the minor.²¹ The publication of information that reveals the identity of a child under the age of 18 involved in cases of any violence, regardless of the child's status as a witness, victim or perpetrator of a crime, or in cases of attempted suicide or suicide, as well as the presentation of details of a child's family affairs or private life, shall not be permitted.

A child temporarily or permanently deprived of his or her family environment, or where it is not in his or her best interests to remain in that environment, shall have the right to protection and assistance, including from the State. (Article 20 of the Convention on the Rights of the Child).

3. Obligations of parents

The family as a social community has multiple duties and functions when it comes to minors regarding their formation and development. In addition to material security and other objective conditions of the minor's life, the family is also presented as one of the primary groups where the process of education and socialisation of minors is carried out.²² The family and healthy family relationships are fundamental prerequisites for a successful new generation and for a stable society, with a secure perspective for the future.

²⁰ Rregullorja për mbrojtjen e fëmijëve dhe të miturve në shërbimet mediale audio-vizuale, Article 1.

²¹ Ibidem, Article 4.

²² Ismail Zejneli, *Delikuenca e të miturve*, Tetovë/Prishtinë, 2018, pg. 84, vep,cit.

The Family Code of the Republic of Albania, in Article 27, provides for the responsibility of parents to ensure the necessary living conditions for the development of the child, within the limits of their financial capabilities and means, and is primarily the responsibility of the parent or parents or other persons responsible for raising the child. Parents or family members have responsibilities and duties for the child, to give him/her appropriate guidance and direction for the exercise of the rights recognised by the Convention on the Rights of the Child.²³

The relationships in a family shall be based on equality, mutual respect, mutual assistance and sustenance and protection of the interests of the minor children (Article 3 of the Law on Family of the Republic of Macedonia)

The Family Law does not contain a complete definition of the institution of maintenance, but it defines it as the right and obligation of family members and other relatives to provide mutual protection.²⁴ Based on the legal definition, maintenance is a legal obligation of parents, children and other relatives. A special problem in terms of the education and formation of minors is presented by the so-called degraded, destroyed and disordered families. These families and their minor members have some actions and behaviours that violate the moral and social norms of the given environment. Usually in these families, alcohol is consumed, drugs are used, prostitution is present, gambling is played as a profession, etc. Therefore, in criminological literature, families that deal with gambling, such as family environments, are considered a powerful criminogenic factor.²⁵

4. The principle of non- discrimination

Family relations in modern times have taken on a different dimension compared to the old law.²⁶ These relations are based on higher principles of respect for human rights guaranteed by international acts and positive laws. For family relations, it is worth mentioning the following principles: the principle of equality between family members,

²³ Neni 5, i Konventës për të drejtat e fëmijëve.

²⁴ Emine Zendeli&Arta Selmani Bakiu dhe të tjerë, E drejta familjare, Tetovë, 2020, pg. 325.

²⁵ Ragip Halili, Kriminologjia, Prishtinë, 2000, pg. 259.

²⁶ Abdulla Aliu& Haxhi Gashi, E drejta familjare, Prishtinë, 2022, pg. 52.

the principle of gender equality, the principle of social protection of the family, the protection of children, etc.²⁷

The rights outlined in the Code on the Rights of the Child include every child, without any distinction, regardless of race, colour, sex, language, religion, political or any other opinion, national, ethnic or social origin, property, disability, family background or any other status of the child or his parents.²⁸

Article 11 of the Criminal Justice Code for Juveniles of the Republic of Albania also guarantees the rights without any discrimination to any minor in conflict with the law, victim or witness, regardless of gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, educational or social status, pregnancy, parental affiliation, parental responsibility, family or marital status, civil status, residence, or health status.²⁹

At the European level, the European Convention on Human Rights (hereinafter referred to as the ECHR) is considered an act of particular importance for the protection of human rights and family rights.³⁰ This convention protects human rights (the right to life, the prohibition of torture and cruel, inhuman and degrading treatment, the right to liberty and security of person, the right to a fair and impartial public hearing, the right to respect for private and family life, the right to effective remedies, and the prohibition of discrimination), which are also reflected in gender equality for these rights.

Conclusion

Families as an institution today are very dynamic, compared to families throughout history. This continuous dynamic is dictated by the way of life and overall social development.

The education and formation of children are the primary obligation of every family, regardless of its historical development, its way of organisation, profession, the number of members that make up the family or the bearer of power in the family.

Family relationships are based on equality, mutual respect, assistance and the obligation for mutual nourishment and protection of

²⁷ Ibidem.

²⁸ Neni 2, i Konventës për të drejtat e fëmijëve.

²⁹ Ismail Zejneli, *Delikuenca e të miturve*, Tetovë/Prishtinë, 2018, pg. 39.

³⁰ Haxhi Gashi *Komentari i Ligjit për Barazi Gjinore*, Prishtinë, 2017, pg. 25.

the interests of minor children. Therefore, children have the right to grow up in a safe environment and to enjoy protection.

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Literatura:

- Abdulla, Aliu, Gashi, Haxhi, E Drejta Familjare, Prishtinë, 2022
- Haxhi, Gashi, Komentari i Ligjit për barazi gjinore, Prishtinë, 2017
- Vesel Latifi, Kriminalistika e delikuencës së të miturve, Prishtinë, 1982
- Ragip Halili, Kriminologjia, Prishtinë, 2000,
- Ismail Zejneli, Delikuenca e të miturve, Tetovë/Prishtinë, 2018,
- Konventës për të drejtat e fëmijëve
- Kodit për drejtësinë për të mitur të R.së Kosovës,
- Ligjit mbi të drejtat e fëmijëve i R. së Maqedonisë, (Gazeta zyrtare nr.143, viti 2013)
- Kodi i drejtësisë penale për të mitur, janar, 2018, R. e Shqipërisë.
- Raport analitik mbi të drejtat e fëmijës, Shkup, 2025
- Politika për mbrojtjen e fëmijës - Qendra për arsim e Kosovës, Shkurt, 2024