



RESEARCHING SECURITY: APPROACHES, CONCEPTS AND POLICIES

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**МЕЃУНАРОДНА НАУЧНА КОНФЕРЕНЦИЈА**

**БЕЗБЕДНОСТА КАКО ПРЕДМЕТ НА  
ИСТРАЖУВАЊЕ - ПРИСТАПИ, КОНЦЕПТИ И  
ПОЛИТИКИ**

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**RISK FACTORS AND DEVIANCE RISK  
FACTORS AND DEVIANCE**



## **CORRUPTION AND MEDIA**

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### **Abstract**

Corruption as a phenomenon, today presents a serious danger on state law. This means that instead of rule of law and its legal norms govern individuals, guided by self interested purposes and in accordance with the interests. Corruption is contrary to the principle of the rule of law and poses a direct threat to democratic institutions and the moral foundations of society. The media play a huge role in the way of informing citizens about corruption, but also in discovering function. If we talk about unbiased media in order to objectively inform citizens about what happened on a democratic society, in this case a huge role of the media in shaping public opinion about the dangers of certain socially negative phenomena such as corruption, but also and the enormous role of the media in the same revealing function. The question for the viability and functioning of media beyond sorts influences their susceptibility to the influence of political parties, individuals, organized criminal groups, government institutions, etc. If the percentage of the subjectivity of the media is higher, the greater is the possibility of corruption through influence by individuals and groups for the perception of corruption in the public in a manner suitable to the customers and financiers of articles on corruption broadcast of the media. Partiality and biased journalism goes back in addition to furthering the interests of the customers who use corruption as one of the modalities for achieving your goals.

*Key words: corruption, media influences, partiality, informing*

## INTRODUCTION

*"Corrupt journalists are a danger to society as well as the corrupt politician or businessman. Through corrupt information, or through concealment, inflicts severe damage to public life, almost the same as that of bad politics"*

*Krsto Cvijic*

Today life modern's man cannot do without the presence of the information presented by mass media. Media always had its influences in creating public opinion of citizens. This paper asks several questions that we are trying to answer. What is the relationship of media and society? Are media accelerated, improved or set back the social change. How society reacts to the media? The way the media affect the creation of public opinion? What is the role of the media to create public opinion on corruption as a negative social phenomenon? What is the role of the media in the detection and prevention of corruption? Media and society is multifaceted and complex. Without free, independent and critical media it is unthinkable to develop democracy. Journalists express and indicate open and critical of any defects in the development of society in order to be corrected in a parliamentary democracy media corrective power. In the development of society continually shifted potential risks and hazards. As society evolved and evolved socially negative phenomena that threaten society. The main task of the seventh power to investigate phenomena related to the threats on social development and objectively inform citizens would have a realistic picture of the causes and factors that lead to the emergence and development of socially negative phenomena. The media is a very important ally in the timely detection of adverse events and highlighting the individuals or groups that support and hide them. The problem occurs when media objectively will present some information about the involvement of individuals in government who are involved in negative social phenomena. No one, especially not the ruling government wants to be criticized by the media, because thus soda involvements realistic picture of the individuals from the ruling government in the negative phenomena which creates public opinion that could have an impact in the wider constituency of the following elections to oust the criminal political structures. The media, in some way, performing the function of monitoring that warn society of the scheduled hazards. According Lasvel<sup>1</sup> media have a duty to explain and interpret the information society in order to understand that what is contained in them. So the media do not only simply conveying information but also explain how members of society understand what they speak. You can say to the media have a role as a corrective of power depending on their immunity to the impact of power on

them in addition to displaying objective reality. Thus seen their true role in the creation of objective truth about events in society includes social negative phenomena that destroy the system of society such as corruption. If individuals from institutions involved in negative social phenomena, on the other hand have an impact on the media, then the media can affect biased information or create a public opinion which is biased in favor of concealing their criminal activity.

## **THE INTERACTION BETWEEN MEDIA AND SOCIETY**

Relations in a society determine the relations of media and society. The media cannot observe us out nor over society. What will be the media depends on the society itself, or in other words, "what kind of society we are such media." The media in every society known as the Fourth Estate, they are very glam strength and can affect society and the individual. Society itself should provide conditions for journalists to act professionally, individually and independently, and achieving the impact of such notification is no longer the journalists but also other parts of the public and civil society. Journalists would definitely be a function of judges, prosecutors, police officers, they just need to perform their journalistic work that indicate what is happening, and the rest is the other social instruments.

Today it is known to the public communication is part of the cultural Industry and act towards the market laws, and their derivatives (newspapers, internet, TV, radio, books, movies, etc.) are key to create impressions, experiences and feelings that we prevent understanding of the world.<sup>2</sup> What citizens expect public-media is:<sup>3</sup>

- Informing citizens they could act;
- Highlighting the responsibility of citizens for corruption;
- Familiarize citizens with the consequences of corruption;
- Controlling government programs to tackle corruption;
- Preventive action: creating the environment in which corruption is not welcome

According to the same author one of the main features of modern media should be the transparency - media must be transparent and "free" of corruption. The ownership of the media, the methods of collecting information and journalistic ethics must be subject to public inspection, if you expect to believe their reports of corruption in society.



## **ANALYSIS OF THE RESULTS OF RESEARCH RELATED TO CORRUPTION AND MEDIA**

According to the indications of the European Union that success in dealing with corruption is one of the key conditions for entry into the European family. That's significant interest in the countries in transition, to effectively prevent, detect and fight corruption. It is not an isolated phenomenon which is unique to them. Daily are published worldwide about international corruption scandals, the involvement of politicians, media executive and administrative functions of the highest rank of the individual countries. The fight against organized crime and corruption recently placed high on the agenda of the Member States of the European Union, where the claim and the Republic of Macedonia. The School Safety Skopje third year corruption constitutes the subject matter of the research team determined in a survey of the perceptions of the citizens of the Republic of Macedonia for corruption. Scientific research team had in mind that in recent years, in the country underwent some organized activity of society to deal with various forms of corruption. Such activity affects Macedonia to improve its position on the ranking – list Transparency international. So in 2013 in Macedonia and Montenegro was ranked 67-th place with index 44, after Saudi Arabia and Jordan, especially Italy.<sup>4</sup> issues covered in the survey include more segments in the area of corruption, in particular for the way information about them, knowledge of what is corruption, perceptions of corruption and how we found out (models) for dealing with it and the role of media in exposing the corruption offenses. Interesting results of the survey indicate that the media are highly ranked by the opinions of citizens in the way of information and creating a perception of corruption as among their major role in the discovery and clarifying of corruption offenses. In the research are applied the analytical – synthetic method, the comparative, dogmatic and statistical method as instruments is used a written questionnaire. Covered 1210 respondents from across the territory of the Republic of Macedonia structured in 8 regions according to official territorial division.

One of the main questions that were asked to citizens is: *a way of informing citizens about corruption.*

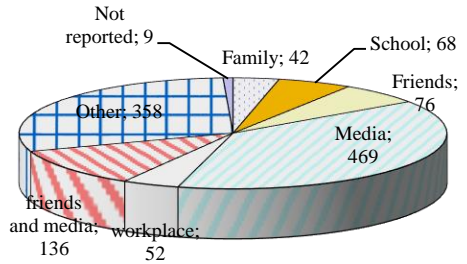
Regarding the data to inform about corruption, the highest percentage reported that corruption is informed through the media or 469 respondents, or 59% of the total number of respondents, one of the ways of informing on corruption and friends or a combination media and friends participate with 136 respondents, or 19%, followed by friends 76 respondents or 9%, educational institutions with 68 respondents, or 8%, 42 subjects with family or 7%.<sup>5</sup> The

actual research indicates the relationship between the media and corruption as negative social phenomenon.

**Table. One way of informing the citizens about corruption**

Corruption learned from:	Number of respondents
Family	42
School	68
Friends	76
Media	469
workplace	52
friends and media	136
Other	358
Not reported	9
Total	1210

**Graph. One way of informing the citizens about corruption**



From the analysis of the table for information on how corruption can be concluded that more than half of respondents are informed about corruption and learned from the media. From here you can see the importance of the media in informing citizens and their impact in creating of the public opinion of social phenomena even corruption as one of most common socially negative phenomena that deeply penetrated into the pores of the system. The study results indicate that the percentage of information from multiple media is far greater than other methods of information, such as educational institutions, family, business, jobs and so on. Given the fact that the media plays a huge role in informing citizens and influence in the creation of their opinion on certain phenomena in society is a question of the objectivity of the media and their susceptibility to influence by political parties, individuals, organized criminal groups and so on. If the percentage of the subjectivity of the media is greater, greater is the possibility through corruption influenced by individuals or groups of understanding of corruption in the public in a manner suitable to the customers and financiers of articles on corruption, which broadcast media. Biased journalism, which is immune to various influences in society, going back in addition to furthering the interests of the criminal organizations that use corruption as one of the modalities for achieving their goals.

## CITIZENS' PERCEPTION OF THE WAY IN EXPOSING CORRUPTION

According to the research impact of media in both segments is as follows: in the way of information about corruption and the second segment that is influenced by the media and clarifying detection of corruption offenses. When we talk about reducing the level of corruption in the country, the emphasis is on prevention or prevention of committing criminal acts of corruption. Other questions asked is the question: *In your opinion how can detect corruption.* (Rates of answers from 1 to 7). In a response indicating the least impact on the prevention of corruption while 7 signifies answer that most affect the Prevention of Corruption). The analysis of the results, we can conclude that, in the opinion of the citizens, to effectively prevent corruption a major role the media have an average 5.67 out of 7, followed by the revelation of corruption crimes by using special investigative measures average 4.62, with operational tactical measures and investigations of the authorities who enforce the law with an average of 4.13, other measures and activities (work with the authorities and institutions dealing with the fight against corruption, the inspection of administrative authorities by anonymous reporting of corruption acts (acts) by the individual (citizen), as well as reporting of corruption acts (acts) by the individual (citizen) with known identity beneath the average 50%, Actually beneath 3.5 the total 7<sup>th</sup>

Table. 2

In your opinion how can be open (uncovered) corruption?  
 (Rate the following: 1 - at least 7 - the most. In each row is a rounded number.  
 Rounded number may end up only once in any order.) At least most average

			<b>average</b>
4. Work with the authorities and institutions dealing with the fight against corruption	397	813	4.76
6. By entering the corruption acts (acts) by the individual (citizen) with known identity	439	771	4.73
5. inspection of administrative authorities	440	771	4.65
3. operational tactical measures and investigative activities of the bodies enforcement	275	747	4.54
2. special investigative measures to detect corruption	550	661	4.29
1. using the media	647	563	3.84
7. By entering the corruption acts (acts) by the individual (citizen) Anonymous	648	563	3.81

It is noteworthy that the vast influence of the media in the detection of corruption offenses. With a score of 3.84 percentages EUT is more than half

of respondents. The question of objective journalism in countries with high corruption: If government and institutions are involved in controlling the media (and later you see the huge percentage of corrupt politicians and public officials), it means weakening the power of the media in corruption crimes involving powerful individuals from politics or high positions in state institutions. That means one of the reasons for reduced efficiency Seen in tackling corruption is vast influence of the state apparatus on the objectivity of the media is a strong tool in initiating and clarifying criminal acts of corruption. The mark is the findings of the opinion of citizens on the willingness of the media to combat corruption. The question *please Include your assessment of the readiness (determination) of the media in the fight against corruption.* 39.7% of citizen's ups count that there is a positive rate or willingness of the media to give their contribution to dealing corruption.

**Table 3 Please Include your assessment of the readiness (determination) of the media in the fight against corruption.**

		Question no. 46
Reply		Valid Percent
1	Totally ready	8.7
2	Prepare	31.0
3	Neither nor reluctant	28.2
4	Not ready	18.3
5	Totally unprepared	8.9
6	I do not want to declare	4.9

If these answers of respondents into four categories (positive evaluation, negative evaluation, neutral attitude, no declaring), then the scale is as follows:

- The first category is "positive assessment" or 39.7% of the respondents think that the media is fully prepared (8.7%), i.e. they are ready (31.0%),
- Second category is "neutral position" or 28.2% of the respondents think that neither media nor reluctant,
- Third category is "negative evaluation" or 27.2% of the respondents think that the media is not ready (18.3%), i.e. that completely unprepared (8.9%) and
- Fourth category is "no declaring" or 4.9% of respondents did not want to comment.

The prevailing opinion among the citizens of the readiness and ability of the media to give a high contribution to the overall strategy for dealing with corruption, but their willingness and certainly does not mean their active

contribution to tackling corruption. Their specific activity depends primarily on their immunity to external interference in their editorial policy. It is one of the issues concerning the media and their contribution to the development of systems to combat corruption.

<i>Table 4. What is the contribution of the media in the development of systems to combat corruption?</i>	TO	NO
1. By consistently providing the political independence of the media	79.6	20.4
2. educating journalists in terms of access, research and reporting on corruption and anti-corruption measures and activities	77.3	22.7
3. systematic stimulation of investigative journalism in the field of corruption and anti-corruption fight	76.2	23.8
4. willingness to participate in the discovery and proof of corruption	81.6	18.4
5. The development of regular content for corruption and anti-corruption activities, with specialized educational and informative	79.7	20.3
6. within the regular informative content, providing information for corruption and anticorruption measures	81.1	18.9

As it is evident from Table 4, the media can also make a meaningful contribution to the development of systems to combat corruption. It can do so in several ways, especially with the willingness to participate in the discovery and proof of corruption (81.6%) and in the regular informative content, providing information for corruption and anticorruption measures (81.1%). Consistent securing the political independence of the media also contributes to the development of systems to combat corruption in the affirmative answer was given by 79.6% of respondents. No less important is the education of journalists in terms of access, research and reporting on corruption and anti-corruption measures and activities (77.3%), as well as systematic stimulating investigative journalism in the field of corruption and anti-corruption fight (76.2%).

## CONCLUSION

From the analysis of the survey results can be concluded that the most common way of informing citizens about corruption in the media. The media play an important role in informing citizens about events in society and in the creation of public opinion in the same. More than half of the polled said that corruption was informed by the Medias and so the media have an important

role in the detection of this negative social phenomenon. The question is the objectivity of the media and their susceptibility to influence by political parties, individuals or organized criminal groups. If the percentage of the subjectivity of the media is great, then so is also the possibility through corruption to influence the perception of corruption the general public in a way that will suit the customers and funders of articles on corruption. Unfortunately in the annual reports of several international organizations put remarks regarding the objectivity of the media and freedom of journalists in the country, as witnessed by the numerous reports, on this occasion I would mention the latest report, Reporters without Borders where Macedonia fell to new 7 seats of total energy intake for 2014. <sup>6</sup> Macedonian citizen much of their free time she spends on television. The media is a powerful tool in creating public opinion. Of particular concern is the construction of objective and impartial media, which would serve the real information for all occurrences in society which would have an objective picture of the socio-negative phenomena such as corruption. In that case, the media can be a powerful chemical for detecting hotspots of corruption, disclosure of the modalities of the emergence of new forms of corruption, public display of segments of the system that are most susceptible to corruption, the media would have been completely put towards finding and prevention of corruption crimes are increasingly threaten all spheres of social life.

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<sup>1</sup> Global Corruption Report 2003, B. Peters, The media's role: covering or covering up corruption

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<sup>4</sup> Corruption Perceptions Index 2013, p. 3 [www.transparensyinternational.org/cpi2013/results](http://www.transparensyinternational.org/cpi2013/results)

<sup>5</sup> Mojanoski C., Sazdovska M., M. Nikolovski, Krstevka K, "*The opinion of the citizens of the Republic of Macedonia for corruption*", Faculty of Security, Skopje, 2014, p. 76

<sup>6</sup> World press freedom index 2014 (<http://rsf.org/index2014/en-index2014.php>)

# CAN CRIMINAL BEHAVIOR CHANGE? PSYCHOTHERAPEUTIC TREATMENT OF CONVICTS

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## **Abstract**

This paper deals with behavior treatments of criminal behavior and reduction of recidivism among convicts. Apart from this, the focus is put on the cognitive-behavioral approach and there is a good amount of empirical evidence regarding its efficiency. Corrective programs dedicated to this approach focus on the convicts weaknesses in respect to solving problems, social interactions, behavior management skills, anti-social attitudes, and interventions directed towards these factors have the most consistent and positive influence on changing the models of anti-social behavior, including recidivism. The efficiency of this treatment starts with precise selection and implementation of the suitable correlation between the risk and the needs of a specific individual in a certain program (Risk – Need - Responsiveness Model of Andrews and Bonta). The success of this program can be found in the connections between the program and criminality. Namely, when a certain intervention that is suitable to the risk and needs is conducted, it can reasonably be expected that the behavior leading to recidivism will reduce.

*Key terms: psychotherapeutic treatment, convicts, crime, criminal behavior, cognitive-behavioral therapy*

## **INTRODUCTION**

Crime has always been present in the every society throughout the centuries. It is well known that up to now, no society could ever completely solve this problem. A question emerges, and that is: How to reduce the crime to a minimum? We will not elaborate in details the theory of penal treatment; instead, we will only mention that in the second half of the 19 century the positivists (Garofalo, Ferri), for the first time systematically publicized the thesis that the goal of the sanctions for perpetrators, regardless juveniles or adults, is the fact that it would lead to re-socialization, and the way to



accomplish this goal would be with the help of a specifically composed treatment.

Unlike the representatives of the more classical approaches, in this case the focus is put on the perpetrator's personality. The perpetrator is described as a sick person who should be treated medically. Even though this theory was not very applicable in practice at the beginning, the positivistic concepts have become the dominant scientific theory in this area after the World War II. Experts were asked many unanswered questions: How should this treatment be? How should perpetrators be treated in order to change? In the decades that followed, many treatment models that tried to answer these questions were developed.

The establishment of a school for new social defense focuses on two goals: prevention and treatment. An individual treatment is proposed, that is supposed to be established after analyzing the perpetrator's personality. The basic principles become an anti-repressive orientation and humanization of serving the sentence.

## TREATMENT AND RECIDIVISM

During the 1950s of the previous century, a clinical or psychodynamic approach emerged in the area of penology as an attempt to answer the above mentioned questions. This approach was already affirmed for treating individuals with emotional problems or neurotic individuals. "The psychodynamic model originates from Freud's psychoanalysis and the basic assumption is that disturbing behavior is a symptom of a more serious disorder. In order to prevent this type of behavior, the conflict / problem should be solved"<sup>1</sup>. The therapy focuses on the past, in other words, on finding the unconscious motives, and the goal is becoming aware of these motives.

It is supposed that when the individual will have an insight<sup>2</sup> in the unconscious conflicts, he / she will stop with his / her disturbing behavior "Precondition of a successful treatment is the relationship between the delinquent and the therapist, good verbal intelligence, as well as making the perpetrator feel bad, in a subjective manner, which would boost his / her

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<sup>1</sup> Brendtro, L. K. and Ness, A. E. (1983) **Reeducating troubled Youth**. New York: Hawthorne.

<sup>2</sup> **Insight** is a term that refers to identification and perceiving the essence, character and nature of things, *seeing from within* and it is one of the pillars of the theory and praxis of psychoanalysis, psychoanalytical psychotherapy and the dynamic therapies in common. The psychotherapeutic process, its organization and intervention focus on and help the patient to gain insight into his / her difficulties / problems and to understand the nature and origins of his / her difficulties / problems.

motivation to participate in the treatment”<sup>3</sup>. This model of treatment was exposed to severe criticism and did not give the desired results. As a basic disadvantage is considered the supposition that perpetrators are individuals with psychological problems, given that many criminals consider crime as a source of satisfaction, advantage and benefits. Perpetrators do not consider their behavior as a disorder, suffering, or inconvenience; they consider it as an exciting lifestyle which contributes to the absence of their need for change. Because of this, “approaches based on psychological insights and interpretations, emotional expressions and ventilation, psychological support etc., are often inefficient, even counterproductive, especially for the high-risk groups”<sup>4</sup>.

This treatment, including the prison treatments in general, were mostly disputed in the middle of the 1970s when the sociologist Martinson in 1974 published his work: “What works? Questions and answers about the prison reform” in which he negatively evaluates a treatment based on analysis on most of the researches that focused on the treatment’s evaluation. Since then, experts in that area started using the syntagma “nothing works” more frequently; as a result of this, the focus on the Penalty Policy, mostly in USA was shifted from treatment towards punishing. Nevertheless, five years later, Martinson published a new work where he states that certain treatment programs show efficiency, but a long time was needed to shift towards the punishing treatment.

The biggest contributors to the returning of treatment concepts were the meta-analyses<sup>5</sup>. The basic efficiency variable of the treatment is the recidivism. Namely, it is believed that the treatment is efficient if it reduces recidivism. The statistical analysis is based on the comparison between treatment (experimental) groups and control groups in the recidivism. The lower the level of recidivism in treatment and the higher in the control groups, the treatment is more efficient. In this regard, the selection of the treatment’s individual evaluations was rigorous which means that only methodologically well studies research were taken into consideration. The majority of the meta-analyses showed that the most successful were the cognitive behavioral treatments (focused on behavioral control, developing good behavior manners, developing social skills, communication skills as well as changing the wrong manner of thinking which are main source of problems), in cases when they

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<sup>3</sup> Andrews, D. and Bonta, J. (1998) **The psychology of criminal conduct**. New York: Anderson Publishing Company.

<sup>4</sup>The same

<sup>5</sup> The Meta-Analysis consists of synthesis of the results of larger number of respondents of individual research about the treatment’s efficiency. With this type of analysis the number of respondents increases to a great size which influences the statistical tests of importance.

are applied on perpetrators of more severe crimes (with high risk level). The best programs show effects that cause circa 30% reduction of recidivism.

### **RISK – NEED - RESPONSIVITY MODEL**

After the publication of Martinson's famous paper, in USA less attention is paid to the treatment and more to the punishing, which leads to a bigger gap between convicts treatment and their reintegration. This situation motivates the penologists to focus on developing a theory concerned with the question why some treatments are more successful than others. And this resulted in the establishment of RNR (Risk – Need - Responsiveness)<sup>6</sup> model for efficiency assessment of the treatment program. Andrews, Bonta, and associates believe that their colleagues consider that the efforts made to stop the criminals who refuse or are unaware of human behavior psychology, and in most of the cases these efforts fail. Namely, the psychology has an enormous contribution in the efficiency of the punishment. Although not ignoring the justice principles, the laws and the social sciences such as sociology, anthropology, and political economy, their attitude is that focusing only on these principles will not lead to reduction of the criminal, if they are not applied in accordance to the practically examined psychological influence principles for changing the behavior. In 1990 they called all those involved in the area of penology "to reveal psychology again"<sup>7</sup> in order to make the treatment of prisoners more efficient. The RNR model is nowadays probably the most efficient assessment model and a model for treatment of convicts. It was established in the 1980s and made official in the 1990s with the main purpose to promote risk reduction of repeating a criminal behavior and to protect the community of a further damage. The model includes three basic theoretical principles crucial for efficient treatment and those are: the risk principle, the need principle and the responsiveness principle. Two important aspects of the *risk principle* are: the ability to predict criminal behavior based on the risk level, and then, in accordance to this, subjugating the perpetrator to the most suitable treatment method. The risk factors are divided in two groups: static and dynamic. Static factors are those factors that cannot be altered (e.g. criminal history, disadvantageous family conditions in childhood, gender, etc). Dynamic factors are those that can be altered, and for this reason, they are especially important for the treatment (low educational level, pro-criminal attitudes, friendship with asocial people, alcohol / drugs consumption).

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<sup>6</sup> Andrews, D. A., Bonta, J., & Hoge, R. D. (1990), Classification for effective rehabilitation: Rediscovering psychology. *Criminal Justice and Behavior*, 17, p. 19 - 52

<sup>7</sup> The same

Until now, *eight risk factors*, known as the central eight have been identified. Those are: history of criminal behavior; anti-social personality (quick temper, search for excitement), anti-social behavior, values, beliefs, thinking and identity; friendship with anti-social people; misuse of narcotics; unsatisfying marital and family situation (dysfunctional relations or supporting crime); lack of education and unemployment; no participation in and dissatisfaction from the social and recreational activities.

*The needs principle* emphasizes the importance of satisfying the perpetrator's needs. According to Andrews and Bonta, the needs can be divided in those that are common to all people and in needs for crime that represent an obstacle for a successful integration in society. Needs for crime are dynamic attributes of the perpetrator that can be identified as a dynamic risk factors and that direct perpetrators towards the crime. "Because of this, the needs for crime are goals of the treatment and they need to be neutralized and at the same time, anti-crime needs shall be developed and which are common for all people, mostly needs of higher ranks, in accordance to Maslov's needs hierarchy"<sup>8</sup>. Introducing needs for crime is a novelty in regard to the former treatment programs that focused on psychological / psychiatric needs, and which assumed that this would improve the adaptive behavior and would reduce the reappearance of criminal behavior.

*The responsiveness principle* points out on the fact that the treatment must be adapted to the individual traits of the convicts so they can positively react to the treatment. The most important traits are: the intellectual status, the education status and conation traits, and above all the perpetrator's motivation for which purpose, a motivational interview is conducted at the beginning. It is shown that most efficient are those active programs conducted by qualified, educated and monitored staff, with strict, but fair and just behavior that develop therapeutic alliance with the perpetrators. The treatment's efficiency (measured with recidivism) depends on the interaction between the convict's traits (relative empathy, cognitive ability, maturity) and the traits of everything referring to the treatment (location, structure, skills and interest of the performers). Traits such as gender and ethnicity also influence the treatment.

"The application of the risk principle helps to identify *who* needs a treatment, the principle of needs for crime focuses on *what* should be treated, and the responsiveness principle focuses on *how* the treatment should be performed"<sup>9</sup>.

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<sup>8</sup> Mejovšek M.: Introduction into penological psychology, Naklada Slap, Zagreb, 2001

<sup>9</sup> Gendreau, P. & Andrews, D. A., 1990, Tertiary prevention: What meta-analyses of the offender treatment tell us about what works, Canadian Journal of Criminology, 32 (1), p. 173 - 184

## RISK ASSESSMENT

A basis for every successful treatment is a good selection of perpetrators that should be subjected to an effective treatment. There are different classifications categorized by Bonta in three “generations”.

First generation, the so called professional assessment, represents a subjective assessment of the risk level of committing a crime again. Prison experts, as well as medical experts (psychologists, psychiatrists, and social workers) make a decision about a treatment based on the unstructured interview and documentation and their professional experience. As a matter of fact, this type of classification is not precise and valid enough.

At the beginning of the 1970s the awareness about the fact that the risk assessment should not be based only on assessment but also on scientifically based instruments started to grow. The second generation includes assessment scales that help to sum up the items results: the higher score, the higher recidivism level. The second generation of classification of perpetrators treatment showed satisfactory results; it helped in distinguishing perpetrators with a lower from perpetrators with a higher level of recidivism. However, disadvantages of these instruments are: first, they were not based on certain theory, in other words, the items were not selected due to their theoretic relevance, and second, they measured only statistical risk factors, such as the criminal history.

Taking into consideration the limitations of the second generation of instruments, in the early 1980s, the dynamic factors were also included in the assessment instruments<sup>10</sup>. The third generation instruments cover issues that refer to the dynamic risk factors such as current employment, friends with criminal behavior, family relations (supporting and non-supporting). The third instruments generation examine the factor “risk – need“, and some of them are theoretically based such as the LSI-R (Level of Service Inventory - Revised, Andrews & Bonta, 1995). This generation of instruments is delicate to the changes that occur among convicts and informs the re-socialization staff on which needs should be used in the treatment. Successful direction towards these factors contributes to reduction of the risk of recidivism. During the last years, the fourth generation of instruments for risk assessment that includes wider spectrum of risk factors that were not measured until now and other personal factors important for the treatment was developed. An example for such instrument is the Level of Service / Case Management Inventory (LS/CMI; Andrews & Bonta & Wormith, 2004). Both the third and fourth

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<sup>10</sup> Bonta, J., & Wormith, S. J. (2007), Risk and need assessment. In G. McIvor & P. Raynor (Eds.), *Developments in social work with offenders* (pp. 131 - 152), Philadelphia, PA: Jessica Kingsley Publishers.

instrument generation for risk assessment are narrowly connected to the risk – need - responsiveness model for assessment and treatment, in other words, they are theoretically based.

## **PROCESS OF CHANGE: COGNITIVE BEHAVIORAL PSYCHOTHERAPY**

After a suitable selection of convicts is made, a treatment should start and it is supposed to lead to a process of change. We already mentioned that most of the meta-analyses showed that most successful are cognitive behavioral programs of treatment that cause circa 30% reduction of the recidivism. We will try to explain in which way this psychotherapy type causes positive changes among the convicts.

### **WHAT IS PSYCHOTHERAPY?**

Psychotherapy is an old discipline that has its origins from ancient times, when men first started to show interest about themselves and their psychological world. This phenomenon is considered to be universal, considering the fact that it exists in modern, as well as in traditional cultures nowadays, and it used to exist in the past and most probably, it will continue to exist. “The psychotherapy helps us to identify the spirituality of the magic and religion, the wisdom of the philosophy, the exactness of the science, the creativity of the art, and the skills of the vocation”<sup>11</sup>. However, psychotherapy is mostly based on psychological knowledge about the person, emotions, cognition, behavior, as well as, knowledge about social and developmental psychology and mental health and psychopathology. “The psychotherapy can be defined as several groups of scientific and well-studied procedures and methods aiming to treat psychological disorders that are considered not to be caused by organic causes”<sup>12</sup>. “The psychotherapy is a vocational intervention based on valid approval of the therapist and the patient, aiming to provide psychological support of the client in accordance to professional, scientific, legal and ethical criteria. The psychotherapy is justifiable if the client seeks help for solving personal, and obstacles that can be solved with the help of psychotherapy and if he / she is in a condition of psychological, as well as somatic and existential dysfunctionality, provided that he / she agrees adequately that the therapy should include more than one session”<sup>13</sup>.

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<sup>11</sup> Srna J: Psychotherapy and Advising, Institute for Schoolbooks and Didactical Means, Belgrade, 2012

<sup>12</sup> Erić, Lj.: Psychotherapy, Psihopolis, Novi Sad, 2011

<sup>13</sup> Berger J.: Psychotherapy from cure to utopia, Center for applied psychology, Belgrade, 2000

The psychotherapy is always applied with evident and defined goals that depend on the type of the psychotherapy<sup>14</sup>. Some of these goals are supportive, and others are aiming to remove the symptoms of unadjusted behavior, and others to solve intra-psychic and intrapersonal conflicts, personality deficits evolved during the personal development, family, or marital dysfunctionality. However, all of these have common goals, and those are:

- Relief from the intolerable tensions and internal pressure;
- Removing obstacles, avoiding suffering, psychological degradation and regressive processes;
- Readjustment of disturbed psychic functions, feelings and opinion, as well as unadjusted behavior;
- The development of personal abilities and capacities, awareness of oneself and the others and having the ability to solve traumatic life problems, fear reduction, feeling guilt, truculence, and stressful life;
- Self-actualization and fulfillment of potentials of one's nature;
- Treatment: diminishing or eliminating the symptoms, reducing suffering and building self-control;
- Transformation: different ways of reducing stress and pressure, burdens or delusions;
- Strengthening and increasing readiness for future life experiences and challenges<sup>15</sup>.

The above mentioned implies that the psychotherapy involves positive changes that will lead to a better, superior and life with better quality.

## **WHAT IS COGNITIVE BEHAVIORAL THERAPY?**

Cognitive Behavioral Therapy (CBT) originates from different areas – cognitive and behavioral theory. Behaviorism focuses on human behavior, since it can be observed, neglecting internal mental processes, considering that they cannot objectively be observed; in other words - they cannot be a subject of science. “Behavioral therapy, simply said, focuses on behavioral change, in order to improve the health”<sup>16</sup>.

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<sup>14</sup>There are several types of psychotherapy: psychoanalysis and related psychotherapies; behavioral therapies, varieties and cognitive psychotherapy; therapies that focus on the client and its varieties; existential phenomenological therapy; humanistic therapies, “new tendencies“(TA, GT, BE); family therapy; socio-therapy; psychotherapies with specific pathology (depression, alcoholism, schizophrenia, personality disorders).

<sup>15</sup>Erić, Lj.: Psychotherapy, Psihopolis, Novi Sad, 2011

<sup>16</sup>Erić, Lj.: Psychotherapy, Psihopolis, Novi Sad, 2011

Unlike the behaviorism, the cognitive approach emphasizes the importance of the internal intellectual processes, and it appears in modern psychology, as a reaction of a limited view of the behavioral psychology. Namely, Bandura emphasized the importance of the internal mental processes in the regulation and modification of the behavior in his classics “Principles of behavior modification”<sup>17</sup>.

Albert Ellis developed the Rational Emotive Therapy (RET), which is based on the idea that thoughts control emotions. He is the father of the famous psycho-pathology model known as the A-B-C model, where A is the activating event, B includes beliefs and certain cognitive processes, and C includes emotional reactions and disorders. Ellis is believed to be an important antecedent of Aaron Beck, who developed the cognitive therapy, applying it to depressive patients. Beck studied the thought samples of depressive patients and announced that they manifest negative feelings about their personality, the environment, and their own future. Furthermore, he developed a cognitive therapy treatment for depression, using original concepts, cognitive schemes, cognitive distortions and automatic thoughts. In the period that followed, behavioral therapists started to include more and more cognitive elements, and cognitive therapists behavioral elements, and as a result of that, in the following years, the cognitive therapy became more and more behavioral, while behavioral therapy became more and more cognitive, which led to the formation of Cognitive-behavioral therapy. Nowadays, pure cognitive psychologists or pure behaviorists are rarely found. “Literature review does not lead to the conclusion that by the combination of the elements of cognitive and behavioral approach they support each other. Thus, cognitive changes cause behavioral changes, a fact that causes a sense of wellbeing, and this causes changes in the way of thinking that influences changes in behavior. This self-supporting feedback process is a crucial element in the Cognitive-behavioral approach”<sup>18</sup>.

The psychotherapy as a process includes CHANGE, that despite of its dynamics, includes a progress that is developed gradually, through certain stages and phases that are common for all clients, but specific for every individual. The CBT makes use of two basic approaches that lead to change: restructuring of cognitive events and practice of social and interpersonal skills.

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<sup>17</sup>Bandura, A. Principles of behavior modification, New York: Holt, Rinehart & Winston, 1969

<sup>18</sup> Milkman, H, Wanberg K., Cognitive-behavioral treatment, A Review and Discussion for Corrections Professionals, 2007, <http://static.nicic.gov/Library/021657.pdf>



## **WHY COGNITIVE-BEHAVIORAL THERAPY FOR CRIMINAL BEHAVIOR?**

Convicts (perpetrators / delinquents) usually manifest antisocial way of thinking, which implies avoiding of responsibilities and social norms. Many of them feel mistreated and manifest deviant, hostile attitude towards other people as a part of their life orientation. The hostility and the victim attitude are acquired types of cognitive behavior. Considering themselves victims, gives criminals a feeling of anger, power and self-satisfaction, while admitting mistakes is seen as weakness and vulnerability. The fight for power dominates in the relations with others, and the orientation winner / loser is dominant in the relations. Therefore, the victory is defined as forcing the other to lose. For some delinquents, the satisfaction that results from such a victory is the only satisfaction they know about. Many of them are facing a problem of how to behave in a socially acceptable manner.

From this description of the delinquents we can conclude that, if we do not apply a treatment on them, which changes their way of thinking and behaving, they will leave prison unchanged. Or, as Zamble and Porporino state, criticizing the prisons for not conducting sufficient activities for improving the facing strategies among the convicts: “Nothing important happens in the prisons regarding prisoners’ behavior, so prisons represent a “deep freeze”<sup>19</sup>. The psychotherapy is a fight against the “deep freeze”, in other words, giving delinquents a chance to change, and the society to protect itself from crime.

### **COGNITIVE COMPONENT OF THE TREATMENT**

The basic premise of the cognitive theory and therapy is that the ways of reasoning, or more precisely the way of interpretation, assessment, data elaboration and conclusion determines emotional reactions and leads towards behavior. “The Cognitive-behavioral approach, regarding the treatment with prisoners, uses two basic approaches of change: recombination of cognitive events and practice of social and interpersonal skills. Both of these approaches are mutually interchangeable and reinforce each other: stimulating positive reasoning causes positive behavior and improving the behavior is a result of the positive consequences of that behavior”<sup>20</sup>.

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<sup>19</sup> Zamble and Porporino ,(1990): Coping, imprisonment, and rehabilitation, Criminal Justice and Behaviour, 17, p. 53 - 70

<sup>20</sup> Milkman, H, Wanberg K., Cognitive-behavioral treatment, A Review and Discussion for Corrections Professionals, 2007

<http://static.nicic.gov/Library/021657.pdf>

According to this approach, cognitive phenomena that lead to disturbing behavior are: automatic thoughts, cognitive distortions and cognitive schemes.

*Automatic thoughts* are called so because they appear spontaneously and the person is unaware of them. Even if the person is aware of them, he / she do not oppose them. Practically, automatic thoughts are allowed to influence the feelings and manage the behavior. They are closest to the surface and they are first identified in the process of change. Thus, automatic thoughts that appear among depressive people are: I am worthless, there is no future for me, and those appearing among delinquents are: I am a victim of the society and I have the right to violate the social norms. The goal is to identify these thoughts and to replace them with alternative thoughts. By asking questions, the therapist leads the convict to realize that automatic thoughts are logically untenable.

*Cognitive distortions* refer to mistakes that appear in the interpretation of the data elaboration process, that lead to negative, unfavorable and false conclusions. And those are:

- Dichotomization: Thinking about everything or nothing (black and white reasoning, for example, if certain situation results unsuccessful it is experienced as a complete failure);
- Generalization (one negative event is generalized as a defeat with the words: “always”, “never”, and such event can be love disappointment, or a job rejection, etc.);
- Selective focusing (one negative detail is taken among many positive comments, for example, some paper received many positive comments, but we focus on one small critic and we think about it for days ignoring the positive remarks);
- Withdrawal of the positive (many positive events that occur are not taken into consideration, and this leads towards dissatisfaction and makes the person feel incompetent and unrewarded);
- Making conclusions on one’s own (events are negatively interpreted before they are being analyzed and no facts are taken into consideration, for example: before we make sure, we conclude that someone has negative attitudes towards us);
- Exaggeration (the problems are over-exaggerated, and the qualities which are favorable are minimized);
- Emotional reasoning (a person supposes that his / hers negative emotions reflect on the course of the events, for example: I feel hopeless, in other words, I am hopeless);

- Sentences with “Need”: I need.....sentences lead to blame and frustrations. This does not work, since every “I need” should make the person feel rebellious;
- Labeling - this is an extreme way of black and white reasoning. For example, we label negatively ourselves – I am a loser;
- Blaming ourselves – we blame ourselves for an event that is completely out of our control.

*Cognitive schemes* are thought schemes, the way we think about us and about the world, and these schemes determine the way we interpret, assess, and make conclusions. These schemes are believed to be developed during the evolution, and are influenced by the parents. Here are some of them: Everyone must love me, and if someone does not love me something is wrong with me, etc. Generally, they are divided in unconditional beliefs and conditional suppositions. Cognitive schemes lead to emotional disturbances or behavioral disturbances, and they influence negatively the way in which certain events are interpreted. The most important goal of the treatment regarding the above mentioned cognitive phenomena is changing the way in which perpetrators interpret, assess, and understand the manifestations and events in the world, their own behavior and the behavior of other people. Furthermore, changing the cognitive schemes means changing the basic attitudes, beliefs, and suppositions that are stimulants for distorted, wrong interpretations, assessments, understandings and conclusions which lead to criminal behavior. Briefly, the goal of the treatment is to identify, reevaluate and change the automatic thoughts, cognitive distortions and cognitive schemes. To succeed in this, despite therapy sessions, the treatment includes homework and tasks which aim to collect information about the way of thinking, behavior, and feelings of the convicts between the sessions, as well as practicing the newly acquired cognitive skills. The convicts are asked to write a diary about their “problematic” thoughts that are discussed later in the group. In the prisons, the cognitive-behavioral group psychotherapy includes groups of 8 to 12 convicts, and the program is highly structured. The group has a positive influence on the members. “Belonging and protection, stimulation and cooperation, the awareness of the fact that others have the same (even more serious problems) are considered therapeutic group experiences”<sup>21</sup>. The group is a system of support which continues to exist after the end of the treatment. An important aspect of the treatment is the understanding of the relations between the feelings (effective component), attitudes and beliefs (cognitive component)

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<sup>21</sup> Srna J: Psychotherapy and Advising, Institute for Schoolbooks and Didactical Means, Belgrade, 2012

and the behavior (behavioral component), which helps in accomplishing the goal and that is – changing the criminal behavior.

## **BEHAVIORAL COMPONENT OF THE TREATMENT**

The basis of the behavioral therapy is a theory of studying, according to which, criminal behavior is an acquired type of behavior that can change. The goal of the therapy is to stop this wrongly acquired inappropriate behavior, and it focuses on the inappropriate behavior that should be changed and on the alternative behavior that should be acquired. The facing skills and the social skills were introduced in the last two decades of the previous century, and they turned into the essential components of the cognitive-behavioral therapy. The basic supposition is that delinquents lack skills for facing everyday problems. It includes acquiring communication skills, practicing assertiveness, improving interpersonal relations, practicing how to solve conflicts and manage aggression.

Acquiring social includes: empathy, encouraging non authoritative, non incriminating assertive manner of interaction with other people and promotion of self-efficacy. Techniques such as playing roles that are suitable for work in groups are helpful in the process of acquiring these skills through the practice of new manners of behavior.

## **CONCLUSION**

The Cognitive-behavioral therapy is a psychologically and scientifically based approach that is efficient for wider spectrum of problems, such as the criminal behavior. This approach usually focuses on the problems and difficulties ‘now and here’ and it relies on the process of developing mutual understanding between the therapist and the client regarding the problems of the clients. There are many things that need to be analyzed and studied about what is really efficient in the psychotherapy change process, especially among people who manifest criminal behavior, and when they are treated in prison. It is important that this approach focuses on the individual, his / her way of reasoning, feeling and acting, and both the therapist and the group help him / her to behave and think pro-socially, to take responsibility for his / her actions, and to take into consideration the needs of other people and the society. This could be achieved by asking sequence of questions regarding criminal behavior, such as, where would this lead if he / she continue to follow them, how they keep him a prisoner in one lifestyle, what would help him / her to accomplish his / her goals that are not connected to crime and so on. Answering these questions may help delinquents to change their lifestyle. The therapy is conducted by an active therapist who has the role of a teacher

and trainer and who gives participants structured instructions, using a spectrum of methods, such as playing roles, acting pro-social situations, intensive feedback, writing exercises and homework, and this therapist communicates assertively and morally, and at the same time, he / she becomes a model for those who want to change.

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# **DRUG ADDICTION AND DRUG CRIMES – BETWEEN NUMBERS AND REALITY\***

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## **Abstract**

In this paper the author in the form of a preliminary communication, presents data from a survey conducted in late 2014 and in January 2015, on a sample of 413 respondents, related to the perception of drug addiction and drug criminal threats to the society in Serbia. There was a talk about causes of drug addiction, factors that influence its reduction, as well as the causes of narcotics related crimes, current trends and essential factors for its control, with special reference to the police as active participants in this process. The correlation between the presented attitudes and gender, age, education level and geographic origin of the respondents has been investigated. The sample was structured so that it includes the attitudes of 166 respondents under the age of 30, and 165 subjects older than 30, with the aim to determine whether there are differences in the perception of the aforementioned phenomenon among the younger and older population. In addition, the explored sample includes attitudes of 82 students of the Academy of Criminalistic and Police Studies in Belgrade, in order to compare possible differences in attitudes within the general population and those who have chosen to be police officers in the future.

*Keywords: narcotics, drug-crimes, police, prevention, suppression, attitudes*

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## INTRODUCTION

There is almost no society in the modern world that is not affected by the problem of drug addiction and narcotic-based crimes. These are global and national phenomena. The latest UN estimations show that in 2012 about 243 million people (about 0.52% of the world population aged 18 to 65) have used some of the illegal psychoactive substances, mainly from the group of cannabinoids, opioids, cocaine or amphetamine stimulants from among (UN, 2014: 1). Apart from the harmful effects of drugs abuse and the activities organized criminal groups perform at the national level which are reflected in the destabilization of governments and financial markets, corruption of public officials and increase of social costs of health (Council of Europe, 2006: 21), because of the enormous economic potential of drugs trade it represents a global threat, often associated with terrorism, the greatest challenge of our time in terms of global stability and security. It is estimated by foreign experts that 95% of income, which is at the global level achieved by illegal drug trafficking, has been used to the financing of terrorist organizations and networks (Government of Republic of Croatia, 2005: 149). Crime is nearly always mentioned in the context of the drugs. The profitability of illicit drug trafficking is one of the key factors for the lure of persons from criminal milieu. The illegal drug trade is the activity of well-equipped and organized criminal groups with transnational character, which daily perfects methods of action and follow technical and technological development, using its facilities and adopting them into their own methods of criminal activity. (Lajić, Ivanović, 2009: 170). It's hard to talk about the global trend regarding the smuggling of drugs, since it depends on the type of drug in question and established channels of supply in certain regions (UN, 2014: XII), but it is evident that in 2012 at the global level noted an increasing trend in the number of crimes related to drug trafficking, after a relatively quiet period from 2003 to 2007, the growth trend from 2008 to 2010 and a decrease in the number of offenses in 2011 (UN, 2014: 20). In any case, as already mentioned, this is a huge illegal profit, considering that at the beginning of this millennium, it has been talked about profits in the amount of 300 to 500 billion US dollars per year. These data put international narcotics trade in second place by profits, right behind the international arms trade (Mc Conville, 2000: 76). On the other hand, there is a "secondary" type of crimes, done by addicts, whereby studies conducted on relationship between drug abuse and crime generally confirm significant correlation. Correlation between drug abuse and crimes undoubtedly stems from the nature and complexity of the drug addiction, which is both a disease of person and socio-pathological phenomena expressed with huge criminogenic effects (Marinković, 2004: 313-314). The main conclusion of the research that lasted nearly three decades, about the relationship between drug use and crime, was that there is an obvious

significant relationship between these two phenomena (McBride et al., 2002: 5). The aforementioned studies indicate increased drug use among arrestees, a high level of criminal behavior among drug users, and a large correlation between drug use and crime in the general population, with significant differences depending on the types of drugs and crime.

All the above mentioned circumstances only partially illustrate the undoubted damage that drug addiction and drug-related crimes cause in all societies, even in Serbian. Because of the fact that this is a problem that has repercussions in many areas of social life, the approach to the prevention of these phenomena must be multidisciplinary. The authors of the research has endeavored to find out the attitudes of the population in Serbia when it comes to these phenomena, as well as their seeing the relevant causes, factors which can influence its reduction and the factors that influence the development and combating drug trafficking. Special emphasis was given to the perception of the role of the police, as an important subject that finds its involvement in the drug fight. This paper presents the preliminary results of the study, with a desire to indicate the possible directions of further research and practical action for the professionals and scientific community, as well as decision makers in relevant institutions.

## **THE SAMPLE AND THE METHODS OF EXPLORATION**

This survey, conducted in late 2014 and in January 2015, comprised a sample of 413 adult respondents from the territory of the Republic of Serbia. In structuring the sample it has been used *snowball* technique. The initial sample has been made of 82 students of Academy of Criminalistics and Police Studies (hereinafter ACPS), and all of them interviewed four more participants from their towns, by their own choice, but according to certain criteria related to age and education.<sup>1</sup> So, the sample has been structured that included 82 participants from among third year students of ACPS, 83 respondents from among the students of other higher education institutions, as well as the 83 respondents who were aged up to 30 years, but had no ambitions to acquire more education than high school. Thus, we sought to create some balance in terms of factors of education within the younger age groups. On the other hand, the sample includes 165 respondents and older than 30 years, so that the average age of the participant was just over 30 years (30, 71). The youngest participant was 19 years old, the oldest 68. The survey was conducted in the form of a structured questionnaire, with multiple-choice and open questions. In addition to data on gender, education level, age and place of residence, the

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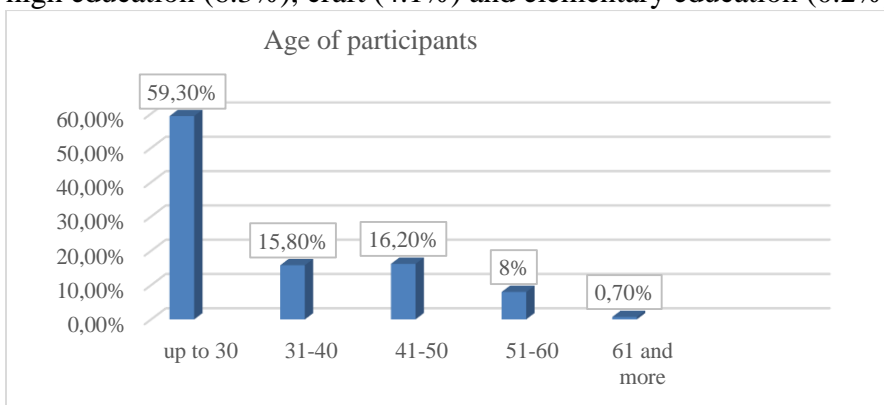
<sup>1</sup> The rest of participants had to be: one student younger than 30, one person younger than 30 with no higher education and two persons older than 30, regardless of their education level



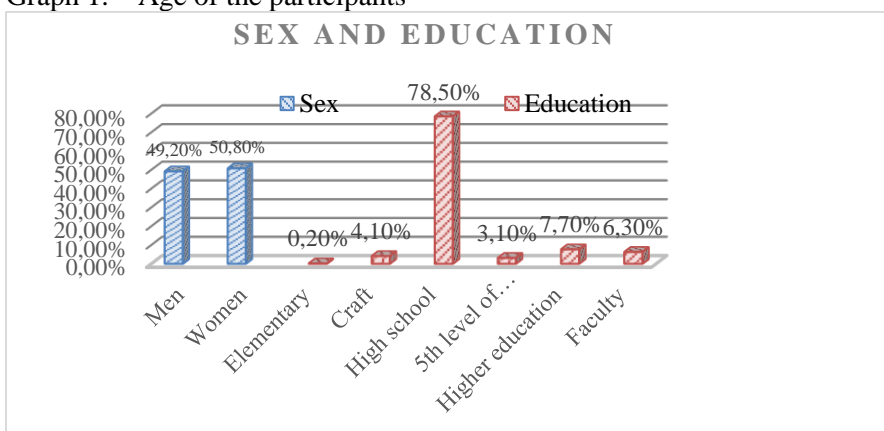
survey included five questions related to attitudes toward drug abuse, understood as socially harmful phenomenon which, in the long run, lead to deterioration in the physical personality, health and social issues, and therefore these harms society. The next six questions related to attitudes about the perception of drug trafficking in the territory of Serbia, understood as the activities of criminal groups engaged in drug trafficking for the purpose of material gain. During the processing of data we used descriptive statistics and correlation methods.

## RESULTS

In terms of gender, the sample is almost equally distributed between men and women (49.2% and 50.8%), while in the educational structure there were the most represented participants with high school education (78, 5%). By number they are followed by respondents with higher education (7.7%), high education (6.3%), craft (4.1%) and elementary education (0.2%).



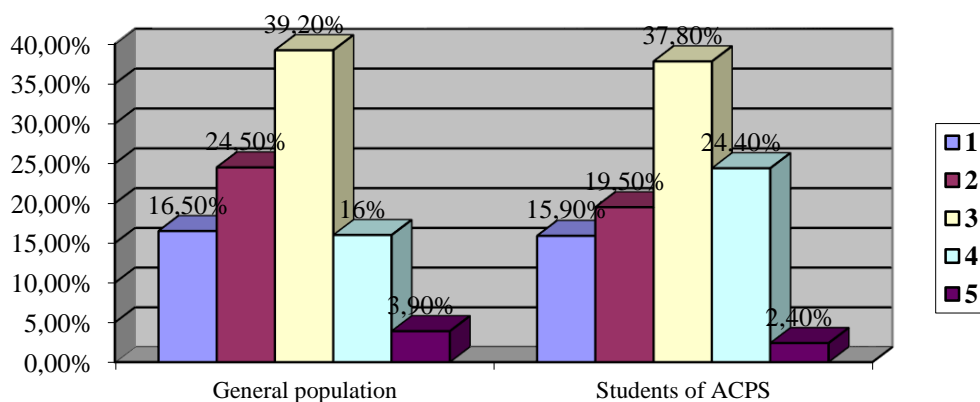
Graph 1. – Age of the participants



Graph 2 – Structure of participants by sex and education

## PERCEPTION OF DRUG ADDICTION IN SERBIA

One of the first questions to which respondents answered has been related to the perception of drug abuse threat to society, on a scale of 1 to 5, where 1 meant score extremely bad condition and 5 extremely well. In general, the sample mean value is 2.66, from which it could be concluded that the perception of drug abuse threat to society is neutral, with a slight deviation to describe the situation as bad. It is interesting to note that students ACPS brightest perceive this condition, the mean score of 2.78 (+0.12 compared to the overall average). The rest of the young population gives the same average mark in both categories,<sup>2</sup> for one prom above average (2.67), while the population of older than thirty years is the harshest in description of the situation, with a mean score of 2.59 (-0.7 compared to general average).



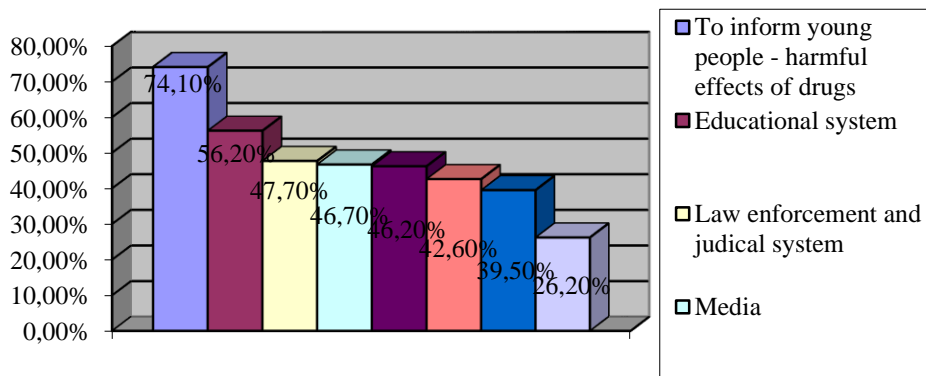
**Graph 3. – Perception of drug addiction treat to the Serbian society, expressed by marks 1 to 5 (where 1 is very bad and 5 is very good)**

Closely related vulnerability of society are factors that contribute to drug addiction development. In this regard, the respondents were offered seven factors, and they had choice to opt for one or more of factors which are considered to contribute significantly to the occurrence of this phenomenon in Serbian society. They had possibility, as well, to write it down another factor who they think is important if it was not mentioned in the list. In the overall sample most of the respondents have chosen dysfunctional family (66.6%) and inadequate work with children in the education system (52.1%) as key factors for the development of drug addiction. The following tendency towards propensity to vice (43.1%): the negative social impact of the media (39.7%), inadequate criminal law norms (35.4%), inadequate activity of the competent services for crime detection and prosecution of criminal offenders

<sup>2</sup> Both the students of other faculties and population who has not been studied

(prosecution, police and court, 31.7%) and inadequate functioning of the health system (18.2%). Approximately one-seventh of the respondents (15.7%) opted for all of these factors, while only 1.9% of respondents marked another factor that is considered to have an impact in this sense, and it has not offered in the survey list. Respondents, on average, circled around 4 responses (3.98). On the other hand, when asked to state which are the most important factors that can help to prevent drug abuse, respondents in three quarters of cases identified to better inform young people about the harmful effects of psychoactive substances (74.1%). And when answering this question, there was a possibility of circling multiple answers. Next by percentage is the work with children in the education system (56.2%), followed alongside more efficient activity of the competent services for crime investigation and prosecution of criminal offenders (47.7%), corresponding influence of the media (46.7%) and informing parents about the harmful effects of psychoactive substances (46.2%). Slightly less than half of the respondents opted for improving the criminal justice framework (42.6%) and improving the general financial situation in the society (39.5%), while at the rear was adequate functioning of the health system (26.2%).

As with the previous plea, a similar number of participants circled all the above mentioned factors on the list (18.2%) and written some others which were not offered (1.2%). On average, respondents circled a little more than five responses (5.26). For comparative view of perception causes of drug abuse and prevention factors can be seen that the respondents in this area most "blame", but most expect from the family, the educational system, law enforcement and judicial system and media, which is the logical order of priorities in action against this social evil.



**Graph 4. – Perception of the factors relevant to prevent drug addiction**

The next two questions pertained to a bit more direct contact with drug addiction. Specifically, respondents were asked whether they personally know

someone who uses drugs or had used them in the past, and then to state whether they have ever been in the company of a person who they know to be under the effect of some of drugs. Affirmative response to the first question gave two thirds of respondents (65.4%) and to the other slightly less than half (46.7%), which is in any case an alarming rate. This, in fact, best illustrates the claim that drug addiction is not the evil that happens to others, but that is present always and everywhere, even in our environment. In order to illustrate this phenomenon it should be noted that ten years ago it was assessed that there are 80,000 drug addicts on the territory of Serbia, of which 35,000 on the territory of Belgrade (Ilić, 2004: 74), while the use of drugs in older primary and secondary school population is at a level of 8% to 15% (Popović - Citić, Bukvić, 2014: 196). In both of those cases, it could be assumed that the positive responses have been given by younger respondents, there was performed the analysis using Pearson linear correlation between the age of the participants and the positive responses. However, when it comes to the relationship between a) the age of the respondents and knowledge of the people who use or have used any of the drugs, and b) the age of the respondents and being in company with a person for whom the respondent knew that he was under the effects of drugs, the correlation is relatively low ( $r = 0.254$  and  $r = 0.196$ ). On the other hand, quite logically, the value of the linear correlation between the knowledge of the person who consumes or has consumed any of the drugs and to spend time with such a person while he was under the effects of the drugs is statistically highly significant ( $r = 0.529$ ).

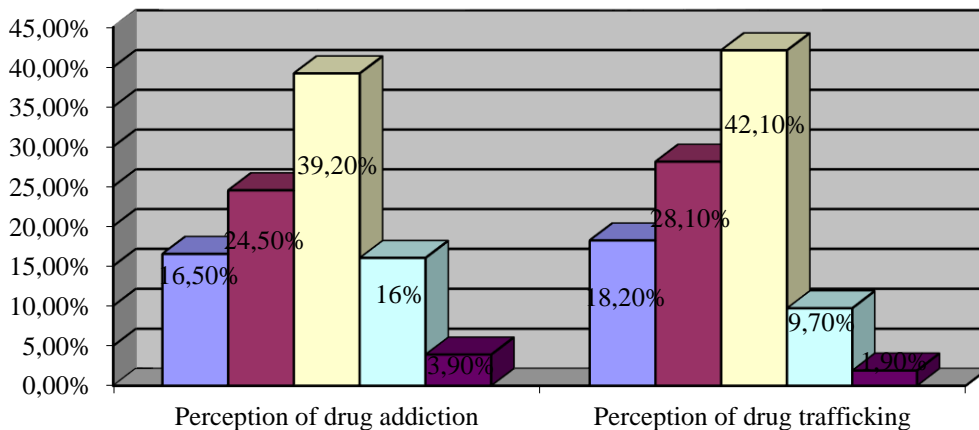
**Table 1. – Correlation between age of the participants, awareness of the fact somebody uses drugs, and the presence in a company of a person while he was under effects of drugs**

		age	I know an addict	I was there
age	Pearson Correlation	1	,254**	,196**
	Sig. (1-tailed)		,000	,000
	N	413	413	413
I know an addict	Pearson Correlation	,254**	1	,529**
	Sig. (1-tailed)	,000		,000
	N	413	413	413
I was there	Pearson Correlation	,196**	,529**	1
	Sig. (1-tailed)	,000	,000	
	N	413	413	413

## PERCEPTION OF DRUG TRAFFICKING IN SERBIA

The first in a series of questions regarding to drug trafficking has been related to the attitude of participants of concerning the situation in this area in Serbia. Respondents expressed their attitude score of 1 to 5. If it is taken to a 3 describes a neutral stance, we could say that the respondents described the state of drug trafficking threat as slightly negative. The average rating given by the respondents on this occasion was 2.49, which is 0.17 lower compared to the perception of vulnerability of society in Serbia of drug addiction. Broken down by categories of respondents, the results look like this: a) students ACPS 2.65, b) students of other higher education institutions 2.43 c) youth population under 30 years who do not opt for higher education and 2.43 d) older than 30 years 2.47.

Based on the presented results, now we can give some conclusions related to the categories of respondents. Namely, it shows that the younger age groups, regardless of whether they are studying, they give almost identical results, with the exception of students ACPS. Moreover, in this case only the students ACPS average mark is higher than the average estimates of the general sample, while all other categories of respondents 'dragged' down this assessment. In the aforementioned case estimate given by the rest of the younger population was a prom higher than the average given in general example. Compared with the perception of drug addiction, presented data look like this:



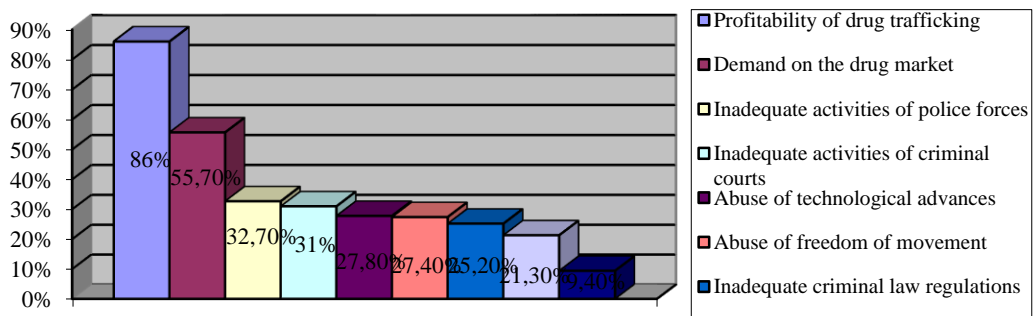
**Graph 5 – Perception of drug addiction compared to perception of drug trafficking in general example, marked 1 to 5**

When asked to mark three of the following factors that are crucially contribute to the current state of the field drug trafficking, respondents in mostly opted for the profitability of this kind of crime (86%), i.e. the relationship between realized profits and risk of criminal prosecution or punishment imposed, which indirectly speaks about how the role of these entities has been seen. However, this issue will be explained later on. In second place is the demand for drugs on the market (55.7%). These attitudes clearly testifies to the fact that the drug-crimes have been seen as a kind of "business", as it really is, because its perpetrators are usually opportunists who seek to use the weaknesses of the criminal justice system and market opportunities to achieve profits as higher as possible.

Next in the series is the (inadequate) activity of the police (32.7%) and courts (31%), and then abuse of technological advances used by criminal organizations<sup>3</sup> (27.8%), abuse of freedom of movement<sup>4</sup> (27.4%) and inadequate criminal law regulations (25.2%). According to attitude of 21.3% of respondents, an important role in the current situation in the area of drug trafficking belongs to inadequate prosecution activity, while slightly less than one-tenth (9.4%) declared that all these factors play an equally important role in this regard. Only 0.5% of respondents offered some of the factors which have not been offered in the list.

<sup>3</sup> E.g. mobile communication, fast means of transport to easy transporting goods over long distances, cashless transfer of money etc.

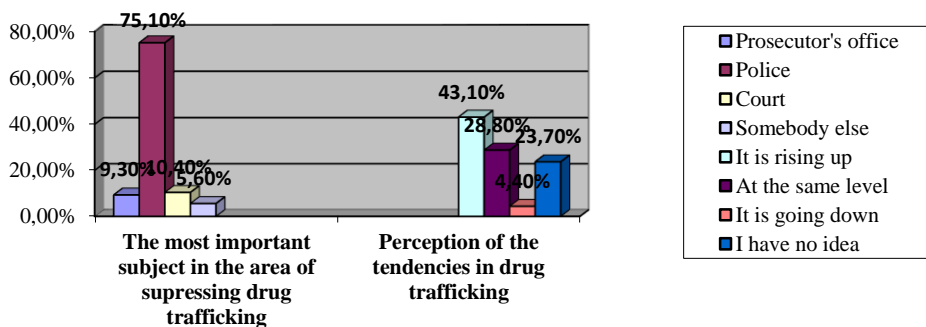
<sup>4</sup> E.g. the visa-free regime, the lack of border controls at the borders of countries within the EU, etc.



**Graph 6 – Perception of relevant factors related to persistence and uprising of drug trafficking**

When respondents were supposed to evaluate the activity of certain entities in combating drug trafficking, convincing primacy brought the police. In fact, more than three-quarters of respondents (75.1%) rated the police as the most active subject in the suppression drug trafficking. Other participants in this process are valued far less. In fact, 9.3% of respondents gave this attribute to the prosecutor's office, to the court 10.4% and 5.6% of respondents thought that the most active in this field is some other entity that is not listed in the questionnaire. During the research, as in the previous cases, there have no observed large fluctuations among the categories of respondents, i.e. the order of ranking is the same, with approximately the same percentage of representation, with a slight favouring of the police by the younger population (+ 0.8% of the students, + 3.2% by other younger than 30 years and + 5.5% by the students of ACPS). In contrast, older than 30 years have influenced this average in negative way, given that in this group the percentage is 70.3%, which is by 4.8% lower, compared to the overall average.

When asked to give their opinion about trends in drug trafficking in Serbia, more than 2/5 of the respondents (43.1%) stated that this phenomenon recorded growth in our society over the past ten years, while 28.8% think that this type of crime is at approximately the same level. Only 4.4% of respondents believe that the drug trafficking decline, while less than a quarter of respondents (23.7%) said they had no idea about this issue. As in other matters, this is a subjective attitude of the respondents. However, the number of detected offenses of drug trafficking and quantity of narcotics seized are the exact categories, and we could, theoretically, comparing the statistical indicators of detected offenses in this area and seizures of narcotics, check if presented perceptions correspond to the real situation.



**Graph 7 – Perceptions of the role relevant subjects in fighting drug trafficking and perception of current state in this area**

However, we should bear in mind the specific of drug trafficking as a “victimless” offenses, in which there is no person affected by the commission of the offence, in the classical sense of the criminal law and that, consequently, none of the participants does not need to report an offence. Bukelić says that this fact makes this type of crime rich, inexhaustible and creative model of criminal behaviour (Bukelić, 1998: 295). Offences stay away from the public view, and a statistical increase in the number may be a result of the increase repressive activities, the fact that the phenomena has been discussed in public, or that the investigative focus has been placed on this area, mostly under pressure from the public and the political elite, executive structures in the police and judiciary. So, increase the number of offenses and seizures of narcotics *per se* does not necessarily mean that such acts are committed more, than just to more detecting crimes. Of course, the repressive activity has retroactive effect, in terms of preventive operation due to the increased risk, which, in turn, has been reflected in lower supply of drugs on the market, hence the higher price and so on. In the introductory part it has been already mentioned that in 2012, globally seen, there was a trend of increase in the number of offenses related to drug trafficking, after a relatively quiet period from 2003 to 2007, the growth trend from 2008 to 2010 and a decrease in the number of offenses in 2011 (UN, 2014: 20). When it comes to the national level, it can be noted that the number of seizures in the last twenty years, first showed steady growth, and then, in the last 10 years, the relative stabilization of the number of about 5,000 to 6,000 per annum, with fluctuations in the amount of narcotics seized (Vukosavljević, 2014). However, the amount of narcotics seized in 2012 has been over 70% higher than in 2011 (Ministry of the Interior, 2013: 1), and in 2013 more than two times higher than the amount seized in 2011 (see Vukosavljević, 2014). Hence, we would, in some way, claim that the perception of respondents about increase of drug trafficking or



its persistence at the same level (over 70% of respondents) could be assessed as based on real facts.

## CONCLUSION

Preliminary results of processing the collected data testify that citizens in Serbia, in assessing the state of vulnerability of society by drug addiction and drug trafficking, have not seen as convenient. On a scale of 1 to 5, grades are below the neutral, or average rating was 2.66 in the first case, and 2.49 when talking about the drug trafficking. The younger generation assesses about average while the population of older than thirty years has been more critical in this regard. However, a kind of counterweight to the older respondents consisted of students of ACPS, with a slightly more positive assessments (2.78), so that the average score remained at a level that gave the younger population of respondents in the general sample. But it is still below the median.

As the most important causes of drug abuse have been identified dysfunctional families (nearly 2/3 of respondents) and inadequate working with children in the education system (more than 1/2 of respondents). The following is a set of factors related to social media influence, criminal legislation and the repressive state apparatus, and at the bottom, the health system. On the other hand, when we are talking about the preventing factors, by far the most respondents (almost 3/4), according to the authors rightly stated that better informing of young people about the harmful effects of psychoactive substances is as a key factor of prevention. On the comparative view of perception of causes of drug abuse and prevention factors, we could see that respondents in this area most "blame", but, in the same time, they most expect from the family, then the education system, law enforcements, judicial system and media, which is the logical order of priorities in action against this social evil. Analysis performed using Pearson linear correlation found that there is no statistically significant link between respondents' age and knowledge of the people who use or have used any of the drugs or the age of the respondents and being in company with the person of which the respondent knew that he was under the influence of drugs. On the other hand, quite logically, the value of the linear correlation between the knowledge of the person who consumes or has consumed any of the drugs and being with that person while he has been under the influence of drugs was statistically highly significant ( $r = 0.529$ ).

As a key factor in the persisting of the drug trafficking, citizens in Serbia have seen primarily its profitability (86% of respondents) and the demand for drugs on the market (55.7%). These attitudes clearly testifies to the fact that the drug trafficking has been seen as a kind of "business", as it

really is, given that its perpetrators are usually opportunists, who seek to use the weaknesses of the criminal justice system and drug market opportunities, to achieve higher profits as much as possible. Other mentioned factors have been identified as crucial in less than one-third of respondents. Respondents gave the most support of the all of above mentioned entities involved in combating drug trafficking to the police, given the fact that three-quarters of the respondents marked police as the most active factor in the suppression drug trafficking. Police is followed by Public Prosecutor's office (9.3%), and the court (10.4%). In this case, younger respondents gave more support to the police. However, after researching the impact of age on the perception of the role of the police in combating drug trafficking, it was found that there is negative correlation, with statistically little significance, ( $r = -0.132$ ). More than two thirds of respondents believe that the drug trafficking tended to increase in the last ten years or stayed at nearly the same level. Globally, drug trafficking is generally on a rising trend or persistence of the same level, while reducing the parameters in some years are more incidental. Also, in the territory of the Republic of Serbia drug trafficking has, statistically speaking, recorded a constant growth since the early nineties to the early years of the new millennium. After that, the number of seizures has usually held on the same level, but there have changed drugs that have had primacy in the mass of total seizures. If we take into account the mentioned parameters, it would be said that the respondents' attitudes about increasing of drug trafficking or its persistence at the same level could be considered as based on realistic parameters.

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# **RISK FACTORS OF DEVIANT BEHAVIOUR AMONG YOUTH IN THE REPUBLIC OF MACEDONIA: A SURVEY OF STUDENTS' VALUE ATTITUDES**

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## **Abstract**

Deviant behavior among youth in the Republic of Macedonia has significantly increased in the last two decades, a fact that can be both statistically observed and seen in everyday life experience. The phenomenology of deviant behavior varies from amoral and asocial behavior through socio-pathological phenomena and crimes. In spite of some research that has been done in this field, the risk factors of deviant behavior have not been extensively researched nor discussed in the Macedonian science of social pathology. In this context, this paper attempts to determine the risk factors of deviant behavior among youth seen through the survey done by the author. The author has done a survey of students' value attitudes in relation to risk factors of deviant behavior among youth in the Republic of Macedonia. The survey was conducted in the last three years with students at the Faculty of Security-Skopje and it used a semi-structured questionnaire. The findings of the primary data were compared with other studies in order to analyze the relevance of results and prove some of the basic claims of the author, namely, the relation between deviant behavior of the youth as dependent variable on one hand, and value ambivalence and moral relativizing as independent variables on the other hand. In terms of theoretical underpinnings, the author sees the value ambivalence and moral relativizing in relation to the theory of anomie, i.e., within the broader theories of socio-structural disorganization. Consequently, the study could be helpful in the scientific determination of etiology of deviant behavior among youth in the Republic of Macedonia and in establishing comprehensive and sustainable preventive policies and measures in dealing with deviant behavior among youth. The paper itself also offers some useful recommendations and conclusions that could be implemented in the future by the state and civilian policy makers and practitioners in the field of societal reaction, control and prevention.

*Key words: risk factors, deviant behavior, youth, phenomenology, etiology, social reaction*

## INTRODUCTION

The world is becoming riskier place to live in with each passing day. We are living in an era that is rightfully called the *risk society* by some of the greatest scientists of nowadays, which proves to be true simply from our everyday experience (Bek, 2001). The risk society, eo ipso, has created the so called *risk culture*, that is culture in which risk preoccupies our everyday way of life, whether manifestly or latently (Giddens, 1991: 3-4). Another crucial feature of our contemporary living is the very fact of *elusiveness of the risk*. Today's risks are harder to grasp, to detect and define than the risks that accompanied human societies throughout the history of mankind. Nowadays' risks tend to mask and hide, both from our everyday taken-for-granted knowledge, as well as from other epistemological views, even from science. All things considered, it is becoming pretty difficult to determine the nature of contemporary risks considering their dynamic change, omnipresence and, above all, elusiveness.

The conditions which we live in are particularly frightening for the younger generations who seem partly lost in this enormous flow of risks, finding themselves almost defenseless, as even their older generations are not able to effectively cope with the new *risks and contradictions which go on being socially produced* (Bauman, 2000, 34). The risks to which younger generations are being constantly subjugated seem to appear in numerous combinations, with new ones constantly emerging. If we add the special trait of contemporary times in which risk-taking has become part of youngsters' subculture or even **fad** between young generations to which some of the youth are attracted and practice, then we get one huge mosaic of risks, risk factors and risky behavior which young generations are flooded with.

Deviant behavior has always been correlated with the risk factors as one had to determine the risk factors that were likely to produce that behavior in the first place in order to adopt successful way of coping with deviant behavior among youth. Having in mind the previously said, it is not an easy job at all. Moreover, the risk factors could significantly vary in the same societal setting in different periods of time, let alone different ss; determining the risk factors of deviant behavior among the youth in the Republic of Macedonia, as the topic we are elaborating in this paper, puts us in front of a very perplexing and demanding task - to determine, prioritize and find the risk factors' correlations with nowadays' deviant behavior among the youth. The author of the paper is trying to answer this complex questions by implementing the general theory of anomie by *Emile Durkheim*, which we find

suitable for theoretical explanations of the present societal and cultural condition, complemented by the risk society theory of *Ulrich Beck*, the risk culture concept by *Anthony Giddens* and some postmodern theoretical attitudes by *Zygmunt Bauman* (Milisavljević, 2003: 322; Špadijer-Džinić, 1988: 35-36). The determination of risk factors of deviant behavior among youth has been eased by the application of the well-known strategic preventive model of risk vs protective factors of behavior, although we only assume and give an allusion of protective factors in preventing deviant behavior, since our main focus stays within risk factors determination. The determination of risk factors of deviant behavior among youth in the Republic of Macedonia proved to be very painstaking task, mostly because of the fast-changing societal conditions, not only domestic ones, but also the borrowed ones. In the case of the Republic of Macedonia, we can also see some value ambivalence and moral relativization, which we believe are caused by numerous factors, but above all, by the state of anomie which, in fact, produces moral and value confusion to a greater extent, combined with the value conflict between traditional, modern and postmodern values as well as with some external influences from the risk society era and culture of risk, the contours of which are being drawn with every passing day (Герасимоски, 2011b: 311; Герасимоски, 2011a: 361-370).

## **RISK VS PROTECTIVE FACTORS**

For the purposes of this paper, we will refer to the theoretical development of the science of prevention, particularly the strategic models of prevention, which have proved to be highly inspirational and useful in determining the risk factors of deviant behavior. One of such strategic models of prevention is the risk vs protective factors strategic model or the concept of prevention to which we will refer to in the following lines. In addition to this strategic model of determination and prevention of deviant behavior, specifically applied to the deviant behavior amongst youth, we could mention a few more such models, as follows: the concept of positive development, the model of developmental advantages, the concept of resilience and risk and the concept of promotion of mental health. There is a widely accepted stance among sociologists, social pathologists and criminologists that the model of risk vs protective factors is among the most extensively used, very often with a combination of some of the above mentioned strategies, models and concepts of social reaction and prevention. The most widely used combination is the one of the model of risk vs protective factors and the concept of positive behavior, where the first one aims at reducing the risk behavior, while the latter aims at preventing the first occurrence of risk behavior (Bašić, Ferić, Krančelić, 2001:1, 2). Since the model (concept) of risk vs protective factors

is the most relevant to our study, we will use it to determine the risk factors of deviant behavior amongst youth in the Republic of Macedonia and to give some hints on the protective factors of deviant behavior, as well as some recommendations on what to do with regard to the prevention of deviant behavior amongst youth.

The model of risk vs protective factors is one of the latest theoretical developments in the prevention of risky behavior and it provides us with scientifically based explanation of the probability of occurrence and development of risky behavior (Popović-Čitić, Ćunić-Pavlović, 2005: 29). This concept starts from the assumption that the increase or decrease in probability of deviant behavior is conditioned by the existence and mutual interaction of various risk and protective factors, which could vary considerably even in the same socio-cultural setting in different periods of time. Therefore, this model is a multifactorial model that needs constant research of the dynamic change and interplay between risk and protective factors of deviant behavior.

Nevertheless, before we start determining the risk and protective factors of deviant behavior amongst youth in the Republic of Macedonia, we will provide the definition of risk and protective factors. Namely, risk factors refer to the factors of societal development for which science has determined that they are related to some risky behavior in a way that they increase the probability of such behavior, irrespectively of their biological, psychological or social nature and their consideration as causes, conditions or incentives. It has also been scientifically determined, quite convincingly, that the risk factors of behavior, particularly deviant behavior, have often been found between the youth. However, it is crucial to understand that the presence of risk factors amongst youth does not mean by itself that they will produce a deviant kind of behaviour, but it implies that the presence of risk factors only points to the higher probability of occurrence of deviant behavior amongst youth.

On the other hand, the protective factors refer to the factors of social development for which science has determined that they act in creating favorable conditions for social development of the youth, thus reducing the probability of **occurrence** and development of risky behavior and consequently, deviant behavior. In fact, the protective factors counteract the risky factors, thus preventing the risky behavior or making the consequences of the risky behavior **lesser**. It means that the more and stronger protective factors are present in comparison with the risky factors, the less there is probability that a young person could find itself in a risky type of behavior that would produce deviant behavior. In fact, the newest theoretical and empirical findings in social pathology and prevention have concluded that young people possess a kind of mix of risk and protective factors which determine the

probability of **occurrence** and development of risky and deviant behavior (Bašić, Ferić, Krančelić, 2001: 5, 9). Risk factors are often determined as something that lacks during the process of youth socialization, and, therefore, over time they become risk factors of deviant behavior. At the same time, the protective factors represent the presence of socialization factors which act as **a barrier** against risk factors, preventing deviant behavior. Therefore, the risk factors and protective factors are often viewed as opposite, negative vs positive factors, and, as such, they have also been **construed** (УНИЦЕФ, 2010: 21).

For the purpose of our study, we have singled out a list of risk factors of deviant behavior amongst youth, made according to some previous, mostly theoretical insights of the author of this paper. At the same time, we do not claim exhaustiveness of the list, but believe, according to some considerable scientific effort made so far in this field in the Republic of Macedonia, that this list represents the most widely present risky factors of deviant behavior amongst youth on this territory in the last two decades. The list of risk factors of deviant behavior amongst youth in the Republic of Macedonia according to our study is the following:

- Inherited deviant potential
- Distorted family relations
- Societal setting labelling
- Inappropriate close societal setting (peers, friends, colleagues)
- Unfavorable media influence
- Distorted system of societal values
- Structural socio-economic changes
- Frustrations caused by non-perspectiveness
- Flaws in socialization within the schools
- Conscious self-exposure to deviant phenomena (victimization)
- Physical and psychological vulnerability of the youth population<sup>1</sup>.

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<sup>1</sup>For more information about previous research of the author on similar topics, see also Saše Gerasimoski & Arsiola Dyrnishi (2014), "Violence Among Youth in Post-transitional Countries: Comparative Experiences of the Republic of Macedonia and the Republic of Albania", *Зборник радова са Научно-стручног скупа са међународним учешћем, Тара 2014 Насиље у Србији-Узроци, облици, последице и друштвене реакције*, Криминалистичко-полициска академија и Фондација Ханс Зајдел, Београд, Том 2, сс. 165-175 and Saše Gerasimoski (2013), "Risk factors of violent behaviour among the youth in the Republic of Macedonia with emphasis on peer group violence", *Zbornik radova Međunarodne naučno-stručne Konferencije Vršnjačko nasilje (etiologija, fenomenologija, načini prevazilaženja, komparativna iskustva)*, Visoka škola unutrašnjih poslova, Banja Luka, pp. 157-170.



## **ANALYSIS AND INTERPRETATION OF SURVEY RESULTS**

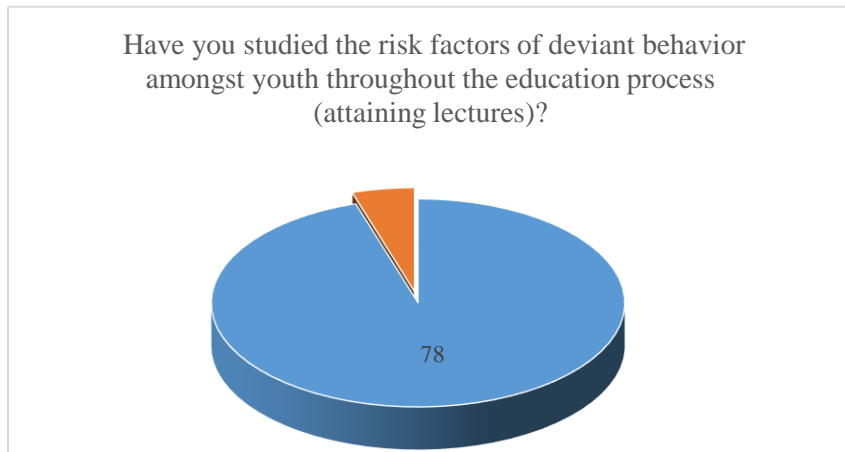
The empirical part of this paper rests on the survey conducted by the author in three consecutive years, 2013, 2014 and 2015, referring to the students' value attitudes in relation to risk factors of deviant behavior in the Republic of Macedonia. The students at Faculty of Security in Skopje were given a semi-structured survey questionnaire consisting of 10 questions, 5 of them of interest for this topic. The number of students surveyed was 82, all students that attended lectures in Social pathology as elective subject at the Faculty of Security-Skopje at three different study programs: Criminalistics, Security and Criminology and Criminal Policy. The aim of this empirical part is to give an empirical support of the author's presumptions of risk factors of deviant behavior amongst youth in the Republic of Macedonia, particularly in determining the state of anomie, moral relativizing and value ambivalence. The research will continue in the following years by surveying other youth categories (pupils and youth below 30 years), thus forming a more complete picture of youth's attitudes towards the risk factors of deviant behavior among youth. In this sense, the results from the current survey could be interpreted in narrower terms, having in mind that they do not claim ideal representation of the youth, particularly student population, but, nevertheless, they are undoubtedly indicative in determining the risk factors of deviant behavior among youth.

Regarding the sample structure, out of total of 82 students who participated in the survey, most of them, 54 or 66% were female students, while 28 or 34% were male students. Most of the students were full time students from first and second year of studies, with 19-20 years of age, and only a few part-time students with over 20 years of age, or precisely, 6 students. 16 out of 82 or 20% of students originated from rural areas, while the other 66 students or 80% originated from towns. Only 28 students or about the third of the sample originated from the capital city of Skopje, while other two thirds from the rest of the towns throughout the country. As far as the ethnic affiliation is concerned, they were mostly Macedonians - 71 out of 82 or 87%, and 11 were from other nationalities (Serbs 4, Vlachs 3, Albanians 2, Turks 1, Roma 1), while regarding religious affiliation, they were predominantly Orthodox Christians, 77 out of 82, or 94 %, while 4 or 5 % were Muslims, and 1 declared as Atheist or 1%.

We are going to give the results from the five most important questions from the survey, presenting the results in tables and graphs, followed by interpretation of the results with comments provided after each question of the survey.

1. Have you studied the risk factors of deviant behavior amongst youth throughout the educational process (attaining lectures)?

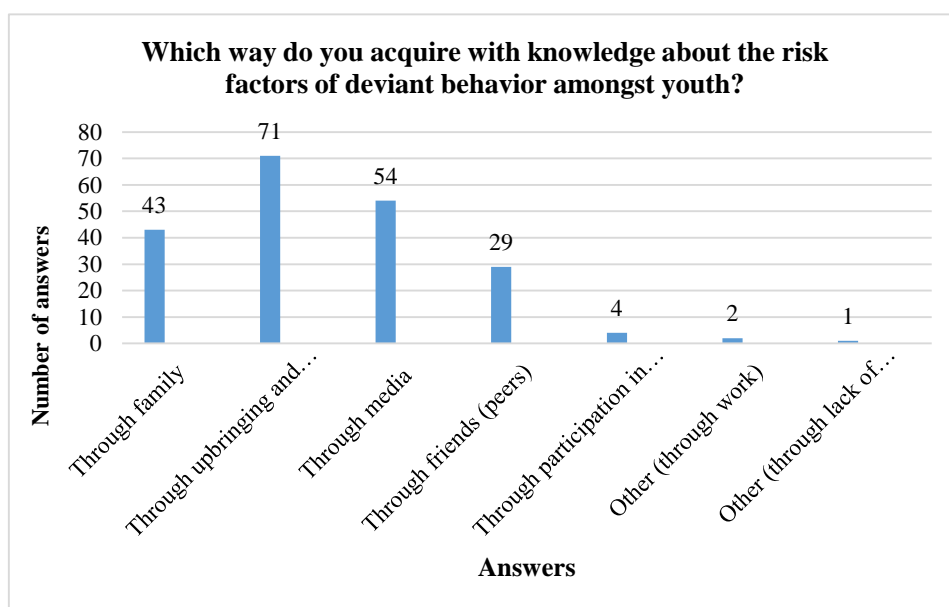
Question	Answers		Answers	
	Yes		No	
	f	%	f	%
	78	96	3	4



*Interpretation and comment:* The answer to this question indicates clearly that 78 out of 81 respondents or 96% of the respondents have studied risk factors of deviant behavior throughout the educational process through attaining lectures. The data is compelling, although we have not required the students to explain where this education was obtained, either elementary or secondary school, or at faculty. For the purpose of this study, it is of concern to know that the students also based their answers on the education acquired on risk factors, irrespective of whether this knowledge was provided through the socialization process within schools and education units about socialization and prevention or it was separately studied as knowledge of risk factors of deviant behavior. The answers to the following questions will confirm this, as it seems that the students have determined the risk factors considering not only their experience, but their knowledge on this matter as well.

2. Which way do you acquire knowledge about the risk factors of deviant behavior amongst youth?

Question	Answers	
	f	%
Through family	43	52
Through upbringing and educational process (schools)	71	87
Through media	54	66
Through friends (peers)	29	35
Through participation in a civil association	4	5

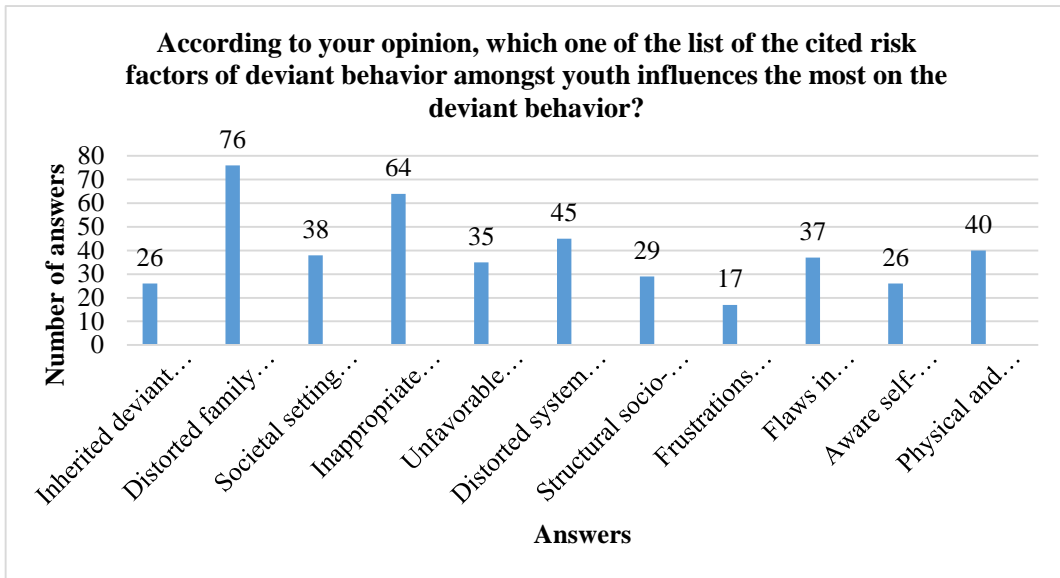


*Interpretation and comment:* The answers to this question unmistakably confirm the previous observation. Namely, even 71 out of 82 respondents or high 87% of the students have acquired their knowledge about the risk factors of deviant behavior amongst youth through upbringing and education process (schools). That means that our respondents have in fact received necessary information on risk factors primarily through socialization

within the schools. However, it is to some extent surprising that 54 out of 82 respondents, or even 66% of the students have acquired this knowledge through media, while 43 out of 82 respondents, or 52% through family. As the matter of truth, this is not to be surprising in general, since it could be explained with the strong role that media have in today's socialization of the youth. Nevertheless, the third place of the family in this question suggests that the family has lost its primate as primary social setting (agency) where the contemporary Macedonian youth could get the necessary knowledge about the risk factors of deviant behavior. This study could not answer why this is the case, but it only assumes that there are a lot of possible reasons, such as the decrease of the general role of the family as primary socialization setting, lack of knowledge by the parents concerning the risk factors of deviant behavior, strong competing influence of media and peer groups in gaining knowledge on this issue etc.

3. In your opinion, which item in the list of risk factors of deviant behavior amongst youth influences deviant behavior the most?

Question	Answers	
	f	%
Inherited deviant potential	26	32
Distorted family relations	76	93
Societal setting labelling	38	53
Inappropriate close societal setting (peers, friends, colleagues)	64	78
Unfavorable media influence	35	43
Distorted system of societal values	45	55
Structural socio-economic changes	29	35
Frustrations caused by non-prosperity	17	21
Flaws in socialization within the schools	37	45
Aware self-exposure to deviant phenomena (victimization)	26	32
Physical and psychological vulnerability of the youth population	40	49
Other, use of drugs, alcohol	1	1



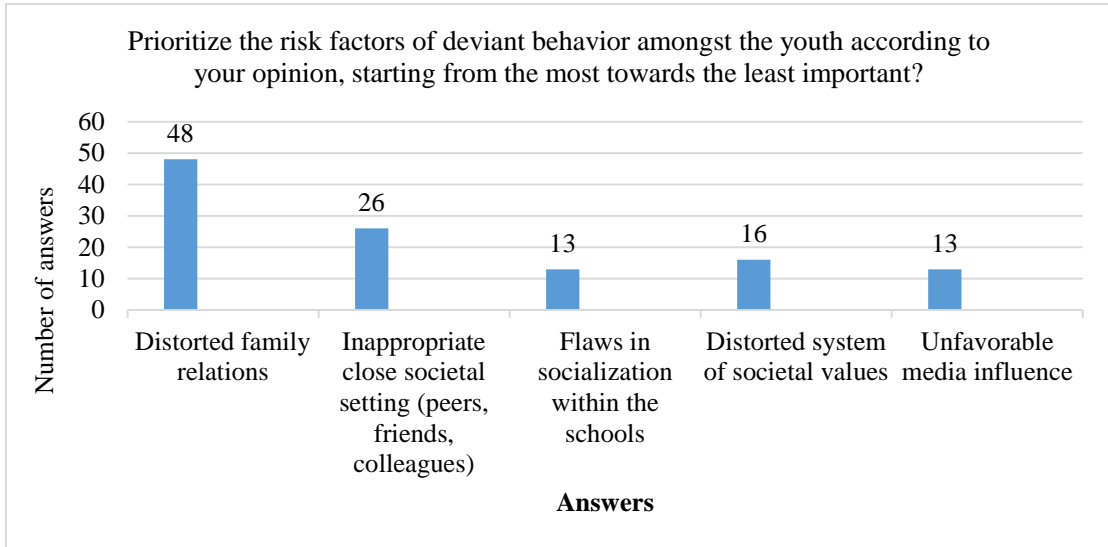
*Interpretation and comment:* Although, as *John Adams* adamantly and to some extent rightfully remarks that “*everyone is a true risk expert*”, we are nonetheless almost certain that, in fact, there are risks, at least amongst the youth, that are too elusive to be recognized on time and that are too dangerous and out of capability of youth to be dealt with successfully and to prevent deviant-type of behavior on time (Adams, 1995: 1)<sup>2</sup>. Considering the answers given by the students in the study, these interpretations are simply compelling enough. The answers to this question vary from micro, mezzo to macro level, at least by looking the first three items with the most number of answers. Thus, our students responded that 76 out of 82, or 93% think that distorted family relations is the number one risk factor of deviant behavior amongst youth in Republic of Macedonia. This suggests that the students have pointed out to this crucial micro-societal factor as key risk factor of deviant behavior. It means that the students are aware and fully recognize the significance of distorted societal relations as the leading factor of deviant behavior, as much as we could presume that having this factor being appropriate, it could be seen as crucial protective factor against deviant behavior. Next, the second risk factor is inappropriate close societal setting (peers, friends, colleagues), which is mezzo-societal risk factor, for which 64 out of 82, or 78% believe it to be

<sup>2</sup>This finding, which asserts the possibility of successful dealing with risks in everyday life, has been claimed amongst the grown-ups. It is supported with another claim by *Paul Slovic*, who advocates that every grown-up person deals successfully with everyday risks on the basis of the so called *street-calculus*, constantly estimating and re-estimating the risk vs protective factors and by that successfully dealing with everyday risks; more at Paul Slovic (1987), “Perception of risk”, *Science*, Vol. 236, pp. 280–285.

of high significance in forming and sustaining the deviant behavior amongst youth. The third place goes for distorted system of societal values, which is macro-societal risk factor for deviant behavior. 45 out of 82 students, or 55% believe that this is very important risk factor for deviant behavior. The whole structure of the answers in this question lead us to the conclusion that the students as young people are well informed and have rightful picture of what the risk factors of deviant behavior include. They rightly assume that distorted family relations and inappropriate close societal setting are to be viewed as most significant risk factors, while the distorted system of societal values occupies the third place. The only thing that stands out here is that the respondents are not that much convinced in the influence of this factor, since the percentage is 55, although, in reality, this is taken to be one of the triggering factors of deviant behavior. It seems that the young think within this formula: “as long as the risk factors are to be found in family or peers, they are part of their everyday experience and tend to be seen as detrimental and wrongful, while as long as it happens to all, in general societal level, that is not seen as detrimental and as wrongful as the previous, since it has been masked and even justified to some extent under the moto of ‘everybody is doing it’”.

4. Prioritize the risk factors of deviant behavior amongst the youth in your opinion, starting from the most towards the least important?

No.	Risk Factor	Answers (total answers)	
		f	%
1.	Distorted family relations	48 (79)	61
2.	Inappropriate close societal setting (peers, friends, colleagues)	26 (79)	33
3.	Flaws in socialization within the schools	13 (79)	16
4.	Distorted system of societal values	16 (76)	21
5.	Unfavorable media influence	13 (70)	19



*Interpretation and comment:* The findings of this question match the findings of the previous question in terms of number of answers. Distorted family relations with 48 answers out of 79, or 61% is seen as number one risk factor, close societal setting (peers, friends, colleagues) with 26 out of 79 answered, or 33% is number 2 risk factor, while distorted system of societal values with 16 out of 79 answered, or 21% is the third risk factor. The difference here is that the respondents were asked to give the list of factors of deviant behavior amongst youth by priority, and the first three answers completely match the answers of the previous question. The match of answers refers to the integrity and solidity of opinions, shows that the respondents are highly focused on the questions, which all in all, gives the survey a high level of relevance.

5. In your opinion, what is the intensity with which the risk factors influence the deviant behavior of youth?

Risk factor	Number of answers				
	Outstanding influence	Very important influence	Relative influence	Less important influence	Insignificant influence
Inherited deviant potential	9	7	<b>33</b>	23	7
Distorted family relations	<b>47</b>	24	6	2	2
Societal setting labelling	10	25	<b>31</b>	13	1
Inappropriate close societal setting (peers, friends, colleagues)	<b>33</b>	<b>33</b>	12	2	1
Unfavorable media influence	3	<b>29</b>	<b>29</b>	16	2
Distorted system of societal values	9	29	<b>32</b>	8	2
Structural socio-economic changes	6	25	<b>33</b>	11	5
Frustrations caused by non-prosperity	6	14	<b>35</b>	18	5
Flaws in socialization within the schools	<b>25</b>	20	23	6	6
Aware self-exposure to deviant phenomena (victimization)	14	19	<b>29</b>	15	2
Physical and psychological vulnerability of the youth population	20	<b>23</b>	22	13	1

*Interpretation and comment:* The last question in the survey questionnaire that we elaborate here is the one concerning the intensity with which the risk factors influence the deviant behavior of youth. To this end, we have applied the standard Likert scale for attitudes measurement, containing 5 levels of intensity in attitude (outstanding influence, very important influence, relative influence, less important influence and insignificant influence). The findings show the intensity of attitude towards answered questions for each risk factor. What is interesting here is that we found the strongest intensity in attitudes concerning three risk factors (distorted family relations with 47



highest intensity answers, inappropriate close societal setting (peers, friends, colleagues) with 33 highest intensity answers and flaws in socialization within the schools with 25 highest intensity answers). This means that not only that the students think that these risk factors are important, but that they are outstandingly important as factors taken separately. It is interesting to notice that the students gave the highest intensity attitude to the risk factor of flaws in socialization within the schools, which referred that, although this factor was not prioritized between the first three, viewed separately, it received highest degree of importance, which is an ethically respectful answer. The students also gave very important reference to unfavorable media influence with 29 and physical and psychological vulnerability of the youth population with 23 answers. The other risk factors were given relative significance in terms of impact on the deviant behavior amongst the youth.

## **CONCLUSIONS AND RECOMMENDATIONS**

Several conclusions and recommendations could be extracted from the survey. They are the following:

- It is quite certain that the whole situation of societal anomie, risk society and culture of risk in the current Macedonian society contribute towards the present number and definition of risk factors of deviant behavior amongst youth;
- The findings of the survey suggest that distorted family relations is considered the most important risk factor of deviant behavior amongst the youth and should be paid the most attention and effort to minimize its negative influence and to transform it into protective factor of socialization;
- The presence of distorted system of societal values is very high on the scale of risk factors, which also tells us more on the value ambivalence and moral relativizing that stand behind this risk factor and determine its appearance;
- The presence of risk factors on different societal levels between the first three factors only confirms that the risk factors are found at all levels of societal structure and the strategies of primary prevention should be designed on wide societal basis, including all societal levels of structure;
- We also find the risk vs protective factors of deviant behavior amongst youth to be very useful and instructive model (concept), not only for determination and explanation of risk factors, but also for

determination of appropriate protective factors and preventive strategies and measures;

- There is a clear tendency among the youth to slightly disregard the influence of general risk factors in comparison to micro and mezzo-societal risk factors of deviant behavior; this could be seen as part of the process of intensive individualization and reflexivity of contemporary society, which, in turn, means that the youth have to be drawn more attention to recognizing and fully understanding the meaning of these risk factors to deviant behavior and the manner to transform them into protective factors through the process of socialization.

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# PRESENTATION OF CRIME IN THE MEDIA COVERAGE: REAL OR FALSE PICTURE

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## **Abstract**

The crime issue necessarily takes part and place in the daily media because crime is a casual and easy way for media coverage. Reading crime news immediately raises questions such as, whether criminal news is a reflection of the real situation not only with the total crime in the country, but also with a specific criminal event described and shown in a particular media, what is the role and the meaning of the media to cover crime, i.e. how can we explain the relationship between media and crime. Those concerns are the main topics to be elaborated in the article. In the manuscript, in a systematic way are presented the findings reached out from many studies and current theoretical debates in the criminological literature about the interconnectedness among media and crime. Special attention is paid to the role of media in the construction of the dominant definitions of crime and offenders that have a great impact on the public attitudes and perceptions of citizens about crime.

*Key words: media, crime, discourse, crime news*

## **INTRODUCTION**

The term of mass media often refers to electronic and printed media (television, radio, daily newspapers and internet). These types of media are a subject of special scientific interest within the specific scientific area – communication and mass media, which deals with all questions and issues connected to the role of mass media in the society. Taking into consideration that there are different standpoints or aspects regarding the explanation of this term, the first question that the science should clarify is to make a distinction between the different definitions of the term mass media. We can recognize technological, sociological, conventional, common and other definitions of mass media. Making distinction between the different aspects is not a subject of this paper and therefore we accept the common explanation of the term, according to which, media are tools for mass communication that transfer, spread and announce information to unlimited number of people. Moreover,

they create the reality, including all phenomena, such as crime as an individual and general social phenomena. For that reason, the way in which the media portray the crime is of a special interest within the criminology. Considering the fact that there are several types of mass media and each type has its own features and rules on how to present the material, all these types, more or less, have their own distinct features that are a subject of a special debate among the professionals and the general public. Their role as agents of social life and as the fourth power in the country generally depend on the time, space, values, the process of democracy and the political system of the society. The media represent certain interests, they inform about certain events, stimulate critical reasoning and specific actions, they control, entertain, educate, and advertise. Considering that, they have several functions, such as informative, educational, entertaining and social functions. On the other side, the basis classification of mass media includes the radio, television, press and internet. A distinct feature of the press in regard to other mass media is the fact that its information is fixed, integrally preserved and available, and in that way it enables us to follow and explore the social communication continually for a long period of time. Within the framework of the printed media, the daily newspapers have a special place, and due to their informative and politic character and the function to inform about the daily news in the area of politics, culture, economy, society, as well as about the attitudes, opinions and comments regarding current events, this type of media is more frequently analyzed by the scientific community.

Featuring the daily news, the topic of crime is a common and a crucial part of the daily newspapers and depending on many elements of the criminal event it can be on the front page, on the popular political section, on the economic section, or on the black chronic page. As a result of this, the questions that rise are: whether the crime news are a reflection of the reality not only regarding the crime figures in the country, but also regarding the specific criminal event described and depicted in the newspaper?, what is the role and importance of the media in regard to crime presentation and how the connection between crime and media can be explained?

Those questions are elaborated in this article through review of the scientific literature and undertaken studies in that area and through short analysis of the recognized theoretical approaches about relation between media and crime.

## **STUDIES FOR CRIME NEWS**

The studies listed in the expert literature (mostly within criminology has been consulted), depending on the subject, can be classified into three main groups. They refer first, to the role of the media (as a sender of the

message) in crime reporting, second, to the contents of the text and to the manner of its presentation, and third, to the effects of how the media present the crime to the readers (as receivers of the message). Therefore, considering the three elements of the media, as a system of communication: media- text-audience (sender- message- receiver), all circumstances and factors connected to these elements should be analyzed distinctively and together, because they are a trio of interdependent variables and factors that should be examined and analyzed interdisciplinary and in mutual correlation. Or as Reiner (2007) highlights, in order to see the connection between the media and the crime, further research is needed about the production of crime news, i.e. about the reasons of their production and presentation, about the contents, the effects and the consequences that crime news have on the readers.<sup>1</sup> They result from their mutual influence, according to which, the effects of the content depend on how the content is interpreted by the readers. More precisely, the three groups of research refer to the following:

First, to the role of the media as an institution (as a physical or legal entity); they produce and send messages to the public that are important for analysis from more aspects. Those studies refer to the reasons for portraying the crime in the media, to the goals and regulation policy, to the source of the information and to the criteria according to which the media text can be used as crime news. Second, regarding to the content of the crime news, important for the research are the manner and the style of presentation, the place of the text in the media, the number of crime news, the features of the crime, the penal policy, the language construction of crime news, etc. Regarding to the third aspect that refers to the effects that crime news have on readers, usually the scholars are focused on the following research questions: the changes of the attitudes and the perceptions of readers about crime, their behavior, their sense of fear (this part of the research refers to the cognitive, behavioral, and emotional aspect of the readers). Apart from this, series of studies have been conducted about the media as a criminal factor, which verify certain theoretical approaches or establish new ones that explain the connection between them. Taking into consideration the above mentioned, and considering the wide range of theories that can be researched, in the text that follows, I am going to mention some research results about the representation, contents and the style of the crime news in the daily press, in order to find out whether the media portrays real or false picture of crime, which is the primary subject of this paper.

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<sup>1</sup> Reiner, R. (2007). *Media made criminality: the representation of crime in the mass media*. In: Maguire, M, Morgan, R and Reiner, Robert, (eds.) *The Oxford Handbook of Criminology*. Oxford University Press, Oxford, UK, p. 302 - 337

### *Some research results*

Most of the studies on this subject show that violent crime in the media is disproportionately represented compared to the property crime, and the ratio is eight as opposed to two (8/2), while according to the official statistics the property crime rate is nine (9) as opposed to one (1) for the violent crime. This presentation gives a distorted image about the representation of certain criminal activities within the total crime rate.<sup>2</sup>

Ditton and Duffy (1983) have also analyzed the crime representation in Scotland in March 1981 and came to the conclusion that both, violent and sex crime are dominant in the media.<sup>3</sup> The research of Jacobs (1980) also asserts their over-representation in the daily newspapers, according to which 70% of the crime news are related to violent crimes<sup>4</sup>. Yamamoto, M. (2011) explains that those criminal offences that occur more frequently (for example, thefts) are seldom covered by the media, while homicides and brutal physical attacks more frequently. A reason for this media coverage is the fact that according to the public perception, the term crime mostly implies to violent crime.<sup>5</sup>

Faucher (2009), explored the way in which juvenile violence is portrayed in three Canadian daily newspapers and concluded that juvenile delinquency is often portrayed in a sensational manner. According to him, the media portray juvenile crime as a big and serious problem, while other social problems are neglected.<sup>6</sup> In his research, Dowler (2007) discusses about the disproportional violence representation, mostly about homicides and burglaries, contrasted with the property offences. Regarding the traits of the victim and the offender, the media frequently develop profiles of ideal offenders and ideal victims. Depending on the offence, the perpetrators are psychopaths, violent, businessmen or professionals, while victims are labeled as passive, defenseless and fragile.<sup>7</sup> Alheide (2007) speaks that the media create legitimate victims, which covers children, women, old and defenseless

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<sup>2</sup> Ibid, p. 384

<sup>3</sup> Peelo, M., Francis, B., Soothil, K., Pearson, J., Ackerley, E. (2004). Newspaper reporting and the public construction of homicide, *British Journal of criminology* 44 (2), Center for crime and justice studies, p. 256 - 275, p. 258.

<sup>4</sup> Katz, J. (1987). *What makes crime news?*, Media, culture and society, SAGE Publication, p. 46-75., p. 58-59

<sup>5</sup> Yamamoto, M. (2011). Mass Media as a Macro-level source of social control: A new direction in the community structure model, in *Mass communication and society*.

<sup>6</sup> Cannon, M. (2011). *Deviant youth in the news: a critical discourse analysis of media and participant social constructions of a contemporary moral panic*, Manchester Metropolitan University, p. 1 - 19. p. 12

<sup>7</sup> Dowler, K. (2003). Media consumption and public attitude toward crime and justice: the relationship between fear of crime, punitive attitudes and perceived police effectiveness, *Journal of criminal justice and popular culture*, vol. 10, issue 2, p. 109 - 126

citizens, while other victims, such as drug addicts, the homeless and sexual workers, according to the discourse that presents them, more difficulty gain a status of legitimate victims in the eyes of the public. Hereinafter, considering the language and style used in describing the crime victims, there is a danger in the media of creating hierarchy regarding the victimization scale. In fact, there is a danger of certain marginalized groups to be less covered than other victims that would lead to the conclusion that the ones are more important than the others. For example, the homosexuals and the spouses as homicide victims are minimally covered, compared to the foreigners who are over-presented in the media. This manner of selective presentation creates distorted image about the victims, in which certain categories are more visible compared to other categories.<sup>8</sup> During the analysis of the presented victims and offenders in several studies, Reiner (2007) recognized that in the media, older offenders of higher social and economic status are more covered, compared to the traits of the offenders registered in the official statistics. Similar data are obtained about the victims, too. In the media, the victims are usually older women of higher social status, mostly from the white race, while according to the official data they are poor, young Afro-American mothers.<sup>9</sup> The above mentioned data show us that with the selective presentation of the offenders and victims, the media unrealistically rank and stereotype both parties of the criminal event. The research about the criminal offences committed by “wall street” and the Latino immigrants in the USA also supports the fact that the race and the social and economic status of the victims and offenders have a big influence on how crime news are presented. The victims are positively portrayed and the negative influence and consequences caused by the white collar crimes are minimized. On the other hand, the crime committed by the Latino immigrants is negatively portrayed and it has a negative influence on the perception of the Latino community that increases the demand for harsher immigration policy.<sup>10</sup>

Furthermore, regarding the manner in which the offences were committed, the research show that criminal offences which occur rarely and in an unusual manner are more frequently covered by the media, because it causes emotional reactions and shock among the readers. In spite of this, these

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<sup>8</sup> Ibid.

<sup>9</sup> Reiner, R. (2007). *Media made criminality: the representation of crime in the mass media*. In: Maguire, M, Morgan, R and Reiner, Robert, (eds.) *The Oxford Handbook of Criminology*. Oxford University Press, Oxford, UK, p. 302 - 337

<sup>10</sup> Catalano, T. и Waugh, L. (2013). The ideologies behind newspaper crime reports of Latinos and Wall street / CEOs: A critical analysis of metonymy in text and image, in *Critical discourse studies*, p. 406 - 426., p. 407



criminal offences can be presented in the media for days and weeks, which increase their deviance, condemnation, and wish for revenge.<sup>11</sup>

Based on the above mentioned and other results, we can conclude that the media generally create distorted image about the crime, which is also influenced by other factors.

### **WHAT INFLUENCES THE “ILLUSORY” OBJECTIVITY OF THE CRIME PORTRAYED BY THE MEDIA?**

The comparison between the portrayed and the real crime is an indicator for the objectivity in the presentation of the crime according to both the rate and types. Furthermore, the selection of criminal offences, which offences are followed in their further criminal proceeding, and which crime situations are analyzed in more details, depends on many factors, among which are: the administrative policy of the media and the certain criteria and values that should be taken into consideration in order to publish the story (to be newsworthy for publishing).

Because the central thesis of the paper supports the idea that the selection process creates distorted image of the real crime figures, we rise the questions about the extent of that distortion not only quantitatively, but also qualitatively (in terms of the manner in which the crime is portrayed in the media) and about the contribution and influence of the media on the social institutions regarding the crime and criminal problems.

One thing is clear. The news is not a neutral reflection of the social reality, but they are a subject of different processes that influence on their production and publication. As Fairclough (1989) states, the thing that exists is “the power to disguise the power”. It is a power to choose certain mechanisms for denominating and portraying the events, and to reject other mechanisms, and consequently, to favor specific interpretations and to disfavor others.<sup>12</sup> Those interpretations, according to Mayers, are mostly based on the opinions and perspectives of the educated, white-colored men who belong to the more prominent social status.<sup>13</sup> They are usually experts and scholars from certain areas who have more connections with the powerful individuals and easier approach to the public discourse.

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<sup>11</sup> Alheide L. David (2003). Mass Media, crime and the discourse of fear, Hedgehog Review; Vol. 5 Issue 3, p. 9 - 25., p. 17

<sup>12</sup> Adampa, V. (1999). Reporting of a violent crime in three newspaper articles. The representation of the female victim and the male perpetrator and their actions: a critical news analysis, Working paper N0. 108, Centre for language in social life, p. 18

<sup>13</sup> Turkewitz, R. Ripley (2010). All the news that fits to print? A content analysis of newspapers' Portrayal of rape and sexual assault, p. 14

Regardless of whose interests they serve, the mass media should respect certain values connected to the criminal story that lead the authors to decide whether an event is worthy to be placed in the news. Main factors are the offence frequency, its importance, unexpectedness and un-ambiguity.<sup>14</sup> Despite these, Roscho (1975) lists additional features of the event which should be explained: presence of conflicts, unexpectedness, and routine classifications, presence of “big names” of celebrities, deadlines and objectivity<sup>15</sup>. Another group of experts consider that there are two reasons why the crime is portrayed on the American television. First, because the crime is connected to fear, and second, it can be easily camouflaged. As some local news editor in USA would say, crime is the easiest, fastest, cheapest and most effective way to cover the TV news. From economic point of view, it is said that the role of the newspapers is neither to educate, nor to inform. The goal of the newspaper editor is to sell it, while the shock, revenge and the fear of the audience are the elements that trigger off the selling of the newspaper<sup>16</sup>. The famous motto of the media industry is: ‘If it bleeds, it leads’.

The following dilemma that is discussed in this paper refers to the manner in which the authors frame and shape the story, because, how they produce the text is one thing, but how the audience interpret that text is a completely different thing. In that context, the authors and readers are subject of discourse practices that influence and are influenced by the dominant social and cultural norms. Therefore, it is very important how the social and cultural matrix in which the author writes and produces effects the selection of certain expressions and stories which are shaping the text<sup>17</sup>. On the other hand, the readers as a consumers with different level of knowledge and different perspectives and based on their identity sense, experience, family and social relations they interpret that expressions and stories.

The thesis that the content of the text influence its interpretation by causing shock or calling for revenge is true, and it serves to mobilize the readers’ response and reaction. According to Katz, J. (1987), the crime news is classified as hot news that stimulate readers to react against the insecurity.<sup>18</sup> Therefore, within the frames of several scientific studies (linguistics, communication, criminology), special disciplines which study: 1. the

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<sup>14</sup> Oenbring, R. (2011). Framing Violence: A content/Discourse Analysis of representations of violence in Bahamian Newspapers, Violence symposium 3<sup>rd</sup> November, 2011, p. 32

<sup>15</sup> *ibid*

<sup>16</sup> Jewkes, Y. (2004). Theorizing media and crime, Media and crime, SAGE Publication, доступно на: [http://www.sagepub.com/upm-data/36583\\_02\\_Jewkes\\_Ch\\_01.pdf](http://www.sagepub.com/upm-data/36583_02_Jewkes_Ch_01.pdf), p. 32

<sup>17</sup> enbring, R. (2011). Framing Violence: A content/Discourse Analysis of representations of violence in Bahamian Newspapers, Violence symposium 3<sup>rd</sup> November, 2011, p. 54

<sup>18</sup> Katz, J. (1987). What makes crime news?, Media, culture and society, SAGE Publication, p. 46 - 75. p. 70

connection between words and meaning (linguistics), 2. the meaning of language in certain context and which messages are sent through the language (communication and 3. the manner in which language creates the reality (constitutive criminology and postmodernism) are developed. The discourse analysis is the tool that analyses the language, and as methodological procedure, it includes more approaches of content analysis in order to reveal to which socio-political functions the discourse serves<sup>19</sup>.

Regarding the crime news, Turkewitz (2013) believes that the newspapers standardize the stories and lose the complexity of the current news.<sup>20</sup> They narrow the public narratives which limits the public perception and understanding of crime. According to Dowler the stories are created in accordance to certain frame that supports the dominant governmental structure and promotes gender, race, sexuality, and class stereotypes. As a matter of fact, these stories are becoming stereotypes that help readers to interpret “stereotypically” their experiences.

For example, regarding the rape cases, Dowler considers that the media use a framework which helps the selection of the cases and the discussions about them. The authors shape the stories based on already existing narratives about rape as a criminal offence and describe the victims, also based on previously existing definitions about the rape victims. This type of story simplification helps the community to easily absorb and understand it<sup>21</sup>.

Mayers (1997), concerning the portrayed domestic violence, says that the crime news expand the idea and thesis that the violence is a result of an individual psychopathology, i.e. it is a case of isolated pathology or deviance. Therefore, the media do not relate domestic violence to the social roots that refer to both, the patriarchy and the control over the women.<sup>22</sup> Similarly, Jewkes (2004) argues that the crime in media is portrayed as a result of an individual pathology, and the crime among powerful people is ignored or misrepresented. Regarding the perpetrators, Greg Barak (2004), a representative of news-making criminology considers that the label,

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<sup>19</sup> Tuneva, M. (2013), Reporting on the differences, Trajkovska, Z. (ed.) Report on the inter-religious and inter-ethnic conflicts: The meaning behind the titles, High school for journalism and public relations, Institute for communicational studies - Skopje, p. 11 - 18, p. 12

<sup>20</sup> Turkewitz, R. Ripley (2010). All the news that fits to print? A content analysis of newspapers' Portrayal of rape and sexual assault, p. 3

<sup>21</sup> Ibid, p.11

<sup>22</sup> Adampa, V. (1999). Reporting of a violent crime in three newspaper articles. The representation of the female victim and the male perpetrator and their actions: a critical news analysis, Working paper N0. 108, Centre for language in social life, p. 22

stereotypes, and criminalization of certain groups, mostly based on class, gender and race are still present.<sup>23</sup>

## THE ROLE OF THE MEDIA IN CREATING THE CRIME

In conditions of social mobility, channel expansion and open competition among the media, we can often meet the attitude that the objectivity in the media is illusory.<sup>24</sup> Based on a pluralistic model for ideological war, these conditions are subject of debate, and consciously or unconsciously they are used or misused for manipulation of what is true and what is false, with the facts and interpretations<sup>25</sup>. For this reason, Jewkes (2004) ascertains that during the examination of the stories in the media, reversed questions are being asked. It is not about what media do for people, but what people do with the media in an era of democratic and interactive communications led by technology<sup>26</sup>. For this question, I will try to elaborate certain attitudes related to the thesis that the media frame the reality and that there is a strong bond between the choice of language and values, promises, practices, and power relations in the society.

**The media are a main source for information about the crime.** The media portray crime news that can be differently based on the topics: current events, discussion on criminal offences, analysis of certain crime conditions, comments and opinions of experts, activities in the penal and judicial system or activities in the community related to crime. Regardless of the information topic, the citizens in every society are informed by the media about the crime, and based on that knowledge they develop their attitudes. Therefore, the data analysis on current criminal offences, penal policy, place and manner on how the crime was committed and about how the offenders and victims are profiled in the media are extremely important to determine whether the media give a real or distorted image about the crime and the level of its disproportion. Taking into consideration that the media inform the general public, supposing that people believe them, they expect from the media objectively and neutrally to portray the crime.

**The media frame the reality.** The media exist and their function is to portray the reality in an objective and unbiased manner and for that reason, the media are creators of the reality. However, Allan (1998) believes that there is

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<sup>23</sup> Jewkes, Y. (2004). Theorizing media and crime, Media and crime, SAGE Publication, available at: [http://www.sagepub.com/upm-data/36583\\_02\\_Jewkes\\_Ch\\_01.pdf](http://www.sagepub.com/upm-data/36583_02_Jewkes_Ch_01.pdf), p. 24.

<sup>24</sup> Ibid, p.25

<sup>25</sup> Turkewitz, R. Ripley (2010). All the news that fits to print? A content analysis of newspapers' Portrayal of rape and sexual assault, p. 14

<sup>26</sup> Jewkes, Y. (2004) Theorizing media and crime, Media and crime, SAGE Publication, доступно на: [http://www.sagepub.com/upm-data/36583\\_02\\_Jewkes\\_Ch\\_01.pdf](http://www.sagepub.com/upm-data/36583_02_Jewkes_Ch_01.pdf), p. 29

no objective truth and that the truth is “a subject of debate between different opinions”. Claiming that the doctrine of the objectivity is in their hands, journalists simply deceive the readers and their prejudices that, for example, the violent crime that has been portrayed is a frequent phenomenon in reality. According to the postmodernists, the media are a source of reality from a second hand.<sup>27</sup> In that context, regardless of whether they represent someone interests, “the reality” of the crime in the stories which has been portrayed is a reflection of the policy of each media and of those who are in powerful and privileged institutional positions and who have regular access to the public discourse. According to Chamberlain (2013), most of them belong to the political and cultural elite, who through their discourse they have power to influence and control the citizens<sup>28</sup>, or as Antonio Gramsci (1891-1937) points out, “the opinion of the powerful is privileged”. This type of discourse provides reproduction and maintenance of the official and dominant ideology.<sup>29</sup>

**The ruling class uses the media to obtain public support.<sup>30</sup>**

According to the Marxists and the radical criminology representatives, the media are capitalist institutions supported and under the auspices of the ruling class which has the power to distribute information and to legitimate the already divided society. In one-party systems, when there was no pluralism in the media, they were used to gain the middle class, to control them, and to approve the social values and interests imposed by the already existing hegemony. In a state of contemporary capitalism (or liberal democracy), the ruling class uses the media to gain the community’s trust and support with consent, instead of force. In that way, the dominant interests and values are approved and accepted, because, as Jewkes (2004) emphasizes, the people passively and completely adopt the ideas of the ruling class. Furthermore, he states that the relationship between the media and the powerful has important consequences for the manner in which crime and criminals are portrayed, mostly if their behavior does not correspond to the norms imposed by the

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<sup>27</sup> Turkewitz, R. Ripley (2010). All the news that fits to print? A content analysis of newspapers’ Portrayal of rape and sexual assault, p. 14

<sup>28</sup> Chamberlain, J. Martin (2013). Understanding criminological research, SAGE publication, 2013, p. 152

<sup>29</sup> Adampa, V. (1999). Reporting of a violent crime in three newspaper articles. The representation of the female victim and the male perpetrator and their actions: a critical news analysis, Working paper N0. 108, Centre for language in social life, p. 17

<sup>30</sup> Jewkes, Y. (2004). Theorizing media and crime, Media and crime, SAGE Publication, доступно на: [http://www.sagepub.com/upm-data/36583\\_02\\_Jewkes\\_Ch\\_01.pdf](http://www.sagepub.com/upm-data/36583_02_Jewkes_Ch_01.pdf). p. 19

ruling class<sup>31</sup>. In other words, the crime information in the media is related to the dominant cultural values and beliefs in the society.<sup>32</sup>

**The media construct the dominant definitions about the crime.**

This thesis is widely accepted and advocated by the representatives of the constitutive criminology. Explaining the crime, they especially emphasize the role of the media in the modern society, which influences the theories of crime i.e. the manner in which crime is portrayed in the media. According to them, the language is an ideological instrument that creates the things, more than it simply describes them. The language plays an active and constitutive role, and it is a tool for achieving certain goals and we use it to present ourselves in certain manner. In that context, Henry and Milovanovic (1996) consider that crime is a co-product designed by crime presentation, crime drama, crime documentaries, crime news, criminal systems, etc.<sup>33</sup>

In this regard, Foucault, believes that the language frames the social institutions, the penal and legal systems and the individuals, by hierarchical and ideological operation of the discourse statements that *situate* individuals in a certain manner as special social actors, so they could observe and develop a better social control.<sup>34</sup> This means that, even the media, with the help of the crime news, support, reform or make the most dominant crime definitions. In this way, they have the power to design the public perception of the crime, in a manner that is true or distorted. In that context, the media and politicians often assign conventional and cultural meaning to those who break the law and by doing that, they reject the possibility to present another, alternative or opposite explanation about the crime, criminal behavior and the criminal law.<sup>35</sup> This is properly elaborated by Chamberlain (2013) in his publication “Understanding Criminological Research”, where he states that certain discourse practices and sources (those launched by the media) introduce “certain subject-positions and social identities, while at the same time, they close, marginalize or silence others”. This means that the media can increase the deviance of certain categories of offenders and offences, and to camouflage, relativize or even to exclude the deviance of other negative behaviors. Therefore, the criminology, with the help of the discourse analysis should describe how certain styles of portraying and explaining the crime are

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<sup>31</sup> Ibid, p.21

<sup>32</sup> Turkewitz, R. Ripley (2010). All the news that fits to print? A content analysis of newspapers' Portrayal of rape and sexual assault.

<sup>33</sup> Stefanovska, V. (2014). Constitutive criminology: Product of postmodern society, Proceedings of the International scientific conference “Macedonia and the Balkans, a hundred years after world war, Faculty of security-Skopje, p. 398 - 409

<sup>34</sup> Chamberlain, J. Martin (2013). Understanding criminological research, SAGE publication, p. 152

<sup>35</sup> Ibid, p. 141

more stable and more privileged than others. Researchers are motivated to apply the discourse analysis because it deals with social inequality and it implies that the language of the criminal justice overemphasizes and institutionalizes the individuality as a main factor that causes crime and often increases the limited, punitive and one-sided viewpoints about the offenders.<sup>36</sup>

**The media have an influence on the individual attitudes and perceptions about the crime.** The crime stories affect, shape, or alter our attitude about the crime. They cause a fear sensation, insecurity, panic, emotional feelings, stimulate the stigmatization and can increase condemnatory attitude, stereotypes, intolerance, and demands for harsher penal policies. Nils Christy (2003) shares the similar opinion, and according to him, in the modern capitalist society, the information about the crime offered by the media is increasing and in that way people rely on the media when they describe and give importance to what happens, including the crime,<sup>37</sup> which can be explained with the theory of symbolic interactionism (Mead, 1976, Blumer (1972)).<sup>38</sup> The immediate criminal influence which the media have on the individuals can also be explained with the Social learning theory of Albert Bandura (1977). In the 1950s and 1960s Bandura (1977) conducted series of experiments in which he displayed violent movies to children. After watching that, they were given bobo dolls to play with, so he could observe how the children handled and treated these dolls. He ascertained that there was a direct bond between the violence portrayed by the media and the aggressive behavior of the children compared to those children who were not exposed to this type of violence<sup>39</sup>. Even though Bandura's thesis is often criticized, further elaboration of the above mentioned theories is not a subject of this research.

## CONCLUSION

The media, as a means of communication are part of the everyday life of people. No social segment could function without the mediation of the media. Therefore, a few crucial questions rise: how media affect us to think and to act in a certain manner from one side, and how media create our identity and situate us in the society from the other side. The research results indicate

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<sup>36</sup> Ibid, p. 141

<sup>37</sup> Stefanovska, V. (2014). Constitutive criminology: Product of postmodern society, Proceedings of the International scientific conference "Macedonia and the Balkans, a hundred years after world war, Faculty of security-Skopje, p. 398 - 409

<sup>38</sup> Konstatinovic - Vilik & Nikolik - Ristanovic, V. (2003), Criminology, Faculty of Law in Nis, Nis. p. 308

<sup>39</sup> Jewkes, Y. (2004). Theorizing media and crime, Media and crime, SAGE Publication, available at: [http://www.sagepub.com/upm-data/36583\\_02\\_Jewkes\\_Ch\\_01.pdf](http://www.sagepub.com/upm-data/36583_02_Jewkes_Ch_01.pdf). p. 13

that the media has the power to create categories, offences and offenders and to determine the limits and definitions for deviations and crime. For example, the discourse used to describe certain criminal activities has an influence on the social construction of these criminal activities, as well as on the public discourse used to describe them<sup>40</sup>. In that context, if we accept Noam Chomsky's (2001) theory according to which "the media refuses to write about what they should write in order to distort people's perception about what really happens" it follows that there are discrepancies between the portrayed and real crime. However, with the development of the pluralism and the circulation of the private media channels, the media get new dimensions they have developed critical reasoning and became the fourth power in the country (watchdog of the government). The media can frame the crime, and in the same way they can deconstruct it, throughout deconstruction of the popular crime image in the media. This is a subject of further research in the frame of the News-making criminology, according to which, criminologists, with the help of the mass media can influence and design the perceptions about certain crime issues. Therefore, as criminologists we should critically deconstruct and demystify the ideologies and crime definitions, which is the first step, as Catalano and Waugh (2013) say, to cause social changes that would lead to better social justice<sup>41</sup>.

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# **THE PERSONALITY PROFILE OF TERRORIST LEADERS: THEORETICAL ASPECTS AND WAYS OF MEASURING**

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## **Abstract**

The main task of the psychology of terrorism is to explain the psychological aspects of terrorism, trying to provide answers about the behavior of the persons involved in terrorist activities. The literature suggests that there is no a single theory that explains the reasons and the way of "making the terrorists." While the first generation of research have viewed on terrorism as a pathology, explaining it predominantly through mental illness and psychopathic personality, the second generation is based on a behavioral approach that sets operationalization as a precondition for existing of scientific research. It achieved agreement for the inability of separation of the psychological factors from the others, especially the social, in an attempt to explain this phenomenon. It is not found a single psychological profile of terrorist, but what unites this sample is the existence of vulnerability for terrorism and particular ideology. However, the deepest in this phenomenon is the word "psychology", which unfortunately still remains undiscovered. Even more complicated is the attempt to describe those who are ahead to be chosen to lead this psychology.

While some theoretical approaches exist, there are very few empirical studies about detection of the psychological aspects of terrorism, especially in the case of personality traits. Basically, these studies came to unclear conclusions, first due to the lack of unique definition of terrorism as phenomena, classified research results, and then due to unavailability of testing subjects, especially in case of an unknown enemy. On the other hand, recent methodological approaches are facing with uncertain validity.

This paper will attempt to answer the question whether there is a personality profile typical to terrorists, whether there are differences among leaders and followers, and what are the possible ways of measurement. The findings will be used to improve the psychological contra-terrorism strategy, with the main goal to upgrade the practical psychology knowledge in the security forces, responsible for dealing with this phenomenon, by setting global terms aimed at detection of offenders before making a decision to perform such an offence.

**Key words:** *personality, terrorist leader, terrorism, measuring*

## INTRODUCTION

The literature abounds with confusion in the question of defining terrorism. Studies have found more than 200 definitions and no one is universally agreed or totally accepted. The dilemma is in the side of labeling or "*one person's terrorists is another person's freedom fighters*". One of the definitions describes it as a strategic political and primarily a rational vehicle of achieving political goals, the reasons from which terrorists attract public attention as the main motive, by inducing fear and terror (Norris, et al., 2013). The identification of terrorist events is not a simple task, which requires clear indicators for attempts to clarify the range of issues that arise. Hudson defines the terrorist acts as planned application of unexpected, shocking and illegal violence against non-combat personnel and other symbolic targets prepared by clandestine members of sub-national groups or clandestine agents for the psychological purpose – publicizing political or religious cause and / or intimidating or coercing a government or civilian population into accepting demands that determine the cause (Hudson, 1999 pp. 12). Richardson notes seven characteristics that any act should possess to be considered as a terrorist: to be politically inspired, to contain violence or the threat of it, to send a message, the act and the victim to have a symbolic meaning, to be conducted by certain sub-groups within the state, the victim should be distinguished from the audience for which the act or message is intended, and civilians to be deliberately targeted (Richardson, 2006). The perpetrators of the acts in their homelands can be characterized as freedom fighters and heroes, i.e. the acts are performed for some and on specific way assigned, well thought ideology, led by a terrorist leader in well organized groups against clearly defined negative reference groups and with the purpose of "revolution" against the "perceived" unjust state or leading party. The dominant aim differs across four historical periods (Dean, 2007).

It is considered that the nature of terrorism is fundamentally psychological, but more socially than individually oriented. Despite political scientists and sociologists dealing with political and social contexts in which the terrorist groups exist, there are few psychologists who study terrorism by

the characteristics of individual terrorists and the terrorist groups, the process of recruitment and acceptance of terrorist ideologies, personality, beliefs, attitudes, motives, their development as an individual process, behavior, etc, trying to answer the questions why someone decides to become a terrorist, which are the specifics that tell terrorists from non-terrorists, which are the predictors for terrorism, which are the reasons for leaving the organization, and so on.

This paper will focus on the terrorist personality, in an attempt to determine the specific personality dimensions or traits as relatively permanent dispositions that largely determine the behavior, given the existence of a certain degree of genetic structure (Hall, Gardner, 1970), that are reinforced by specific family, social, economic, and political development context and the ability for measuring, taking into account the specifics of this phenomena.

### **TERRORIST PERSONALITY**

The literature suggests several conducted trials to determine the personality traits that distinguish active terrorists from non-terrorists, but such a distinction is not empirically confirmed. While the existence of some latent dimensions that contribute to decision on accession to violence is proved, a specific set of traits which contribute to choose terrorist behavior option is not defined. On the other hand, it is known that the personality traits alone are not the best predictors of one's behavior. In short, the science empirical has not confirmed any universal terrorist personality profile (Borum, 2004).

The first researches were focused on the hypothesis that terrorism is the result of pathology or psychopathic personality structure. These assumptions derive from the monstrous way of conducting terrorist acts, which seems associated with a lack of empathy, antisocial and irresponsible behavior, sadism, etc., but on the other hand clear indicators are determined that deny this hypothesis (Horgan, 2003). Other researches confirms the lack of abnormality in terrorists, even its lower existence than in all other populations, while the violent behavior is explained by the impact of specific situational factors (Silke, 1998). In short, it was determined that the terrorists are characterized with "normality". The positive psychological qualities of terrorists are equated with most of the main characteristics that describe secret police officers, state secret agents, organized crime operatives, witnesses protection program client and other people who live their lives in shadow, which requires coping with the pressure of the underground or double life, disrupting of the normal life needs' gratification, to remain confidential and loyal to the group ideology in enduring prison, interrogation, torture, great financial rewards deceptions, and even sacrifice their lives (Miller, 2006). This is confirmed by the Post, which explains terrorists like action-oriented, aggressive, stimulus-hungry and seek excitement, that largely overlap with the

feature of members of the military, security, and emergency services, which selection criteria are the highest, indicating high personality qualities (Walter, 1990). O'Balance however, lists several characteristics that a "successful" terrorist or one that is not caught by the law enforcement must possess: commitment to the organization and its leader, perseverance and sacrifice; personal courage, taking into account the possibility of death, injury, torture or imprisonment; without emotions of pity and remorse - killings carried out on innocent victims, cold blood, without anger; fairly high intelligence - the abilities for information management, planning and avoiding security forces; with a high level of sophistication, education and knowledge in general. As high standards they do not apply to everyone, but to the leaders, planners, couriers, liaison officers and activists, who in turn are the base of the organization (Combs, 2013).

However, it was determined that the terrorists are somehow psychologically "different" or "special", but not "abnormal", although the pathology is considered as an inevitable consequence of such activities. According to several authors, three main hypotheses for explaining the reasons for violent terrorist behavior are distinguished, in which certain dimensions take place:

- *Frustration - aggression* - it is the result of dissatisfaction with the system and frustration of being unable to realize specific political, economic, or personal goals. Specifically, it is explained as minority groups' movement against social and political conflicts that is not necessarily accompanied by violence - the result of real or imagined injustice, marginalized status and aggressive response to the failure in resolving their grievances.
- *Narcissism - aggression* - the reasons are seen in narcissism as a way of making relationships with the environment, which occurs through appropriate ego reinforcement, satisfaction or compensation, as intrapsychic regulatory tool which the person uses as an ego-protection. Thus, if the psychological form of "idealized parental ego" is not neutralized by reality testing, it may be a condition for narcissistic defeat and it can lead to reactions of anger in desire to destroy the source of narcissistic injury.
- *Psychodynamic profiles and negative identity* - in basis are unconscious motives as a result of Freud's unresolved conflicts from childhood - Edipus and Electra complexes, which contribute to fight against authority; or Erickson's acceptance of negative identity in the event of failure in resolving development crises in childhood and the ideology of the terrorist group becomes the protector of his identity (Hudson, 1999, Horgan, 2003).

Post suggests a special logic on which terrorists act, which does not mean they resonate logically, but that logic forces them to choose terrorism from all options and afterwards to justify violent act. He considers that the achieved uniformity is due to the disproportionate presence of the defense mechanisms "outsourcing" and "splitting" on terrorists, which is a result of identity search and damaged ego and explains the impressive strike and need for external enemy, with the motto "they, not we, are the cause of the problem" (Walter, 1990).

Other authors, however, talk about the vulnerability factors as sources of motivation or mechanisms of strengthening of militant ideology, which often occur: perceived injustice, need for identity and need for affiliation (Borum, 2004). But all this comes down to the attempts by clinical psychologists to provide an explanation for terrorism, which has no empirical confirmation, so the question remains open for future research.

### *Types of terrorists*

Regardless of the poor evidence of the personality profile of the terrorist, many surveys confirm certain similarities or specific psychological characteristics, formulated in several typologies. An older classification of Hacker (1976) distinguishes three types of terrorists, calling for different profiles: 1. *Crusaders* - strategists of the group operation plan, most ideologically moved and dedicated to the reasons for the group existence; 2. *Criminals* - perform the dirty work of the group, led by aggressive and impulsive drives they find justified realization, as the least ideological dedication; 3. *Crazy* – they found support in the group, unstable in behavior and loyalty, useful for the group if they successfully channeled their mental illness and pathology. The typology of Strentz (1988) contains similar types: 1. *Leaders* - egocentric personalities with a dose of paranoia, veiled by charismatic confidence and command, as background players and "brains" of the organization; 2. *Activists - operators* - with antisocial, psychopathic personality structure, mostly mercenary soldiers or with a long criminal history, derived from the imprisonment by the leaders to be prominent players or the "muscle" of the organization, where they can realize their violent and hedonistic lifestyle; 3. *Idealists* - disappointed, dependent young people who are searching for the truth and philosophy for a better world, becoming a faithful "servant" of the organization and victims of the leaders, with the routine tasks waiting to prove for difficult and dangerous operations. (Miller, 2006) Hamden however, gives four types of terrorists with different motives and dominant defense mechanisms, suggesting an appropriate approach to negotiations: 1. *Psychopaths* – with narcissistic need for control, they do not care about the cause of the "task" or for the needs of other people but only for their own benefit, kill without consideration; 2. *Ethnic-geographic* or

fundamentalists (religious or political) - both with similar dynamics but for different reasons, passive-aggressive personality, acting as a part of the group, dying for the purpose is considered as an honor; they are critical to authorities, become angry of proposals for their performance, ask for help but do not respect the advice, nor confirm cooperation; 3. *Retributive* – without history of psychopathology, no membership in political or religious group, victims of war, crisis or terror as innocent civilians, whose homes and families are destroyed, suffering from PTSD, lost sense of life, the hostage is a tool for negotiations, without the intent to injure (Hamden, 2002).

### *Differences leader - follower and how to identify each of them*

The organization itself has its own hierarchy and different role in each of the levels, which varies depending on the type and size of the group. Within these roles or functions, members are selected and deployed naturally, on which influences the personality traits as personal factors. Hierarchical levels include: sponsors, leaders, the executive committee (preparers of political and military policy), middle management (planners, recruiters, trainers, and suppliers), followers (foot soldiers or action perpetrators, technicians, researchers, errand runners, transporters, and sympathizers) and the Lone wolf. Roles are not so strong in the application. Padhye also states theoretical classification and hierarchy of leaders: 1. *Self-imagined idealists* - devote their life to a goal that they imagine as a moral need, for whom strategic victory is altruistic; 2. *Self-imagined messianic* - considers himself as a guru, with the destiny to take his place in history, for strategic victory equated with personal mastery, 3. *Leaders primary driven from ethnic or religious animus*, that override idealistic or messianic aims, and 4. *Entrepreneurs* – justify their actions by some of the previous types, but basically led by material motives (Victoroff, 2005). All these functions have different degrees of danger and importance for the security forces, and therefore their dispositions. According to the roles and motivations, Padhye distinguishes types as: 1. *Ideologists* - create ideology as a theoretical construct, with religious or political revolt against the state oppression, as an excuse for violence, mentors and leaders; 2. *Perpetrators* - indoctrinated that violence is justified; 3. *Crime Syndicates* - logistics for transportation and information gathering; 4. *Opportunistic criminals* - criminals with anti-social personality, which in the group found opportunities: money, fame, support; 5. *State-sponsored Terrorists*; 6. *Outsourcing terrorists* - hired for money; 7. *Slipping cells* - activated in the need for cover; 8. *Soft supporters* - support the organization and ideology without direct involvement (Padhye, 2013).

Literature tries to distinguish personality of leaders vs. followers as behavioral profiles, which are considered to be important for their recognition. Leaders are described as naturally charismatic, with hypnotic capabilities,

external appearance, quite modest and noticeable, but come to the fore when speaking to groups, megalomaniacs who are perceived as superior rooted, identified with the great revolutionary figures, spend a lot of time alone and enjoy intriguing fantasy life, brought up to control anger and not to show emotion, they look very calm and deliberate, live a clean life without vices as it would not alter the organizational structure of the group at risk, keep the word to subordinates, military interested in which they see power, have unrelenting beliefs. The formula for potential terrorist leaders is the sum of rage, speaking skills and cunning. Followers are mostly young but also old women are not excluded, they feel lost and seek meaning in life, they can achieve high status but internally feel inadequate, feel neglected, considered as unconformity by themselves, they project their fantasies in the leader greatness for which they are magnet. (Schurman - Kauflin, 2008)

Sullwold (1981) in his study of German terrorist leaders recognizes two classes of personality traits: 1. *Extroverts* - unstable, uninhibited, self-interested, not emotional thrill seeker with little concern for the consequences of their activities, and 2. *Hostile neurotics* - intolerant on critics, suspicious, aggressive, defensive, extremely sensitive to external hostility. This is confirmed by the research of Ferracuti (1982) on the Italian terrorist leaders (Hudson, 1999), and look like the dichotomy of Miller which includes: 1. *Narcissistic personality* - dictatorial extremist cult type of leader, grandiose, arrogant, with no empathy for the feelings and thoughts of others, confident in its power to assess and infallibility in absolute truth, consider himself above the law and charismatic firmly incur followers, and 2. *Paranoid personality* - a second group of cult leader, which can be combined with the first, with a strong distrust and suspicion towards the motives and actions of others, with racial or religious exclusive focus and dark conspiracy line; they are considered as the most dangerous leaders because with the holy mission they justify violence towards maintaining its philosophy, strongly fixed in their beliefs, that at the end achieved delusions, they would easier give up of fame than of principles. In the group of followers are cited borderline, antisocial, avoiding, depending, histrionic and schizoid personality profiles, connected with their own roles in the hierarchy (Miller, 2006).

### **MEASURING OF TERRORIST PERSONALITY TRAITS - LIMITATIONS AND VALIDITY**

Unlike the existence of some theories that explain the terrorist behavior, rear are empirical studies concerning terrorism from psychological aspects, especially defining some universal psychological profile, or personality traits at least. According to the analysis, as methodological methods the content analysis, interviews or surveys, and very rarely some rigour approach are commonly used. Namely, analyzes are conducted on



records and biographies of former radicals, members of their families, acquaintances, friends, or supporters; interviews with these people; case studies of people directly involved or closely associated with extremist activities (MI5, 2008); analysis of the collected books, printed or web materials from militant extremist individuals and groups, in order to detect the dominant themes in the unveiling of their mind (Saucier, et al., 2009); analysis of the personality traits from the statements of members of the security services; coming to some terrorist profiles by the secret services findings; interviews with informant ex terrorists with changed perceptions or who were caught; measurement of the traits by the e-mail traffic analyzing systems, etc.

In addition, studies of the psychological aspects of terrorism have unclear conclusions, fragmented content and lack of rigor, which diminished their validity. Problems and limitations in measuring mainly derive from:

- absence of the unique definition of terrorism in the literature;
- the inability for a direct contact with the perpetrators, but only with those caught without realizing the goals, which is not representative as "the successful" one; but even otherwise, the information they give for the security services is confidential, and those given to the very small number of researchers are distorted under the influence of failure and the condition that they are in prison during the interview.
- the possible danger of direct involvement in the assessment of persons which are in some way connected to terrorism minimizes the number of researchers who will be addressed on such a step, refocusing on the secondary sources. (Canter, 2009)
- no reliability of the researches - most of them are not empirical or not based on direct data, but on thoughts derived from secondary and tertiary sources such as biographies, letters to judges, government and news reports, etc., while the messages after committing the act or the terrorist leaders statements are part of the strategy itself.
- the empirical psychological research loses focus on observing behavior of terrorists or unrelated with the questions from practitioners - there is a need for rigor social - behavioral research of terrorism as a process, to provide useful information about the psychology of counter-terrorism.
- heterogeneity and the ever-changing roles in terrorist activities, which reflects the different personalities. (Borum, 2004)
- the complexity of the concept in need of several levels of analysis (individual, group, organization, government, state, society) and the integration of the personal traits with the context (economic, social, political).

- heterogeneity of terrorism and the inability to generalize the psychological findings within or outside the group, or findings of the same type in a different place and time – observing historical and biographical moments within the psychological context is recommended. (Horgan, 2003)

### **PSYCHOLOGICAL PROFILING FOR THE PRACTICAL NEEDS OF SECURITY SERVICES**

In the absence of personality traits, profiling is important for the combat strategy, although some believe that it is not the most adequate method for this type of criminal activities. Given that as a concept in the literature it is applied in several meanings, in function of the operational security is the ability to determine the profile of those who are prone or plan to commit a terrorist act before its execution, despite the defining of the terrorist profile when the act is already performed. Moreover, in case of profiling terrorists defined as offenders against society, this process becomes maximum complicated (Rae, 2012).

Profiling is most commonly applied to identify the suspect in many sensitive cases that occur in series, serial murder, rape, or arsons. Terrorism is considered as an "unusual" crime, considering a well-organized group with strong beliefs, who are masters of secrecy and cover-up, with the support of another group of people, and because most of them do not have a criminal history their representation in the police record is poor (Sahito, et al., 2013). Three main obstacles are listed, arising from: the problems with the definition of both of these terms; which profiling approach is used, where, when and on what type of terrorists should be applied; and the lack of psychological dysfunction in the terrorists' biographies despite the fact that profiling is based on some forms of psychological disorders present in the criminal scene, so it loses the sense in the case of terrorism (Dean, 2007).

Although since long time ago, often cited has been the demographic prototype of Russell and Miller (1977), which is described by the terrorists from the 70's as a composite of several characteristics that have been shown as dominant in percentage. So, members are young (from 22 to 25), in 80% are led by men, residents of metropolis, from middle-class family for the members and leaders, with some university education, stronger moral imperatives from the personal interests and extremist political philosophy (at that time anarchism, Marxism-Leninism and nationalism). This does not imply that all who enter these general terms will become terrorists or commit a terrorist act, or there will not be someone from outside of this description indicating the limitations and practicing as a general framework. The United States secret services in a survey of interviews with perpetrators of terrorist acts brought two (until then unknown) conclusions: 1. to exclude stereotypes

of mental illness, social isolation, or male terrorist murderers, and 2. the threat is not carried out by one killer (Hudson, 1999). Thus, for the practical needs of profiling, they made a typology of different beliefs and motives: 1. *Crusaders* - motivated by their religious or political ideologies 2. *Ultra-conservative political terrorists* – they are politically right oriented, with a quasi militant organization, deeply convinced in individual rights, and with an over-repressive ultra-liberal government. 3. *Political anarchists* - left oriented, attacking the government as racist, elitist and economically oppressive, 4. *Religious terrorists* – are responsible only to God, in whose name they kill and give their life for place in heaven, 5. *Criminals* - perform acts for personal gain rather than for ideology and reason (Miller, 2006). According to the dichotomy of the FBI (1970), terrorists are in an organized type of profile (Ressler, 1985), given that the organization plans the activities very carefully through several stages. On the other hand, in a lack of personality profile and pathology absence, security services use pathological personality types during interrogation strategies, taking into account their weaknesses (Sahito, et al., 2013). The three above-mentioned philosophies are representatives of three (until then) terrorist waves as historical phases ("Anarchist" 1880 - 1920, "Anti-colonial" 1920 - 1960 and the "New-Left" wave 1960 - 1990), which do not include the last one, which has been active since 1979 - Religious wave, with terrorism which is based on religious grounds. This indicates the necessity to spread the focus of profiling on the terrorism as a process in which the terrorist exists as an individual, which includes a context that shapes the beliefs and values of the individual, where the resulting profile gets its meaning. This process is moving in a closed circle with more stages in three levels, starting with "perceived" injustice in the macro context as the main driver, which can be solved only with violence and is justified in that way; it continues in a quiet process of "identification" and "intensification" in a micro-psychological context as a system of beliefs and ends in a process of beliefs, radicalization and making decision to join the terrorists, in a group organized network as an intermediate context systematically managed by some charismatic leader (Dean, 2007).

All this calls for an analysis of the question why and how someone becomes a terrorist and points out that personality traits are even not detected as a single set, but are only one piece of the puzzle and cannot be good predictors by themselves; this does not mean that their knowledge will not be beneficial for a more successful dealing with this phenomenon, but indicates that the process of "change" does not happen under the influence of those "responsible" for recruitment, but may be initiated before, in the particular group of individuals from all the others that at the same time and place take part of the same system and state, besides the part where the process starts initiated by the terrorist group and passes the same stages, considering that it

is a circular process. The issue of the terrorist's personality is towards determining those traits that are more likely, within the equalized contextual factors, to lead to a decision or a process of "identification" as a crucial stage, where scientific validation and verification have a range of barriers. Therefore, what is emphasized at this moment is the detection of vulnerability factors for the particular group.

## CONCLUSION

The statements about the existence of a specific terrorist personality profile are based on unstable empirical, theoretical, and conceptual foundations. Although some specifics are determinate, they are not empirically validated personality traits that distinguish terrorists from non-terrorists. However, no pathology existence is confirmed and universal terrorist personality profile is not found. The last comes from a variety of roles within the organization that change in the space and time. However some uniformity is determined; this is basically psychological. In the absence of empirical evidence, security services use the profiling method, whose reliability is questionable due to the lack of pathology. Application of a combined method is recommended, with consideration of the personality within the contextual factors or consideration of terrorists as a "process" rather like a "person", with an emphasis on the interaction between the person and the situation. Within that, a more rigor research methods with socio-behavioral approach are recommended to be applied.

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# CONDITIONS IN THE PRISONS IN THE REPUBLIC OF MACEDONIA: OPPORTUNITIES FOR RESOCIALIZATION OR DEGRADATION

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## **Abstract**

A prison is an establishment controlled by the state in which inmates are forcibly confined and some of their rights are restricted with a legal court decision. But although the prison sentence is a type of punishment, the main purpose of imprisonment is not to punish the person for the crime that he / she committed. The main purpose of the prison sentence is to re-educate the prisoner, to make them understand the essence and the consequences of their act, and with a broad range of re-socialization measures to prepare them for returning in the social community, but as a completely changed and better person. To achieve that, the state organs have to apply many standards provided by the international organizations and conventions and also to apply the conditions prescribed in the national legislation. That minimal standard refers to the health care of the inmates, appropriate material conditions, sufficient size of cellular accommodation with high hygiene, adequate access to natural light and a purposeful regime for prisoners which will not be treated like the last stain in the society, but as equal human beings.

Regardless to that, this paper attempts to show, through comprehensive analysis, whether the Republic of Macedonia strives to provide the best practices that are required by all legal regulations that refer to this matter. According to that, the focus of this paper is placed on the following questions: whether the conditions in the Macedonian prisons satisfy the minimum prescribed standards and whether the situation in the Macedonian prisons enables successful resettlement and rehabilitation of prisoners, or lead to their degradation and thus to increase the rate of recidivism? To give answers to the researched questions, this paper analyzes the national legislation, the relevant literature and the relevant international acts, reports, and proposals.

*Key words: prison, inmates, re-socialization, recidivism*

## INTRODUCTION

Since ancient times, the theory was met with great controversies about the purpose of punishment. Many theorists have not been able to agree on their views. Therefore, we have witnessed several theories about the purpose of punishment. Most inhumane and oppressive is the absolute theory. As Krlev said, the purpose of punishment under the absolute theories is "fair revenge, retribution, or repression"<sup>1</sup>. That means that the prison is a goal for itself. From the experience of the countries where this theory was active, we can conclude that this goal is wrong. It is clear that evil and revenge is the essence of the sentence, but simply punishing the perpetrators without putting emphasize on their re-socialization and re-education, means only one thing, that the sentence has no goal. From the other side, according to the relative theories, a prison sentence is a kind of preventive measure, an instrument for protection of the society from the perpetrators. The point of this theory is to put the prison sentence in function of some utilitarian goals - protection from violation of the law. Within the relative theories are the theories of special and general prevention aimed to re-raise the offender in order to do not sin again, i.e. to affect educationally on all citizens to refrain from performing offenses.

As a result of the unilateralism of both theories arose a third, mixed theory that is an eclectic set of affirmative notes contained in both previously mentioned theories. The mixed theory is widely accepted and in its substance coexist the retribution and prevention. According to Article 32 of the Macedonian Criminal Code "Besides the realization of justice, the aim of punishment is:

- 1) to prevent the offender from committing crimes and their correction
- 2) educational influence on others not to commit crimes."<sup>2</sup>

The first aim refers to re-socialization of the offender but we can conclude that the Macedonian legislator acknowledged both forms of prevention: special and general. The exercise of prevention measures depends on different factors. Of particular importance for the successful re-socialization and rehabilitation, are the conditions in which people deprived of their freedom pursuing prison sentence. Whether they are appropriate or not, we will see below.

## THE FAIR IMAGE OF MACEDONIAN PRISONS

*"It is said that no one truly knows a nation until one has been inside its jails. A nation should not*

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<sup>1</sup> Todor Krlev. *Prison and re-socialization*, (Studentski Zbor, Skopje, 2001), p. 45

<sup>2</sup> Macedonian Criminal Code Article 32

*be judged by how it treats its highest citizens, but its lowest ones."*

*Nelson Mandela*

In the Republic of Macedonia there are eleven penitentiary institutions. Macedonian Ombudsman, the Committee for the Prevention of Torture (Committee) and some other relevant national and international organizations for more than a decade periodically visit the Macedonian penitentiary. From their annual reports, we can see that the conditions in our prisons are far from satisfactory and they are hardly leading to re-socialize. Successful re-socialization requires exercising of the principle of individualization of the convicted person and taking treatment that suits their personal characteristics. As Krlev noticed, it is not enough just to accept the concept of re-socialization, it is necessary to make efforts to create conditions for its revival and realization.<sup>3</sup> It is hard to achieve re-socialization in overcrowded prisons with a lack of prison staff and a lack of will among the few responsible for monitoring and realization of the re-socialization process. According to the latest annual report of Macedonian Ombudsman, "still accommodation conditions in most institutions are under the prescribed standards, and as in the previous years, once again the biggest problem is overcrowding, the frequent conflicts between inmates, as well as insufficient and inadequate health care"<sup>4</sup>. Bureau of Democracy, Human Rights and Labor (USA) came to similar conclusions - that Macedonian prisons failed to meet international standards. As they said "Problems included overcrowding, violence among prisoners, intimidation from guards, violence by staff, dilapidated and unhygienic conditions, lack of educational and recreational opportunities for juveniles, and some reports of sexual abuse of female prisoners"<sup>5</sup>. Neither of the Committee reports we can obtain a different picture. The last published report says "the conditions in much of the prison have deteriorated since the 2010 visit and in certain units could be described as amounting to inhuman and degrading treatment"<sup>6</sup>. The reasons lie in the inadequate living conditions in prisons, bad food, poor hygiene and a lack of the heating system in winter conditions. The most common excuse of the national authorities is the lack of funds, but the European Prison Rules require that "prison conditions that

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<sup>3</sup> Todor Krlev. *Prison and re-socialization*, (Studentski Zbor, Skopje, 2001), p. 45

<sup>4</sup> Ombudsman, *Annual report on the level of security, respect, promotion and protection of human rights and freedoms in 2013* (Skopje, 2014), p. 61

<sup>5</sup> United States Department of State • Bureau of Democracy, Human Rights and Labor, *Macedonia 2013 Human Rights Report*

<sup>6</sup> Council of Europe, *Reports to the Government of the Republic of Macedonia, after the visit conducted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*. (Strasbourg, 2012), p. 15



infringe human rights cannot be justified by a lack of resources"<sup>7</sup>. With a sweeping reform of the prison system, some things have changed for the better, but we are still far from achieving the European standards. In their report "the CPT expressed its concern that the recently renovated semi-open unit would not be able to withstand the pressure of accommodating more than 100 prisoners in such a confined space, especially given that much of the fittings and furnishings appeared rather fragile"<sup>8</sup>. In this respect we can hardly say that Macedonia fulfills the European standards. According to the European Prison Rules, the accommodation provided for prisoners, and in particular all sleeping facilities, shall respect human dignity and, as far as possible, privacy, and meet the requirements of health and hygiene<sup>9</sup>. Therefore, contemporary penological thought that the enforcement of criminal sanctions, especially of prison, based on humanity, respect for the dignity of the person and the elevation of the personal liability of the defendant, seeks in mentioned execution to eliminate, limit and reduce repression in higher level.<sup>10</sup>

If we analyze the official reports we can conclude that we are still far from achieving that goal. Sleeping on the floor, in the hallways, and sometimes "18 persons in a dormitory of 40m<sup>2</sup>"<sup>11</sup> is far from dignified. Maybe the biggest obstacle for enjoyment of the benefits of the reforms is the lack of attention and care by the prison management and staff. It is concerning that they are allowing recently renovated areas to deteriorate. This means that investment in building new prison accommodation will not in itself guarantee appropriate living conditions on long term. In regard of the poor care for new accommodation in the Macedonian prisons we must mention the quite new prison in Kumanovo. It was build in September 2013, but one year later, the first complaints from inmates arrived. As we can see from the report of Helsinki Committee for Human Rights "in prison it often happens that there is no water for two or three days and they do not have hot water at all"<sup>12</sup>. Inmates say that prison is equipped with hall for religious rituals, classroom, and library and other rooms for relaxation but for some reason they are dysfunctional. In October 2014, the Helsinki Committee received a worrisome complain from inmates in Kumanovo prison about the drinking water. Allegedly, the water had strange color and some unknown materiel inside, so

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<sup>7</sup> European Prison Rules, Part I, Article 4

<sup>8</sup> Ibid.

<sup>9</sup> Marie Crétenot. *From national practices to European guidelines: interesting incentives in the prison management* (European Prison Observatory), p. 10

<sup>10</sup> М. Ткачевский. *Советское исправительно-трудовое право*. (Москва, 1971), p. 45

<sup>11</sup> Marie Crétenot. *From national practices to European guidelines: interesting incentives in prison management* (European Prison Observatory). p. 35

<sup>12</sup> Helsinki Committee for Human Rights, *Monthly report on human rights in the Republic of Macedonia* (Skopje 2014), p. 8

the Committee took a sample and sent it to further analyses. After the laboratory testing commissioned by the Committee, the Institute of Public Health of the Republic of Macedonia reported that “The tested sample of raw water is NOT LIABLE to the legal and professional regulations for bacteriological analysis because of the increased total number of bacteria”<sup>13</sup>. From the report it is clear that the water was fecal contaminated, there were indications of Escherichia coli and it was not safe for consumption by humans. This is not only inhuman and degrading, but the sloppiness of the prison and state institutions indicates on the possible violation of the criminal law in terms of the spread of infectious diseases.

As for the opportunities for recreation and sports activities, the Ombudsman concluded that “inmates do not have enough opportunities for recreational activities”<sup>14</sup>. The main reason for these situation is the lack of equipment and indolent of the officials to organize additional activities. With the exception of certain prison (e.g. Stip CPA) in most of the Macedonian prisons there is no space for sport and recreation of the convicts. In some prisons there is no proper equipment, and where there is, for some reason it is not in use. This policy is not helping in re-socialization of the inmates but it is also violation of the law according to which “institutions must provide conditions for organization and development of sport, recreation and other leisure activities, important for maintenance of physical and mental health of the inmates”<sup>15</sup>.

Also, the state must provide the prisoners with at least 2 hours daily walk in the open air, which in our country is rarely respected. The pronouncement of the Macedonian government is a lack of a sufficient number of staff, so prisoners often receive only 15 to 20 minutes per day. It certainly cannot “allow all prisoners to spend as many hours a day outside their cells as necessary for an adequate level of human and social interaction”<sup>16</sup>. Also, the re-socialization program should include work engagement of the prisoners, but as the former manager of Idrizovo prison said: “We believe that work in prison is a basic form of re-socialization, but we cannot provide it for everyone

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<sup>13</sup> Institute of Public Health of the Republic of Macedonia, *Report of laboratory testing* (Skopje, 2014)

[http://www.mhc.org.mk/system/uploads/redactor\\_assets/documents/829/Izvestaj\\_od\\_testiranja\\_je\\_7404.pdf](http://www.mhc.org.mk/system/uploads/redactor_assets/documents/829/Izvestaj_od_testiranja_je_7404.pdf), accessed on February 15, 2015

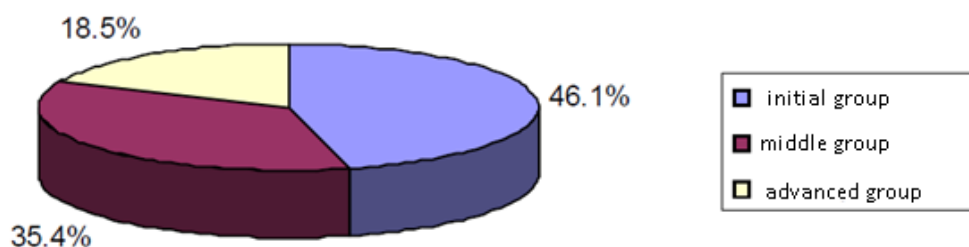
<sup>14</sup> Ombudsman. *Information of the situation on respect and protection of the rights of prisoners and detainees* (Skopje, 2009), p. 6

<sup>15</sup> Law on Execution of Sanctions, (Official Gazette of the Republic of Macedonia No. 2 , 09.01.2006) Article 138

<sup>16</sup> Marie Crétenot. *From national practices to European guidelines: interesting incentives in the prison management* (European Prison Observatory), p. 12

because we are lack of security for prisoners”<sup>17</sup>. This remark points to the problem of lack of prison officers who should guide the process of re-socialization. Another significant problem is that most employees in the re-socialization sectors have a relatively low level of knowledge of the processes of re-socialization.

**Chart 1: Level of knowledge of employees in the re-socialization sector**



Source: Analyses of the results of verification of the knowledge of staff in the penitentiary and correctional facilities, Ministry of Justice - Department for enforcement of sanctions

From the chart below we can see the level of knowledge about legislation and professional knowledge of the employees in the re-socialization sector in the penitentiary and correctional facilities in the Republic of Macedonia. The situation is worst in Idrizovo, the prison with largest number of prisoners whose re-socialization requires highly qualified staff. The data proves the fact that initial training is required for at least half employees in the re-socialization sector in the Macedonian prisons. According to Radovanovic "complementarity and complexity of the process of re-socialization implies to the need for involvement of different professional profiles".<sup>18</sup> Unfortunately, the situation is such that most of the prison officers in Macedonia are unskilled and it seems that they do not want to change their bad habits. To this indicate the reports of the Committee and the Ombudsman of the Republic of Macedonia, which claim that in the Macedonian prisons torture is present and that officers often use excessive physical force.<sup>19</sup> It is obvious that the problem is very serious and requires deep analysis and radical changes. Perhaps the most important and the most difficult to change is the attitude of those responsible for law enforcement who think and act repressively. They need to realize that pure repression does not bring solutions; on the contrary, it leads to degradation and increase the problem that

<sup>17</sup> <http://fellowship.birn.eu.com/en/fellowship-programme/topic> (accessed on February 25, 2015)

<sup>18</sup> Dobrivoje Radovanovic., *Man and prison*. (Belgrade, 1992), p. 9

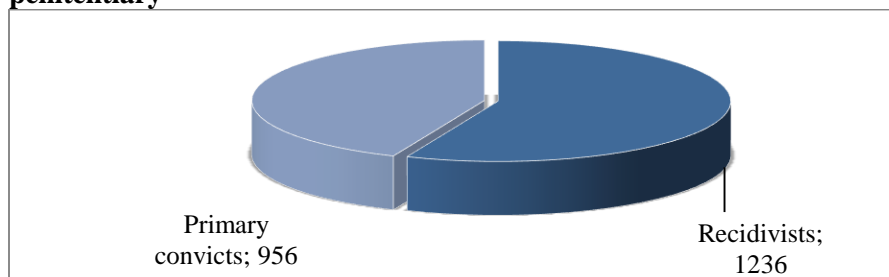
<sup>19</sup> See more Ombudsman annual reports (from 2000 to 2013), CPT reports

has existed since distant times. Therefore, when we cannot learn from our it is better to learn from the positive experiences of countries that have the biggest success in resocialization. While Macedonian officer sees the prisoner as a stain in the society, guards in Norwegian prisons see the potential in each of them. In one such example, a prison officer in a Norwegian prison said: “There is so much to learn about the people who come to prison. We need to try to understand how they became criminals, and then help them to change.<sup>20</sup>” This should become a motto, a guiding idea to those who create and implement the prison system.

### **HOW PRISON CONDITIONS AFFECT THE RATE OF RECIDIVISM?**

The most important indicator of the success of the process of re-socialization in one country is the rate of penological recidivism.

**Chart 2: Display of the number of recidivists and primary convicts in penitentiary**



Source: Strategy for resocialization and social adaptation of convicted entities serving a prison sentence from 2010 to 2012

The great number of recidivists is an “indicator that the existing regular and special measures applied in the process of re-socialization and social adaptation of inmates does not achieve the desired goal”<sup>21</sup>. It is clear that the major impact of the high rate of recidivism has a poor social reaction for former prisoners. When a person comes out of prison they face with rejection and isolation from their family and the wider community. They are rejected, can hardly find a job and there is no state institution that maintains relations with the former prisoners and helps them in their reintegration process. But beside that, “the penology analysis of recidivism speaks about two possible

<sup>20</sup> <http://www.theguardian.com/society/2013/feb/25/norwegian-prison-inmates-treated-like-people> (accessed on February 25, 2015)

<sup>21</sup> MINISTRY OF JUSTICE, Department for enforcement of sanctions. *Strategy for resocialization and social adaptation of convicted entities serving a prison sentence from 2010 to 2012*, p. 13

types of causative factors, inadequate social reaction - inappropriate choice of sanction or the inadequate treatment and unsuccessful process of re-socialization, i.e. the inadequate treatment in a penal correction facility in which the sentence is served”<sup>22</sup>. Andrew Nielsen, an assistant manager at the "Howard League for Penal Reform" in London, describes prisons generally as "universities of crime" that cost a lot of money and have little or no success in rehabilitating inmates<sup>23</sup>.

Macedonian state authorities revealed that around 60% of the prison inmates had been to prison more than once. This means that if tomorrow, the state organs release all the prisoners from prison, more than a half of them will conduct some criminal act. This indicates that the prison sentence does not achieve its main goal. Thus, we conclude that Macedonia in this regard is not very far from the United States, the state with highest recidivism rates in the world (around 76%).

The appropriate treatment of prisoners and re-socialization programs contribute to reducing the rate of recidivism. The overcrowded prisons and the strict prison regime reduce the chance of re-socialization. Overcrowding in prisons disables the realization of rehabilitation programs. In such conditions it is impossible to provide work for all prisoners who want to fill their free time with work engagement. Thus they are in a position not to do anything, but just to fill their time with depression, boredom and stress. All of this goes to the recidivism. Economists Chen and Shapiro studied how harsh prison conditions go in favor of recidivism. The results of their study showed that among prisoners serving a prison sentence in more lax conditions rate of recidivism is from 10 to 15 percent, while in those with more severe conditions recidivism goes up to 42%. Chen says “our estimates suggest that harsher prison conditions lead to more post-release crime”<sup>24</sup>.

The experience of the Nordic countries, including Norway confirms this fact. Unlike the Macedonian, Norway’s criminal justice system focuses on rehabilitating prisoners rather than punish them. Norwegian prison system

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<sup>22</sup> Milo Boskovic., *Criminology* (University of Novi Sad, Faculty of Novi Sad, 2006), p. 512

<sup>23</sup><http://fellowship.birn.eu.com/en/fellowship-programme/topic-2%C3%A5aa%C3%A5-tabboo->

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<sup>24</sup> Chen, M. Keith, and Jesse M. Shapiro. *Do Harsher Prison Conditions Reduce Recidivism? A Discontinuity-based Approach* (*American Law and Economic Review*, June 2007), p. 1

starts from the fact that prisoners are human beings and being punished by sending in prison does not mean that they should be kept in unbearable conditions that maximize their suffering. The very fact that they are losing their freedom is a sufficient punishment. If the guards treat prisoners like animals they are likely to behave like animals. This points to the fact that prison conditions determine recidivism of prisoners. If we deprive them of the benefits that are guaranteed by national and international legal acts, we will not influence over their re-socialization. If we leave them to reside in degrading and humiliating conditions, we will not make a better person from them. On the contrary, without taking measures in order to improve prison conditions, prisons are converted into schools of crime. So, not only that inmates will not be re-educated, but very likely some of them will advance their criminal craft with the new skills learned in prison. Towards that comes the attitude of Murton and Selke who “argue that poor prison conditions have a dehumanizing effect on inmates, arousing greater bitterness and hostility towards society, which manifest themselves as increased rates or severity of deviant behavior upon their release from prison.”<sup>25</sup>

According to Kralev “the prison staff is obliged to adhere to the principles of humanity in dealing with prisoners and respect for their dignity and legality in repression.”<sup>26</sup> And because of the inhuman treatment, prisoners become angry not only towards prison and its officers, but for the whole community, which allowed them to be affected by such injustice. And it is injustice because as Wilson said: “In the law, being sent to prison is nothing to do with putting you in a terrible prison to make you suffer”<sup>27</sup>. Removing people's freedom should be enough of a punishment. Therefore, in the Norwegian prisons, cells are equipped with TVs, computers, integrated showers, etc. Anyone can perform any work within the prison and they are offered further education, participation in various trainings as well as building skills programs. Opponents of the regime which pleases the prisoners will probably ask where the justice for the victim is. But as the psychologist Nielsen once said: “For the victim, the offender is in prison. That is justice. Here I give prisoners respect; this way we teach them to respect others. But we are watching them all the time. It is important that when they are released they are less likely to commit another crime. That is justice for the society”<sup>28</sup>.

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<sup>25</sup> Lawrence Katz, Steven D. Levitt and Ellen Shustorovich. “Prison Conditions, Capital Punishment, and Deterrence” *American Law and Economics Review* V5 N2 (2003): 320

<sup>26</sup> Todor Kralev. *Prison*, (Studentski Zbor, Skopje, 2001), p. 166

<sup>27</sup> <http://www.businessinsider.com/why-norways-prison-system-is-so-successful-2014-12> (accessed on February 25, 2015)

<sup>28</sup> <http://www.theguardian.com/society/2013/feb/25/norwegian-prison-inmates-treated-like-people> (accessed on February 25, 2015)

## CONCLUSION

In the Macedonian penitentiary system, prison sentence has 3 goals, realization of justice, special prevention and general prevention. In the national legislation there is also a provided re-socialization program which is supposed to reduce the harmful effects of incarceration and to prepare inmates for an honest life in freedom. But although some standards are incriminated, there is still a lack of full implementation. Unfortunately, the general conclusion of the Macedonian Ombudsman is that in most penitentiary institutions in Macedonia, conditions are below the level of human dignity. Real picture of most penitentiary institutions is in contrary to the penological standards for the contemporary living conditions, proper hygienic conditions and protection of the health of prisoners. Although there is a progress in the recent years, it seems that there are still huge gaps in the implementation process that need to be tackled soon.

The inhumane prison conditions and the unsuccessful process of re-socialization lead to a high rate of recidivism, which further deepens the problems with the prison system. Perhaps we are not the worst on that issue, but we are certainly far from the best. Norway prisons may resemble some 3 star hotels and the cells are more beautiful than the Macedonian student dorms, but only 17 to 20% of the prisoners in Norway return back to prison after being released. This makes Norway a country with the lowest rate of recidivism and indicates that the conditions in the prisons and the various job opportunities, education, trainings, etc. are prerequisites for successful re-socialization. Comparison with them does not mean that we should transform our prisons into hotel rooms (if we consider the Macedonian standard it is almost impossible), but of course it means to improve conditions in them, to expand capacity, to provide conditions for work engagement, education, and appropriate treatment, and to renovate the ruined cells that look like penal colonies of the past. This will reduce the rate of recidivism and create honest citizens, because if we trust the analysis, "strict incarceration actually increases the offender recidivism, while facilities that incorporate cognitive-behavioral programs are the most effective at keeping ex-cons out of jail."<sup>29</sup>

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<sup>29</sup> See more US Department of Justice, Evidence-based practice to reduce recidivism: Implications to state judiciaries (2007)

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# **CITIZEN PARTICIPATION IN THE BATTLE AGAINST CORRUPTION**

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## **Abstract**

Citizens must have the capacity to trust their representing organizations, whereas governing institutions ought to give the security and the services that citizens need. At the point when corruption is widespread, there can be no trust, and security and services additionally suffer. Corruption has a tendency to be endemic and most inconvenient in countries that are transitioning from one form of administration to other or have become fragile from violent conflict. Trying to root it out too abruptly may lead to more violence and instability. Of course, if corruption is permitted to rot in those social orders, solid and viable administration can be hard to build and social and monetary improvement will be hindered. Concerning the effect of corruption on peacebuilding, practitioners wrestle with making troublesome decisions on when and where to tolerate corruption. As nations experiencing significant change battle with stability, the ties among corruption, governance and peaceful improvement have come into core interest. Developing comprehension of fragile states and these binds have prompted some new thoughts and methodologies in how outsiders can or should offer assistance. These approaches span from helping to establish good governance to incorporating the power of civic involvement into their work. However, application of these ideas and approaches continue to be challenging in as many ways as there are complex conflicts and fragile states. Peace developers-foreign and domestic; people, associations, and governments - have essential parts to play in tending to corruption and securing good governance to avert conflict and fortify local and global security. One of the key factors in corruption control is the citizen's support. This paper contributes to deeper understanding of the current issues regarding this question as well as encourages innovation and involvement. This paper will cover the issues of citizen participation in the process of corruption, how they can get involved in this process and the ways through which one can maximize their impact. The paper is divided into three parts - introduction, a theoretical part which deals with selected issues and conclusion summarizing the results. In the theoretical part, first, are identified the mechanisms through which the citizen's support

can be strengthened. Then the areas in which they display their influence are reviewed. The final part is investigating the way their influence can be increased, as well as the limitations that exist in this process. Also, attention is given to the education of the citizens regarding to what message and through which sources should be sent to the public so that they could join in the anti – corruption battle.

Keywords: *corruption, conflict, governance, anti – corruption principle, citizen action*

## **INTRODUCTION**

### **What is corruption**

Practically everybody who studies the idea of corruption would concur that it is hard to characterize and almost as difficult to quantify it. Corruption exists at a wide range of levels. Furthermore, some would contend that the definition for what is corruption is incomprehensible in light of the fact that it is an idea that is socially decided and differs starting with one general public then onto the next. Corruption is generally seen as unethical practice and is progressively denounced as far and wide as possible. Corruption creates a system where money and connection determine who has access to public services and who receives favorable treatment. With the end goal of this paper, corruption includes the abuse of force by the individuals who hold it— individuals who, in their position of authority, misuse the force with which they are endowed by looking for private increase.

The international community has been giving careful consideration to corruption and how to control it. Not only can corruption keep nations in cycles of brutality by subsidizing outfitted gatherings and criminal systems, but it can likewise prevent the advancement of effective institutions and governance. There are numerous financial and social expenses connected with the corruption processes, and also connections to criminal operations and roughness. Taking into account the overall financial information, the World Bank (2004) assessed that the measure of cash paid in bribes globally was some \$1 trillion.

To some degree as a result of how it influences the access to public services, corruption especially affects poor people, “It siphons off scarce resources and diminishes a country’s prospects for development. In a country where corruption is endemic, the consequences are disproportionately borne by the poor who have no resources to compete with those able and willing to pay bribes. In the end, corruption tightens the shackles of poverty on countries that can least afford it, on societies that need every dollar to pay for important social and economic programs”, demonstrates the UN Development Program (2004, 3). An alternate societal expense is that corruption is connected to the

improvement of organized crime, including the association of criminal syndicates in government evasion and trafficking in individuals and drugs.

At last, corruption has links to conflict. Despite the fact that corruption is not liable to be the main variable in charge of the destabilization of a nation, it can have a noteworthy effect on undermining the legislature and open trust in representing organizations which, thusly, can turn into a driver of contention. The connections between corruption, governance, and conflict are perplexing and interrelated, and they are a reality in numerous nations.

### **Where is corruption generally predominant?**

Transparency international – the worldwide coalition against crime yearly distributes a rundown with corruption recognition lists that measure the apparent levels of public sector corruption. More than two-thirds of the nation's score beneath 50, on a scale from 0 (very corrupt) to 100 (clean). The 2014th file incorporated 175 nations, from which the most noteworthy scores fit in with Somalia, North Korea, Afghanistan, South Sudan and Iraq (TI, 2014).

Corruption has a tendency to be more pervasive in absolutist frameworks (where one individual tenets with boundless power), or oligarchies (rule by a small group of elites). The least corrupted nations, with a couple of exemptions, all happen to be democracies. While democracies derive their legitimacy and popular support through competitive elections and the rule of law, autocracies depend on the support of a small group of political and social elites, the military, the bureaucracy and the secret police. Corruption exists in all social orders and some would contend that you can minimize it, but never eliminate it anywhere. Despite this, a democratic system of government has some built-in mechanisms that keep corruption in check. In any case, even when a state has free and fair elections and calls itself a democracy, it may even now be rising up out of conflict, transitioning from authoritarian rule, or be guided by loyalties to one's own clan, tribe or interest group. A state might likewise have a political society that fits corruption practices.

### **Can citizens have any kind of effect?**

There is a wide range of organizations and laws that can be placed to battle corruption, yet the absolute most powerful projects happen at little scales. Citizens' campaigns at local level can standout amongst the best approaches to battle corruption. Activities that give journalists and citizens more access to government data is especially vital to guarantee straightforwardness. Citizens can help from various perspectives: by

presenting anti-corruption strategies into the social dialog and creating corruption free business environment, by mobilizing the trade union's collective voice and bargaining power against corruption, by informing themselves about the rule of law and what their Government has pledged to do to fight corruption, by reporting incidents of corruption to authorities, by refusing to pay or accept bribes, facilitation fees or gifts, by teaching children that corruption is unacceptable and so on.

Now, after we concluded that citizens can, in fact, support in great deal the anti-corruption programme, we will discuss the ways in which they can join the fight against corruption and how to amplify their effect on this procedure.

### **EXAMPLES OF MECHANISMS FOR STRENGTHENING CITIZEN SUPPORT IN ANTI – CORRUPTION PROCESS**

In numerous developing countries, the public sector is seen as far off, corrupt and unaccountable, prompting a crisis of legitimacy between citizens and the institutions that represent them. The connection between citizen voice, transparency and accountability has been perceived in this setting as the center of good governance and enhanced public sector performance.

Therefore, assembling civic demand for controlling corruption covers an extensive variety of mediations aimed at involving citizens in governance methods and bringing policy makers closer to the individuals they represent with the perspective to connect "voice" and "accountability" in a significant way. These methodologies eventually look to expand citizens' impact over policy improvement, public spending decisions and influences over policy development, public spending decisions, monitoring of public service performance and accounting for public expenditures with the view to demanding better public service outcomes. In doing so, mechanisms strengthening the demand for anti - corruption measures are intended to change people-particularly those from social gatherings that are customarily rejected from government choice making methodologies-into captivated and composed citizens that have the information and force to express requests and impact choices that specifically influence them through expanded cooperation in administration forms.

Anti - corruption measures include a rich set of instruments such as awareness raising/ lobbying activities, organized protests, participatory budgeting and monitoring of public services and expenditures, citizens' feedback mechanisms, capacity building initiatives, complaints mechanisms, etc. An extensive variety of channels can be utilized to help closer state/ citizens' connections, including the media, parliaments, political gatherings and so forth.

**Free press** is needed to create good government. It is necessary to establish ways through which the media will be able to investigate and report on cases of corruption, and the press will provide free and accurate transmission of information to the people and by that will help them to freely and independently form an opinion about the corruption processes.

**Transparency of government techniques and public access to information** are critical to trigger and help raise citizens' interest in good governance and anti - corruption because it is impossible to mobilize for change without access to information. Only informed citizens can stand up for their rights and consider public authorities responsible for their activities and choices.

**Decentralization and/or devolution of public services** has been utilized on the part of numerous nations as an approach to bring governments closer to the individuals and improve local governments by making them more accountable to ordinary individuals and by giving space for citizens' involvement in policy development and implementation.

**Participatory budgeting and planning** constitute basic types of citizen engagement in decision making to guarantee more prominent responsibility and responsiveness of public policies. As "policies are only as important as the resources committed to them" (The World Bank, 2005), participatory budgeting courses of action guarantee that citizens' requirements and needs are reflected in plan assignments.

**Community participation in service delivery** goes for enhancing technical and allocation related efficiency and advancing more prominent transparency and accountability of public service delivery.

**Citizens' feedback and monitoring of public services** give key observing information and data, empowering citizens to promote for change and request better public service results. Participatory monitoring mechanisms can take numerous structures, including citizen report cards, social audits or participatory expenditure tracking.

There is deficient empirical proof of the direct effect and viability of anti-corruption interventions to strengthening voice and accountability in terms of reducing corruption. Nonetheless, there is a developing consensus about the capability of such mediations to control corruption and advance better manifestations of governance. A set of contextual analyses and circumstantial evidence support the supposition that such interventions may result in greater public accountability. The effect of specific anti-corruption interventions, including those reinforcing the anti-corruption reforms, is hard to establish because of the methodological difficulties included in measuring corruption, assessing patterns over the long run and securing a direct connection between the development of corruption levels and the policy intervention that may have upheld them. Notwithstanding these different

imperatives and difficulties, various studies have tried to exhibit the potential effect of citizens on corruption control.

### **Impacts of citizen participation on the anti – corruption programmes**

Just few experimental studies affirm the direct effect of citizens on corruption. Most studies call attention to mediators, such as increased participation, access to information or level of awareness, all factors that will ultimately affect levels of corruption.

More frequently, intermediate changes were specified as the essential advantages from these interventions, incorporating growing public interest in anti – corruption measures, better accessibility of public information, expanded interest of citizens in public governance, and so forth. The World Bank Institute (2005) likewise affirms the different benefits of interventions that add to reinforce the interest for greater accountability. The overview of the impact accomplished by these activities underscores their role in:

- Exposing social problems;
- Mobilizing public opinion against corruption;
- Prosecuting corruption cases;
- Increasing transparency of procurement processes, development projects, public budgets, etc.
- Influencing laws and policies;
- Realizing financial and welfare gains;
- Increasing efficiency of public services.

Various case studies and evaluations affirm that there are critical connections between citizen engagement in governance processes and allocative proficiency, viability, quantity and quality of service delivery and improved systems of accountability, bringing about better service results and pro-poor targeting.

As early as 1997, World Bank Institute economist Daniel Kaufmann published research demonstrating the degree to which aid - financed projects in developing countries are more likely to succeed in environments that support civil rights and liberties. Findings demonstrate solid observational connections between civil liberties and the performance of government projects. Countries enjoying the strongest civil liberties showed an economic rate of return 8-22 percentage points higher than countries with weaker civil liberties, suggesting a potential causal link between civil liberties, increased citizen voice and better project performance (Kaufmann, Isham and Pritchett, 1997).

Civil society support in budgeting and public expenditure management is rising as another enclosure for political movement and a vital road to express interest for change, offering new chances to consider governments responsible to their duties in a key area of government operations. Pioneer activities in different nations show the immense capability of such methodologies in advancing more noteworthy government effectiveness, accountability and responsiveness. Experience also suggests that demand side approaches can contribute to increase allocative efficiency and government responsiveness to citizen needs.

Different case analyses further underscore that civil society support in public auditing lead to more noteworthy budgetary oversight, highlighting the correlative part of audit institutions and civil society organizations. The International Budget Project created in-depth case studies of six established budget groups who have engaged in budget analysis and advocacy for a period of 5-10 years to assess the impact of civil society budget work. Emerging findings from the case study research identify impact of budget work in two major categories, namely changes in budget policy and changes in budget process. The most significant impact achieved by independent budget groups lies in improving budget transparency, awareness and civil society engagement on the one hand and enhancing budgetary resources for existing programmes and improvements in their utilization on the other (Simson, 2014).

## **EXPANDING THE IMPACT OF CITIZENS ON THE FIGHT AGAINST CORRUPTION**

In spite of the fact that mentioned methodologies can possibly diminish the corruption and improve governance as exhibited above, they don't consequently prompt more noteworthy accountability. While numerous effective results can be ascribed to request side approaches in the field of anti-corruption, their usage confronts numerous difficulties and their effect may be restricted by various elements, risks and pitfalls that have been identified in literature. The question in this regard may be less whether these strategies have an impact on reducing corruption than the conditions that are likely to maximize their effectiveness.

### **Limits of citizens participation**

Voice mechanisms don't generally lead to greater accountability and responsiveness. Interventions aimed at reinforcing the demand side don't systematically create increases in responsibility and reduction of corruption. In a review of both writing and projects concentrated on voice mechanisms,



Matthew Andrews (2003) challenges the assumption that increasing the voice of people in general leads to greater accountability and responsiveness to citizens. In some cases accountability is not enhanced; in some other cases, accountability is enhanced but governments are called to account only to narrow interest groups; and in other cases, accountability is enhanced with governments called to account to broad constituencies. According to the author, the variations in accountability effect are linked to the form of voice expression facilitated by the new mechanism, depending on voice influence (the degree to which such mechanisms impact on the governance process, agenda and outcomes) and voice focus (whose voice is expressed through a given mechanism), the extent to which such instruments have an effect on the administration process, plan and results) and voice center (whose voice is communicated through a given system).

In some cases, it is also argued that demand side interventions such as user committees may have a damaging effect on decentralization and democratic participation. They are normally supported by donor agencies, work in a centered territory, for example, health or education and are not necessarily democratically selected. They may undermine democracy based procedures by usurping the capacities of elected bodies and denying them of potential incomes. Besides, participatory components are not consequently inclusive and demand side methodologies may overlook that groups are not homogeneous. They run the danger of being captured and controlled by governments or the local elite, bringing about further marginalization of poor people. There are power dynamics in each community that need to be taken into account to ensure that participatory mechanisms are truly inclusive and do not mirror or exacerbate already existing social divisions.

Even when all stakeholders are committed to demand side approaches such as public participation, the impact of such interventions may be hampered by lack of resources and capacity to implement them.

A study published in 2006 challenges further the expected adequacy of grassroots monitoring in reducing corruption. The study was commissioned by the World Bank to analyze innovative way to decreasing corruption. A randomized controlled examination of corruption in 600 Kecamatan Development Program (KDP) village road projects was conducted in East and Central Java. The study found that the declaration of a plausible government audit was more viable at reducing corruption than increasing grassroots participation in the monitoring process. Interestingly, in some villages, increased participation just changed the form of corruption, not its general level. The study further presumes that grassroots monitoring may be more viable in specific connections than in others, where villagers have good information and a strong personal stake in minimizing theft of funds (The World Bank, 2006).

## **Effectiveness of citizens participation**

In spite of all the imperatives and difficulties highlighted above, evidence drawn from the literature focuses towards affirming the capability of demand side approaches in improving the governance system and controlling corruption, if a set of key conditions are met. There is a developing accord among policy makers on the various conditions that are likely to promote meaningful forms of citizen participation and influence.

The effectiveness of such interventions is likely to be enhanced when:

- Broad, democratic and truly inclusive constituencies are built to avoid voice capture by narrow interest groups within the communities;
- There is a legal standing or formal recognition for non-governmental representatives in policy making institutions;
- Ongoing presence of citizens is ensured throughout the institution's work process;
- There is structured access to the flow of official documentary information;
- Citizens have the right to issue dissenting reports directly to authorities such as legislative bodies to challenge poor performances on controlling corruption;
- Service users have the right to demand a formal investigation and/or seek legal redress for poor or non - delivery of services.

There is additionally a growing awareness that strengthening citizen demand for governance and anti - corruption changes speaks to one and only side of the comparison. The responsiveness of the state including the political will and ability to answer residents requests matters also. There is a need to strengthen simultaneously both sides of the accountability equation to ensure effectiveness of demand side approaches.

The effectiveness of demand side approaches may greatly depend on the presence of genuine political will to address citizens' concerns.

## **Public education and information campaigns**

No two societies are the same and the identification of both the message and audience will vary to some degree. Nonetheless, the focus ought to be on teaching individuals about the genuine nature and results of corruption in request to guarantee that it is perceived when it happens and to assemble general restriction to it, and guaranteeing that the populace is kept educated

concerning particular cases, new advancements and patterns, and the endeavors to battle corruption. General messages about corruption may be distributed or showed in the overall population news media, while more concentrated measures, for example, seminars can be coordinated at those specifically included in procedures seen as helpless against corruption, utilizing media proper for that purpose.

When essential standards have been figured, education and awareness can be actualized through a mixture of activities. Similarly as with the substantive content, the means of communication will fluctuate to some degree relying upon the target group. A strong national anti-corruption programme will incorporate a number of possible options, and a flexible approach to developing or modifying communication plans should the need arise.

- Media or general distribution, such as, radio, TV and print media can be utilized to reach the general population. Information can be scattered not just utilizing publicizing and public service announcements, but also news coverage. Authorities who give data to the media should not control or twist the data; however they ought to guarantee that the media are decently advised about both successes and failures in the battle against corruption.
- Where accessible, the Internet and other networking systems can be used, both to disperse messages about corruption and as a conceivable method for empowering and encouraging reports by the individuals who encounter it. A noteworthy point of interest is the adaptability of PCs in defining and storing information.
- Seminars, gatherings or workshops can be directed for particular partners to talk about issues and propose activities. Though costly and time-consuming, that arrangement offers the points of interest of a detailed examination of any materials offered and two-path correspondence with members. Gatherings can be utilized to brief members on different matters, including anti – corruption projects, and to canvass their perspectives about what ought to be carried out and how to explain it best
- Open enquiries or hearings can be led into corruption in general or to inspect particular corruption issues or cases. While analyzing corruption on a case-by-case premise is relatively inefficient, it can give an itemized and straightforward examination of problem areas and make determinations that may be relevant to different areas.
- Surveys can be utilized to assemble, dissect and announce data about, for example, the rates or recurrence of corruption, open impressions of corruption, the effectiveness of anti - corruption measures and the general execution of public administration and its trustworthiness.

- Distribution of data about investigations, prosecutions and other processes, for example, disciplinary proceedings, in corruption cases can likewise send a prevention message.
- The generation and dispersal of a national strategy for integrity and anti - corruption measures can likewise be utilized to communicate both to the general public and to the particular groups to which the measures will apply.
- The criminal law is frequently overlooked as a communication medium. As noted above, in any case, the advancement, establishment and publication of criminal offenses and strategies concerning corruption set outright legitimate measures of conduct and, much of the time, moral standards as well.

The accompanying general focuses will for the most part be secured in anti - corruption campaigns. As noted above, for particular target crowds, they will normally be supplemented by more definite remarks and additional messages.

- The nature of corruption - worldwide talks have shown an extensive variety of attitudes about what constitutes "corruption". At the national level, policy - makers must have an agreeable idea of corruption, and must convey it successfully to different target groups of audiences. Resistance to corruption and backing for measures against it can't be activated until individuals have an agreeable comprehension of what it is.
- The direct expenses of corruption - to enroll open support, it must be established that corruption is unsafe, both to social orders and the people who live in them. The direct cost of corruption incorporates unfair or irrational procedures for dispensing public assets. The individuals who work with Government can be recounted the extra expenses and instabilities of corruption offering techniques. More general groups can be told of the general increases in expenses and decreases in benefits.
- The general or indirect costs of corruption - example of the roundabout expenses of corruption incorporate the failure of inner and external development projects and the corruption of crucial organizations, for example, the courts and political bodies. Populaces ought to be demonstrated that corruption empowers a couple of people to gain but the general community will lose much more if open administration is inadequate and organizations neglect to function appropriately, if at all.
- Reasonable standards expected in public administration - essential guidelines for general application in every aspect of public

organizations, and in the connection of particular organizations or functions, ought to be set out. Standards of behavior can likewise be declared in the private sector, where suitable, especially in regions where business is completed with people in public areas.

- Information about anti-corruption programmes - to enroll participation and supporting for both proactive and responsive projects, general data is required about what the projects are expected to achieve and why they ought to be supported and more particular information about what sort of participation is looked for and how it can be given.
- Specific messages for specific audiences - the above components will generally apply over an expansive scope of public administration target audiences. The message that taking bribes causes individual and social damages and may subject the beneficiary to criminal liability ought to apply to practically any gathering of people. The particular application of general anti - corruption standards might be distinctive, nonetheless, depending upon the duties being performed and the "actuality circumstances" regularly experienced by the individuals who perform them.

## **CONCLUSION**

As concern about corruption has expanded, numerous established tools already known to criminal justice systems have been brought to manage against it. These devices incorporate measures to recognize and usurp financial and other returns of corruption. In distinctive lawful frameworks this is seen as a type of discipline, a method for guaranteeing that the motivator to submit to corruption in any case is eliminated, and a method for depriving guilty parties of monetary assets which may well be utilized to destabilize governments or submit further demonstrations of corruption or different criminal acts. In major, or "grand" corruption cases, further force has as of late been included by the way that, once a corrupted administration has been evacuated, its successor by and large tries to recuperate moves ahead on the premise that these have, basically, been stolen from the individuals, and that they would provide seriously required assets to the new government and State ruined by past corruption.

The battle against corruption can't be won without citizens' support, interest and vigilance. The media, municipal and business affiliations, exchange unions and other nongovernmental characters play a pivotal part in encouraging open discussions of corruption and expanding awareness about the negative effects of corruption. They also screen and examine governmental activity – both in their day by day life and through formal plans organized for this reason – thereby contributing to the discovery and avoidance of corruption

and the accumulation and directing of information from residents to the legislature's anti – corruption efforts.

Civil society's commitment to a nation's battle against corruption can take different forms, from awareness raising and educational projects to dynamic and authoritatively perceived support in the investigation of existing legislation or institutional methodology. Concerning the latter, civil society can promote changes that are seen to be most significantly required. Civil society actors may in reality contribute a large share to monitoring and exploring government and business activities and along these deter corruption. Valuation for this imperative instrument for fighting corruption has not yet gained much ground among political leaders in some countries.

It is for the most part considered that access to information goes past normal distribution of reports; effective control additionally obliges that governmental or administrative institutions uncover documents for investigation upon request. Governments and legislators have been hesitant in the past – some still are – to give this right, which is regularly ensured by the nation's constitution. In the later past, however, more nations' administrations have come to understanding that giving information is a part of their function and now allow access to certain records that were considered as private in the past.

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# **GLOBAL SECURITY AND SECURITY COOPERATION**





# COLLECTIVE SECURITY SYSTEM AND EVOLUTION OF THE UN SYSTEM

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## **Abstract**

Collective security has been referred to as “a system, regional or global, in which each state in the system accepts that the security of one is the concern of all, and agrees to join in a collective response to threats and breaches of peace”.<sup>1</sup> The system of collective security under the UN Charter is reflected principally in the provisions concerning the maintenance of international peace and security, especially those relating to the UN Security Council. The main provisions of the UN Charter on collective security are Article 2 (4) (prohibition of the threat or use of force); Article 51 (inherent right of individual or collective to self-defence); and Articles 39 - 42, concerning respectively the determination of a threat to the peace, breach of the peace, or act of aggression (Article 39); provisional measures (Article 40); measures not involving the use of armed force (Article 41); and measures involving the use of armed force (Article 42).<sup>2</sup>

Before the Council can adopt measures related to the enforcement of world peace, Article 39 of the Charter requires that it must first “determine the existence of any threat to the peace, breach of the peace or act of aggression”. This is the key to the collective security system. Once such a determination is made, the way is clear for the adoption of recommendations or decisions to deal with the situation. However, it depends upon the circumstances of the case and it also depends upon the relationship of the five permanent members of the Council (the United Kingdom, the United States of America, the Russian Federation, China and France) to the issue under consideration, for a

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<sup>1</sup> Vaughan Lowe and others (eds.) *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*, Oxford, Oxford University Press, 2008, p. 13

<sup>2</sup> See more in: Erika de Wet & Michael Wood, “Collective Security”, in Rüdiger Wolfrum (ed), *Max Planck Encyclopaedia of Public International Law*, Oxford, Oxford University Press, 2010

negative vote by any of the permanent members is sufficient to block all but procedural resolutions of the Council.<sup>3</sup>

This paper deals with and comments on the evolution of the UN collective security system since its beginning, after the Second World War, and up to recent times.

## COLLECTIVE SECURITY

The phrase “collective security”<sup>4</sup> is frequently used to refer to the system of maintenance of international peace and security under the UN Charter and the relevant provisions of regional organizations. The collective security system under the UN Charter relates to the provisions on the maintenance of international peace and security, in particular with reference to the competences of the UN Security Council. Article 2, Paragraph 4 of the UN Charter contains the general provision on the prohibition of the threat of force or the use of force, except for the cases of the right to self-defence, recognised in Article 51 of the UN Charter or the use of force by the Security Council under Chapter VII of the Charter.

The Security Council was granted primary responsibility for the maintenance of international peace and security (Article 24, Paragraph 1), and its decisions are binding upon all member states (Article 25). Matters concerning threats to, or breaches of the peace or acts of aggression, under Chapter VII, give rise to decision-making powers on the part of the Council. This emphasizes the priority accorded within the system to the preservation of peace and the degree of authority awarded to the Security Council to achieve this. Such measures can be measures not involving the use of force, such as economic sanctions according to Article 41 of the UN Charter, or can involve use of force, including use of armed forces, according to provisions of Article 42 of UN Charter.<sup>5</sup> In this way, the UN Charter is trying to realize its first purpose from Article 1, Paragraph 1: “to maintain international peace and security, and to that end to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of peace”. The system is completed by Article

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<sup>3</sup> See more in: Malcolm N. Shaw, *International Law*, Sixth edn., Cambridge, Cambridge University Press, 2008, p. 1235 - 1241

<sup>4</sup> A sizeable body of literature has been written on the issue of collective security. See, for example, in: Christina Gray, *International Law and the Use of Force*, Prosvetno Delo, AD, Skopje, 2009, Chapter 7; C. Gray, ‘A Crisis of Legitimacy for the UN Collective Security System?’, 56 ICLQ, 2007, p. 157; Vojin Dimitrijevic, *Concept of Security in the International Relations*, Belgrade, 1973

<sup>5</sup> See: Jochen Abraham Frowein and Nico Krisch ‘Article 42’ in Bruno Simma (ed.) *The Charter of the United Nations: A Commentary* vol 1, 2<sup>nd</sup> edn., Oxford, Oxford University Press, 2002, p. 749 - 759

103, which declares that obligations under the Charter prevail over obligations contained in other international agreements.<sup>6</sup>

The UN Charter system of collective security has undergone significant evolution since 1945. The General Assembly was empowered to exercise the emergency role, with the adoption of the “Uniting for Peace” Resolution, in 1950. Among other cases, this Resolution was implemented in the Korean War (1950-1953) and during Suez Crisis, in 1956. After the Cold War ended, in particular, the authorization of regional organizations and states willing and able to use military force on behalf of the UN has become a substitute for the Article 43 agreements foreseen in the UN Charter. In this paper we analysed whether the international law on the use of force as set out in the UN Charter is still relevant today, in the face of modern threats. In recent years, the concept of what threat means to international peace and security has been changing. It does not only refer to aggression from outside, but also to serious internal armed conflicts. Security Council’s actions, in accordance with Chapter VII, resulted in various UN missions and resolutions, including establishment of ad hoc international criminal tribunals for the former Yugoslavia and Rwanda.

## **VETO RULE AND “UNITING FOR PEACE” RESOLUTION**

The veto rule (Article 27, Paragraph 3 of the Charter) empowers the five permanent members of the Security Council to block the resolutions on issues crucial to this body: in determining the act of aggression; in identifying the guilty party; in taking the decision to implement sanction, military or non-military, against the aggressor. Such decisions are crucial for the operation of the collective security system. The veto rule clearly grants to each of the five great powers the ability to prevent the actions of the UN enforcement system against itself, against any country it chooses to support and protect, or in any other case when it opts to not participate in the UN enforcement actions. Therefore, the veto rule renders collective security impossible in all the instances most vital to the preservation of world peace and rather problematic in cases of less importance.

Relevant documents reflect that the San Francisco Conference participants were aware that the model then introduced meant giving up on the ambition to create a collective security system that may act in all cases of global war or peace. Some states were against the very idea of the veto rule, with Mexico and the Netherlands arguing that the UN system would be fundamentally flawed and unjust if one country were able to prevent the

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<sup>6</sup> On the UN collective security system see more in: Vladimir Ortakovski, Marija Milenkovska *International Public Law*, Faculty of Security - Skopje, 2014, p. 314 - 323

Security Council from taking urgent action to maintain the peace.<sup>7</sup> Representative of New Zealand took the opinion that the veto rule makes the collective security impossible.<sup>8</sup> However, the great powers were unprepared to compromise. The USA declared that the veto rule means that “if a major power became the aggressor, the Council had no power to prevent war”.<sup>9</sup> The US State Secretary, Edward R. Stettinius, answering the question of what would happen if the Security Council used veto to prevent an action against itself, said that the implementation of an enforcement measure against the great powers would lead to a new world war.<sup>10</sup> In order to avoid the possibility for the use of veto to paralyze the work of the Security Council, on 3 November 1950 the UN adopted the “Uniting for Peace” Resolution, giving General Assembly jurisdiction that was exclusively jurisdiction of the Security Council. This Resolution states that “if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security ... the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to the Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security”.<sup>11</sup> If not in session at the time, the General Assembly may meet in an emergency session within twenty-four hours. This was “de facto” a revision of the UN Charter, when its provisions to maintain or restore international peace and security could not be executed. According to the “Uniting for Peace” Resolution, the General Assembly is able to determine the aggressor and to recommend collective action of member-states. The UN made a step forward toward the hypothetical possibility for collective security action in all cases of breaching the peace. This Resolution developed international system of enforcement applicable even when there is breaching of peace with direct or indirect involvement of the great powers.

The “Uniting for Peace” Resolution was adopted after the triple aggression against Egypt in 1956. On 29 October 1956, Israeli armed forces attacked Egypt, and two days later British and French air forces attacked military targets in Egypt, which had failed to accept the Anglo-French

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<sup>7</sup> Documents of the United Nations Conference on International Organization (1945) UN Information Organization, New York, vol. XI: Commission III: Security Council, pp. 163 - 164 (Netherlands), p. 333 (Mexico).

<sup>8</sup> Ibid, Vol. XII, p. 296, p. 307 - 308

<sup>9</sup> Cited from: UN Information Organizations and US Library of Congress, Documents of the United Nations Conference on International Organization, New York, 1945, Vol. XI, p. 514

<sup>10</sup> Cited from: The Charter of the United Nations, Hearing Before the Committee on Foreign Relations, US Senate, 79th Congress, 1st Session, Washington, D.C., p. 215

<sup>11</sup> Cited from: General Assembly Resolution 377 (V), November 3, 1950

ultimatum. On 2 November 1956, Israel already took control over the entire Sinai Peninsula and on 4 and 5 November 1956, Israel established control at the mouth of the Gulf of Aqaba. Between 5 and 7 November 1956, Suez Canal was occupied by the United Kingdom and France.

After the United Kingdom and France had used veto on 30 October 1956 against the two separate resolutions proposed by the USA and USSR, with the Resolution Doc. SB UN S/3721 of 31 October 1956, Yugoslavia (then a non-permanent member in the Security Council) requested that the mechanism introduced with the “Uniting for Peace” resolution be used. At the emergency special session of the General Assembly, with the Resolutions 997 (EC-I) and 1002 (EC-I) adopted on 2 and 7 November 1956, it was established that “the armed forces of Israel have penetrated deeply into Egyptian territory in violation of the General Armistice Agreement” between the two countries and that “armed forces of France and United Kingdom of Great Britain and Northern Ireland were conducting military operations against Egyptian territory”. The General Assembly “urges the parties to the armistice agreements promptly to withdraw all forces behind the armistice lines, to desist from raids across the armistice lines into the neighbouring territory, and to observe scrupulously the provisions of the armistice agreements”, and “calls once again upon the United Kingdom and France immediately to withdraw all their forces from Egyptian territory”.

On 4 and 5 November 1956, the Resolutions 998 (EC-I) and 999 (EC-I) were adopted, which set up the emergency United Nations Forces (UNEF) to secure and supervise the cessation of hostilities.<sup>12</sup> The United Kingdom and France finalized the withdrawal of their troops by 22 December 1956, whereas the withdrawal of Israel lasted until March 1957. What bears importance for the successful implementation of the “Uniting for Peace” Resolution mechanism in this case was the specific constellation of the relations between the great powers with reference to the triple aggression against Egypt. Namely, Washington and Moscow found themselves to be on the same position, exerting great pressure for the withdrawal of the aggressors, but from all the different reasons. The USA regarded the Middle East as an area that they should conquer upon the departure of the United Kingdom and France from the region, whereas the USSR<sup>13</sup> have already been effectuating this by supplying Egypt with modern weapons.

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<sup>12</sup> See: Official Records, Suppl. No. I/A (3354)

<sup>13</sup> The Soviet Prime Minister, Nikolai Bulganin, on 5 November 1956 dispatched a letter to the UK Prime Minister, Anthony Eden, which was immediately published in the press worldwide. Asking the question, “In what position would Britain have found herself if she had been attacked by more powerful State possessing every kind of modern destructive weapon?”, Bulganin also added that, “We are fully determined to crush the aggressors and restore peace in the East through the use of force”. He concluded this rather unusually explicit

However, in practice, not all expectations from the “Uniting for Peace” Resolution were met. In addition to its successful application in the Suez Crisis of 1956, this resolution was also addressed during the crises in Hungary of the same year, in Lebanon and Jordan of 1958, in Congo of 1960, in the Israeli-Arab war of 1967, in the Bangladesh-related conflicts of 1971, in Afghanistan of 1980, in Namibia of 1981, and in other instances. It cannot be claimed that the system established by the “Uniting for Peace” Resolution has made a greater impact on the maintenance of international peace and security. This resolution makes it possible for conflicts to be addressed by the General Assembly in a way that otherwise had not been possible, but it has failed to be particularly successful as a backup mechanism for the preservation and restoration of international peace.<sup>14</sup>

### **CASES DETERMINED AS A THREAT TO THE PEACE AND BREACH OF THE PEACE**

The UN Charter refers to the concept of “force”, as opposed to “war”.<sup>15</sup> This is significant because force encompasses a much broader range of conduct, and there is no requirement for a state to make a formal declaration of war for it to be in breach of the prohibitions on the use of force. Article 2(4) of the UN Charter prohibits the use and threat of force, except in specifically designated circumstances, and emphasizes the requirement for states to settle their differences by peaceful means.<sup>16</sup>

Under Chapter VII of the Charter, the Security Council has been given the complex task to determine whether a particular situation is to be qualified as a threat to the peace, breach of the peace or an act of aggression, so as to undertake further measures. However, before that, the Security Council may impose provisional measures so as to prevent aggravation of the situation (Article 40 of the UN Charter). These measures shall be without prejudice to the rights and claims of the parties concerned, but will be aiming at the stabilization of the crisis situation. The most frequent examples of provisional measures are the urges for ceasefire (as in the Middle East wars of 1967 and 1973, with the Resolutions 234 (1967) and 338 (1973)), and the urges for

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threat with the words, “We hope at this critical moment you will display due prudence and draw the corresponding conclusions from this”. For more on the 1956 triple aggression on Egypt see in: Vladimir Ortakovski, *the Near-east Conflict and the Palestinian Question*, Features of the Israeli-Arabian wars, NIP Magazine, Skopje, 1988, p. 108 - 124

<sup>14</sup> See in: Malcolm N. Shaw, *International Law*, Sixth edn., Cambridge, Cambridge University Press, 2008, p. 1272 - 1273

<sup>15</sup> Charter of the United Nations, Article 2 (4)

<sup>16</sup> See more in: Gideon Boas, *Public International Law. Contemporary Principles and Perspectives*, Edward Elgar Publishing, Inc., Massachusetts, 2012, p. 313 - 315

withdrawal of troops from a foreign territory (as was the Resolution 509 (1982) relating to the Israeli invasion of Lebanon).

The first ever qualification as “threat to peace” was made for the Middle East situation of 1948, with reference to the armed conflict between the newly-established state of Israel and the neighbouring Arab countries. In its Resolution 54 (1948), the Security Council determined the situation as a “threat to the peace within the meaning of Article 39” and called for a ceasefire. In 1966, with its Resolution 221 (1966), the Security Council decided that the situation with the white minority regime in Rhodesia constitutes a threat to the peace.

With the end of the Cold War, the activities of the Security Council under Chapter VII of the Charter have increased significantly. In its Resolution 713 (1991), the Security Council was “deeply concerned by the fighting in Yugoslavia, which is causing a heavy loss of human life and material damage, and by the consequences for the countries of the region, in particular in the border areas of the neighbouring countries”, and qualified the situation as a threat to the peace. In its Resolution 794 (1992), the Security Council pointed out that “the magnitude of the human tragedy caused by the conflict in Somalia, further exacerbated by the obstacles being created to the distribution of humanitarian assistance, constitutes a threat to international peace and security”. This phrase has been used by the Security Council on a number of occasions. In its Resolution 788 (1992), the Security Council determines that the civil war in Liberia constitutes a threat to the international peace. In its Resolution 955 (1994), the Security Council points out that the genocide in Rwanda constitutes a threat to the international peace and security. For a conduct that constitutes a threat to the international peace and security, with its Resolution 748 (1992) of 31 March 1992, the Security Council imposed economic and diplomatic sanctions on Libya, for refusing to hand over the two Libyan nationals suspected for the crashing of the Pan Am Flight 103.<sup>17</sup>

With regards to the armed conflicts in former Yugoslavia (with the Resolution 808 (1993) and Rwanda (with the Resolution 955 (1994), the Security Council uses the qualification that the “widespread violations of international humanitarian law” constitute a threat to the peace. For these two cases specifically the Security Council established the *ad hoc* tribunals, with resolutions arising from Chapter VII of the Charter. With its Resolution 827 (1993) of 25 May 1993, the Security Council established the International

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<sup>17</sup> In the airplane explosion of the Pan Am Flight 103 over the Scottish town of Lockerbie all 259 passengers and crew members on board were killed, and 11 more people on the ground where pieces of the wreckage had fallen (from the total 270 casualties, 189 were US nationals, and 43 were UK nationals). Two Libyan national, who were suspected of planting a bomb on board the plane, were handed over for trial in 1999, after Libya had to face UN-imposed sanctions



Criminal Tribunal for the former Yugoslavia, for the sole purpose of prosecuting the persons responsible for the grave breaches of the 1949 Geneva Conventions and of the laws and customs of war, for genocide, and for crimes against humanity. With its Resolution 955 (1994) of 8 November 1994, the Security Council established the International Criminal Tribunal for Rwanda, for the sole purpose of prosecuting the persons responsible for international crime and genocide.

The Security Council uses the phrase “breach of peace” in very few instances. In 1950, with its Resolution S/1501, the Security Council qualified the North Korean invasion of South Korea as a breach of the peace and called upon the member states to help South Korea. The Argentinian invasion of the Falkland Islands in 1982 was qualified as a breach of the peace with the Resolution 502 (1982), and so was the war between Iraq and Iran in 1987 (Resolution 598 (1987)). The Iraqi invasion of Kuwait in 1990 was qualified by the Security Council as a “breach of international peace and security” with the Resolution 660 (1990).

In imposing measures under Chapter VII of the Charter, the Security Council almost never qualifies a given situation as being an “act of aggression”.<sup>18</sup> After protracted debates, the UN General Assembly, with its Resolution 3314 (XXIX) of 14 December 1974, adopted the definition of aggression as being “the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State”, with a provision of a list of possible acts of aggression in Article 3. The application of this Resolution as a recommendation by the UN General Assembly is not mandatory, although it may prove useful to the Security Council. However, the Security Council reserves the right to examine all the relevant circumstances, as well as the gravity of each individual case, before deciding on the qualification of a given situation and implementation of particular measures.

## **MEASURES INVOLVING THE USE OF FORCE**

A. The 1950-1953 UN enforcement action in Korea is the first such example in the UN practice. Before the World War II, Korea was ruled by Japan; after the defeat in the war, Japan had to surrender North Korea to the USSR, and South Korea (south of the 38<sup>th</sup> parallel) to the USA. On 25 June

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<sup>18</sup> Resolution 82 (1950) speaks about “armed attack” from North Korea; Resolution 660 (1990) uses the phrase “Iraqi invasion of Kuwait”; Resolution 248 (1968) says “military action” by Israel on Jordan. The phrases “acts of aggression” and “armed attack” are used for the intervention of South Africa in Angola in 1976 (Resolution 387 (1976)); in 1977 of Rhodesia in Mozambique (Resolution 411 (1977)); in 1985 for the Israeli military action against the PLO headquarters in Tunisia (Resolution 573 (1985))

1950, the North Korean troops launched a military attack on South Korea and in just three days of fighting managed to take over its capital, Seoul.<sup>19</sup> The Security Council, which back then was not represented by the USSR, adopted three resolutions. With the first one, Security Council Resolution 82 (1950), the Security Council determined that the armed actions in North Korea represent breach of peace and called for a momentary cessation of hostilities. With the second one, the Security Council Resolution 83 (1950), the Security Council recommends to all member-states to provide assistance to South Korea so as to fight back the military attacks and restore the international peace and security. With the third one, the Security Council Resolution 84 (1950), the Security Council established the Joint UN Command, headed by the USA, and called upon the UN member-states to make their military and other assistance available to the Command. Contingents from 16 countries made an agreement with the USA, and the UN Security Council gave a general authorisation of military actions, appointing the US general, Douglas MacArthur at the post of Commander. It bears reminding that in those days the USSR representative to the Security Council was not attending the sessions, protesting against Taiwan holding the permanent seat in the UN Security Council, in place of the People's Republic of China. This boycott was the reason why Moscow could not use veto to block the UN military actions. Early in August 1950, the USSR representative re-joined the Security Council sessions and could block possible further actions of this body in Korea, but could not revoke the already adopted resolutions and the actions arising from them.

A true war escalated in the field between South Korea, supported by the UN (basically, the USA) and North Korea, supported by China. The US troops accounted for 88% of the 341,000-people UN army. The UN have suffered great losses in the first two months of the warfare, but in September and October 1950 the UN launched a large-scale counter-offensive, ultimately succeeding in pushing the North Korean troops north of the 38<sup>th</sup> parallel. On 25 October 1950, China joined the war on the side of North Korea, dispatching an army of 180,000 regular soldiers and 100,000 reservists, successfully launching three phase offensives (in October 1950, on 25 November 1950, and on 26 December 1950), which resulted in yet another capture of Seoul, in January 1951. In the period between January and June 1951, UN troops approached the 38<sup>th</sup> parallel once more. It was in this period, more specifically on 11 April 1951, that the US president, Harry Truman, recalled the general Douglas MacArthur, who was in favour of engaging in nuclear attacks on

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<sup>19</sup> See more in: Christina Gray, *International Law and the Use of Force*, Prosvetno Delo, AD, Skopje, 2009, p. 258 - 259; Yoram Dinstein, *War, Aggression and Self-Defence*, 4th edn, Cambridge, 2005, p. 292

Manchuria and the peninsula of Shandong, from where the Chinese force launched its air strikes on his troops. After the protracted warfare, the fighting ceased on 27 July 1953, with the signing of a ceasefire agreement that returned the borderline back to the 38<sup>th</sup> parallel and created the 4 km wide buffer zone between the two Koreas. All participants in this war counted numerous losses: 142,000 killed US soldiers; 17,000 killed soldiers from other countries participating in the UN troops; 900,000 casualties (dead and wounded) on the part of China; 1.3 million killed or wounded soldiers on the part of South Korea; 520,000 killed or wounded soldiers on the part of North Korea; and also anything between 3.5 and 4 million civilian casualties.

B. The 1990 - 1991 UN enforcement action on Iraq followed the Iraqi invasion of Kuwait on 2 August 1990. The same day, the Security Council adopted the Resolution 660 (1990) where it qualified the situation as being a breach of the international peace and security, and called for an immediate withdrawal of Iraq. This failed, with the Resolution 661 (1990) economic sanctions were placed on Iraq, with the Resolution 665 (1990) on 25 August 1990 a maritime embargo followed, and with the Resolution 677 (1990), Iraqi acts of aggression against diplomatic representations and their personnel in Kuwait were condemned, and Baghdad was urged to protect them. Once Iraq failed to answer positively to these resolutions and measures, with its Resolution 678 (1990) adopted on 29 November 1990, the Security Council authorized the member-states to use “all means necessary” in cooperation with the Kuwait government so as to make sure Resolution 660 (1990) is implemented and to restore the peace and security in the region, unless Iraq retreats before 15 January 1991. All member states were urged to provide assistance in actions arising from this Resolution. Similarly to the Korean war, in absence of an agreement referred to in Article 43, and in order to “bridge” the provisions of Articles 46 and 47 of the Charter, which require the enforcement measures to be undertaken and controlled by the Security Council, this body allowed for the military operations to be controlled by the USA. The USA and the coalition partners from 40-or-so countries, with an army of 956,600 soldiers in total, 73% of whom came from the USA, engaged in a large-scale military operation, named “Desert Storm”, in the night between 16 and 17 January 1991, by launching massive air bombardments on military targets. Initially, the priority of the coalition forces was to destroy the Iraqi air forces and their counter-air system, along with their command and telecommunication centres. In the following stages of the 40-day-long bombardments, the air raids were directed primarily towards the military and

other targets in Iraq and Kuwait.<sup>20</sup> Unfortunately, the humanitarian law was not fully observed during the bombardments. There was an excessive use of power, which led to the destruction also of civilian facilities and the loss of many civilian lives. The weapons used, including the ones containing depleted uranium, gave rise to major environmental consequences. The civilian infrastructure and industry of Iraq was also destroyed, including electric power plants, oil refineries, petrochemical complexes, bridges, roads, railways, motorways, hundreds of train locomotives and coaches, and also factories that produced aluminium, textile, electrical appliances and medical products.

The land offensive ensued between 24 and 28 February 1991. Coalition forces met with little resistance, and many of the Iraqi troops readily surrendered. The portion of the coalition forces comprising soldiers from the Arab countries took the course to Kuwait City, and the Kuwait forces were given the opportunity to free their town. The Iraqi forces put up little resistance, resulting in only one killed soldier and only one aircraft shot down on the Kuwait side. On 27 February 1991, Saddam Hussein ordered his forces to retreat from Kuwait. On 28 February 1991, Iraq was deprived of all of its benefits gained through the aggression.

## **PROCEDURE FOR UN CHARTER REVISION**

The United Nations, established by the winning coalition of World War II, were grounded in the assumption that all great powers will stand united in their joint action. Instead, the Cold War ensued. Frequently, motions were put forward to amend or revise the UN Charter, which had been laid down as a procedure in Chapter XVII of the Charter. Any UN member-state can submit an incentive for Charter amendment to the UN Secretary General with a due explanation. Amendments to the Charter, according to Article 108, come into force “when they have been adopted by a vote of two thirds of the members of the General Assembly” and are “ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council”. Alteration of the Charter by means of amendments was applied in 1965 to Articles 23, 26 and 61 of the Charter. Article 109 lays down the possibility to convene an emergency conference of all member-states for the purposes of revision of the Charter, at the request by two-thirds of the members of the General Assembly and any seven members of the Security Council. However, the conditions relating to voting and to coming into force of the revised Charter make this

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<sup>20</sup>For more on the Gulf War see in: Lawrence Freedman and Efraim Karsh, *The Gulf Conflict 1990 - 1991: Diplomacy and War in the New World Order*, Princeton, New Jersey, Princeton University Press, 1993

procedure all the more difficult to implement. It requires that the revised Charter be voted by a two-thirds majority, and then ratified by two thirds of the members, including the permanent members of the Security Council.

The revision procedure of the Charter has not been applied to date, although 70 years have passed since its adoption, and many changes have taken place in the social life and in the international community. Some provision of the UN Charter have undoubtedly become out-of-date, such as the ones in Article 53 and 107 on “enemy” states<sup>21</sup>, or Chapters XI, XII and XIII on “non-self-governing territories” and the “international trusteeship system”. The issue of UN Charter revision has been raised on a number of occasions – at the UN General Assembly session of 1955 and 1970; by individual states which made efforts to increase the number of Security Council permanent members by admitting the economically greater powers, such as Germany or Japan, etc. However, there has always been one of the great powers which would prefer the “status quo” and oppose such incentives.

## **CONCLUSION – EVOLUTION OF THE UN COLLECTIVE SECURITY SYSTEM**

Over the past years, the UN have proven unable to act to a greater extent under the provisions of Chapter VII of the Charter. They had to develop new mechanisms so as to bridge the gaps arising from the failure to conclude the agreements referred to in Article 43 of the Charter. One way to do this was for the Security Council to delegate its powers to individual member-states or to international organizations, which may and want to engage military force on behalf of the UN, as were the indicated examples of the Korean and Gulf wars. A military intervention is a complex operation that requires joint command and control. However, how far could the authorization have stretched in these two cases when it was delegated to the USA? Would it have been possible to endorse MacArthur’s plan to engage nuclear weapons in the warfare against China under the pretence that it were the United Nations that have actually resorted to the use of atomic bombs? In the second case, can the violation of the international humanitarian law in 1991 in Iraq – the excessive use of force, the use of depleted uranium weaponry, the major loss of Iraqi civilian lives and the ultimate destruction of the civilian infrastructure – be

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<sup>21</sup> According to Article 53, Paragraph 2 the term “enemy state” applies to “any state which during the Second World War has been an enemy of any signatory of the present Charter”. If this definition seemed logical in times when the UN Charter was being adopted, when the war was still not fully completed, this provision no longer makes sense now that all “enemy” states have been admitted to the UN membership (last among them were FR Germany and DR Germany in 1973), simply because a UN member-state is by definition a peaceful one and cannot become an “enemy”

acknowledged by the United Nations as their own war crimes? The UN have also developed the practice of deploying peacekeeping forces, whose mandate has traditionally been to physically separate the opposing forces under their own consent, as was the case, for example, in the aftermath of the Middle East wars of 1956, 1967, and 1973. However, with the end of the Cold War and the more and more frequent outbreaks of internal military conflicts, complex situations have arisen where fights have never stopped and there is no long-lasting armistice in sight, so that the UN undertook “de facto” enforcement actions. If the consent given by the conflicting parties is the baseline for the traditional peacekeeping forces, it is completely irrelevant in the enforcement measures.

Over the recent years, the very concept of what a threat to the international peace and security constitutes has changed. In addition to acts of aggression from outside, this may as well include the internal armed conflicts. The measures undertaken by the UN Security Council are reflected in various UN missions. The Security Council, under Chapter VII, established the international criminal tribunal to prosecute the suspects of war crimes committed in internal armed conflicts in particular states (former Yugoslavia, Rwanda). The most dynamic and controversial area concerning the use of force is the concept of humanitarian intervention. The practice of forcibly intervening in the territory of another state without consent has been criticized as a fundamental breach of the principle of non-intervention contained in Article 2 (7) of the UN Charter. However, there is a need to protect civilians of a foreign state from gross and systematic breaches of human rights, such as mass arbitrary killings and forced expulsions. As the Rwandan genocide of 1994 clearly illustrates, the consequences of international inaction in response to a widespread internal crisis can be catastrophic. As outlined by the General Assembly and Security Council, an internal humanitarian crisis can be considered a threat to the international peace and security.<sup>22</sup> The chiefs of states and governments at the UN General Assembly session in September 2005 declared that “the relevant provisions of the UN Charter are sufficient to address the full range of threats to the international peace and security”.<sup>23</sup> We are left with the impression that this statement bears more of a political, rather than international legal gravity.

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<sup>22</sup> See in: Gideon Boas, *Public International Law. Contemporary Principles and Perspectives*, Edward Elgar Publishing, Inc., Massachusetts, 2012, p. 340 - 342

<sup>23</sup> See in: Michael Wood, *the Law on the Use of Force: Current Challenges*, 11 SYBIL, 2007, p. 4

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# THE NEED FOR REFORMS IN THE SECURITY SECTOR IN THE REPUBLIC OF MACEDONIA- FROM SEGMENTED TOWARD AN INTEGRATED AND BALLANCED SYSTEM

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**Abstract:** The reforms in the security sector are a relatively new concept, which incorporates various political and professional ideas about what needs to be included and what actually needs to be reformed. The security sector reform comprises a broad platform for realization and concretization of certain tasks in order to improve the internal structure of the security sector. The main premise is that the reforms need to enable a comprehensive transformation of the security structures and, in order to adapt to the actual security challenges, respectively, the reforms are focused toward building capacities for efficient management of the potential risks and threats. The elaboration for the security sector reforms made in this paper consists of two elements: first, analysis is made on the conditions in which the reform process is conducted, and second, the analysis is made in order to determine which are the reform's priorities in the security institutions in the Republic of Macedonia.

**Key words:** reforms, reform process, reform priorities, security sector, transformation.

## 1. INTRODUCTION - THE CONCEPT OF SECURITY SECTOR REFORM

The security sector reform<sup>1</sup> is a relatively new concept, which replaces the former, less comprehensive programs such as forces reduction, defense

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<sup>1</sup> The security sector is defined as those state organizations which have the authorization to use or to ordain use of force, detention and arrest, to protect the country and its citizens, as

reforms and individual adaptation on the individual security; providing services for the perceived new threats according to the financial possibilities and, with large extent, without a firm element for domestic and international inter-agency cooperation (Fluri, Philipp and Shalamanov, Velizar. 2003: 242).

It is a matter of interest to see that there are different political and professional ideas about what does “the reform” counterpoise, and what it should comprise. Additionally, going deeper with the analysis could prove that there are at least two different reform approaches. One which presupposes the reform is mostly the final result, and that is the most significant part, and the other, which proves that the reform is a process, which means that the quality of the process is what guaranties for the quality of the final result.

A typical characteristic for the processes on one hand is that they are voluminous, profound and complex, and they are crucial for the complete transformation of the country. On the other hand, there is certain defiance toward changes, which are very difficult and expensive, and the success of the security sector reform is solely possible if the political management has clear vision, trust, will and capabilities.

Having in mind the number of problems inherited from the past and the needs which accrue from the new, changed threats, there is little hope that a certain reform could be successful without the involvement in few crucial problems. One of the greatest problems is the disintegration of the sector and privatization of certain elements from the security sector, especially in the transition period, or keeping the bad habits from party control of certain elements in the sector. The organizational, the quantitative and the qualitative elements which affect the extent and the efficiency of the newly established or already existing, but modified security and defense structures should be highlighted. In order to achieve that, the political and the professional management in every country individually should find the way to answer several difficult questions which remain open. They need to achieve the most efficient transformation, and in the same time not to obstruct the structural everyday security and defense operations. They should reduce the personnel number in parallel with the amortization of outmoded equipment, in the same time preserving the existence of rational and justified capacity levels, as a response to the actual and the foreseen security threats, and simultaneously to discover the optimal politically publicly accepted alternative for accomplishing the modernization of the security and the defense institutions.

The security sector reform does not only make the security apparatus more effective, but it also makes it more accountable for the democratic

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well those civil structures which are responsible for management and oversight of the security sector. The definition also includes the military and paramilitary forces, intelligence agencies, the police, border services, customs, the legal system, the parliamentary, legal and administrative management and the oversight organs. Available on: [www.stabilitypact.org](http://www.stabilitypact.org)

standards and the rule of law. The security sector can be divided in three pillars:

- Groups mandated to use violence instruments – military, paramilitary and police forces;
- Institutions that have a managing and monitoring role over the security sector;
- Civil ministries, parliaments and nongovernmental organizations;
- Bodies responsible for guaranteeing the rule of law – the judicial system, the penal system, human rights defenders; these bodies in the areas are especially weak, that role belongs to the international community (Hendrickson, Dylan. 1999: 29).

The overall goal of the “security sector reform” is a transformation of the security institutions in order to play an efficient, legitimate and democratically accountable role in the provision of the external and the internal security for its citizens. The transformation of the security sector demands numerous consultations and includes goals such as: strengthening the civil control and oversight of the security sector; professionalization of the security forces, demilitarization and peace building and strengthening the rule of law<sup>2</sup>.

## **2. REASONS FOR SECURITY SECTOR REFORM IN THE REPUBLIC OF MACEDONIA**

The Republic of Macedonia has been administering security sector reform for a while now in order to improve its efficiency and effectiveness.

There are a number of reasons (external and internal) for the security sector reform and for parallel redefinition of the security demands. The subjects engaged in the reforms have different interests, motives and potential to conduct it, which affects over their result. Some of the reasons and the interests are public; others are hidden, and can be only estimated indirectly, through analysis of certain activities.

The following reasons could be noted as external for the security sector reform in the Republic of Macedonia: the changes in the security surrounding which came on after the dissolution of the Warsaw pact, the Soviet union and the former Yugoslavian community; the determination of the Republic of Macedonia for a NATO and EU membership where one of the conditions for

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<sup>2</sup> *Towards a Better Practice Framework in Security Sector Reform*, Broadening the debate, Netherlands Institute of International Relations ‘Clingendael’, Occasional SSR Paper No. 1 August 2002, Clingendael – International Alert – Saferworld p 1.

membership is set to be the reformed security sector; the security risks for the countries' safety (terrorism, organized crime, danger from and internal conflict etc.).

The following could be emphasized as internal reasons for the security sector reforms in the country: the deep political shifts toward democratization of the society and the need for transformation of the possession of the security sector by the party (and the military leadership by the party itself) toward the democratically elected Parliament and Government, as representatives of the society; the fundamental economic changes and the installation of the market economy, as well as the respective economization of the security sector and the special care for the resource expenditure in this area; serious changes in the security perception in the society, which are more focused on the new kinds of risks; demographic issues (level of education, economic and health conditions), as well as the preparedness to participate in missions abroad, outside the borders; as well as negative experiences from the functioning of the security sector during the crisis from 2001.

### **3. THE CONCEPT OF SECURITY SECTOR REFORM IN THE REPUBLIC OF MACEDONIA**

A characteristic for the security sector reform in the Republic of Macedonia is that they became a subject of talk very late. The issue became popular even at the end of the 2001 conflict, in the context of the reforms which started with the enforcement of the Framework agreement, and gained more intensity after the NATO Prague Summit in November 2002. These events served as a catalyst for the processes in which the domestic and the foreign actors agreed that the issue for the security sector reforms should get the proper attention. All the same, the overall preparedness did not go through without problems. It could be said that both involved sides of the process, the domestic and the foreign, had different, sometimes even contradictory views of what should be reformed and how it should be reformed (Biljana, Vankovska. 2006).

In general, the reforms should fit into a broader social framework; in addition, the political context of the potential power of the state should not be forgotten. They should create a balance between the competitive demands of the functional and the social imperatives.

Basically, the reforms are mainly focused on the state structures, most often the army and the police, while the rest of the system elements (intelligence and security agencies, the prison system etc.) are left for better days. The other problem refers to the fact that some agencies are acting like rivals (most common, the relation army-police, intelligence agency – direction

for security and counter-intelligence) from the aspect of portions from the state budget.

The next problem is that the accent is put on the security forces in the system, while the role of the political structures which should realize the control over this sector (the Parliament, the Government, the President) is neglected. To that, these structures are seldom viewed as a part of the security system, and even less as part of the problem. Hence, a broader acceptance of the concept of the security sector reform is necessary, which will comprise the non state actors in the system (for example the private security sector etc.).

When we refer to the reforms, we should have in mind that it is a notion implying a long term process in which all the above mentioned subjects from society should be included. For the reforms success, the surrounding in which they are conducted is very important, respectively, the same supports the reforms. Here, that would refer to the role of the Parliament, the President, and the Government, the academic community, the nongovernmental organizations, the media, the business sector and the international community. On the other hand, all of the components of the security sector should be active and respect the principle of democratic control and to achieve coordination under the guidance of the elected representatives and the rest of the society.

The 2001 crisis imposed the need for a close cooperation and coordination between the army and the police for the first time, but the lack of experience and will to face the challenges was obvious. Primarily, it was because of the organizational mandate. Later, the competition was spinning around the question which institution is more efficient in action (Biljana, Vankovska. 2006: 25).

As a result of these difficulties in the past years, particular steps were undertaken for the improvement of the cooperation and the coordination among the police and the army. So, in 2006, the Manual for operative and other procedures of the Army of the Republic of Macedonia was brought in support of the police in cases of crisis situations.

The overall efforts and the practical steps for cooperation and coordination among the police and the Army of the Republic of Macedonia was manifested through the two joint exercises in 2007 – “Link-07” and “Vodno-07”. The common work was demonstrated on these exercises, which presupposed coordination of the measures and the activities, but also the ability for a common assistance and cooperation, with which the functionality of the security sector was confirmed.

In the beginning of 2012, acting according to the plan for improvement of the coordination between the Ministry of Interior and the Ministry of Defense, a Memorandum for cooperation was signed by these two institutions. The fundamental conceptual framework is part of the framework of the Memorandum for cooperation, in which the needed mutual cooperation should

be achieved. The next step in the improvement of the coordination between the police and the army, especially in hostility, is made in the beginning of 2013 when the Ministry of Interior prepared a Manual for operative and other procedures of the police in terms of war as a support for the Army of the Republic of Macedonia.

Still, it has to be emphasized that regardless of the steps undertaken in the past years, the coordination between the police and the Army of the Republic of Macedonia further remains a great challenge.

In the next period, the attention should be focused on the issue with the coalition governments. In the worst case, the two ministers who govern the two key departments in the security and in the defense could be from different political tabors and to represent two different interests. That would mean that everyone will act from their own authentic position during the eventual interior (political) crisis which will have direct repercussions over the coalition partners. The example from 2001 is the best narrative for the complexity and the seriousness of this issue, when it was evident in that period that there was a lack of political will of the ministers, which took a different point of view over the same issues. The following problem is in that direction, regarding the allocation of the key departments in the country among the coalition parties. The experience from the past years shows that the Macedonian political parties' bloc hardly accepts the personnel policy for the highest ranks in the defense department, respectively, there is an impression that these decisions go through a lot of resistance which comes from the Albanian political parties which are chosen as coalition partners in forming a government. A question is raised; does this also contribute for the creation of a low political will of the ministers, which could be further manifested as bad, especially when certain common activities should be coordinated? In our terms of democracy practice, this issue counterpoises a so-called system risk, which is far more dangerous than the actual risk (natural disaster or other kind of risk with a martial or a political nature) for which the system is activated. Lately, this kind of risk (the systematic) within the framework of the process of assessments is specially elaborated by the authorized organs in order to create an emergency/contingency scenario from difficult situations.

#### **4. THE ROLE OF THE INTERNATIONAL COMMUNITY IN THE SECURITY SECTOR REFORMS IN THE REPUBLIC OF MACEDONIA**

There is an emphasized ongoing interest for the security condition in the Republic of Macedonia on a global level by all of the actors on the international scene (UN, NATO, EU, OSCE and the USA) ever since the period of its gaining independence. That interest was manifested through the

preventive missions of the UN, as well as through the engagement of NATO, EU, OSCE and the US in the resolution of the conflict in 2001. In the post conflict period and the implementation of the Ohrid Framework agreement, EU played a special role through the Stabilization and Association Agreement.

The presence and the interest of NATO for the security sector reforms are expressed through the Consultative team of NATO and the connections with KFOR for the issues about border security. On the other hand, the USA are actively involved through the engagement of private military companies which were supposed to advice the Ministry of defense (first, it was the company named "MPRI", later "Booz Allen Hamilton" which is further on present in this country) and the activities of their embassy. Basically, the role of the international organizations is significant in the last stage of the reforms of this security sector, which along with the reforms of the other sectors should lead to the integration of the Republic of Macedonia in the Euro-Atlantic community.

The strategy of the international community for finding a solution for the conflict in Macedonia emerges from the Framework agreement, in the annex C it is stated that the EU is called to facilitate, to monitor and to assist in the implementation of the text coordinating it with the signed Agreement for stabilization and association.

The strategy locates eight areas of action. The first was disarmament and demobilization of the NLA (ONA), which was conducted by NATO. The second area was the political action, for which the High Representative for Common foreign and security policy of the EU, Mr. Javier Solana was appointed to coordinate, along with his special emissary in Macedonia. He was closely cooperating with the American envoy in the Republic of Macedonia and informed the EU about the development of the situation on a regular basis. The third point of action was the reconstruction and the Donors conference, which was organized after the adoption of the constitutional amendments. In this part the European Commission took the leading role in the expenditure of the international aid. The fourth area was the returning of the refugees, which was "the key element for building trust", whereupon there was collaboration with the High Commissioner for Human rights from the UN. The monitoring was the fifth area, carried out by the EU and OSCE observers. The sixth field of action was the training of the police forces, on what the US, OSCE and the EU worked on (Trajan Gocevski, Oliver Bakreski, Stojan Slaveski, 2007: 145-243).

This part anticipated a reform of the police forces of the Republic of Macedonia. The legislature was the seventh area in the finalization of the package legal agreements for the local government, finances, police and education according to the criteria of the EU and the Council of Europe. The census and the elections were the eighth, in which the European commission

and the Council of Europe were in the role of observers (Stojan, Slaveski. 2007: 75-237).

The reforms continuity goes on even today. It could be ascertained that although certain steps are made in the security sector reform, the reforms still counterpoise a relatively new issue which opens up a space for further improvements and accomplishments.

It is considered that the security sector is still connected with the bad habits of party control in certain segments in the security sector. It creates problems in the adaptation, which influences on the society and it reflects in various ways. The main purpose of the reforms in the Republic of Macedonia, (a country which does not have a democratic tradition), is the formation of strong security structures, enabling a better coordination of the security community and strengthening the democratic control of the security sector.

## **5. CONCLUSION**

The reforms in the security sector will remain a politically sensitive area. In order to have their successful implementation, a complete engagement of all subjects of the country is necessary. That means that there are no conditions for reforms if during the process a transparent reform plan is not enabled, which would be a reflection of the overall efforts of the politicians, the administration, the civil society and the business community.

The reforms are not only intended for the ministries of defense and internal affairs, but for several other ministries, agencies and departments, the academic and the educational institutions. By that, a transformation is made of the security sector, which should respond to an adequate manner of all the challenges which it faces.

Hence, the security sector of the Republic of Macedonia should be transformed in order to completely respond to all kinds of threats for the internal and the external security of the country. In that notion, changes in all elements of the security sector are needed in order for the changes of the structure to enable better utilization of the human capacities, in accordance with the international standards. There should also not be any doubt that the country's forces, which should respond to the challenges and to the endangerment of its internal security (which counterpoises a haven for the organized crime), have to be strong enough, in personnel and in material, in order to secure the fulfillment of its constitutional task. Permanent education, training and equipment with the most contemporary material and technical resources is needed for these forces, because of the fact that organized crime is always "one step ahead" regarding the security forces when it comes to the technique.



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# **USE OF DRONES AND GLOBAL SECURITY: IMPLICATIONS UNDER THE INTERNATIONAL LAW**

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## **GLOBAL SECURITY AND USE OF FORCE: INTRODUCTIVE CONSIDERATIONS**

Global security is a concept which concerns primarily the peaceful inter-state relations between the subjects of international law. It certainly refers to the preservation of an international balance among all members of the international community in full respect of the principles governing these relations, exactly the sovereign equality and the respect for territorial integrity of the States. Security among international subjects means, first of all, renounce from threat or use of illegitimate force in international relations, in full compliance with Article 2 (4) of the Charter of the United Nations<sup>1</sup>. In this sense, the fundamental text sanctioned an already known and respected principle of the international law: the general and absolute prohibition of use

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<sup>1</sup> «All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations».

of force<sup>2</sup>. Article 2 (4)<sup>3</sup> of the Charter firmly rejects the use or threat of force against the political independence or territorial integrity of a State, which is not in conformity with the Charter itself<sup>4</sup>. The prohibition is absolute and does not admit any exception, beside the case of being the use of force is a countermeasure in event of an armed attack, perpetrated by an aggressor State: this is the case of the individual or collective self-defence provided for in Article 51 of the Charter<sup>5</sup>. The other exceptional circumstance, sanctioned in the Charter that justifies the use of force is represented in the faculty of the Security Council which, according to the dispositions of the Chapter VII, may authorize such an extraordinary act<sup>6</sup>. Outside of the legal «perimeter» of the UN Charter dispositions, according to the general international law, the use of force is «tolerated» in particular circumstances: fortuitous case, force majeure, distress or approval of the entitled subject<sup>7</sup>. Furthermore, in case when the

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<sup>2</sup> In general, with regard to the argument, see Thomas Franck, *Recourse to Force. State Actions against Threats and Armed Attacks*, (Cambridge: Cambridge University Press, 2004); Howard M. Hensel (ed.), *The Legitimate use of Military Force. The Just war tradition and Customary Law of Armed Conflict*, (Hampshire: Ashgate, 2008); Nikolas Stürchler, *the Threat of Force in International Law*, Cambridge: Cambridge University Press, 2007); Joel H. Westra, *International Law and the Use of Armed Force. The UN Charter and the Major Powers*, (Abingdon: Routledge, 2007); Judith G. Gardam, *Necessity, Proportionality and the Use of Force by States*, (Cambridge: Cambridge University Press 2004); Anne Orford, *Reading Humanitarian Intervention. Human Rights and the Use of Force in International Law*, (Cambridge: Cambridge University Press, 2003); Charlotte Ku – Harold Jakobson (ed.), *Democratic Accountability and the Use of Force in International Law*, (Cambridge: Cambridge University Press, 2002).

<sup>3</sup> «All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations».

<sup>4</sup> «For the first time, international law fully and formally embraced the Lauterpachtian ground-norm: “there shall be no violence.” Article 2(4) obliges all member states to “refrain . . . from the threat or use of force”: not just to renounce war but all forms of interstate violence», (Thomas Franck, *cit.*, 20).

<sup>5</sup> «Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security»

<sup>6</sup> Of primary interest is art. 42 of the Charter: «Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations».

<sup>7</sup> See, in particular, Augusto Sinagra and Paolo Bargiacchi, *Lezioni di diritto internazionale pubblico*, (Milano: Giuffrè, 2009), 335 and following; Sergio Carbone, Riccardo Luzzatto and

Security Council of the UN is paralyzed due to the veto imposed by one (or more) of the permanent Members, blocking in this way its decision-making power on the authorization of the use of force in presence of fulfilled conditions, one or more States, acting on behalf (*uti universi*) of the fundamental interests of the whole International Community, could resort to the use of force against one or more States<sup>8</sup>, considered offender(s) of an international norm productive of *erga omnes* obligations<sup>9</sup>. In this case, the use of force should necessarily meet the required criteria as sanctioned in the UN Charter with regard to Chapter VII, besides the impossibility of the Security Council to authorize these measures due to the veto imposed by the permanent Member.

Lastly, any consideration on the pre-emptive use of force, especially with regard to the usage of drones as military means, should necessarily address the question of the admissibility of such *ius ad bellum* doctrine. According to an extensive interpretation of Article 51 of the UN Charter<sup>10</sup>, the so-called accumulation doctrine rests on the grounds of the equalization of the pre-emptive intervention with the anticipatory one. The customary norm on self-defence, recalled directly in Article 51 of the UN Charter, permits the preventive use of force only in case the armed attack is imminent<sup>11</sup>; therefore,

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Alberto Santa Maria (a cura di), *Istituzioni di diritto internazionale*, 4<sup>a</sup> ed., (Torino: Giappichelli, 2011), 270 ff.

<sup>8</sup> This particular theoretical and doctrinal position is sustained firmly by Paolo Picone, who talks about the «formation, starting from the Seventies, of the category of general international norms productive of 'erga omnes' obligations of the States, that is obligations binding States towards the same International Community, unitarily intended, collectively pursuable from the same States (mostly when their violation represents an international crime), since they act on behalf of interests of the same Community», («La guerra contro l'Iraq e le degenerazioni dell'unilateralismo», in *Rivista di diritto internazionale*, 2003, 333 ff); on this topic, from the same Author, see also, *Obblighi reciproci ed obblighi erga omnes degli Stati nel campo della protezione internazionale dell'ambiente marino dall'inquinamento*, in Starace (a cura di), *Diritto internazionale dell'ambiente marino*, Milano: Giuffrè, 1983), 15 ff.; Id., «Obblighi erga omnes e codificazione della responsabilità degli Stati», *Rivista di diritto internazionale*, 2005, 893–954; Id., *La Comunità internazionale e gli obblighi «erga omnes»*, (Napoli: Jovene, 2006); Id., «La distinzione tra norme internazionali di *jus cogens* e norme che producono obblighi erga omnes», in *Rivista di diritto internazionale*, 2008, 5–38.

<sup>9</sup> For the *erga omnes* obligations in general see, Christian J. Tams, *Enforcing Obligations Erga Omnes*, (Cambridge: Cambridge University Press, 2005); Christian Tomuschat – Jean-Marc Thouvenin, *The fundamental Rules of the International Legal Order. Jus Cogens and obligations Erga Omnes*, Leiden: Martinus Nijhoff Publishers, 2006).

<sup>10</sup> «And «anticipatory self-defence,» too, is vulnerable to *reductio ad absurdum*. If every state were free to determine for itself when to initiate the use of force in «anticipation» of an attack, there would be nothing left of Articles 2(4) and 51, or of Lauterpacht's «primordial duty» to eschew violence», (Thomas Franck, *cit.*, 4).

<sup>11</sup> With regard to the Pearl Harbor event, Yoram Dinstein, [*War, Aggression and Self-Defence*, 3<sup>rd</sup> ed., Cambridge: Cambridge University Press, 2001), 172], states that: «Had the Japanese

there is no room for reaction to future and hypothetical armed attacks discretionally to be decided and evaluated by the States.<sup>12</sup>

## USE OF DRONES BETWEEN IUS AD BELLUM AND IUS IN BELLO

There is a quite open debate whether drones, as unmanned aerial vehicles, constitute battlefield military weapons and, consequently, their use concerns international law or peacetime police operations. The history of traditional use of drones, as relevant commentators sustain<sup>13</sup>, goes back right in the aftermath of the Second World War<sup>14</sup> but the modern use of these

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carrier striking force been destroyed on its way to Pearl Harbor, this would have constituted not an act of preventive war but a miraculously early use of counter-force. To put it in another way, the self-defence exercised by the United States (in response to an incipient armed attack) would have been not anticipatory but interceptive in nature. Interceptive, unlike anticipatory, self-defence takes place after the other side has committed itself to an armed attack in an ostensibly irrevocable way. Whereas a preventive strike anticipates an armed attack that is merely 'foreseeable' (or even just 'conceivable'), an interceptive strike counters an armed attack which is 'imminent' and practically 'unavoidable'. It is the opinion of the present writer that interceptive, as distinct from anticipatory, self-defence is legitimate even under Article 51 of the Charter».

<sup>12</sup> «Positions in the past were likely to advocate one of two possibilities: on the one hand was the view that Article 51 of the Charter has firmly shut the door on any possibility of anticipatory action, and that recourse to self-defence will only become available if an armed attack has occurred [...] On the other hand was the opposing view that allowed for self-defence in the face of imminent attacks [...] A third position gained significant endorsement from the Bush administration following September 2001. This view advocated a form of pre-emptive self-defence which would allow for forcible measures to be taken in order to prevent the materialisation of general threats [...] However, apart from the Bush administration and a number of commentators, this notion of self-defence received scarce support. While there is still a debate between supporters of the original two positions stated above, recent years have seen increasing support for the view that the right to self-defence does exist in relation to manifestly imminent attacks [...] This position has received further validation in the reports of the UN Secretary General, although it does not reflect a uniform approach amongst states» (INTERNATIONAL LAW ASSOCIATION, *Report on Aggression and Use of Force*, Washington Conference 2014, § B.2.b ).

<sup>13</sup> May Ellen O'Connell, *The International law of drones*, in *ASIL Insights*, issue 37, vol. 14, of November 12, 2010.

<sup>14</sup> «Drones were probably invented during or right after the Second World War and were ready for use by the 1950s. During the Vietnam War, the United States fitted drones with cameras and deployed them for reconnaissance. The United States used drones for the same purpose during the Gulf War of 1990-1991 and the Balkans conflicts of the 1990s. Reportedly in 2000 the United States was ready to employ drones for a dramatic new use: as a launch vehicle for missiles. Drones with missile launch capability were first used in early October 2001 in Afghanistan. On November 3, 2002, Central Intelligence Agency (CIA) agents in Djibouti fired laser-guided Hellfire missiles from a drone at a passenger vehicle in Yemen, killing all passengers on board, including an American citizen» (*ibid.*, p. 1); «Drones were originally developed to gather intelligence and conduct surveillance and reconnaissance. More than 40

unmanned military weapons became more intense and problematic after the 90s<sup>15</sup>. The United States represent probably the most active Power<sup>16</sup> in using remote means technology during international armed conflicts or facing terroristic threats in several countries<sup>17</sup>. The first element of consideration

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countries now have such technology. Some, including Israel, Russia, Turkey, China, India, Iran, the United Kingdom and France either have or are seeking drones that also have the capability to shoot laser-guided missiles ranging in weight from 35 pounds to more than 100 pounds. The appeal of armed drones is clear: especially in hostile terrain, they permit targeted killings at little to no risk to the State personnel carrying them out, and they can be operated remotely from the home State. It is also conceivable that non-state armed groups could obtain this technology» (United Nations, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, Addendum, Study on Targeted Killings*, U.N. Doc. A/HRC/14/24/Add.6, at 9 (May 28, 2010), § 27, available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.24.Add6.pdf>)

<sup>15</sup> For further deepening on the history of use of drones and other aerial warfare means, see the interesting work of Matthew Evangelista and Henry Shue (eds.), *The American Way of Bombing. Changing Ethical and Legal Norm, from B 17s to Drones*, (New York: Cornell University Press, 2014); see also European Parliament. Directorate General for External Policies. Policy Department: «The use of drones as a means of warfare traces back to World War II and beyond, becoming increasingly significant in the course of the second half of the 20th century. While initial generations of military drones were used primarily for aerial surveillance, their functions gradually expanded to areas such as search and rescue, communications systems relay, suppression of hostile air defense, and direct attacks against selected targets.<sup>3</sup> In the course of the last decade, the use of armed drones has increased exponentially, beginning with the Second Intifada in the Israeli-occupied areas (since 2000), continuing in the Second Gulf War (2003 - 2011), and reaching its current peak in the course of the United States' confrontation with Al-Qaeda and affiliate groups in Afghanistan, Pakistan, Yemen and Somalia (since 2001). What is new today is the systematic use of armed drones for the targeted killing of pre-selected individuals in the territory of other States. Unprecedented is also the relative importance which this mode of operation has obtained in certain contexts compared to other, alternative means and methods of warfare», (*Human Rights Implications of the Usage of Drones and Unmanned Robots in Warfare*, Brussels, 2013, 7).

<sup>16</sup> «The United States began remotely piloted Predator and Reaper drone strikes targeting Al Qaeda in Yemen in late 2002 and in Pakistan, targeting the military leadership of Taliban and Al Qaeda as an extension of the Afghanistan war, in late 2004. At first the United States refused to officially confirm or deny the drone strike program. Bush and Obama officials generally minimized or denied civilian casualties in the strikes, even as civilian deaths were described in local and global media. But as with other forms of bombing, concern for civilian casualties due to drone strikes gradually increased, and the Obama administration developed procedures for mitigating collateral damage» [Crawford N., *Targeting Civilians and U.S. Strategic Bombing Norms* in Mathew Evangelista – Henry Shue (eds.), *cit.*, 84].

<sup>17</sup> «Armed drones are proliferating (and developing in sophistication) rapidly beyond Europe. Perhaps the strongest reason for the EU to define a clearer position on drones and targeted killing is to prevent the expansive and opaque policies followed by the US until now from setting an unchallenged global precedent. Already Chinese state media have reported that the country's Public Security Ministry developed a plan to carry out a drone strike against a Burmese drug trafficker implicated in the killing of several Chinese sailors, though the

concerning the use of drones is that, despite their fundamental characteristic of being unmanned, their usage is not expressly prohibited by the international law. Obviously, non-military drones or those used for civilian purposes are not a question of concern with regard to the international law in general and the use of force in particular.

The most distinctive element of (military) drones, besides other means of warfare, resides not only in the fact that they are not physically guided by a human operator (unmanned weapons) but rather in the question of the typology of carried weapons. As practice and experience show, bombs and missiles are the most common weaponry launched or dropped by drones in combat areas. The use of these kind of weaponries and operations is for sure not governed by the law enforcement regime norms but, to the contrary, constitute a clear evidence of connection with the international humanitarian law: that is the law applied during armed conflicts. The question of whether their use concerns the law enforcement regime (and human rights law) or *ius in bello* is strictly related to the nature of the weaponry involved and the nature of the operations implicating the use of drones. Although considered a modern instrument of warfare<sup>18</sup>, drones are classified among other instruments of belligerent activity. Thus, if used in a context of peacetime operations and without a legitimate title, their use implicates an act of force prohibited by the international law. On the contrary, in case of wartime operations, the use of military drones constitutes one of the tolerated methods of warfare, though conditioned by the strict rules of humanitarian regime. This means that the lethal nature of the involved force necessarily requests the application of humanitarian law regime. The use of drones during armed conflicts implicates directly targeted killings of individuals participating (or not) in hostilities. So, the distinction of the military lawful targets from the civilian one is a

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suggestion was apparently Overruled [...] As well as China, which has an active drone programme, Russia, Saudi Arabia, and Turkey are either developing or have announced an intention to purchase armed UAVs. The US assertion that it can lawfully target members of a group with whom it declares itself to be at war, even outside battlefield conditions, could become a reference point for these and other countries. It will be difficult for the EU to condemn such use of drones if it fails to define its own position more clearly at this point» (Anthony Dworkin, *Drones and targeted killing: defining a European position*, London: European Council on Foreign Relations, 2013, 3)

<sup>18</sup> «Instead of a heroic encounter between equal combatants, we have a radically asymmetric situation where the drone operators, far from being combatants watched by an audience, have become the audience that observes the act of death; looking on from high in the sky, they have assumed the position of the gods who decide who will live and die. This encounter still has an intimate quality, but the intimacy has become one-sided and asymmetrical: while Mehsud does not even know he is being observed, the drone operators can see him close up, reclining on the roof of his house on a hot evening, his wife attending to his medical needs. Without even knowing he is in combat, he is killed as if by a god's thunderbolt from the sky» (Matthew Evangelista and Henry Shue, *cit.*, 193).

primordial requirement besides the precaution and proportionality principles. Geneva Conventions on ius in bello and the related Additional Protocols clearly distinguish between individuals who are directly participating in hostilities and civilians not taking part in the conflict<sup>19</sup>: Article 51 of the Additional Protocol I sanctions the obligation to exclude from armed attack in favor of the second category.<sup>20</sup> As correctly sustained, in international armed conflicts, the principle of distinction is «relatively straightforward to apply»<sup>21</sup> as far as the members of the armed forces of the belligerent Parties are

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<sup>19</sup> «Direct participation in hostilities implies a direct causal relationship between the activity engaged in and the harm done to the enemy at the time and the place where the activity takes place. However, it would be desirable for the various Parties to a conflict to inform each other completely regarding the composition of their respective armed forces, even if this were only done through the communication of the laws and regulations which they have had to adopt to ensure compliance with the Protocol, as provided in Article 84 (*Rules of application*)» (INTERNATIONAL COMMITTEE OF THE RED CROSS, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, Geneva 1987, § 1679, p. 516).

<sup>20</sup> «Article 51. PROTECTION OF THE CIVILIAN POPULATION. 1. The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in all circumstances. 2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited. 3. Civilians shall enjoy the protection afforded by this Section, unless and for such time as they take a direct part in hostilities. 4. Indiscriminate attacks are prohibited. Indiscriminate attacks are: (a) Those which are not directed at a specific military objective; (o) Those which employ a method or means of combat which cannot be directed at a specific military objective; or (c) Those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction. 5. Among others, the following types of attacks are to be considered as indiscriminate: (a) An attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and (b) An attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. 6. Attacks against the civilian population or civilians by way of reprisals are prohibited. 7. The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations. 8. Any violation of these prohibitions shall not release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians, including the obligation to take the precautionary measures provided for in Article 57».

<sup>21</sup> ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK. INTERNATIONAL LAW COMMITTEE, *The Legality under International Law of Targeted Killings by Drones Launched by the United States*, New York, 2014, p. 136.



considered legitimate target of capture and / or attack, including lethal force. The difficulties become more consistent in presence of a non-international armed conflict mostly because of the objective nature of these kinds of conflicts as well as for the lack of general consensus in the doctrine and case law concerning the status of the members of the non-state armed groups<sup>22</sup>. Considering that almost all cases where drone military technology is involved concern non-international armed conflicts, the behavior of the most active Powers in using this technology becomes object of reflection in a larger and general scale. The use of drones against civilian objectives could be considered in conformity with the humanitarian law regime only if the civilians participate directly in the hostilities<sup>23</sup> or they fulfill the criteria of continuous combat function in a larger context of good faith and reasonable considerations. Probably, the use of drones in non-international armed conflicts, characterized by an asymmetrical nature of belligerence, is of particular «interest» for the State party in the conflict, considering the objective impossibility to face a similar counter-belligerent. In the same way, the principle of necessity concerns the equilibrium between military exigencies and elements of humanitarian principles. If the objective or the goal of any military action could be reached by means of a less lethal measure, the principle of necessity takes a primary role in terms of legality under the international humanitarian law. With regards to the principle of proportionality, according to a correct interpretation of the dispositions of Article 51 of the Additional Protocol I to the Geneva Conventions, it is prohibited any attack which may cause excessive advantage in relation to the concrete military target. The debate becomes delicate in case of the use of drones where calculations over the proportionality deal with the impossibility of physical contact with the targeted object. Being managed at distance and entirely through computer screens, drones have favored the so-called «Play

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<sup>22</sup> «In its most extreme form, this approach suggests that lethal force only can be used against a member of an armed group essentially at the moment that this member is engaged in hostilities» (*Ibid.*, p. 138).

<sup>23</sup> «In practice, civilian participation in hostilities occurs in various forms and degrees of intensity and in a wide variety of geographical, cultural, political, and military contexts. Therefore, in determining whether a particular conduct amounts to direct participation in hostilities, due consideration must be given to the circumstances prevailing at the relevant time and place [...] Nevertheless, the importance of the circumstances surrounding each case should not divert attention from the fact that direct participation in hostilities remains a legal concept of limited elasticity that must be interpreted in a theoretically sound and coherent manner reflecting the fundamental principles of IHL» [Nils Mezler, *Interpretative Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*, (Geneva: ICRC, 2009), 42-43].

station mentality» to killing<sup>24</sup>. However, it is not a question of nature of warfare instrument that renders more or less proportionate the use of drones in armed conflicts: the question concerns rather the transparency and accountability of such operations involving the use of drone technologies<sup>25</sup>.

## **LEGALITY OF TARGETED KILLINGS BY USING DRONES IN RELATION WITH INTERNATIONAL LAW**

The notion of targeted killing regards the intentional and premeditated killing of agents of the enemy in a context of armed conflict<sup>26</sup>. In fact, any targeted killing outside an armed conflict is to be considered a violation of the international norms on the protection of human life sanctioned in all the international instruments in the field of human rights. In some rarely exceptional cases, extrajudicial killings are tolerated only if this is the only, proportionate and necessary mean for the protection of other lives<sup>27</sup>. The question, however, concerns the possibility to involve drones outside armed conflict areas in order to commit extrajudicial killings. Targeted killings during any armed conflict between States or a State and a non-State actor are considered admissible if they are in accordance to the respective law governing such conflicts. International humanitarian law prevails in case of military operations during situations of armed conflicts and thus, the usage of

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<sup>24</sup> «because operators are based thousands of miles away from the battlefield, and undertake operations entirely through computer screens and remote audio-feed, there is a risk of developing a “Playstation” mentality to killing. States must ensure that training programs for drone operators who have never been subjected to the risks and rigors of battle instill respect for IHL and adequate safeguards for compliance with it» (*Report of the Special Rapporteur, cit.*, § 84).

<sup>25</sup> «The failure of States to comply with their human rights law and IHL obligations to provide transparency and accountability for targeted killings is a matter of deep concern. To date, no State has disclosed the full legal basis for targeted killings, including its interpretation of the legal issues discussed above. Nor has any State disclosed the procedural and other safeguards in place to ensure that killings are lawful and justified, and the accountability mechanisms that ensure wrongful killings are investigated, prosecuted and punished. The refusal by States who conduct targeted killings to provide transparency about their policies violates the international legal framework that limits the unlawful use of lethal force against individuals», (*Ibid.*, § 87).

<sup>26</sup> «A targeted killing is the intentional, premeditated and deliberate use of lethal force, by States or their agents acting under colour of law, or by an organized armed group in armed conflict, against a specific individual who is not in the physical custody of the perpetrator», (*Report, cit.*, 3-5).

<sup>27</sup> «In a targeted killing, the specific goal of the operation is to use lethal force. This distinguishes targeted killings from unintentional, accidental, or reckless killings, or killings made without conscious choice. It also distinguishes them from law enforcement operations, e.g., against a suspected suicide bomber. Under such circumstances, it may be legal for law enforcement personnel to shoot to kill based on the imminence of the threat, but the goal of the operation, from its inception, should not be to kill», (*Ibidem*, 5)

drones for targeted killings is tolerated if the lethal force involved through their use is directed only against subjects qualified as legitimate fighters or combatants. In particular cases lethal force may be employed against civilians directly participating in belligerent hostilities, losing in this way their neutral status from the moment they engage directly in hostilities<sup>28</sup>. In situations concerning cases of non-international armed conflicts, international human rights rules apply and in these cases lethal force would be tolerated in case of full respect of the related criteria.

The question of major concern regards the use of drones with the declared (or not) purpose of targeted killings. In a domestic context of law enforcement policy the question regards the engagement rules determined by the State through the national legislation in relation with the use of lethal force by proper authorized agents or organs during particular typologies of police operation. The appropriate law to be applied in these cases is the human rights law which imposes very strict rules and requirements to this purpose. Necessity, proportionality and extreme threat may only authorize such a kind of lethal force usage. The use of drones in cases of domestic law enforcement operations is thus less justifiable considering the individual or minor threat represented by the suspected criminal or criminals compared to the enormous and infinite means at disposition of the government authorities in order to face with the isolated problems of domestic criminality. To the extent of this survey, the targeted killings through the use of drones in situations of inter-State relations, outside situations of armed conflicts among the involved States represent the main challenge. The use of force in the international law short of any UN Security Council authorization (Article 2, § 4 of the Charter) or right to self-defence (Article 51 of the Charter) is to be considered violation of the equal sovereignty of the States. Outside the mentioned exceptions on the use of force under the international law, the use of force (use of drones for targeted killings) may be justified if the territorial States grants also express a clear consent for the conduct of such military operations. Military use of force in areas where no international armed conflict is registered, where no right to self-defence is legally claimed or no SC authorization is endorsed asks for explicit consent by the territorial State in order to grant legality to targeted killings.

The biggest problem with the use of drones for the purpose of targeted killings is represented by the fact that in several cases bombs or missiles launched by them cause indiscriminate civilian victims and thus, violate the international humanitarian law. The problem surely does not question the

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<sup>28</sup> «[...] regardless of the enemy's tactics, in order to protect the vast majority of civilians, direct participation may only include conduct close to that of a fighter, or conduct that directly supports combat. More attenuated acts, such as providing financial support, advocacy, or other non-combat aid, does not constitute direct participation» (*Ibidem*, 19).

admissibility of such war instruments but rather their use in full conformity with the humanitarian rules. If an armed conflict has not occurred, the use of drones may be justified for the reason of self-defence; in cases of conflicts involving at least one non-State party, their use may constitute a clear violation of the international norms. For these reasons there is an enormous need for transparency and accountability in cases of use of drones for targeted killings. State practicing targeted killings through drone technology should guaranty the maximum of these both requirements in order to comply, in consideration of the particular nature of these weapons, with the international law.

### **CONCLUSIVE REMARKS**

The achievement of global security is better realized when the members of the International Community fully comply with the rules of *ius ad bellum* in inter-State relations. Thus, the use of drones in the international law as a form of use of force should necessarily meet the requested criteria of self-defence or UN Security Council authorization. In these cases the Geneva humanitarian regime which imposes severe and strict rules for the conduct of hostile activities, whose main goal aims the reduction of the casualties is applied. The protection of the civilians and other subjects not participating directly in the hostilities is a cornerstone of international humanitarian norms. The use of drones during belligerent operations is not questioned but rather their use in conformity with the «laws of war». Any disproportionate use of drones during armed conflicts constitutes war crimes, punishable according to the provisions of the Geneva Conventions and relative Protocols.

Targeted killings are tolerated in case of express and explicit consent of the territorial State towards such kind of tactics in its territory. When a conflict occurs between a State and a non-State actor, the use of drones may be lawful only if the territorial State grants proper consent. Outside these cases, the use of remotely piloted aircrafts is severally prohibited causing in this way the international responsibility of the author State for unauthorized use of force in the territory of another State. Except the international responsibility of the State for illegitimate use of force human rights law is also applicable, in consideration of the fact that this kind of operations in time of peace are considered extrajudicial and, thus, arbitrary deprivation of life.

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# **THEORIES, MODELS AND CHALLENGES OF INTELLIGENCE IN THE SUPPORT OF NATIONAL SECURITY**

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## **Abstract**

Many factors worldwide express interest in using intelligence or intelligence operations in realization of their interests. Intelligence practice is practiced by collective security systems, state and non-state elements, private agencies, business corporations, formal and informal armed groups, criminal and terrorist organizations and others. All of them implement different models and procedures of intelligence in support of their activities. The measures and activities of intelligence are not a simple matter. They represent a complex and orderly matter of covered procedures, behaviors, prevention, combating illegal activities and building policy of implementation of national security.

This paper aims to convey the quality settings, ideas, theories and models to support the goals of national security, primarily the security of the state and the state institutions. The application of theories and models contribute to early warning and prevention of potential threats, dangers and risks and achieving success in operations against the challenges of present time. Key aspects of intelligence represent its content concerning the organization, functioning and positioning of services and authorities, media information security, intelligence analysis, operation of military intelligence, intelligence in countering irregular warfare and hybrid threats, the effectiveness of criminal intelligence and others.

Theories, models and challenges are the basis for democratization of modern intelligence and maintaining the level of efficiency. This approach allows further understanding of intelligence as a tool of the state, the public and the private sector.

Key words: intelligence, security, models, challenges

## **INTRODUCTION**

Intelligence as one of the state trades is not a new phenomenon, on the contrary, it is one of the oldest professions in the world. In the modern world, the need for collecting information is extremely necessary for national

security<sup>1</sup>. It requires use of organized and structured process of planning, collection, processing, analysis, fabrication, delivery and management of important information, especially for security and defense of the state, the collective systems, the international factors and the global interests. According to another source, intelligence is information, which is systematically processed and evaluated and which justifies the needs of the decision makers<sup>2</sup>. Modern intelligence is based on systematic research on the risks, threats, dangers and security manifestations of global disorder of the modern world. Phenomenology of intelligence is a complex term and it is an attempt to map the disturbance of peace and security and prevention of daily activities and events. The goals of modern intelligence are to achieve preventive and repressive system performance and improve the products and the effects of its existence and implementation. Practice identifies a number of activities and challenges that support or limit the functioning of intelligence systems. Modern intelligence results in divergence, transformation and emergence of new forms of applied intelligence, such as positive intelligence, emotional intelligence, corrective intelligence, ambient intelligence, computer intelligence, criminal intelligence, collective intelligence, security intelligence, defense intelligence, pro-active intelligence. On the other hand, significant aspects of formation of modern intelligence are: leadership, strategy, marketing, finance, human resources, technology, manufacturing, logistics, career development, individual finance, confidence, ideas and monitoring trends. This approach shows that the needs for intelligence challenge time and it's a challenging profession. But even more important aspect of illustrating modern intelligence is finding a balance between the spread of democracy on the one hand and the opposition of asymmetric threats from the other side<sup>3</sup>. Implementation of intelligence activities in order to achieve security is a conflict between democratic culture, human rights, transparency in society, the level of conspiracy and security oriented intelligence capability. There is no guarantee of full implementation of security from the lowest to the highest level, but for the establishment of the foundations for intelligence support of national security, scientific and practical theories, models and challenges are significant.

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<sup>1</sup> Jones M. „Is ethical intelligence a contradiction in terms? In J. Goldman (eds.) *Ethics of spying: A reader for the intelligence professional*“, Scarecrow Press, Portland USA, 2010

<sup>2</sup> Lowenthal M., *Intelligence: from Secrets to policy*, third edition, Washington D.C. CQ Press, 2006

<sup>3</sup> Valentin F. *The Intelligence Phenomenon in a New Democratic Milieu. Romania—A Case Study*, Naval Postgraduate School, Monterey, California, 2006



## Contemporary intelligence theories

Science is a systemic and organized activity whose intended objective understands of the truths of certain phenomena, events, and reactions to the phenomena. Theories of science and disciplines are created to achieve the goals and objectives. The result of the research is scientific knowledge, obtained with appropriate methods. Intelligence is a systematic process of action of entities, forces, time and space, in order to obtain relevant information and results related to security. Given that intelligence uses its own findings and thoughts (gnosis) and has its own language, learning and science (logos), it is confirmed that it deals with the needs and practices of mankind. The theory of intelligence needs its claims to be repeated continuously without the need to prove them once and for all. Intelligence activity uses ability to determine human and natural knowledge, information sources, significant changes, events and reactions, the volume and the limits of expression of the actions, issues, relationships, relations, measures and activities and much more. There are situations where intelligence realizes scientific research and practice less, and is more based on the universal problems of logic and knowledge of natural laws. Besides gnoseology, intelligence activities massively apply epistemology as a narrow part of the theory of knowledge, using the speech, word and science and specific scientific knowledge, principles and methods. The entire aforementioned are associated with the boundaries of human knowledge<sup>4</sup>. Many theorists around the world say that it's almost impossible to determine the objective properties of the phenomena in the world, indicating irrelevance of knowledge to the extent of uncertain, incomplete or inadequate, causing skepticism and doubt to results. The effects of intelligence theories reflect the determination of the essence of the field activities, defining them as "knowledge and knowledge about the world around us" as a prelude to the implementation of appropriate decisions and actions<sup>5</sup>. The true picture of the applicability of theories is perceived at strategic level, as attempt on the leaders to understand the benefits of intelligence at national and global level.

Human knowledge and capabilities in terms of intelligence possess barriers of objective restrictions relating to the limited human and intellectual power, historical limitations, incomplete experience, undefined low budget aspects and impacts (social, security, cultural, military, etc.) The success of intelligence theories is in the flexibility of the possibilities and conditions that are built up with the times. The last few decades enable the development of new knowledge, sciences, disciplines and areas of research, allowing one scientific revolution every seven years. Intelligence entered the areas of

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<sup>4</sup> Vance Stojcev, „*Metologija na voeni igri*“, 2-ri Avgust, Stip, 2004

<sup>5</sup> Office of Public Affairs, Central Intelligence Agency, „*Fact book on Intelligence*“, 1991

ecology, criminology, economy, politics, defense, and other parts of the social sector with unprecedented boom, allowing space for advanced scientific research and technologies, research findings and research results. Thus, the boundaries of human knowledge have become extremely volatile, vulnerable, and sensitive to the factor ignorance. Intelligence is different in terms of daily information that can be found anywhere (from open sources), which do not require the use of scientific methods and human knowledge. The difference is the existence of conspiracy and method of collecting and processing information, which require a „software“ or procedure. Abram N. Shulsky, claims that intelligence often includes access to information which the opposite side wants to deny<sup>6</sup>. Practice shows that sometimes about 95% of information that make important decisions is based on open sources, while a small percentage is derived from intelligence operations that can indicate the plans of the opposing party<sup>7</sup>.

You can often meet the claim that after the events of 2001, mostly called upon profession that has experienced radical change is intelligence. By gathering information and preventive intelligence-security, analysis includes not only public institutions but also the private and public sector. Many universities offer studies for security and intelligence in order to obtain essential analytical skills. Such studies help to supply intelligence theories, ideas and thoughts, which appropriately support the social, economic and social, environmental and other social spheres in which conspiracy intelligence is still unknown.

But why society and common man needs intelligence? Intelligence is a humanistic discipline, security skill and social product, which helps in better understanding of the world in the true sense. Intelligence enables monitoring of events, occurrences, various forms of behavior, threats, risks, safety indicators, the surrounding, nature, people, countries, and even the totality of the world. Ira Cohen in one of his works highlights several theories, including the following: power is experience that without the use of safe measures and activities generally decreases; it has no ability to deter actions with possible consequences; most options available, provide improved security; the greater security, the more improved conditions for the achievements, life, achieving goals; greater security creates greater safety in private life<sup>8</sup>. The exactness of intelligence is able to find solutions and options that are seriously considered by the relevant authorities. The results of the intelligence activity do not

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<sup>6</sup> Abram Shulsky, „*Silent Warfare: Understanding the World of Intelligence*“, 2nd ed., revised by Gary J. Schmitt, New York, 1993

<sup>7</sup> US Government Printing Office, Aspin-Brown Commission on the Roles and Capabilities of the US Intelligence Community, „*Preparing for the 21st Century: An Appraisal of US Intelligence*“, Washington, 1996

<sup>8</sup> Ira Cohen, „*Realpolitik: Theory and Practice*“, Dickenson Publishing, California, 1975

constitute absolute option of the problem, but they are based on a degree of certainty and probability. The degree of improbability or uncertainty in the implementation of intelligence operations can be supplemented by actions which over the intelligence process could not have been foreseen or realized. In all this an important role can have the experience of solving cases and practice under good feeling, belief, trust and other aspects. Intelligence in some degree is associated with the concepts and theories as instruments, but in practice intelligence implements methodology, under which information is converted into intelligence. The process is based on methods used in applied research, which many sciences possess. The subject of applied research and the basis of modern intelligence is information. Information is rough data of any kind, which can be used to create intelligence (knowledge)<sup>9</sup>. There are many difficulties to define the term information, but it is not impossible. What is possible is observation and description, which improves the efficiency and implementation of accurate data processing and analytical approach to the problem. Thus, the lack of physical presence in the emergence process, event or challenge, is supplemented by producing intelligence, using everything that might be called information. The information is associated with everyday human activities, ranging from morning awakening, through acquaintance with the news and the news of the weather forecast and the conditions for transport to work, afternoon obligations and lying to bed. Thus, it can be concluded that human existence is a hostage of information, which is important for survival. The theory of the existence of community and society is the result of the ability to collect, store and exploit the information from the individual, the group to the legal entity and vice versa, while the complexity of the society is in the transformation of the information into intelligence and its use by the intelligence services<sup>10</sup>.

In scientific theory intelligence is defined in different ways, including the following: intelligence is action or process used to create knowledge (information); body for producing information<sup>11</sup>; intelligence is organization that uses the information (agency, authority, institution); intelligence is analysis, report or briefing, created by specialized agencies<sup>12</sup>; intelligence is organized activity of a social group, movement, party and part of state

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<sup>9</sup> M. Dojcinovski, F. Odzakov, „*Razuznavacki operacii*“, Solaris Print, Skopje, 2010

<sup>10</sup> H. Prunckun, „*Handbook of Scientific Methods of Inquiry for Intelligence Analysis*“, The scarecrow Press, Inc, Lanham, Toronto, Plymouth, UK, 2010

<sup>11</sup> T. Schroeder, „*Intelligence Specialist 3 & 2*“, vol. 1, Naval Education and Training Program Development Center, Washington DC, 1983

<sup>12</sup> C. Andrew, R. Aldrich, and W. Wark, „*Secret Intelligence: A Reader*“, Routledge, London, 2009

apparatus<sup>13</sup>; intelligence is the process of organized collection and processing of information<sup>14</sup>; intelligence is a product of collection, evaluation, analysis, integration and interpretation of current information<sup>15</sup>; intelligence is a system of implementation of measures and activities for collecting, processing, analyzing and disseminating of information<sup>16</sup>, etc. The definition of intelligence in a way that was indicated creates efforts in order for the intelligence phenomenology to improve the ability of society and reduce uncertainty, which will allow the adoption of appropriate decisions and policies, and will reduce the control and knowledge of the "unknown".

### Applied Intelligence in modern theories

Applied Intelligence in the contemporary theory pays particular attention to: the aims, objects, subjects, persons of interest, events and indicators, where the context of utilization of the laws, business context, defense context and national security context have been identified. Special aspects in the application of intelligence, have their place in the intelligence process: intelligence cycle, the categories of intelligence, anatomy of intelligence and typology of intelligence.

Intelligence cycle is a process in which information is processed within logically placed security-intelligence procedures as a whole in the intelligence services. It is a tool for production of intelligence, in which intelligence operations and actions are implemented and operated in sequence. The decision makers in setting research questions or advice for action initiate the cycle. In military intelligence structures can be found as the so-called "Intelligence requirement"



<sup>13</sup> T. Batkovski, „Razuznavacka, bezbednosna i kontrarazuznavacka taktika“, Solaris print, Skopje, 2008

<sup>14</sup> M. Dojcinovski, „Sovremeno voeno razuznavanje“, Solaris Print, Skopje 2009

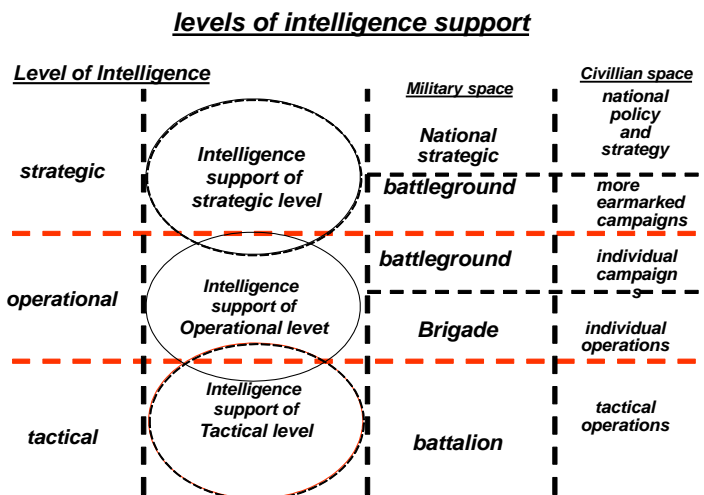
<sup>15</sup> T. Troy, „The Correct Definition of Intelligence“, International Journal of Intelligence and Counterintelligence 5, no. 4, 1991

<sup>16</sup> M. Dojcinovski, F. Odzakov, „Razuznavacki operaciji“, Solaris Print, Skopje, 2010

or "significant elements intelligence" EEI<sup>17</sup>. Intelligence cycle has seven steps, of which the first five are fully focused on intelligence, while the last two on using products from the intelligence cycle<sup>18</sup>. These include the establishment of the problem (planning and direction); Collection of information; Comparing the information; Information processing and analysis. This process ends with two additional steps: Preparation of a report and submitting of a report to the relevant authorities in order to formulate a decision. Various intelligence services use different intelligence cycles and applied methodological approach and implementation of the intelligence cycle in practice depends on many factors, such as volume, the time-required, the number of people and resources, space, technology, cooperation, coordination, expertise and other.

In practice and depending on the needs, intelligence is implemented on strategic, operational and tactical level. Strategic intelligence works in support of the existence, development and protection of the defense segment of the state, her whole space, using the joint intelligence committee or appropriate body<sup>19</sup>. It provides policy development and planning, and make decisions on

the use of forces and means. The operational level of intelligence support is associated with the implementation of operations that use the space provided for combined strengths and resources of different strength and in the operations are used intelligence forces and assets with



significant capacity. In the implementation of operational and intelligence

<sup>17</sup> *Essential elements of intelligence—EEI*

<sup>18</sup> There is a difference in the definition. More see: R.McNamara, "Memorandum for the President, Subject: The Establishment of a Defence Intelligence Agency", Washington, 1986; J. Richelson, "The US Intelligence Community", Ballinger Publishing Company, New York, 1989

<sup>19</sup> H. Prunckun, „Handbook of Scientific Methods of Inquiry for Intelligence Analysis“, The scarecrow Press, Inc, Lanham, Toronto, Plymouth, UK, 2010

support necessary implementation of appropriate cooperation and coordination is necessary. This level determines the direction of engagement of national (strategic) forces and means. Tactical level of intelligence support is implemented within the areas of responsibility of the occupied space marked as "space for performing potential operations." It implements activities with short-range or time limitations.

In modern intelligence, specific intelligence has significant application, such as applied research intelligence, counterintelligence, espionage, conspiracy and counterintelligence activities. Applied Intelligence research uses the achievements of other scientific disciplines. Such content often has decisive influence on the adoption of political and military decisions. The achievements of other sciences are an important contribution to the modern intelligence, but doubts or irrelevance of the same do not contribute to the efficiency of operation. Intelligence is the basis for opposing rival intelligence systems and processes. Its aim is to act timely in order to prevent and to warn of danger, risk and threat, which can cause huge damage. In fact, the use of counterintelligence operations, helps in protection of one's own facilities, critical infrastructure, planning and operations. It reveals actively and it hinders the methods of operation of foreign intelligence services. Espionage is a form of action of intelligence services using a person - spy. Spies are agents working for the opposing side<sup>20</sup>. The information that these people obtain can not be obtained otherwise. Counterespionage is a severe form of implementation of tasks relating to make the activities of spies futile. In the intelligence practice counterespionage is known as the "aristocratic sector of covert operations." It is a complex activity of counterintelligence departments by which spies are "fed" with misinformation, in order to delay or prevent intelligence actions. Conspiracy or covert activities, are a set of measures and activities of personnel engaged in the so-called "Gray zone" of modern intelligence activities. The conspiracy and adaptation in the surrounding allows collecting information about incriminating activities and preparing analyzes, supporting material and financial activities, as well as any other type of operational activity, in the interest of their own intelligence services. Through covert actions their own positions are strengthened and the impact and efforts of the potential enemy is weakened<sup>21</sup>.

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<sup>20</sup> E. Zacharias, „*Secret Missions: The Story of an Intelligence Officer*“, New York, 1946

<sup>21</sup> D. Fiery, „*Out of Business: Force a Company, Business or Store to Close Its Doors . . . For Good!*“, Washington, 1999

## SPECIFIC INTELLIGENCE MODELS AND CONCEPTS

Modern research of intelligence leads to identification and finding specific models and concepts of intelligence features and operation and support of national security. Finding solutions to social problems and challenges is a crucial method of scientific and practical cognition. Intelligence approach should provide an explanation for the etiological and phenomenological features of security events and to reflect the truth of the research problem. Validation of the truth is not fully possible, but with the help of the models similarity and familiarity can be represented, and an incentive for further research can be given. Intelligence is a tool in the hands of professionals, which by means of planned and organized usage of media information leads to the "original" and "truth", and not only that, but also finds information about them.

The support of public policy is impossible to be realized only through the functioning of state institutions. Security challenges as well as the consequences of global change require active participation of all actors in the field of scientific research and achievements. The last two decades have created conditions for complete transformation of the national systems, by setting priorities in the realization of national interests, such as internal security, defense, economy, ecology, computer science, industry, private and public sector and many others.

On the basis of intelligence support of intelligence models, according to which are identified the ways of action are based "National Intelligence," "Military Intelligence", "Security Intelligence", "Criminal intelligence", "Business Intelligence" and "Counterintelligence". Besides the already existing types of intelligence, for a longer period theory and practice has been realized on the basis of intelligence disciplines: HUMINT, OSINT<sup>22</sup>, MASINT, IMINT, SIGINT etc.<sup>23</sup>, as well as the intelligence components-intelligence in terms of: biography, economy, science and technology, transport and communications, geography, military, political system and sociological aspects<sup>24</sup>.

Modern Intelligence follows the development of national systems and the steady growth in terms of coverage of social areas estimated that could be basis for challenges, risks, threats or hazards. The paper describes several specific concepts of intelligence for which intelligence theory and the concepts

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<sup>22</sup> E. Jardines, „Open Source publishing“, JMITC, DIA, <http://www.osint.org>

<sup>23</sup> DIA, „National intelligence course“, textbook, Washington, 2000

<sup>24</sup> DIA, „Intelligence Analyst course“, textbook, Washington, 2001

of support of creation of national interests open space for development of new intelligence models and concepts.

### **Information Intelligence and Security**

Information Intelligence and Security is a multidisciplinary action through an organized approach for protection of national security goals, with address to different scientific disciplines (information science, electro-technical sciences, social sciences, law, public policy, psychology, economics, cyber and the like). The terrorist events in the United States in 2001, confirmed the action of the fourth generation of wars (asymmetric and hybrid) and the impact from the threats has affected the development of information security and intelligence. Information technology has made a remarkable transformation in providing significant areas in national security. Based on the three strategic objectives, the strategy for national security<sup>25</sup>, prevention from terrorist threats, reducing of national vulnerability and minimizing the damage and recovery from the effects, are defined missions where information security and intelligence need to complete the objectives of the national strategy. These are: intelligence and warning; border security and transportation; opposing domestic terrorism; protection of critical infrastructure and critical assets; defense against catastrophic terrorism; emergency preparedness and responses. All of the above aspects of violation of national security are associated with the need for prevention and early warning regarding the use of information and information technology, through appropriate measures and activities to protect critical infrastructure<sup>26</sup>. Diversity of information and techniques and their protection is a requirement for the development of the Information Intelligence and Security, the determination of the main goals to advanced information technologies, systems, algorithms, databases for national security, and innovative applications through an integrated technological and organizational approach<sup>27</sup>.

### **Analytical Intelligence**

Analytical intelligence is the process of using a variety of methods to collect information and answers to research questions and requests. The analytical process depends on the way of processing information and the

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<sup>25</sup> Office of Homeland Security, „*National Strategy for Homeland Security*“. Washington D.C. 2002

<sup>26</sup> Chen, H., Moore, R., Zeng, D., and Leavitt, J. *Intelligence and Security Informatics: Proceedings of the Second Symposium on Intelligence and Security Informatics*“. Berlin: Springer, 2004

<sup>27</sup> Chen, H., Miranda, R., Zeng, D., Demchak, C., Schroeder, J., and Madhusudan, T., „*Intelligence and Security Informatics: Proceedings of the First NSF/NIJ Symposium on Intelligence and Security Informatics*“, Berlin, 2003



opportunities for confirmation from multiple sources. Modern analytical processing systems can perform fast and automatic data processing. The basis for successful implementation of analytical intelligence is information, which is why most successful analytical intelligence can provide spaces where there is crisis or enforced security and humanitarian operations, as well as anti-insurgent operations. Some important questions about the usefulness of analytical intelligence are: data collection; inadequacy of the notices; problems with multiplied bases of information; lack of standard dictionaries; "friendly" information is not hacked; exchange of information between intelligence agencies<sup>28</sup>. Some of the identified techniques and methods for conducting analytical intelligence in support of anti-rebel could be the following:

- Using cognitive patterns (factors and indicators related to the occurrence of the event);
- predictive analyses according to which can be verified the findings from the processed information (confirming non-coincidental rebel attacks, historical overview of the events, estimates of the enemy adaptations, benefit from hiring local commands, confirming the importance of the local analysis, improving the current conditions for use of the authorities);
- Analyses of rebel communications (connection of the rebels in network organization in the primary structures, creating a common picture of insurgent networks using current intelligence estimates, access to bigger number of activities, easy update);
- Interaction of friendly and rebel forces (the creation of game theories, change of possible detection)
- Access and implementation of game theory (analysis of the effects of space, time, activities and other aspects, using the missions and strategies, simulated activities in a hall);
- Friendly-hostile interaction analyses: detection of response (drawing maps of areas of interest, noting the significant changes and observations of changes).

Analytical Intelligence aims to monitor changes in the stages of evolution from one to another, especially when it comes to forms of violation of national security.

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<sup>28</sup> Walter L. Perry, John Gordon, „*Analytic Support to Intelligence in Counterinsurgencies*“, National defense research institute, Rand Corporation, Santa Monica, 2008

## **Emotional Intelligence**

Emotional intelligence has been an important characteristic in determining organizational performance in the last 20 years. It explores the impact on a person, population, groups, in terms of experience, health, success, happiness and efficiency. Conflict and conflict positions, as well as personal and organizational capabilities are important for this kind of research. Emotional intelligence is important for implementation of activities in an organized environment, such as a business enterprise firm, major corporations, public enterprises and the like. Basis for application of emotional intelligence is the constant increase in the pace of life and change. The reasons for change relate to: the effects of globalization, development of technology, IT progress, education, cultural differences, conservativeness of the systems and many others. Emotional intelligence is related to leadership and leaders who are expected to be facilitators and able to cope with the challenges of today.

It has been written about emotional intelligence in the past, the following papers being evidence: in 1920 Edward Thorndike first spoke of „*Social intelligence*“; 1940 David Wechsler, discussed „*Non intellectual aspects*“; in 1966 Leunen published his work „*Emotional intelligence and emancipation*“; in 1974, Claude Steiner first published „*Emotional Literacy*“; Howard Gardner in 1983 published his first paper on „*Multiple Intelligences*“, in 1986 Wayne Payne used the term „*Emotional intelligence*“ in their theories; in 1990 Peter Salovey and Jack Mayer published the book "*Emotional Intelligence theory*"; while in 1995 Daniel Goleman published his first work "*Emotional intelligence books*"<sup>29</sup>.

Emotion by definition means "movement". This confirms that emotions are the basis of people's movement, but the working definition of emotional intelligence should refer to the application to the usual practice relating to: the use of emotional information, integration of emotional information with one's own analyzes and assessments, using the previous for decision-making about the current state and condition of life. In order to better understand emotional intelligence, one needs to cover the aspects of diversity, prediction, measurement, and variability development. To emphasize this type of intelligence, one needs to pay attention to feelings, to think about them and keep in mind what causes them.

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<sup>29</sup> Tim Sparrow and Amanda Knight, „*Applied Emotional Intelligence*“, Jossey-Bass, San Francisco, 2006

## Artificial intelligence

Artificial Intelligence holds the interest of experts and researchers more and more. Artificial intelligence is trying to understand people's intelligence. Thus, one reason for existence is finding out about the characteristics of people. Artificial intelligence tries to create intelligent people and to understand them. The basis for development of artificial intelligence is creating an instrument with a human level of intelligence that has a huge impact on civilization<sup>30</sup>. A question for research is: how can a "little brain", whether biological or electronic, perceives, understand, predict and manipulate with the outside world. Artificial Intelligence has connection with intelligent programs. Considering that "artificial intelligence" an abstract term, additional explanation could apply to the following:

- It is an effort to make computer thoughts, in full and literal sense<sup>31</sup>;
- Artificial Intelligence is the automation of activities associated with human thinking, such as adopting various decisions, solving problems, different types of learning and other<sup>32</sup>;
- It is the art of creating electronic devices which distribute intelligence functions by the staff<sup>33</sup>;
- Artificial Intelligence could be identified as a branch of computer science, preoccupied with automation and intelligent behavior<sup>34</sup>.

There are numerous studies on understanding the subject of research of artificial intelligence, especially in the area of mental capacity through the use of information infrastructure, studies and calculations of findings, causes and actions, studies for setting requirements for explanation of intelligent behavior in terms of information processes and others<sup>35</sup>. Much research on artificial intelligence is focused on several categories, including: systems thinking as people, systems thinking rationally, systems that act like humans and systems that act rationally.

Theories and models of modern intelligence give picture of the progress of the security services and agencies in terms of content and method

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<sup>30</sup> Stuart J. Russell and Peter Norvig „*Artificial Intelligence*“, *A Modern Approach*, New Jersey, 1995

<sup>31</sup> Haugeland, J., „*Artificial Intelligence: The Very Idea*“. MIT Press, Cambridge, Massachusetts.1985

<sup>32</sup> Bellman, R. E. „*An Introduction to Artificial Intelligence: Can Computers Think?*“, San Francisco, 1978

<sup>33</sup> Kurzweil, R., „*The Age of Intelligent Machines*“. MIT Press, Cambridge, Massachusetts, 1990

<sup>34</sup> Luger, G. F. and Stubblefield, W. A., „*Artificial Intelligence: Structures and Strategies for Complex Problem Solving*“, California, second edition, 1993.

<sup>35</sup> Види: Winston, P. H. „*Artificial Intelligence*“, Massachusetts, third edition, 1992; Rich, E. and Knight, K. „*Artificial Intelligence*“, Mc Graw-Hill, New York, second edition, 1991

of use of information. The application of methods and techniques in modern intelligence enable coordinated use of many different theories of science and disciplines. Limited space in the paper does not provide enough space for presentation of the theories and practice of modern intelligence which occupy an important place, such as the theory of collective intelligence, intelligence for development of the environment and the surroundings, corrective intelligence, analytical intelligence and others. The challenges of using theories and models are the basis for adoption of conceptual and doctrinal solutions designed for wide application and supported with adequate cooperation and coordination. The theory and practice of the various theories and models of intelligence is intended for further consideration by experts and the expert community with the ultimate goal of applied use in everyday activities of modern intelligence.

### **Challenges of modern intelligence**

The consequences of global change have resulted in the appearance of security challenges and asymmetric threats throughout the world. Terrorism has become a global threat that has found its way of achieving goals on a large scale. There is violation of the national security of states in many regions political, economic and military crises were created and some of them erupted into open hostilities. The transformation of the regions is one of the dangers and challenges of modern intelligence. Although changing the character of the states was a specific period of transition and change for society from one system to another, there is still the danger of changing the territories of states and their borders in the region of Southeast Europe, the Middle East and beyond. As a result of strong political crises, whole regions entered the process of transformation, and the states of communities of Eastern Europe suffered collapse. Such processes drag the regions backwards, which in turn generates crises on larger scale. Radical activities recruit global terrorism for achieving political goals, while national-separatist movements gain progress. As a consequence of this comes to disintegration of entire intelligence community.

As a result of the widespread acceptance of democracy and creating obstructions of attempts to establish modern democratic systems with or without respecting the basic principles of civil society appears aristocratic behavior. Certain intelligence services lose their identity, and intelligence activity turns into daily instrumentalized political activity of the, loyal" staff. The basis for aristocratic behavior of the position and maintaining one's own position, as well as boost of the radical behavior enabled the appearance of corruption and organized crime, resulting in reducing the power of the intelligence and security services, that in such conditions receive opposite directions, undefined roles, becoming the main culprits for producing affairs, spreading misinformation, making misjudgments, conspiracies against certain

persons or target groups, all the way to the creation of internal forms of endangering national security.

Affected regions lead to disturbance in the behavior of religions, especially the massive acceptance of the model of extreme (traditional) behavior and culture. Part of the population of the pro-Western democratic societies is in a difficult and unenviable situation with "feelings of protrusion" by their presenters and their governments. Intelligence systems in such cases have discriminated, dual role, or they use the system of "adjustment".

"The revolution of the military potential" and its expansion, gain importance and in some regions the level of information security is violated and the region rearms, security is reduced, and planned and organized action of the units in the field is confused. As a result of the traditional habits of certain regions in the trafficking and weapons possession, this situation is encouraged both by state and non-state factors. Thus, motivation for using asymmetric threats occurs.

Religious and ethnic conflicts are one of the biggest challenges of the 21st century. They occur as a result of the vulnerability of the groups involved in them. The endangerment comes from the desire for appropriation of territories. It seems that modern intelligence loses connection and cooperation with the limited possibilities of government institutions<sup>36</sup>. In all of this, the law of force gains momentum, weapons, the theory of groups, social and sociological syndrome and loss of consciousness, the degradation of state mechanisms, losing confidence, the need for survival, the maintenance of the status in the community or region often depends on smuggling weapons, drugs, trafficking in people, etc.

## CONCLUSION

The development and performance of modern intelligence systems depend on the support of technical achievements in the world of computer technology, electronics, telecommunications, the use of services of satellites and drones, geo-information and navigation systems and the massive application of highly developed intelligence technology, which fully change the list of priority requirements and contents of intelligence. Many countries joined partnerships, alliances, regional unification, and some joined most developed collective security systems (EU, OSCE, NATO), and with that they embraced the transformation of the security apparatus, training of staff and improvement of infrastructure facilities. Changes of essential character by means of which intelligence gained a significant role are results of the high level of threats, risks, hazards and challenges. The approach to the problem of

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<sup>36</sup> Tom Moctaitis, „*Al Qaeda: A global Insurgency?*“, De Paul University, 2005

intelligence theories, models and challenges is a priority which progressive social systems must improve, transform and improve.

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# PROMOTION OF THE REGIONAL SECURITY COOPERATION: THE APPROACH OF THE BALKAN COUNTRIES

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## **Abstract**

The end of the Cold War brings to the fore a new, nontraditional security threats that have risen in prominence marking the emergence of a new context for the international order and security environment. This is particularly important in the post conflict areas such as the Balkans. Countries in the Balkan are struggling to find sustainable frameworks for dealing with the new security challenges more systematically. Through the capacity and state institutions building for the improvement of primarily public safety, stability, and the overall prosperity in Southeast Europe, the integration process is well advanced so that today many countries of Southeast Europe are fully integrated in the European Union. In this paper, the authors give an overview of existing of regional mechanisms in South East Europe, related to confidence building and creation of a more secure region in today's world, emphasizing the objectives of those initiatives.

**Key words:** *region, security, initiative, cooperation*

## **INTRODUCTION**

The post Cold War period has marked a new, nontraditional security threats that have risen in prominence, marking the emergence of a new context for the international order and security environment. Today's major security challenges such as terrorism, trafficking of drugs, weapons and people, environmental and healthcare crises and natural disasters increasingly require regional cooperation due to their cross-border nature. While the countries in the Balkans are embarking on the process of institutionalizing patterns of regional cooperation, more attention needs to be paid to creating institutions that are able to address these nontraditional security issues. We have also seen the development of international partnerships to fight new security threats between and among nations that are not connected by an alliance. At the same time, the dividing line between military and nonmilitary has become increasingly blurred, and those "grey areas" where it is difficult to differentiate between times of conflict and times of peace, are expanding. Countries in the Balkan region are struggling to find sustainable frameworks for dealing with new security challenges more systematically. Doing so will require broadening of the way we think about security and looking at these security challenges from a wider range of perspectives. It will also require taking into consideration the role of new sets of actors, both as instigators and as potential agents in addressing these new challenges.

As noted in this paper, while regional institutions in South East Europe (SEE) have made enormous progress over the past 15 years, they still do not have much of a track record for implementing effective policies in the region or addressing some of the most serious challenges with which the countries in the region are facing.

## **MORPHO-GEOGRAPHICAL CHARACTERISTICS OF THE REGION**

The Balkan Peninsula, popularly referred to as the Balkans, is a geographical region of Southeast Europe. The region takes its name from the Balkan Mountains that stretch from the east of Bulgaria to the very east of Serbia. The region is inhabited by different nations. The largest religion on the Balkans is Orthodox Christianity, followed by Catholic Christianity and Islam. The total area of the Balkans is around 790.000 square km and the population is around 57 million.<sup>1</sup> The Balkans meets the Adriatic Sea on the northwest, the Ionian Sea on the southwest, the Mediterranean and

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<sup>1</sup> The Balkan Nations, Chapter 13 section 4 at: <http://mrparmele.com/notes-balkan.html>, Retrieved 01 Oct 2014.

Aegean Sea on the south and southeast, and the Black Sea on the east and northeast. The highest point of the Balkans is the mount Musala 2,925 meters (9,596 ft) on the Rila mountain range in Bulgaria. The Balkans has been inhabited since the Paleolithic and is the route by which farming from the Middle East spread to Europe during the Neolithic.<sup>2</sup> The first attested time the name "Balkan" was used in 1490<sup>3</sup> although the concept of the "Balkans" was created in 1808.<sup>4</sup> As time passed, the term gradually acquired political connotations far from its initial geographic meaning, arising from political changes from the late 19<sup>th</sup> century. This political connotations are newer and to a large extent, due to oscillating political circumstances. After the dissolution of Yugoslavia, the term "Balkans" again received a negative meaning, even in casual usage (see Balkanization).

Due to the historical and political connotations of the term "Balkans", especially since the military conflicts of the 1990s, the term "Southeast Europe" is becoming increasingly popular even though it literally refers to a much larger area and thus is not quite precise.<sup>5</sup> The abstracted term "the Balkans" covers those countries which lie within the boundaries of the Balkan Peninsula (Figure 1).



**Figure 1.** The Balkan Peninsula

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<sup>2</sup> In the 7<sup>th</sup> millennium BC, Borza, EN, 1992, *In the Shadow of Olympus: The Emergence of Macedon*, Princeton University Press p. 58; Perlès, Catherine 2001, *The Early Neolithic in Greece: The First Farming Communities in Europe*, Cambridge University Press, p. 1

<sup>3</sup> Todorova, Maria. (2009). *Imagining the Balkans*. Oxford University Press US. p. 22

<sup>4</sup> German geographer August Zeune, Pavic, Silvia; (2000), *Some Thoughts about the Balkans*

<sup>5</sup> Bideleux, Robert; Ian Jeffries (2007). *A history of Eastern Europe*. Taylor & Francis, p. 37

Broadly interpreted, the Balkans comprises the following territories: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Macedonia, Montenegro, Romania, Slovenia, Serbia and Turkey.<sup>6</sup> Recently, the region is sometimes designated as Western Balkans, which is today, more of a political than a geographic designation for the region of Southeast Europe that is not part of the European Union (Serbia, Bosnia and Herzegovina, Montenegro, Macedonia and Albania). Each country has the objective to join the EU and reach transmission scores (except those to have already done so), but until then they will be strongly connected to the pre-EU waiting program as CEFTA.<sup>7</sup>

## REGIONAL SECURITY COOPERATION INITIATIVES

Regional cooperation in the security sphere, with all its mechanisms of cooperation, primarily promotes and raises the overall security and stability in the region to a higher level and in this sense, the distinctive importance of regional cooperation is recognized. This is why Balkan countries actively participate in many regional incentives, either as a full member or as an observer. At the beginning of the 20<sup>th</sup> century in South Eastern Europe were launched a number of political, economic and regional security incentives with the purpose to preserve peace and stability in South Eastern Europe. In the further text, the most prominent will be mentioned in some details.

*South-Eastern Europe Defense Ministerial (SEDM)*. This forum has had a role in strengthening peace and stability in the region of South Eastern Europe and importantly has contributed to peace efforts further afield. SEDM forum has been effective, with dialogues aimed at building a more secure and prosperous region through close regional cooperation and sharing common goals between member countries and observer nations.<sup>8</sup> It has achieved an internationally recognized image, including being held as an excellent model of mutual cooperation among the States that are committed to strengthen international peace and stability: Albania, Bosnia and Herzegovina, Bulgaria, Montenegro, Greece, Croatia, Italy, Macedonia, Romania, Slovenia, Serbia, Turkey, Ukraine and the US (14 countries). Within the SEDM incentive member countries actively participate in the implementation of the following activities:

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<sup>6</sup> Bideleux, Robert; Taylor, Richard (1996). *European integration and disintegration: east and west*. pg. 249

<sup>7</sup> Central European Free Trade Area. *Perspectives on the Region*  
<http://transatlantic.sais-jhu.edu/publications/books/Unfinished%20Business%20Pdf/ch01Bieber.pdf>, retrieved on 23 Sep 2014

<sup>8</sup> SEDM. <http://www.mapn.ro/sedm/concept/MPFSEE-SEDM/index.php>, retrieved 26<sup>th</sup> September 2014.

- SEESIM (the SEE Simulation) - networking of SE Europe countries in the event of natural disasters,
- SEEDIRET (SEE Defence Industries, Research and Technology), South Eastern Europe countries cooperation in the military industry, research and technology,
- SIMIHO (Satellite Interconnection of Military Hospitals of the SEDM countries), satellite linking of SEDM members military hospital,
- CBSC (Counterproliferation, Border Security, Conterterrorism), includes cooperation in combating the proliferation of weapons of mass destruction, security of borders and the fight against terrorism.
- SEMEC (SEE Military Education Cooperation), cooperation in the field of military education.

Within the incentive exists the Political Military Steering Committee (PMSC) with a purpose to track implementation of MPFSEE (Agreement of the Multinational Peace Force in South Eastern Europe). Full member nations of the Committee of the Multinational Peace Force are actively involved in the work and participation in SEEBRIG-in, i.e. active contribution (financial and manpower). SEEBRIG (Southeastern Europe Brigade) is a brigade composed of the units of the MPFSEE armed forces. According to this document, the purpose of SEEBRIG is a contribution to the regional stability and security and the expansion of good-neighborly relations among the countries of South Eastern Europe (currently 7 nations participate). Units assigned to SEEBRIG remain in their bases and will be subordinated to the exercises and operations following a decision by the participating countries and relevant guidance and coordination of PMSC. This incentive is seen as a comprehensive mechanism for regional cooperation in South Eastern Europe.

*Balkan countries Chiefs of the General staff Forum B9* was established at the incentive of Greece and Turkey in 2006. The purpose of the Forum is to review and strengthen the model of military cooperation of the Balkan countries, as well as the model of answer to all security challenges, risks and threats in the region. Most of the Forum activities are training and education or activities aimed to acquisition of the required level of interoperability that enables joint engagement in a variety of situations. This is primarily related to the implementation of joint military exercises, as well as making the annual estimates of asymmetric threats in the Balkans. Conference of the Forum has been implemented once a year for the purpose of its implementation. There are meetings of coordination groups, sub-groups for training, education and exercises (cooperation centers, joint exercises, networking of simulation centers, shared web sites, etc.), subgroups of asymmetric threats and team project configuration SEEETN, if necessary, and conferences for the

realization of joint exercises. So far there have been seven conferences of the Forum.

*US-Adriatic Charter (A-5)* incentive was formally launched in 2003, when the foreign ministers of the USA, Albania, Croatia and Macedonia in Tirana signed a document entitled "US - Adriatic Charter". The objective of this incentive is to strengthen security and stability as a prerequisite for faster integration into the Euro-Atlantic integration as well as strengthening of the democracy and minority rights. The main areas of cooperation are: combating terrorism, combating cross-border crime and proliferation of weapons of mass destruction, corruption and drug trafficking. The incentive encourages the ongoing reform of the armed forces of the member states and their mutual military cooperation. In addition to the USA, five countries: Albania, Bosnia and Herzegovina, Montenegro, Croatia and Macedonia, take part as full members. Serbia and Slovenia have an observer status in this incentive. It is intended to be a supplement or an additional instrument for accelerating of the euro integration, but also a good mechanism to further strengthen the regional cooperation and stability, which will significantly support focus of security and defense institutions in the direction of creating relatively dimensioned, efficient, modern and affordable armed forces. As a concrete way of participation in the security cooperation, in 2011 and 2012, under the umbrella of A-5, states participated with a group of military instructors in ISAF in Afghanistan.

The *Center for Security Cooperation – RACVIAC*. This Center was, as an idea and a project, created as part of the Stability Pact in 2000. It begins work as a multinational regional center for assistance in the implementation of arms control agreements to all SEE countries that have signed the same and initially dealt with arms control and application of confidence building measures and security. The role of the Centre is to strengthen the dialogue and cooperation through the partnership of the member states and the other international actors in order to contribute and support regional security and stability. The activities of the Centre are extended over time and focal areas of cooperation include: cooperative security with a focus on arms control, a security sector reform, international and regional cooperation aimed at European integration. The Center consists of permanent and associate members as well as the observers. Permanent member states (core) are: Albania, Bosnia and Herzegovina, Croatia, Greece, Macedonia, Montenegro, Romania, Serbia and Turkey. Affiliate members are: Austria, Czech Republic, Denmark, France, Germany, Hungary, Italy, Netherlands, Norway, Russia, Slovenia, Spain, Sweden and the United Kingdom. States with observer status are: Canada, Moldova, Poland, Slovakia, Ukraine, and the USA. The Center is financed by annual contributions of permanent and associate member countries. The most important and managing body of the Centre is the

Multinational Advisory Group – MAG, consisting of representatives of the Member States at the level of deputy ministers. Center cooperates with the UN, OSCE, NATO and other sub-regional, regional and global international organizations. RACVIAC is at the top of regional incentives with over 30 activities on an annual basis in areas of importance to the region, faced with the same problems and obstacles and which are in the similar stages of the process of European integration.

Since 2011, *Southeast European Law Enforcement Center (SELEC)*<sup>9</sup> inherit success of *Southeast European Cooperative Initiative (SECI)*, which was launched in 1996 at the inaugural conference in Geneva based on the understanding of the common issues of the EU and the US, as an alternative to the Dayton Peace Agreement and the innovative strategy to help South Eastern Europe out of the crisis after the collapse of Yugoslavia. The objective of SELEC, within the framework of cooperation among the Competent Authorities, is to provide support for the Member States and enhance coordination in preventing and combating crime, including serious and organized crime, where such crime involves or appears to involve an element of trans-border activity. The new Convention provides for SELEC to: Coordinate regional operations and support investigations and crime prevention activities of the Member States in trans-border cases; Provide the Member States with the opportunity to exchange information and criminal intelligence and offer operational assistance in a quick and timely manner; Collect, collate, analyze, process and disseminate information and criminal intelligence; Produce strategic analysis and threat assessments related to its objective; Establish, operate, and maintain a computerized information system, which implies also to ensure the protection of personal data. There are 12 member states: the Republic of Albania, Bosnia and Herzegovina, the Republic of Bulgaria, the Republic of Croatia, the Former Yugoslav Republic of Macedonia, the Hellenic Republic, Hungary, the Republic of Moldova, Montenegro, Romania, the Republic of Serbia and the Republic of Turkey.<sup>10</sup>

*Agreement on Sub-Regional Arms Control (ASAC)*. Following the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina in Dayton, arms control in South Eastern Europe is intensifying. Annex 1B of the Agreement defines the elements of arms control between the warring parties. Based on the Article IV of the Annex 1B and under the auspices and with the assistance of the Personal Representative of the Chairman of the OSCE, the Agreement on Sub-Regional Arms Control (ASAC) was signed in 1996. Parties to the Agreement were: the Federation of Bosnia and Herzegovina, the Republic of Srpska, the Former Yugoslav

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<sup>9</sup> [www.selec.org](http://www.selec.org), Retrieved 06. April 2015

<sup>10</sup> Ibid

Republic of Macedonia, and Croatia. The aim of the Agreement is to establish a balance between the armed forces of the Parties in the Agreement defining the limitations in five categories of conventional weapons: battle tanks, armored combat vehicles, artillery caliber of 75 mm or more, combat aircraft and attack helicopters. The area of the application of the Agreement encompass today: Bosnia and Herzegovina, Montenegro, Croatia and Serbia. The application of this agreement is a significant effort in the way of confidence and security measures building and creation of good neighborhood relations in the region.

*South East Europe Clearinghouse (SEEC).* Forum for cooperation of the Western Balkan countries in the field of defense - SEEC is a regional security incentive launched in 2004 at the suggestion of Slovenia and US Army in Europe. The aim of the SEEC was to achieve a better coordination of donors in providing assistance to countries in the South Eastern Europe region. Meetings at the level of Deputy Ministers of Defense of the region were introduced in 2007. They were intended as a mechanism to SEEC partner countries (Albania, Bosnia and Herzegovina, Macedonia, Serbia, Croatia, Montenegro, and Slovenia) to identify and mutually agree on proposals for the establishment of regional centers and more effectively focus on donors' assistance. Forum members agreed in 2009 on the establishment of three regional centers, namely NBC Center in Serbia, the Centre for Peacekeeping Operations of Bosnia and Herzegovina (PSOTC) and the Media Centre in Macedonia. As the project developed under the auspices of the SEEC, in accordance with the conclusions of the 1<sup>st</sup> Conference of Military Medicine of the South Eastern Europe countries, a group was formed to evaluate the capacity of the military medical services of the South Eastern Europe countries. Working groups are related to the development of a Concept of the Balkan Military Medical power and defining the need for training of medical personnel in the armed forces. On the 2<sup>nd</sup> Regional Conference on Military Medicine held in 2013, Serbia was nominated as a leading nation (framework nation) for Balkan Medical Task Force - BMTF. At the final meeting of the SEEC, which was held in 2014 in Bosnia and Herzegovina, it was concluded that the SEEC ceases to operate in the current format and that certain functionality SEEC to maintain to ensure the coordination of regional training centers, the future BMTF and possibly new projects. It was also agreed to continue with the meetings of the Political Directors of SEEC functionalities.

*Southeast European Cooperation Process (SEEC).* The process of cooperation in South Eastern Europe was launched on Bulgaria's proposal at a meeting of foreign ministers of South Eastern Europe in 1996. The incentive was originally called "The process of good neighborly relations, stability, security, and cooperation among the countries of South Eastern Europe." It was launched with the purpose to transform the South Eastern Europe in a



region of stability, security, and cooperation through the promotion of a mutual dialogue and cooperation at all levels and in all areas of common interest. The aim of this incentive is to strengthen security and stability, development of democracy, judicially, and combating illegal activities as a precondition for faster inclusion in the Euro integration. The incentive encourages the ongoing reform of the armed forces of the member states and their mutual military cooperation. This incentive encompasses the eleven participating countries: Albania, Bosnia and Herzegovina, Bulgaria, Montenegro, Greece, Croatia, Macedonia, Moldova, Romania, Serbia, and Turkey. Bosnia and Herzegovina is after active participation as an observer at full capacity involved in the activities of the SEECP in 2008. SEECP is the only authentic incentive that came from the countries of South Eastern Europe, as a sort of "voice of the region." SEECP activities taking place at summits of heads of state or government, meetings of ministers of foreign affairs, as well as at the level of political directors of the foreign ministries of the participating states, whose main role is to provide policy guidelines for the promotion of regional cooperation. Also, the Meetings of the Troika as a permanent coordinating body consisting of the current, former and the future President of the Forum. Meetings at the level of line ministries are held as needed to discuss some issues that are of interest to the member states. In the future work of SEECP it is expected a more active approach to issues such as education, the prospects for development of railway transport, the development of small and medium enterprises, women entrepreneurs, consular issues and engagement in further shaping of the relationship between the SEECP and the Regional Cooperation Council. Bosnia and Herzegovina expects more efficient coordination and synchronization of regional cooperation in South Eastern Europe.

*Southeast Europe Security Cooperation Steering Group – SEEGROUP.* SEEGROUP is a regional incentive, which in addition to a regional support to individual countries supports the whole region, in the process of achieving common standards for membership in the broader security integration process. SEEGROUP objective is to help regional practical cooperation in the field of defense and security, and to promote the harmonization and coordination between the countries in the region. At the suggestion of NATO and as part of the Incentive of South Eastern Europe (Round Table of the Stability Pact for Security Affairs) SEEGROUP is established in 2000 and its objective is to help regional practical cooperation in the sphere of defense and security and to promote the harmonization and coordination between countries in the region, through the identification of gaps in existing security support as well as identification of potential areas and the need for additional assistance that could be used for regional cooperation.

SEEGROUP brings together 32 member countries (20 NATO member countries and 12 partner countries).

*Regional Cooperation Council (RCC).* Regional Cooperation Council (RCC) is the successor to the Stability Pact for South Eastern Europe (SP), a regional incentive formed in 1999.<sup>11</sup> The entire process of defining new concepts of regional cooperation took place in the framework of the Stability Pact and the South Eastern Europe Cooperation Process (SEECP), with active participation of the European Commission and a number of interested donors. At the Summit of the SEECP in 2007 the Statute RCC was adopted and the two-year process of transformation of the Stability Pact in the RCC was finished in 2008. Through the establishment of the RCC the "structure" of regional cooperation in South Eastern Europe was formed, where the backbone of the new concept of cooperation makes the SEECP as the main political forum, and the RCC functionally associated with the process. The Regional Cooperation Council meets in full format once a year, in parallel with the Summit of the SEECP. The operational body, the RCC Board consisting of national coordinators of the participating institutions and funded by the RCC Secretariat meets quarterly. The RCC Secretariat has a Liaison Office to the EU in Brussels. The Regional Cooperation Council is comprised of eleven participating countries in South Eastern Europe: Albania, Bosnia and Herzegovina, Bulgaria, Greece, Croatia, Macedonia, Moldova, Romania, Serbia, Turkey, and Montenegro, the UNMIK "on behalf of Kosovo in accordance with UNSCR 1244", the EU is represented by the Troika – the chairman of the EU Council, the Commission and the Council Secretariat, the European Parliament, as well as a number of countries and institutions. Since 2013, representatives of the interim institutions in Pristina have been presented with a "Kosovo with a footnote" in accordance with the agreement reached in the dialogue between Belgrade and Pristina. The RCC is focused on the following priority groups: economic and social development, energy and infrastructure, justice and home affairs, cooperation in the security sector, as the "umbrella" theme, which is included in all of these priorities - strengthening human capital and parliamentary cooperation. South Eastern Europe region got the opportunity through this incentive, and guided by their own needs and priorities, to cooperate in the reform and the EU integration. The aim is that RCC is not a replica of the previous mechanisms for autonomous, dynamically oriented cooperation model of immediate benefit to the region of South Eastern Europe.

*South Eastern European Military Intelligence Chiefs – SEEMIC;* On the incentive of the RCC, on an annual basis, under the auspices of the Director

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<sup>11</sup> Regional Cooperation Council. <http://www.rcc.int/pages/2/overview>, retrieved on 25<sup>th</sup> September 2014

of the Military Intelligence headquarters of the EU since 2009, held a conference of heads of the military and intelligence agencies and institutions of the countries of South East Europe (SEEMIC), members of the RCC. The aim of these activities is the development and improvement of military cooperation and intelligence services and institutions, countries of South Eastern Europe, RCC members, and through dialogue, to build a common understanding of the ways and modalities of coordination of activities in the prevention and countering modern security threats, challenges and risks.

## **ACHIEVEMENTS OF THE REGIONAL SECURITY COOPERATION**

Regional and sub-regional organizations have proliferated since 1945 and many of them have had the overt or existential mission of security and confidence building. There has, however, been a few new generic analyses of the role of the region in relation to security, while the established analytical models - the alliance, the collective security system, the security regime and the security community - often fail to capture either the discourse actually used, or the work done, by today's real-life groupings. A new analysis in terms of security functionality points to at least four sets of achievements that a regional security group can perform (often concurrently).

The most basic is the security dialogue and conflict management, aimed at establishing or maintaining peace within the region. Regional organizations have explicit conflict prevention and management instruments to this end and the EU is the most ambitious in seeking to extend its influence for the purpose worldwide. Second, regional incentives can develop systems of military cooperation based on mutual restraint - to reduce dangers from military activity (like the confidence building measures)<sup>12</sup> or on shared capacity building for older-style defence and new-style peace missions, which is now a key ambition for the African Union as well as the NATO and the EU. Third, regional organizations can expressly promote democratic standards in government, and respect for human rights, as ways of bolstering peaceful and secure conditions as well as being ends in themselves. This ambition has been a main feature of the European organizations but has faced greater cultural and practical obstacles in other. Fourth, regional cooperation could promote security by advances in purely economic fields and by cooperative approaches to the functional risks and challenges including those presented by the new threats.

Regional security cooperation can also be examined from the viewpoint of normative quality and effectiveness. Relevant criteria are

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<sup>12</sup> Developed by the Conference on Security and Cooperation in Europe, CSCE.

whether the cooperation is free and democratically conducted, or coerced and hegemonic. Whether it takes a zero-sum approach or it is rigidly framed or shows ability to grow and adapt or it gives an appropriate return on the efforts invested. It is difficult to say what conditions make such cooperation possible or impossible: some groups have worked well even with one member much bigger than the others, in regions with a great diversity of states, among states of different material levels of development and even in face of severe cultural and historical differences. The regional security cooperation has become well entrenched across much of the globe and continues to spread. Critics may dispute its usefulness in face of the toughest security challenges and it is true that even the strongest regional groups have imperfect records and could not pretend to master all such challenges on their own. Their strength lies rather in finding non-conflictual paths to difference resolution and peace-building and in exploring the added value of multi-state cooperation for new as well as old security tasks. In principle, their security achievements can be of more general value so long as they work within the framework of the UN and other global norms but much remains unclear about their impact on practical global politics. Further objective research into the regional security phenomenon would be useful from this viewpoint and also for discovering the best ways to help those regions most obviously bereft of its benefits.

## CONCLUSION

Maintaining regional security cooperation is one of the most important interests of the Balkan countries. It is an important factor for creating political stability, security and economic prosperity. The regional security cooperation is instrumental in addressing key security challenges, such as organized crime, corruption, border management, and illegal migration. Security cooperation among Balkan countries could be considered the most relevant indicator of the stabilization in the region since it requires cooperation precisely among those parts of the Balkan societies which were most active in the recent wars. Regional security cooperation is not new for the Balkan countries; these are already members of various regional groupings. The external pressure for regional cooperation is an additional factor which fosters the security cooperation between the states.

Regional security cooperation is a necessity in the Balkans in order to tackle issues of key security challenges, attracting foreign investments to the region, and strengthening disaster preparedness. Fostering cooperation is also one of the criteria of EU membership, as this organization takes in only those countries that show maturity in the relations with their neighbors. Nevertheless, regional cooperation should not be mistaken for a substitute for EU integration but rather as important preparation for EU membership.

The Balkan countries have made significant progress in improving the regional security. Despite all positive developments in the regional security cooperation, there are still security challenges which require attention from all. Advancements in the combating organized crime, political extremism and radical structures are crucial for the Balkan countries in order to achieve long term security and stability. There has been a significant decline in ordinary crime in the Balkans but organized crime and corruption are still present. These activities are facilitated by poor law enforcement.

There are also several challenges which the Balkan countries must face in the near future. The organized crime networks contribute to the proliferation of extremism in the countries of the region and the exports of illicit products to the EU. In addition, the Balkan countries need to suppress arms trafficking and other forms of organized crime. The necessary measures to tackle these threats are in place but they are not always implemented. This is due to the weakened state institutions, political and criminal interests and the lack of human and financial resources. In order to reduce the risk of escalating outbursts of violence, more attention should be given to education and training. Though already relatively well-functioning, control and oversight mechanisms should be strengthened. Accountability, currently the weakest element in the security sector governance in the Balkan countries, needs further support.

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# SYSTEMS SELECTION AND PROMOTION OF CIVIL SERVANTS IN THE SECURITY BODIES

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## **Abstract**

Seen through a comparative perspective, it can be concluded that in the administrative and legal theory and in practice as well, are differentiated two systems of selection: spoils system and political recruiting of meritocracy system. The core of the first system lays in the political patronage and sponsorship, while the core of the other lays in the professional skills and competences. These two dichotomous concepts come to the fore and the creation of personnel policy within the security institutions.

In countries with groggy and insufficient security forces that are still wandering through the labyrinths of obscure transitional tunnels and where the democratic political system is in a rudimentary stage of development, and values and morals are twisted and folded at the bottom of the social pyramid and where the virus has devastating epidemic politicization effect, there are still present symptoms of decadent spoils system in all aspects of the security system.

In contrast, in crystallized state law works with functional institutional structures, the merit system is built as a major substrate in the security architecture. They are constituted by the real values and professional standards where in the mindset of the staff permanently circulates the sense to meet the public interest.

The spoils system causes atrophy of the vital organs of the security body, but also generates decadence of the overall security infrastructure. In order to work effectively, the multidimensional and far-reaching adverse implications produced by the spoils system are in need of consistent political will and mobilizing mass action in which the participants would be all relevant stakeholders. Also a wide range of systematic, institutional, complementary and interdependent measures are required instead of empty declarative floccules-coiffed demagogic statements.

In my article the accent is put on the commitment to unconditional and urgent depolitization, as condition *sine qua non* for creating efficient and

effective security apparatus. So the intention is installation of the meritocracy values in the cells of the security system without any compromise.

The security services need real professionals, people who will feel the spirit and the rhythm of these services, people who will know well the complex of their issues and will have the capacity of independent and creative thinking. Only the officers with this background will have the potential to cope with the many social-security risks, challenges and temptations.

*Key words: security authorities, selection, officers, spoils system, merit system.*

## 1 INTRODUCTION

Security services are qualitatively differentiated institutional entities that make up the central core of the state apparatus and whose fundamental mission is to create and deliver community. In other words, the mission is to help those people who need to do something but they cannot do it at all, or cannot do it so well with their separate capacities.

Metaphorically speaking, the function of the security authorities within the state “organism” can be compared with the function of the white blood cells in the human organism.

Persons in security authorities (Ministry of Interior, Office of Security and Intelligence, Ministry of Defense Intelligence Agency, etc.) have the status of civil servants and fall under the regime of public law. Furthermore they perform analytical work, normative – legal work, executive, administrative, supervisory and informational work and record keeping, professional–operative, technical and operational work, information-technology, office and archival work, legal issues related to decision-making, as well as work that covers human resources.

These people as a substantial element of the national - security mechanism and its main cell perform authoritative activities whose power vivify and provide the leadership role of the state in society.

The choice of the people, their deployment on additional jobs and determining their duties and powers in the process of work, represent leading a personnel policy whose essence is summarized in the motto “The right man in the right place” (Vitanski 2014, 110). Accordingly, it includes a set of activities to ensure that the right people are in the right place at the right time in order to carry out the planned activities and projects so that the security authorities will quicken their strategic goals.

Comparative practice has detected more criteria which are used for selection of the staff in different countries. Remarkable is the fact that in some countries the relapses of spoils system are still nested in their institutional womb, besides the fact that the regulatory framework and declarative floccules of the state



representative are in the direction of expertise and competence. On the other hand, in practice, by using sophisticated mechanisms, the ruling political parties have the primacy of employment. In contrast, in contemporary, modern design and functional democratically indoctrinated established systems, the criteria for selection of personnel can be both their training and expertise for certain positions or their general competence and intellectual capacity. In the background of this choice by personal qualities lies the assumption that the service should be able to choose the best possible staff and the employment based on quality is a logical way to fill the positions with the most qualified personnel (Peters 2009, 99). Because of the fact that the security institutions constitute the core of the authoritarian state mechanism, systematic selection and promotion which are immanent for the overall administration have a strong reflection on the engineering personnel within the security system.

Consequently, in the essence of the administrative security architecture can be embedded attributes of the meritocratic system on one hand, or the immanent elements of the dilettante-political spoils system can dominate, on the other hand.

## **2 PRINCIPLE OF EQUALITY IN EMPLOYMENT OF SECURITY AUTHORITIES**

All security services, namely, all the clerical positions are available to all the citizens equally who fulfill the explicitly specified and legally prescribed conditions. This expresses the fundamental constitutional principle of equality of citizens before the law. Both stated constitutional rules which constitute a symbiosis are: 1) The clerical position should not be limited according to the citizen ethnicity, race, religion, etc. and 2) the acquisition of these positions can not be based on any privileges by birth, property and inheritance similarities.

The principle of equal access does not mean that personal qualifications would have no meaning in recruitment in the security services, and that people who have qualifications and those who do not have ones would be treated equally. On the other hand, the principle of equitable access to services degrades if vacancies are filled in secret, i.e. they are known only by privileged candidates. Therefore, clerical places should be filled on the basis of competition, which to some extent will quicken the principle of equal access, and it will allow the body that sets broad selection to choose the best candidate among multiple ones.

Parsons and Shils use the terms *achievement* and *assignment* to describe how different social systems implement the hiring process. According to them, in societies which are inclined to pursue, the place an individual occupies depends on his skills. Progress also depends on what he is

able to do, not on the conditions at his birth. In other societies, however, hiring is based on the criterion of assignment: class, status, race, language, caste, gender, so the position of the individual depends on a “fatal determinant”, the fact that he is in a “fatalistic” position and can not avoid the impact of the conditions and preferences at birth (Peters 2009, 62).

Individualism and equality should constitute the core of the decisions about who will be employed. Valuable premises of individualism prompt establishment of a competitive recruitment process. This implies that the best qualified person for a given position will be recruited. The concept of equality, on the other hand, requires personnel policies to ensure equal opportunity and access to employment in institutions of all relevant groups in society (Magor 2009.95).

The concept of equal opportunities in employment has political, cultural and emotional overtones. It is a set of procedures and practices that effectively protects a person from being excluded from the opportunity for employment because of his race, color, sex, religion, age, national origin or other factors. Namely, according to the law the above mentioned factors should not be taken in consideration in the screening of the candidates.

At the heart of discrimination stands intolerance in the workplace towards those who are different. Consequently, there is a failure in the treatment of equality. Any action which has the effect of limiting the opportunities for employment and advancement because of one's sex, race, color of skin, age, national origin, religion, physical disability, etc., whether intentionally or unintentionally, means discrimination-which is illegal.

### **3 SYSTEMS FOR SELECTION OF OFFICERS IN SECURITY AUTHORITIES**

#### **3.1 Spoils System**

In the genesis of the spoils system are engraved political criteria for selection of officers.

Spoils system is best known system of political patronage and favoritism, which in the United States ruled from 1829 to 1883. This was first recorded attempt to create an ideological basis for a system of patronage, and it is proclaimed to be the only possible one in a democratic political system.

Initially, the patronage was seen as a mechanism which provided political sympathy with the needs of the working and middle classes, who had just acquired the right to vote. This patronage gave a greater opportunity and employment in the authorities to these kinds of groups (Magor 2009, 96).

The term spoils actually means that the winning party or a coalition grabs the overall grip of administrative posts, which afterwards are given to its members and supporters. Spoils system was officially explained in 1832,

but it was practiced during the reign of the Presidents Adams and Jefferson. Thus, during his tenure, President Adams filled the administration places mostly with his friends and party trainees. Jefferson had followed the same path. He was severely pressed by his party supporters to remove federal officers' positions and to put Republican followers in their place. Initially, Jefferson did not plan to fire officials only because of their political background. He believed that only "wrong working is the basis to resolve somebody from their position, not because they have a different political opinion" (Shafic, DZH.M Russell, ev, and Boriko, K. P 2009, 555). However, later, Jefferson deviated from his consistent principle and fired a number of federal officials and put activists of the Republican Party in their place. He had done this because of two reasons. Firstly, according to his belief, most of the federal officials were not sufficiently agile and zealous in carrying Republican politics, and secondly because of the intense pressures on him by the members of his party to offer them jobs in the state apparatus.

One of the protagonists of this system, US President Andrew Jackson, sought to show that rotating in the services was a basic democratic principle which would prevent the emergence of a professional anti-democratic bureaucracy. He started from this point of view, like Lenin did one hundred years later:

"Civil service is considered a kind of property, and the government as a means to promote individual interests and not as instrument created in the service of the people. Corruption does not allow the government to achieve goals, and it turns into a machine to support the wishes of a few, to the detriment of the majority. The duties of public officials can be made so simple, that intelligent people without higher qualifications will be able to successfully pursue them. It is my firm belief that it is a bigger loss from their long stay in the service, than the gain they are getting with their experience.

In a country where public services are created solely for the benefit of the people, no individual has more right than any other in the official position. These services should not provide support to certain persons at public expense. Therefore, Jackson suggests duration of the service to be limited to a period of four years, as the tenure of the Congress and the President. In case of victory of the other party, the officer is discharged, and in their place is received supporter of the winning party. Jackson maintains that such dismissals do not make any individual injustice, because as he says, neither receiving the service or dismissal from it, is not a subject of rights. According to him, "a person who became a clerk to the public good, and when the public good requires his dismissal, it can not be sacrificed for his private interests." This system would destroy the idea of ownership, which today is very related to the official position, and although sometimes inconvenience could occur for some individuals, leading to rotation which is a guiding principle of

republican belief , it would infuse healthy activity throughout clerical system" (Vitanski 2008, 247-259; White, LD 1955, 309). However, the results did not meet Jackson's expectations. Amateur institutions in the United States since that time, have not only created conditions for mass participation of citizens in the exercise of their functions, but have also turned into a corrupt and incompetent set of dominant political settings, namely, they turned into the Achilles heel of the US political system.

And today, as in the time of Andrew Jackson, the patronage in some countries vegetate successfully as reward system to the party members.

Some ruling elites endeavor to hire their party supporters in the state apparatus, even in the security institutions in order to satisfy their party's ideological matrices. Such tendencies are usually found in economic atrophied societies, where the private sector is collapsed and unable to absorb the available labor force, wherein the state employment is seen as the only source of permanent and secure existence (Vitanski 2012, 103).

Generally, spoils system has two significant negative effects. Firstly, it appoints to public functions some people who are not competent or not the most competent. These people are elected by party line, without respecting the standard prescribed criteria such as professionalism and expertise. Secondly, the spoils system weakens formal organization that is based on law on the one hand and strengthens the power (informal) political machineries on the other, which allows the operation and control of the system to be brought under the baton of political potentates.

A clear demarcation line should be drawn between officials which include ministers or directors of the security authorities who are political staff and fall under the spoils system and professional civil servants or career officials who should fall under the merit system.

Such legal and functional structure of officials and civil servants in the hierarchical structure of the bodies, allows a distinction between political and professional security services, namely distinction between expert and professional staff and politically appointed staff.

### **3.2 Merit system**

The US Congress passed the Civil Service Act (Act Pendleton) in 1883 as a reaction to a corruption, which was accompanying element of patron's system in the eighties of the nineteenth century, and because of the assassination of President James A. Garfield in 1881 by a disappointed party candidate for public office. This Act established the first Civil Service Commission as a legal and institutional weapon used by the President for management of the employees. Initially, the Commission did not develop as an independent entity, contrary to the ideological concept and declarative

commitments, but as a kind of executive agency, which was subject to administrative discretion of the President. Although the "Act of regulation and improvement in the civil service of the United States" and merit systems were installed in several state and local jurisdictions, many years after their adoption they have not yielded the expected effects. However, it is ungrateful to ignore the fact that the Act of Pendleton formally acknowledged the supremacy of the principles of merit on the practice of political appointments and it was established as a cornerstone in the contours of meritocratic civil service.

In the United States, the roots of today's Board for the Protection of the merit system, come back to the presidency of Theodore Roosevelt, who, in turn, during the administration of President Benjamin Harrison served as a representative or trustee of public services (Civil Service Commissioner). In fact, US President Roosevelt is considered as the father of establishing the concept of merit system in the United States.

The need for skilled and professional staff in modern designed and functional systems is a catalyst for the adoption of the system of values (meritocracy), as the most democratic mode of election of officers.

Merit system means recruiting officers according to their merits and abilities, regardless of their political orientation. The term merit implies the willingness of the individual to get a job based on his ability to work competently and professionally in his working position. The purpose is to establish a professional service based on competitive examinations for positions, in other words the service will be "neutral" or free of political constraints. Merit system envisages establishment of independent commissions for the civil service which observe personnel policies and care process to remain neutral. Merit system implies establishment of independent commissions for the civil service, which are observed by the personnel policies who care for the process to remain neutral.

The merit system will provide the following qualities of the security system:

- Professionalism and expertise that will be revived if the positions are taken by the most capable, intelligent and trained candidate through public competition

- Neutrality, which means that the officer should implement the policy of the authorities properly and effectively, without any prejudice against its reliability or value

- Equal opportunities to every candidate who competes, in other words the employment should be available to all qualified citizens "(Simon, Smithburg, and Thompson 1973, 315).

Merit systems usually are based on the following key principles:

- Open recruiting and promoting to all qualified applicants based on criteria related to work;

- Fair treatment in all personnel matters, regardless of politics, race, color, religion, national origin, sex, marital status, age or disability;
- Equal salary for work of equal value;
- High standards of integrity, conduct and concern for the public interest;
- Successful and efficient use of labor;
- Retention of employees that work well, fixing the work of those whose work is inadequate and allocation of those who are unable or unwilling to meet the required standards;
- Improved performance through effective education and training;
- Protection for the employees from arbitrary actions, personal favoritism or political coercion;
- Protection for the employees from retaliation for lawful disclosure of information, etc. (Magor 2009, 96).

The original indigenous theoretical model of the merit system is hard to find anywhere in the world. In many countries the tendency of politicization of the highest positions in the service is present, so one can say that in practice the merit system works in combination with the spoils system in the highest segments.

Removing the spoils system and introducing stronger formal and legal guarantees for the application of the merit system is a tendency worldwide. In this context, all former socialist countries of Eastern and Central Europe, without exception, seek to ensure the functioning of the merit system in its security services. However, the process of recruiting staff according to their abilities in these countries is difficult and slow, if we take into consideration the previous regime which was based on the one-party principle. Membership in the ruling party only meant priority in employment in the security bodies and in all state bodies and institutions. Also, the professional ability and creativity were not required for career advancement, but the political orientation and the loyalty towards the party's ideology. In addition, the culture, tradition, customs and mentality, as national characteristics, have a major impact on the practical implementation of standardized legal merit system.

For the jobs within the scope of the security institutions to work qualitatively, it is necessary to establish the merit system. The system foundation consists of people with high qualifications and specializations, who are free from the burden of the daily political combinations.

Depoliticization, as a constitutional principle and democratic civilization benefit is crucial for professional and efficient operation of the security apparatus.

One of the substantive elements in the portfolio of officers should be political neutrality, which includes professional implementation of the

guidelines and directives of a ruling nomenclature incorporated in the laws and other legal acts, regardless of its political and ideological matrix. Politically neutral officials, as professionals and moving force in national-security apparatus, should provide the general interest and continuity in the functioning of the state. In line with this concept, the security system should be staffed with permanent and neutral officials, led and motivated solely by the public interest. Furthermore their work will be professional in the mandate of each ruling party, it will not be directly involved in policy-making, but it will participate in its administration and implementation.

#### **4 PROMOTION SYSTEMS IN THE SECURITY BODIES**

The term advancement means movement of officers up the vertical scale of the titles, in other words transition to more complex and more responsible jobs in the hierarchical pyramid.

On the one hand, the purpose of the promotion system is to encourage employees to greater engagement and productivity and on the other hand it is to provide security in terms of their advancement in service.

Depending on the method of filling in clerical positions in the security bodies and the way forward, there are two systems: the system of career and system of jobs.

The system of carrier reflects the following elements: full employment in youth, prospects of making a career in the security system and hierarchical advancement under terms and conditions prescribed by law. Within this system, which is also called closed system, officials are employed in the lowest jobs that match their educational qualifications. Moreover, during the following service they automatically make further progress in the hierarchy, which means if there are vacant places in the corps, they are filled by the service or the existing staff.

So, the system of career is filled by itself from the bottom to the top. This progress in the hierarchy is a kind of motivation to the existing employees in order to work qualitatively and efficiently and to make progress from lower to higher positions.

A properly established career means the advancement of higher titles to be made on the basis of objective criteria through internal competitions, in other words the system should be closed and unable to infiltrate “outsiders” without any experience or professional experience acquired in the appropriate service.

In the system of jobs, however, there is more competition in completing the clerical positions, which means one can send people out of office if they have the right skills and qualifications to perform the required work. In this system enhancement is not done by default. The career is not

guaranteed, but it is still possible since the officer will have changed several different jobs, and the only advancement is actually a re-employment of new jobs.

To summarize, the main attributes of “the model of career” are: employment based on public law “Service”, lifelong employment; selection of starting points in one’s career, promotions reserved for insiders; emphasis on formal diplomas and certificates; remuneration by law, with elements of work experience; focus on loyalty, objectivity and processes; special schemes for retirement.

The basic tenets that make up the essence of “the model of Jobs'are : employment based on private law “employment”; no guaranteed lifetime employment; selecting for specific positions, all positions are open for the external competition; all experience and qualifications are taken into account; remuneration governed by contracts, without any elements of work experience; focus on achievements and performance; same retirement as the schemes for private sector employees (Challenges for the management of human resources in government at many levels, Directorate of Public Administration and territorial progress, the employees in the private sector, (challenges for the management of human resources in government at many levels, Committee on public service)).

The system of advancement allows a person who is already engaged in the security service to get the job-the one who possesses knowledge and has gained experience through successful work, which is not the case with a person who comes from outside and who will need to be trained and educated by the person mentioned afore.

However, this standpoint should not be generalized and glorified in absolute terms, because the length of time spent in the service is not a guarantee of a greater expertise officer. Also, an officer who has efficiently performed tasks in the lower position, does not mean that he will possess the right skills and knowledge to meet the challenges they will face in the senior title.

The automatic system is much simpler in terms of technology and ethic. Above all, this system excludes the subjectivism and voluntarism in assessing the capabilities and the expertise of officials.

On the other hand, the open system undoubtedly has more selective and stimulating power, but in it the subjective assessment of the authorized person can come to the core and therefore should strive to choose the appropriate methods of assessment. In order to achieve greater objectivity, the evaluation must be based on objective criteria and free from arbitrariness and subjectivism. The possibilities of functioning of the spoils system and the repetition of it should be eliminated in terms of selection and promotion by



introducing stronger formal and legal guarantees for the application of the merit system.

It will inevitably lead to decline of professional standards in the operation, if the progress is made on the basis of kinship and friendship, or the personal performance and professional achievements are neglected. If this happens, it will negatively affect the reputation and productivity of the organization, and will inflame interpersonal tensions.

In the process of advancement it is necessary to establish certain principles and standards, which will favor the promotion of the most agile and most competent officers, so this policy will stir the creative energy of the officers in the direction of more and more successful commitment and efficiency of their jobs.

## **5 CONCLUSION**

By entering amateur dilettantism, the spoils system generate failure and paralysis of the national-security body. This system prospers successfully in atrophied and dysfunctional states, which are sunk into the abyss of groggy and endemic corruption. In these countries, de-politicization is the Achilles heel of the ruling nomenclatures which are guided by their own narrow self-centered interests and do not manifest consistency for the removal of the security organs of political claws. These systems, whose functions are inhibited, establish tools that should rehabilitate the long agony and metamorphosed in functional service-oriented entities.

Because of this, there is an imminent need for uncompromising implanting merit system in all aspects of the security tissue. Fundamentals and substantial element of the security system should comprise professional and value crystal clear footage, i.e. people with higher qualifications, personal reputation and specialized upgrades, immune to the devastating effects of the political virus. This constructed model of a civil servant who is professional, politically neutral, ethical qualitatively mature and service-oriented, will have the potential, capacity and credibility to be put into operation on overcoming challenges and achieving the objectives of the security system.

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# **THE ROLE OF SHANGHAI COOPERATION ORGANIZATION (SCO) IN THE FIGHT AGAINST TERRORISM, WITH SPECIAL REVIEW ON AFGHANISTAN**

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## **Abstract**

Shanghai Cooperation Organization, composed of China, Russia, Kyrgyzstan, Kazakhstan, Tajikistan and Uzbekistan, was founded in 2001 as a regional organization for resolving economical, political and security issues, specifically regarding counterterrorism and drug trafficking. In 2012 Afghanistan, among some other countries such as India, Mongolia, Iran, Pakistan, Belarus, Sri Lanka and Turkey, was granted an observer state status by permanent members of SCO. The most important permanent body for terrorism issues is the Regional Anti-Terrorism Structure (RATS). The expansion of SCO comes at the time of rising tension between USA, NATO and the EU with Russia over their policies towards Ukraine. Also, tension between Russia and NATO member states is increasing for the “security vacuum” that will be created when U.S. troops leave Afghanistan in 2016. Russia has several reasons to expand power over Afghanistan, mostly because this country has been affected with increased drug trafficking since 2001, when the USA established presence in this Asian region. Suspended cooperation between Russia and the Western states because of the political situation in Ukraine provides great opportunity for EU and NATO state members to improve and strengthen cooperation with SCO and to keep the position of power over Afghanistan, the epicenter of terrorism and drug production in this part of the world. General consideration of inter-state relations must be objectively evaluated by scientific judgment which will interpret security interest of the stakeholders in the fight against terrorism and

other security threats coming from Afghanistan, especially regarding threats that come from militant groups such as the Islamic State of Iraq and Syria (ISIS) and many others. Methodology used for this research is based on content analysis from available resources (conference's reports, books, articles, etc.). Also, the comparative method will be used in order to interpret security questions in the frame of SCO relations with other subjects of international politics, alongside with the hypothetical deductive method which is commonly used in social sciences.

Key words: *Shanghai Cooperation Organization, terrorism, security, Afghanistan, powerful states.*

## INTRODUCTION

Since the terrorist attacks that happened in the USA in September 2011, contemporary terrorism was identified as the biggest threat to security, peace, human rights, and stability by all democratic governments in the world. Governments and international organization all over the world realized that the existing counter-terrorism measures were no longer sufficient to prevent terrorists and their activities. Due to this, numerous resolutions and laws were passed in order to prevent terrorism as one of the biggest threats to international security and human rights.

Shanghai Cooperation Organization was created in 2001 among Eurasian countries in order to increase stability and security in this part of the world. New security challenges, risks, and threats came to focus of this intergovernmental regional organization, especially in the light of the so-called Kabul process.<sup>1</sup> Political tensions regarding US troops withdrawal from Afghanistan announced for 2016, drugs production and trafficking, terrorist threats in China (Xinjiang province) and Russian policy towards Ukraine and the Western states, created a complex security situation with a possible spillover effect. SCO created counter-terrorist mechanisms in a form of normative acts, practices, policies, and cooperation among the member states. The SCO influence is expansive and increasing since it was established by China and Russia, two permanent UN Security Council members and nuclear weapon countries with strong economies. The SCO - Afghanistan Contact Group was established in 2005; it consists of Afghan diplomats and SCO representatives with the aim of supporting mutual political, security, and economical cooperation in order to prevent security threats that come from

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<sup>1</sup> "A path to an economically sustainable, socially vibrant and stable Afghanistan, led by Afghans for Afghans, supported by the International Community", <http://www.thekabulprocess.gov.af/> Jan 5<sup>th</sup> 2015

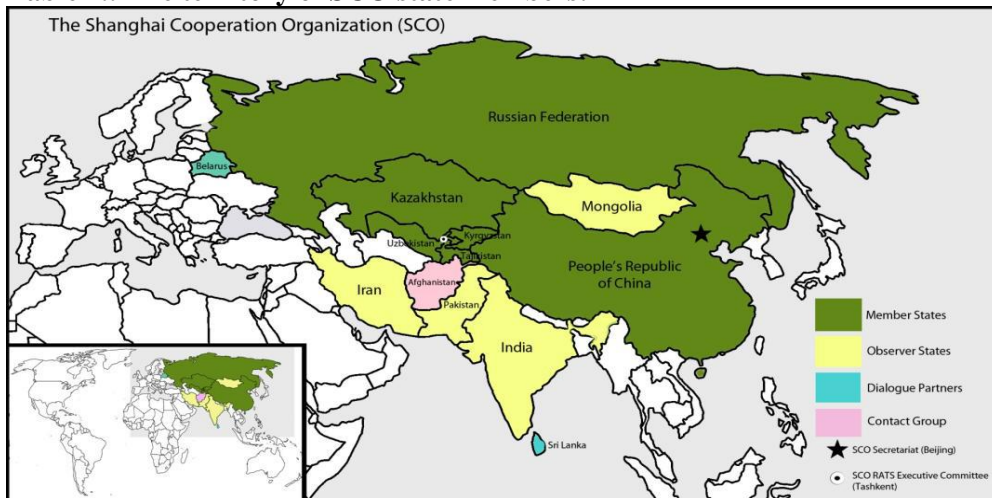
Afghanistan and other SCO affiliated states. Shanghai Cooperation Organization held numerous conferences on the situation in Afghanistan.

## STRUCTURE OF THE SHANGHAI COOPERATION ORGANIZATION AND THE ROLE OF THE REGIONAL ANTI-TERRORIST STRUCTURE (RATS)

Shanghai Cooperation Organization began as informal grouping of initial state members except Uzbekistan, called “Shanghai Five”, gathered 1996 to resolve border disputes and to improve neighborhood interstate relations. Formally, Shanghai cooperation organization (SCO) was established in Shanghai on June 15th 2001 by six countries (the People’s Republic of China, Russia, Tajikistan, Uzbekistan, Kazakhstan, and Kyrgyzstan) as a regional organization for cooperation in political and security affairs and strengthening the relation between the member states in the area of trade and economics, energy, environmental protection, transportation, tourism, etc.

State members cover the area of 30 million km<sup>2</sup> (3/5 of Eurasia) with population over 1,5 billion people (approximately 1/4 of world population). Working languages of the SCO are Russian and Chinese and the headquarter is based in Beijing.

**Table 1.: The territory of SCO state members:<sup>2</sup>**



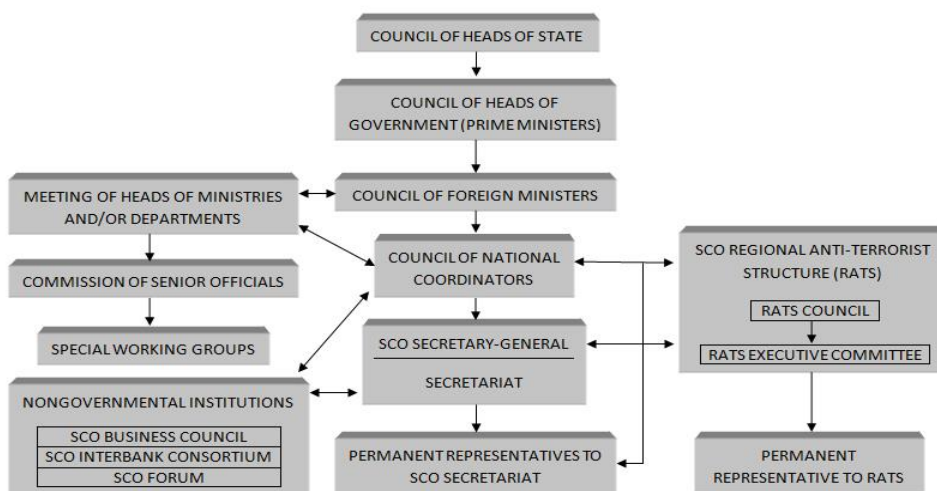
In 2002 heads of the member states signed in St. Petersburg the SCO Charter which established its structure, principles and purposes, and forms of external

<sup>2</sup> “GMFUS: Central Asia’s long term questions remain unanswered” <http://foreignpolicyreview.org/tag/central-asia/> (accessed on December 25<sup>th</sup> 2014)

and internal operation and cooperation. The Council of heads of states (CHS) is the SCO's most important decision-making body. The second decision making body is the Council of heads of government (prime ministers council – CHG).

**Table 2. : The structure of the Shanghai Cooperation Organization:<sup>3</sup>**

**THE STRUCTURE OF THE SHANGHAI COOPERATION ORGANISATION**



The SCO has two permanent organs based in Beijing and Tashkent – the Secretariat and the Regional anti-terrorist structure (RATS). Security concept based on mutual trust, benefits, equality and cooperation is implemented in all structural parts of SCO. Considering the fact that the main purpose of SCO is maintaining security and stability in the member states’ region, RATS was given the role of main organ for “counteracting terrorism, separatism, and extremism in all their manifestations.”<sup>4</sup> The Regional anti-terrorist structure has its Council and an Executive Committee, and branches responsible for activities related to counterterrorism. The RATS Council is composed of heads of the member states national security services who gather annually, while the Executive Committee is responsible for data exchange among the member states and for assisting in detection of terrorist attacks.<sup>5</sup> RATS’ activities depend on SCO’s main financial contributors – Russia, China.

<sup>3</sup> “GMFUS: Central Asia’s long term questions remain unanswered” <http://foreignpolicyreview.org/tag/central-asia/> (accessed on December 25<sup>th</sup> 2014)

<sup>4</sup> Implementation of the International Covenant on Civil and Political Rights in Kazakhstan A Parallel NGO Submission by Human Rights in China June 3, 2011

<sup>5</sup> Ibid.

The Convention of Privileges and Immunities of SCO signed in 2005 equalized the representatives of SCO to the diplomats. They are not the subjects of criminal liability committed during their duty and they have immunity from detention or arrest. The RATS' property and documents have immunity from interference, regardless of the location.

Numerous documents were signed within SCO in order to improve cooperation between the member states regarding security risks and threats including terrorism as one of the major forms of political violence:

- *Shanghai Convention on Combating Terrorism, Separatism, and Extremism* signed in 2001, according to the Chinese “Three evils” doctrine<sup>6</sup> puts terrorism, extremism, and separatism in the same framework of threats that undermine security of the whole region of the SCO member states. The same Convention emphasizes the importance of intelligence data exchange about individuals or groups involved in criminal or terrorist activities.
- *Agreement Between the Member States of the Shanghai Cooperation Organization on the Regional Anti-Terrorist Structure 2002* and *Agreement on the Database of the Regional Anti-Terrorist Structure of the Shanghai Cooperation Organization 2004* were significant in the light of forming databases of all terrorist activities (methods of action, leaders, members and persons affiliated with such activities) in the territories of SCO member states.
- *SCO Convention on Counter-Terrorism*: was signed in 2009 with intention to provide legal basis for agents of member states to enter the territory of other member state in pursuit for suspects or to exchange information upon request or on their initiative.

According to the mentioned Conventions and agreements, the member states are engaged in a lot of counterterrorist activities such as forcible returns of unwanted citizens, extraditions, denials of asylum for persons that are under suspicion for committing terrorism, separatism and / or extremism. Some records say that RATS has a black list of more than 40 terrorist organizations with more than 1000 members.<sup>7</sup> Since 2002, SCO members established a new practice through joint military exercises in ethnical areas in order to demonstrate and simulate government response to potential civil riots.

The SCO got an observer status in the United Nations in December 2004. Also, a memorandum of understanding was signed between the SCO Secretariat and the UN Economic and Social Commission for Asia and the Pacific. Great acknowledgement for SCO as a regional security organization

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<sup>6</sup> Implementation of the International Covenant on Civil and Political Rights in Kazakhstan A Parallel NGO Submission by Human Rights in China June 3, 2011

<sup>7</sup> Ibid.

came through the General Assembly of the UN resolutions in 2009 and 2010. The SCO was described in those resolutions as “an essential forum for addressing security in the region in all its dimensions”.<sup>8</sup> The same observations were given by the Secretary General Ban Ki - Moon regarding the signed Joint Declaration on SCO-UN Secretariat Cooperation in 2010. Last but not least form of cooperation between SCO and the UN exists through connections that link RATS and the Security Council Counterterrorism Executive Directorate.

## **EXPANSION OF SCO IN THE LIGHT OF NEW SECURITY CHALLENGES**

The influential strategic grouping within SCO has a lot of benefits for its member states. The economic power of SCO members has a lot of influence on SCO’s reputation as a growing regional organization for cooperation. This reason among others as well encouraged states such as India, Iran, Mongolia, Pakistan, Afghanistan, Belarus, Sri Lanka, and Turkey to become observers, dialogue partners, and guests in order to achieve potential for gaining status of permanent members.<sup>9</sup>

Due to many reasons, SCO member states decided to make new categories of external association with other states that applied for permanent membership status. During the SCO Annual Summit in Tashkent (Uzbekistan) in 2010, leaders of SCO member states signed *Regulations on the Procedure for Admitting New Members to the SCO*. In this document it was explicitly declared that countries under UN sanctions will not be allowed to become permanent members. Also, SCO states agreed that some minimum eligibility criteria must be fulfilled for entering countries as an observer membership status, Eurasia location and maintaining good diplomatic relations with the existing SCO members.<sup>10</sup> Initial state members have huge differences in the political systems, population, economical, and military power which caused careful consideration of accepting new member states because of possible deepening of the already existing differences among the states of SCO. Membership expansion regarding countries that possess nuclear weapons (India, Pakistan) could create problems because of general SCO nonproliferation policy. On the other side, despite of wishes of the permanent

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<sup>8</sup> Implementation of the International Covenant on Civil and Political Rights in Kazakhstan A Parallel NGO Submission by Human Rights in China June 3, 2011

<sup>9</sup> “Russia is counting on SCO and BRICKS” <http://www.politika.rs/rubrike/Svet/Rusija-racuna-na-SOS-i-Briks.sr.html> (accessed on December 23, 2014)

<sup>10</sup> “Shanghai Cooperation Organization opens to India and Pakistan, not Iran,” Asia News, <http://www.speroforum.com/a/34725/Shanghai-Cooperation-Organization-opens-to-India-and-Pakistan-not-Iran>. (accessed on June 12, 2010)



members, the energy rich Turkmenistan did not show interest to become a member of SCO. Possible expansion of SCO comes at the time of rising tensions between Russia and NATO, the EU states and USA over Ukraine. Also, special attention will be paid in the following years over security issues in Afghanistan for many reasons. Russia has an interest in strengthening its position of power in Afghanistan (one of observer states and a future permanent member of SCO) because security vacuum will be made when USA troops leave Afghanistan in 2016. This country has been epicenter for drug production and trafficking, as well as training center for numerous terrorist organizations. Russia has been affected the most by the increased drug trafficking which came from Afghanistan since 2001 when the USA established military presence in that Asian country. The American interests in this part of the world are not in accordance with the policies of the Asian countries. Therefore, the SCO was created as counterbalance to the NATO presence and its members' interest in the Asian region. Stability in Afghanistan is vital for all member states of SCO and it also represents the key of cooperation with the Western countries and NATO in the fight against terrorism and drug trafficking. The so-called "Kabul process"<sup>11</sup> was the main topic during the International Conference on Afghanistan held in June 2010 with participation of dozens of world and international organization's leaders.<sup>12</sup> The SCO representatives declared that "continuing escalation of confrontation in Afghanistan, terrorism, drugs trafficking, and transnational organized crime rooted from this country, remain a big source of threats in the region. Achieving peace and stability in the Islamic Republic of Afghanistan is a crucial factor in ensuring security that promotes sustainable social and economic development of the region."<sup>13</sup>

## **THE SCO AND REGIONAL SECURITY ISSUES**

The complex political and security situation in the Eurasian region is one of the reasons for SCO genesis. Due to globalization impacts and chain reaction among different dimensions of globalization (political, social, economical, environmental, military etc.), unresolved issues among the neighboring countries, and terrorism, drug trafficking and organized crime became destabilizing factors which threaten to jeopardize global security. The

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<sup>11</sup> Process of Afghanistan transition into independent state with legitimate authorities

<sup>12</sup> "Draft Communiqué Sets 2014 as Target for Afghan Military to Lead," *New York Times*, [http://www.nytimes.com/2010/07/21/world/asia/21kabultext.html?\\_r=1&pagewanted=all](http://www.nytimes.com/2010/07/21/world/asia/21kabultext.html?_r=1&pagewanted=all). (accessed on July 20th, 2010)

<sup>13</sup> Declaration of the Tenth Meeting of the Council of the Heads of the Member States of the Shanghai Cooperation Organization

<http://www.sectsc.org/EN/show.asp?id=225>. (accessed on June 11th, 2010)

SCO counterterrorism doctrine is based on the so-called “three evils” (*terrorism, separatism, and extremism*), with a lot of influence of the Chinese domestic approach to counterterrorism. The main principle and starlight for all SCO members is mutual recognition. On that basis, the SCO member states practice resolving regional security issues, especially fight against terrorism. The situations in Afghanistan and in the Chinese autonomous province of Xinjiang are the most substantial security difficulties that SCO is coping with since it was established in 2001.

Western military forces announced their withdrawal from Afghanistan in 2016. Suspended cooperation between Russia and the Western states because of the tense political situation in Ukraine could create “security vacuum” in the already fragile situation in Afghanistan. The possible security threat caused by the US troops’ withdrawal could be prevented through strengthening cooperation between SCO member states and Afghanistan authorities. Considering the fact that neighboring countries of Afghanistan are SCO member states, it is in their interest to be in charge for security and democratization process in this Asian region. Monitoring security environment can be done in several ways, through implementation of resolutions or via military influence. Since the SCO as organization is not military oriented as it is NATO and does not have military capacities, its activities are focused mainly on normative framework focused on the fight against Al Qaeda and other terrorist organizations as well as drug production and trafficking. The impact of the suspended NATO relations with the Russian Federation due to the crisis in Ukraine will be noticeable since the mentioned actors have had joint counter narcotic trainings of Afghan the personnel and technicians.<sup>14</sup> The problem of “security gap” when the US troops leave Afghanistan could be solved if NATO include SCO in training Afghan law enforcement and military personnel, as well as the border police. The SCO personnel could be included in other aspects of recovering Afghanistan society such as building democracy, government institutions, and rebuilding infrastructure. The problem of the Chinese autonomous province Xinjiang has several dimensions. Energy potential of this region and mostly Muslim population made this a hotspot of regional politics. It is estimated that approximately 75 % of oil reserves and mineral wealth can be found in this part of the People’s Republic of China.<sup>15</sup> Islamic groups (composed of Uyghur people) receive support from the Afghan Taliban and therefore represent a constant threat to the security in China and the neighboring countries. Strong

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<sup>14</sup> “EU and NATO engagement with the SCO: Afghanistan as a pilot” <http://www.clingendael.nl/publication/eu-and-nato-engagement-shanghai-cooperation-organization-afghanistan-pilot?lang=nl>,(accessed on January 16<sup>th</sup> 2015)

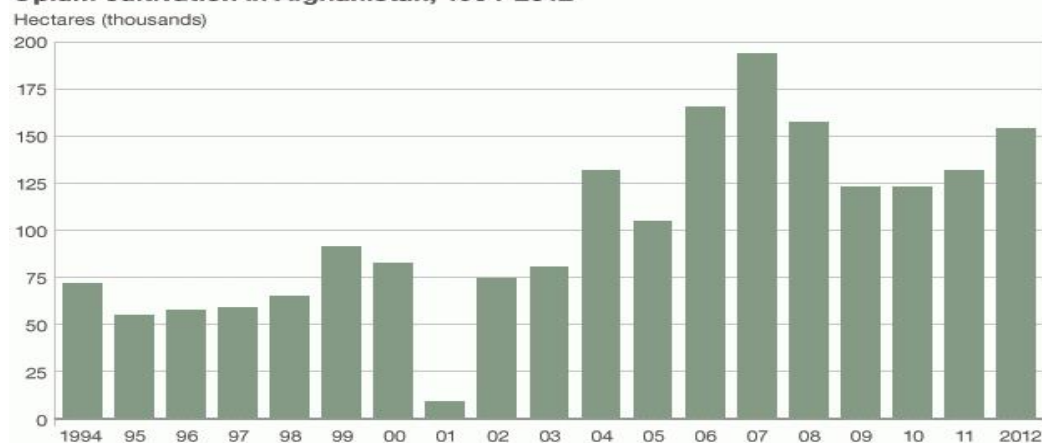
<sup>15</sup> Justin J., Rudelson (1997) *Oasis Identities*. New York: Columbia University Press, p. 35

cooperation among SCO members can be a facilitating factor in the fight against terrorism in Xinjiang province.

Possible spillover of terrorism or any kind of instability from Afghanistan after the announced US troops' withdrawal in 2016 could create major security problems for the whole Asian region. Counter-terrorism activities, strengthening border security and joint counter-narcotic activities among SCO members are a prerequisite for stable democratic transition of the authorities in Afghanistan. Since economic development is the core of terrorism and drug trafficking prevention, cooperation between SCO member states and the Afghan government should be directed and based on trade and improving of the social and economic situation of Afghanistan people. Numerous declarations have been signed between SCO and Afghanistan, but unfortunately most of them remained unimplemented in practice. Besides the problem with terrorism, Afghanistan was faced with increased opium production since the arrival of foreign troops in 2001. Opium as a main raw material for heroin production was used for drug production and then exported to Russia and other countries in the world. Since the US arrival, approximately 2 500 soldiers have died and 7 000 people die annually from heroin overdose in Russia.<sup>16</sup>

**Table.3: The United Nation's Office of Drug and Crimes (UNODC) 2013 World Drug Report**

**Opium cultivation in Afghanistan, 1994-2012**



The withdrawal of the foreign military troops in 2016 could cause new security threats such as strengthening the terrorist organization and increasing

<sup>16</sup> “Why Putin Might Blame the U.S. for Russia’s Drugs Problem”  
<http://www.bloomberg.com/news/2014-11-14/afghan-opium-crop-inflames-u-s-tensions-with-russia.html>, (accessed on January 22<sup>nd</sup> 2015)

of the poppy production, but it also provides a chance for SCO to improve its security cooperation mechanisms and develop new in order to replace NATO and become stability factor in the Eurasian region.

## CONCLUSION

Terrorism and drug trafficking are one of the biggest security problems in the world. Afghanistan has been the headquarter for many terrorist organizations as well as the main source of exporting heroin all over the world. Neighboring countries are affected the most, so the regional security is their highest priority.

The Shanghai cooperation organization (SCO) was founded in 2001 as a Eurasian regional organization for security cooperation. The regional anti-terrorist structure (RATS) is permanent SCO organ headquartered in Tashkent in charge of promoting cooperation among the member states in the fight against terrorism and other security threats. Many declarations have been signed between the SCO and Afghanistan but they remained theoretical, without practical implementation. Announced withdrawal of foreign troops from the region will leave “security vacuum” and a possibility for SCO to prove the role in preventing security threats through intensive cooperation among the member states. Sharing information, experience, law, and border personnel training could be the initial step in decreasing possibility of terrorist attacks. Unfortunately, the lack of trust between member states and their opposite interests are slowing down security cooperation within SCO. Joint infrastructure projects could improve decrepit Afghanistan’s economy and redirect manpower from poppy fields to building roads, railways etc.

The main weakness of SCO in the efforts to fight against contemporary terrorism is the lack of mechanisms for implementation of the SCO declarations. More practical approach to terrorism and drug trafficking should be adopted by SCO in order to use the full potential and experience of the member states, especially of the two essential pillars of this organization – China and Russia. Bilateral conflicts among SCO members (border disputes, economic issues, etc.) and observer states are one more lock for successful security cooperation. National states members of SCO should raise awareness of anti-terrorism declarations implementation and work on mutual trust when it comes to sharing intelligence information with other countries. A great chance will be given to the SCO as an organization after the US troops’ withdrawal to prove strength and determination in the fight against terrorism and other contemporary security challenges. All countries in the world are threatened by terrorism and drugs that is coming from Afghanistan, but neighboring countries have more reasons to be scared because of the direct exposure to security threats from this Asian country. The suspension of NATO

- Russia cooperation because of the situation in Ukraine could turn Russia into stronger partnership with China within the SCO so this organization could swap in the role of American presence in this region. Afghanistan's fragile security situation is desperately craving for mechanisms that could provide long term stability and prosperity. NATO state members need to change the attitude towards SCO role in Eurasian region, especially when it comes to the situation in Afghanistan, and to provide help to SCO personnel to join training of Afghan border police and law enforcement. China and Russia through SCO have a chance to improve their socioeconomic cooperation with Afghanistan.

Security cooperation foundations have to be laid as soon as possible between the SCO members regarding Afghanistan in order to preserve regional and global security. Years to come will prove the strength of the SCO and its members as guarantors of security and stability in Eurasian region.

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# CORPORATIVE SECURITY TODAY

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*Balkan Energy Security*

## **Abstract**

In today's global world, where many companies do business, their facilities are threatened by different kinds of threats inside and outside the company. With the growing role and technology dependency, threats to the corporation have never been higher. This paper will present information related to threats, vulnerabilities and risks, with accent of the security manager's role, the skills that any security manager needs to dispose with, what kind of profile is needed for this activity and where is the position of safety within corporation.

The new era offers increased challenges for security manager who must develop and manage cost-effective program for facilities protection. For successful achieving this aim, security manager must know and understand the threats, vulnerabilities and risks of corporate assets. These risks must be managed cost-effectively, securing minimum amount of funds for protection in the case of accepted risks.

Nowadays, security service is shaped by many influences. Specific company's needs, worries, and vulnerabilities capabilities of its security team and management perception and security value as well, are upholding the organization structure. Even businesses have directed downwards trends impact on the role of security. Because of the decreasing effects of all aspects of the business, the security needs to learn to function in stringier environment and with higher expectations and demands, and in the same time the work will be performed in higher threats and risks environment. Challenges of security manager and security personal are in continuous rise. In big corporations security services are generally structured as independent departments composed from professional security workers<sup>1</sup>. General security profile is prevention based. In small companies, security often presents obligation of human resources or legal department. Small private security departments consisted by few security workers, generally rely to security professionals, often engaged by big companies. Today, many corporations of different sizes

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<sup>1</sup> Gerald L.Kowacich, Edward P.Halibozek, the managers handbook for corporate Security – Establishing and amaging a successful asset protection program, Butterworth Heinemann, 2003, p. 67

are using security services from companies specialized in that direction<sup>2</sup>. They include security functions by obvious (physical security) till the less obvious (for ex.: investigations and information system's security). Many corporations are doing it because they looking up for safety, because they figured out that security companies save money, because the corporate management must have insights on security costs. It is expected this trend to continue, more companies to do aggressive competition between themselves, and therefore inevitably will come the rise of quantity level of the provided services.

*Keywords: corporate security, corporate security manager, corporation, threats, security.*

## **INTRODUCTION**

From the aspect of private security, in accordance with today's needs and operating conditions, corporate security is a term in the business known as Business Intelligence, which is difficult precisely to translate into Macedonian. Its essence refers to possessing business information in order to ensure security while operating, above all to protect and establish superiority regarding competitive enterprise, and consequently enabling making the right decisions by their top management. It means the ability to collect, process (analyze) and use collected information which represent a key resource in nowadays new operating environment. The process consists of data collection, analysis, perception of the situation, risk assessment, and support in decision making. The types of collecting data and information are related with application of Business Intelligence, and sources for use are: analysis of the situation in the industry (the energy sector), market, industrial espionage, environment scanning, marketing research, competition analysis, analysis of mentality of the users of the services or products, security estimation, assessment of the possible and potential risks etc. The term corporate (business) security or protection is inextricably linked with the term of unfair competition. Business protection involves undertaking of complex adequate measures and activities by the company, for prevention, detection and elimination of certain types of danger and threats.

Corporate (business) protection is an integral system consisting of subsystems for data collection and protection of their information and internal security. Protection of their own information and gathering information intends to perform protection of information of special interest, disloyalty of its own employees, checking candidates for specific security areas, control of persons for employment admission, protection from insider infiltrated persons, checking solvency of companies, detecting "moles". Protection of its own

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<sup>2</sup> By performing security services



information must not be autonomously organized; it should also be only specialized tool within the corporate office (business) protection. The subsystem of internal security should also be realized within the single system of protection business, whose main purpose is to oppose any action that is directed towards its own employees, facilities and clients that come in and come out for any reason. Practically, company's corporate protection should not be security's subordinate position.

## **THE ROLE OF THE CORPORATE SECURITY MANAGER**

The role of the corporate security manager is to analyze the organizational structure and to find its weaknesses and deficiencies that might jeopardize the corporation's or organization's projected goals<sup>3</sup>. Organization and procedures in working, present, above all, prevention measures in so-called operation risks, those problems that might jeopardize the organization's functioning and are related to the performance of basic activities. Formulation, management and control of specific organizational units dealing with safety is the basic task of security management.

As very common practice is hiring companies by working units, that are dealing with providing security services. But hiring these firms should not exclude the necessity of own security management. Company that deals with providing security services mainly is consisted of the physical - technical security, while all other security management activities are performed by managers in their company or organization. They should prepare plans, analysis, to give reports, to collect and process the collected data, to control the implementation of security measures and procedures, to control the operation of the physical - technical provision provided by hired company. Security managers are part of the organization they work in, their career is related with the success of the company or organization they belong in, as part of the management they are familiar with the working process in their company or organization, have clear operational and organization's strategic goals in whose defining participate themselves, and according to some rule they should have a very important influence in defining the strategy of the company or organization, and importantly, their loyalty should never be questioned<sup>4</sup>.

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<sup>3</sup> Gerald L. Kowacich, Edward P. Halibozek, *The Managers handbook for Corporate Security – Establishing and managing a successful assets protection program*, Butterworth Heinemann, 2003, p. 67 - 68

<sup>4</sup> For more of this see the thesis of the author of the paper, *methods of making the assessment forms of threats, risks and threats as a function of the security management in enterprises*, 27/11/2012

Corporate security manager as a protective role: protection of people, information and physical assets belonging to any corporation. It is more than a list of duties that need paying attention or duties to be performed. Providing safe and secure working environment, presents obligation of employees and corporate management as well. A secure and safe working environment reduces the chances of breaking into the business. Intrusions (which can occur in many forms), security fissures and loss of information or physical assets may degrade the working environment quality and have negative influence over corporation's profitability. Security manager has primacy in this protective role. Security professionals are enabling their skills and efforts to have production processes support. Security managers should be involved in all processes of one corporation, they should be well aware about the corporation, employee morality, corporate projects and problems in various departments. They must know what is going on in the corporation. Actually, security personnel, if really interested in the corporation as it should be, suppose to have better understanding of corporation's condition than anyone else in the corporation. All managers should listen and obey the orders and instructions of the security manager. Security personnel is the one that sees and hears what are doing about the work, give instructions, suggest weaknesses in order to get to improving of a certain condition. Security personnel are responsible for the security situation within the corporation. Security personnel can provide insecurity assistance of other alternative departments. For example, if someone is dealing with a problem and trying to solve it somehow, a security member may find out that someone has a problem and help solving it. Providing with information to those who have a problem, allows contact to the rest of the personal and discuss how is best to solve it. Providing these intermediary communication services, the security personnel not only that helps to the others but also helps the corporation to have progress. Such acts of attention, will allow employees to return them when they need help or service. If security managers don't recognize corporate assets threats, defense weaknesses and assets protection and the potential for something or someone to abuse weaknesses, they cannot effectively protect those assets. Protection should be cost-effective for effectively protection of corporate profits and the possibility effectively to be competent in the global market. Security manager should offer solution in order to reduce costs and help the corporation to be more competitive and hereafter to help to ensure the resilience of the corporation.

## **SKILLS THAT CORPORATE SECURITY MANAGER NEEDS TO DISPOSE WITH**

Protecting corporate information, physical assets and people, is not a simple task. A few years ago, only one night guard was sufficient to guard the door to ensure that no one or nothing will be damaged or injured without proper authorization. The skills needed for this task were minimal. Much more is expected of today's security personal, because today's business environment that is more global, more competitive and more complex. There are many significant qualities that a security manager should have to be effective, such as:

- Proficiency with technology and computer skills,
- Dispose of communication skills - written and verbal,
- To have a good knowledge of how the business works,
- To have an understanding of the global business environment,
- To posses University degree in the field of security,
- Must have strong analytical skills,
- To practice teamwork,
- Take different roles and responsibilities,
- To have international experience, preferably in the business area,
- Must have experience or knowledge of other cultures and languages.

## **PERSONALITY PROFILE OF SECURITY MANAGER**

In a time of drastic change, learners are inheritors of the future. Educated usually find themselves living in a world that no longer exists. The corporation must be capable to provide an interesting and attractive environment according the needs and demands of the most professional people, to attract them to work for it. To keep them, they must receive challenging work assignments complemented by competent compensation. As part of the company, the top management should provide security personnel with continuous and relevant training and opportunities for professional growth. Trust is from particular importance for security professionals. Security professionals are obligated to "take care" of the things. Since they are in a position of trust, the potential damage they can do is extensive. Security professionals are responsible for company's protecting and its information, people and physical assets. They contribute to the company's continuity and overall performance and success. They must be trustworthy, competent and

capable to provide protection<sup>5</sup>. They must understand the security fundamental tenets. It can only be achieved by constantly learning, and with learning we increase our capacity to create.

To achieve, manage and survive, a constant upgrade is necessary, so security professionals must also be students. In a world that is constantly changing, the ability and willingness to learn is essential. Successful companies learn and change so that can maintain competitiveness in the market. Security professionals protecting them, do the same. If they do not so, their performance would be degraded. More than that, the offered value to the corporation will be less than needed. Without continuous learning they cannot be considered only as employed in the security sector who have jobs, but as professionals with a career in security. How would you know that prospective employees are willing to learn? Were they bothered about learning activities? Does not a simple determination about this exist? Security managers should discuss learning with all prospective security professionals and to maintain interest and support their learning goals after engaged in work, but above all they should motivate them. To get and keep the best professionals for security, you will need to treat them like other highly educated professionals. They may not be involved in product development or product design, but their protective role is equally important and requires constant training and skills. Compensation must be comparable to that of professionals in the organization. If not, most accomplished security professionals will emigrate to new opportunities or other companies.

Global market, the uniqueness of the product, the differences in the workforce, consumers and rapidly changing technological environments make the security task more complex. Understanding how the business function is needed, but is sufficient to ensure an adequate protection level. It covers more than understanding of the business for developing and implementing a successful program for assets protection. Also, understanding fundamental security principles is necessary. Therefore, the security professionals need to ensure assets protection in any company. Executive management should not see superficially and disparaging the role of security, because literally it can cost lives and jobs. The solution should be sought in educating employees, creating a dynamic attitude and involving all available resources<sup>6</sup>.

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<sup>5</sup> Gerald L. Kowacich, Edward P. Halibozek, *The Managers handbook for Corporate Security – Establishing and managing a successful assets protection program*, Butterworth Heinemann, 2003, p. 69

<sup>6</sup> Stajic, Lj, Mihajlovic, S and Stanojevic, S., *Security Culture*, Belgrade, 2004, p. 101

## THE PLACE OF THE SAFETY IN THE CORPORATION

Some suggest that the security is agreeable function and needs to be part of a larger agreeable company as audit or legal department. Others suggest, security role to be closely attributed to people and considering it to be part of the organization's human resources. Some members of the management suggest security to be integral to the continuity of the corporation. Effective arguments can be made for security to belong to any of these functions and a few others. Regardless of its location in the corporate structure, security manager must have direct access to most of the executive directors of the corporation<sup>7</sup>. Finally, the general safety profile of any corporation is responsibility of each superior management. The incapability to adequately protect people, physical assets and information has a negative influence on corporate profitability. Profitability is a clear concern of every management. This does not mean that superb management should be involved in daily management of safeguarding assets. This role has the security manager and security professionals. Although the importance of the safety function has a direct correlation with the number and value of corporate assets, many superior management does not see it as an important safety feature. Also, some security managers rather discontinue contact with the corporate executive management than to try to become involved in relationship with them through the channels of formal and informal communication. Some look to the discussion with corporate management as the conversation with God.

A security manager who fell so low is on the wrong position. Security manager must determine the purpose for active and consider reformulation good reasons to communicate with top management and executive management, because without their support security would be considered only as a few corporate guards. The approach to executive directors must be done carefully, because security managers without doubt would been engaged in this contact. Security managers, above all, must gain the confidence of their managers meetings between them and the top management, and other corporate executives so that they could not run into a problem. In the future, the changes will be constant. Security manager should be trustworthy and skilled in the discipline of protecting assets, have a good understanding of how business functions and be able to adapt to any changes and to manage change. The global market is bigger, highly competitive, complex and possibly dangerous. With less resources will be expected more. Technology is a

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<sup>7</sup> Gerald L. Kowacich, Edward P. Halibozek, *The Managers handbook for Corporate Security – Establishing and managing a successful assets protection program*, Butterworth Heinemann, 2003, p. 71

blessing and a curse. Protective technology requires some understanding about it, and protective measures i.e. how they are applied. Using technology for protective purposes also requires technology knowledge. Security professional must constantly learn.

### **MEASURES THAT SHOULD BE TAKEN TO IMPROVE SECURITY IN ANY ORGANIZATION, INSTITUTION OR TRADING COMPANIES**

Based on past practical experience in the field of security in the private sector to achieve quality management, the author of this paper came to conclusion that the following basic conditions must be fulfilled.

- Hiring suitable trained professional security manager in all organizations and institutions, especially those who are legally obliged to have ensuring.
- Quality and appropriate ranking in classification in the organizations, institutions and trading companies of security services.
- Establishing and strict adherence to safety procedures, especially by the top management.
- Obligatory providing separate budget for security departments within organizations, institutions or enterprises.
- Engaging specially selected security professional staff where specific and decisive will be security managers in any organization, institution or company.
- Bigger engagement by the Chamber of the Republic of Macedonia for private security in order to get the quality during organizing and granting licenses and identification cards.
- The chamber of Macedonia for private security to pay special attention and to enable appropriate education in the area of managing themselves in private security agencies, by private security experts.
- Bigger commitment of the security managers in order of creating a greater safety culture within their professional activities.
- Giving real and practical support from the top management of security managers.
- Adequate motivation to security workers within the working environment in which they operate.
- Ensuring and integrated security system in all labor organizations, institutions and companies, especially at those who are legally obliged to have security.
- In the private security law with annex to be introduced compulsory continuous training for security workers, because neither in the old law

for protecting people and property, neither in the new law on private security, in any one article was not mentioned anything like that, although it means reading the integral whole law.

## **1. CONCLUSION**

The ability of corporation's security to respond to the threats is a priority of the security service. The most important segment in service organization for appropriate response belongs to the management, and the entire management process. Timely and true recognition of the risks and hazards and appropriate response in such situations will make the corporation employees feel safer and more secure, and it will gain more confidence in the security service. Critical situations, the risks, threats, and dangers are constantly "nearby" and that is why they require a greater coordination and joint undertaking of preventive and proactive measures of all segments of the corporation, especially by security service which is in a need of greater support from senior management. For this aim, consider reformulation, by all employees of the corporation, finding and adopting new quality standards in benefit of prevention and early recognition of all possible risks and threats towards corporation. If leadership is hesitant or dissatisfied, employees will abuse it and the number of incrimination will increase. Most important is all procedures to apply to all, and towards all to be consistently implemented, regardless of the position and status of individuals. It's very important not to make categorization, to someone to allow behavior that is not consistent with the adopted procedures. An important precondition that allows respecting protective procedures is that management has to respect the rules prescribed by them. Giving personal example to other employees needs to show that the rules of operation in the terms of security are equally obligated for all employees. Management behavior should come to expression, not the talking.

Bad management covers the real problems and does not solve the crises of which the corporation or organization fails to find reasonable solutions, which ultimately leads to the organization or corporation collapse as a result of the inability to perform basic functions, or to find a sustainable option.

Good management, above all, searches proactive approach, i.e. predicting the problems and timely preparation for their resolving. Forecast or estimation is the main content of planning

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# RESEARCHING HUMAN SECURITY: MAPPING NEW INSECURITIES?

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*KEY WORDS - Human Security, critical security studies, insecurity, Constructivism, International Relations theory*

## INTRODUCTION

‘Security is like oxygen: you tend not to notice it until you lose it.’ The simile that Joseph Nye, a renowned scholar from Harvard, presented in a study to the Pentagon after the September 11 and during the invasion of Iraq in 2003, highlights an interesting point on how we think security: many of our thoughts about security are in fact shaped by its antithesis, and our attempts to define it are in fact ways to achieve it. However, the concept of security, and therefore of insecurity, have been changing. The answers to the questions ‘security for whom?’, ‘of what values?’, ‘of which threats?’, and ‘by what means?’, have proved to be different according to the focus, the values at risk and the sources of the threat. Indeed, since the mid-twentieth century, more precisely in the late 80s, there has been a profound change in how security is studied and practiced in the International Relations (IR) discipline, as well as in the way it is conceptualized and designed by strategic culture and praxis of the States. One of the concepts associated with this new approach is Human Security (HS). Even if a common definition has not yet been mainstreamed for member states or International Organizations external action, it is a core concept of the current academic debate within critical security studies, privileging individuals and communities. This approach reflects, on the one hand, the concept of comprehensive security of the Copenhagen school, and on the other, the concern with the individual’s empowerment promoted by the Frankfurt doctrine.

Therefore, this paper will first attempt to establish the concept of HS – a concept which has in recent years induced the academic literature to focus more on the individual and community and less on the State – and understand in what extent the Copenhagen and Frankfurt schools has inspired

researchers from different disciplines and with different agendas to think on the necessary conditions of universal freedom.

We will focus on the role of postmodernist approach, also known as 'Critical Human Security' by arguing that the state should no longer be regarded as the only provider and security beneficiary. We will reflect on the way Critical Human Security approaches not only intend to challenge the ways in which security was conceived in traditional terms and its objectives and priorities, but specially expand and deepen the concept as such.

We will conclude that human security is a valid concept that has found its implementation through the UN and the European Union and is increasingly present (although in different perspectives) in the external relations of states such as Canada or Japan but two major theoretical dilemmas remain: how do we recognize it when we see Human Security? And where is the new wine in the new bottles? Our last thought is to recognize that we must return to some realistic assumptions to accept that States are not over as security players.

## 1. FROM STATE SECURITY TO HUMAN SECURITY: NEW AGENDA, NEW REFERENCES, NEW PERSPECTIVES

Since the mid-twentieth century and in particular since the late 1980s there has been a profound change in how security is studied and practiced in the International Relations (IR) discipline. New 'gusts of fresh air' aimed to usher a new era of research and overcome the 'endemic failures and excesses of self-restraint (Vasquez, 1995: 118) that the classic realism approach had failed to prevent. For those theories, security is primarily defined in relation to the state, its territorial integrity and against direct threats from other states. Security is defended through force (used unilaterally for the security of the state) and achieved throughout civilian instruments along with military capabilities. Cooperation is regarded with suspicion, as is the interference of international standards and / or multilateral institutions. With the collapse of the bipolar confrontation between capitalism and communism and between the US and the Soviet Union, the traditional approach of state security was severely questioned, as the end of the Cold War made it less clear who the enemy of the state security was.

Globalization also had a major role in transforming the perception of security concerns in the last decades of the twentieth century. Therefore, new subjects and new threats emerged as the object of study. The aims remained the same as those of the classic security studies, that is, identifying the causes of war/insecurity and the conditions of peace/security, but now the focus was on exploring '[t]he possibility, rather than the impossibility [...] the

empowerment more than power' (Krause and Williams, 1997: 111). In other words, new topics, new threats, new players and new challenges questioned the realism perspective's assumption that the sovereign states were the guardians of individuals' security. Thus, as the new threats and the new enemies concerned individuals directly, security started to be understood as a condition that citizens are entitled to enjoy as members of the society in which they operate and, after all, as members of Humanity.

Consequently, the security and survival of people as the ultimate goal of human security emerged on the international scene only in the last decade of the twentieth century. The prevailing objective became the development of special measures to defend not only states and their territorial integrity against external threats, but also individuals, regardless of the will of the governments concerned. Thus, the security of individuals ceased to be seen as a natural prerogative of the sovereign nation state and started to be considered a potential responsibility of the international community as a whole. This approach reflects, on the one hand, the Copenhagen's concept of comprehensive security,<sup>1</sup> and on the other, the concern with the individual's empowerment promoted by the Frankfurt school.<sup>2</sup> The concept of empowerment is indeed crucial. Drawn from a line of thought that finds its origins in the Enlightenment, it leads us to the underlying philosophy behind the concept of human security. It expresses the notion of freedom of individuals as freedom from various kinds of constraints, whether social, economic or political, physical or psychological. The objective is, then, the protection of people exposed to threats or critical situations, and the restoring of rules, procedures and institutions in order to overcome insecurity and achieve the freedom to live without fears or needs. Thus, empowerment aims to break with past forms of injustice to achieve the necessary conditions of universal freedom. The postmodernist approach, also known as 'Critical Human Security' is another important security approach that argues that the state should no longer be regarded as the only provider and security beneficiary:

The State may be the major agent that acts for security, but that does not necessarily require its own security to be prioritised by the analyst (a

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<sup>1</sup> Buzan, Weaver and de Wilde (2001) are the most representative of a structural neorealist approach also known as 'new security'. They admit that the Cold War discussion on Security was reductive, but they conclude that the most important and efficient supplier of safety must remain the sovereign state as an institution representing human security and the social identity preservation. Thus, the Copenhagen School does not deny state security, because security is always personal in the release of all threats of the society, people, nation or community.

<sup>2</sup> Bilgin, Booth, Wyn-Jones, Krause and Williams are the most representative authors of this school, which focuses primarily on concern for the emancipation of the human being as individual and communities.

mother is the main *agent* in terms of the security of her baby, but this does not mean that she is the primary *referent* in the relationship: she practices security for her child). (Bilgin, Booth and Wyn-Jones, 1998: 150). Indeed, Critical Human Security challenges realism assumption that sovereign states are the exclusive security guardians of individuals. The state exists to ensure its citizens' security, but it is not the only agent to perform this function, since the global civil society and the international organizations are now also security agents. In short, Critical Human Security approaches not only intend to challenge the ways in which security was conceived in traditional terms and its objectives and priorities, but specially expand and deepen the concept as such. This is rather important because what we study today as human security is academically inspired by the Copenhagen and Frankfurt schools.

## 2. HUMAN SECURITY IN PRACTICE

### The UNDP report

When scholars need to trace the origins of the concept of Human Security, most of the literature review does not hesitate to recognize the 1994 Human Development report (HDR) of the United Nations Development Programme (UNDP) as the founding document of the human security doctrine. Hambub Ul Haq, economist and UN consultant, develops in 1994 a 'Human Development Index'. In his monograph, entitled *New imperatives*, the author suggests four imperatives to address a broad interpretation of the security concept:

- Development imperative – human security should be synonymous with human development that emphasizes equality, sustainability and social participation. This thesis may reinforce, however, that human security is a precondition for human development.
- Military Imperative – the enlargement of the human security agenda can only be sustained by the peace dividends.
- North-South Restructuration Imperative – human security is only achieved through a new, just and reciprocal partnership between the North and the South and equal access in terms of global market opportunities.
- Institutional Imperative – a new global governance framework must be accomplished through the reform of the international institutions such as the International Monetary Fund, the World Bank or the United Nations. Good governance at national and international policy, also through diplomacy, tends to prevent and guarantee people's basic needs.

We should not think, however, that the contribution and commitment of the United Nations in relation to the concept of human security is reduced

to the UNDP 1994 report. In fact, the collective security actions taken under the auspices of the United Nations in the post-Cold War humanitarian interventions began to emphasize more and more the peace and security of affected populations instead of just state's survival.

The most recent update on the Human Security discussion within the United Nations relates with the release of the strategic plan of the Human Security Unit for 2014 to 2017. This document is rather important as both draws on the experiences and lessons learned of the last two decades and sets specific goals and objectives to mainstream human security in all the activities of the United Nations over next four years.

### ***JAPAN***

The United Nations' references to human security are not limited to the Millennium Report of Kofi Annan or to the resolutions that anticipated the Millennium Summit (53/239, 54/254, 54/261, 54/281), but can also be seen in the implementation, in September 2004, of a 'Human Security Unit'. This unit was created under the supervision of the Secretariat of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), which, in turn, aims to move human security up to the priority status of United Nations activities. OCHA also had the guiding mission of managing the United Nations Trust Fund for Human Security (UNTFHS), established in 1999 by Japan. In that particular year, Keizo Obuchi was the Prime Minister in office and he was considered the human security mentor in Japan, associating the concept to social development theories.

Two years later, in June 2001, the United Nations Commission on Human Security was launched, co-chaired by the Nobel Prize Amartya Sen and former High Refugees Commissioner Sadako Ogata and Yoshiro Mori (Japan's Prime Minister). The objectives of the Commission are mainly two: first, to clarify the concept of human security and reach a consensus over the different interpretations and perspectives in order to formulate specific principles and policy tools; and second, to identify and explore a concrete action program to address human security threats.

The implementation of the concept in Japanese foreign policy was highly focused on their own reality: the Asiatic financial crisis of 1997. In this context, Japan emphasizes "Human Security" from the perspective of strengthening efforts to cope with threats to human lives, livelihoods and dignity as poverty, environmental degradation, illicit drugs, transnational organized crime, infectious diseases such as HIV/AIDS, the outflow of refugees and anti-personnel land mines, and has taken various initiatives in this context. To ensure "Human freedom and potential," a range of issues needs to be addressed from the perspective of "Human Security" focused on the individual, requiring cooperation among the various actors in the

international community, including governments, international organizations and civil society. This definition helps to explain why the Human Security Trust Fund, with a budget of \$170m in 2002, was focused on humanitarian interventions and development assistance from Southeast Asia to Africa. In addition, it was thematically centred on UNESCO education campaigns, WHO public health projects, UNDP development programmes and UNHCR safe return refugees' policy.

On 1 May 2003, the Commission submitted to the United Nations Secretary-General its final report entitled 'Human Security Now'<sup>3</sup>. This report is based on two main principles: first, protecting the individuals and assuring their rights and freedoms; second, empowering individuals and communities.

According to the report, these two principles require protection from above (top-down) and a empowerment from below (bottom-up), since protected individuals can have many choices, empowered individuals can make better choices and contribute to improvements in the system of protection (Ogata, 2005: 13). The combination of protection and empowerment as a key perspective in developing Japan's foreign policy is a reflection of the Commission of Human Security' belief that human security complements state security in at least four aspects: Its concern is individual and community rather than the state; Menaces include / more than / threats to state security; The range of actors is expanded beyond the state alone; Achieving human security includes empowering people (Galtung, 2003: 6).

If UNDP and Japan's perspectives are quite similar in the preference for a 'freedom from want' approach in protecting the vital core of all human lives in ways that enhance human freedoms and human accomplishment, they sharply contrast with the content and scope of Canada's security policies, which reflect instead a 'freedom from fear' perspective.

### **CANADA**

Canada is often considered by scholars the state that most supported the doctrine of human security at the governmental level<sup>4</sup>. In particular, Canada has been striving to refuse what Keith Krause calls a 'shopping list' approach (2004: 51), that is, an understanding of human security with so many aims, it would lose its that it loses validity, utility and operability as a political tool. Thus, in order to limit the scope of the concept, Canada's Human Security action guide can be summarized in five major areas: protection of civilians, support peace operations, conflict prevention, good governance and public safety. Taking into account all these elements, Canada's human security

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<sup>3</sup> Please see <http://www.unocha.org/humansecurity/chs/finalreport/English/FinalReport.pdf>

<sup>4</sup> Please see a balance of 15 years of the canadian Human Security Network in <http://cips.uottawa.ca/the-human-security-network-fifteen-years-on/>

agenda seems more action-oriented, less wide-ranging and more methodical than the UNDP in listing the operational practicalities of a human security agenda. In parallel, Canada has developed the concept of responsibility to protect (also known by its acronym R2P).<sup>5</sup> This concept can briefly be described as a duty to protect those who need support and are in situations of compelling need for humanitarian protection. Protect is thus a broader normative concept that goes further than any intervention, because it prevents, reacts and reconstructs.

### ***THE EUROPEAN UNION AND THE BARCELONA AND MADRID REPORTS***

It is the European Security Strategy (ESS) that truly represents the beginning of a strategic security doctrine shared by the Member States and a first step in a human security narrative. Even though the ESS does not explicitly address human security (referring only to the safety of people and communities), the 2008 implementation report mentions it twice (European Council, 2008: 2, 10). Moreover, both the 2003 text and the 2008 amendment make several references to the components associated with a human security agenda. In fact, the ESS has quickly affirmed itself as a kind of *manifesto* for a vision of the Union as a producer and promoter of norms and values exportable both to its neighbourhood, and to the rest of the world. We may also recall that the added value of the strategy lies in establishing the EU as a global actor by clarifying the contribution and potential of the EU, and by making it more active, more coherent and more capable «it would contribute to an effective multilateral system leading to a fairer, safer and more united world. (European Council, 2003: 14).

In addition, perhaps the most significant sign of the incorporation of the human security concept in the strategy is the belief that security is a precondition for development. In turn, poverty, disease and ignorance are considered potential causes of insecurity. The identified threats are terrorism, proliferation of weapons of mass destruction, regional conflicts, failed states and organized crime. Therefore, and because «conflict prevention and threat prevention cannot start too early» (European Council 2003: 7), the strategy argues that the EU and its Member States must not neglect regional conflicts, good governance and the reconstruction of civil administration.

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<sup>5</sup> The Responsibility to Protect report by the International Commission on Intervention and State Sovereignty is available on <http://responsibilitytoprotect.org/ICISS%20Report.pdf>. This concept was enshrined in the Final Document of the UN Summit in September 2005, where member states committed to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

However, despite expressing a broad concept of security, stressing prevention and the importance of multilateralism, the EES neither talks about human security, nor explains how the Union and the Community institutions can implement the strategy in order to explore all the possibilities of a human security policy for Europe.

Thus, Solana challenges thirteen researchers representing the finest European expertise on security and defence issues that coordinated by Mary Kaldor and presented to Javier Solana on 15 September 2004 in the Barcelona report under the title 'A Human Security Doctrine for Europe.' The doctrine that this working group developed and presented less than a year after the strategy was never officially adopted, neither by the Community institutions nor by the Member States. However, this does not diminish the fact that this report presents a detailed study of the current capacity of European security, concluding that Europe needs to be equipped with military forces. However, these forces must be configured in new ways and adapted to new environments if Solana's aim of making the EU a global player is to be achieved. Adopting a broad concept of human security geared towards protecting individuals from the insecurities arising from human rights violations, this report recommends that a human security doctrine should be developed into three interdependent levels. The first level is constituted by a set of seven guiding principles that identify the objectives that should govern the implementation of a human security policy and outline human capabilities and the cultural, technological, legal and organizational requirements for the pursuit of these principles.<sup>6</sup>The seven principles for human security are: primacy of human rights; establishment of a legitimate political authority in command and in control of missions and promotion of political solutions through diplomacy, sanctions, humanitarian aid and consultations with civil society; multilateralism; perspective from below; regional approach; use of legal instruments; and appropriate and legitimate use of force, framed by Chapters VI and VII of the UN Charter in order to protect civilians and lessen collateral damages.

According to the authors, however, in order to implement a human security policy rooted in those seven principles, the Union needs to provide a second and third level of action. The second level relates to the proposal to build a Human Security Response Force (HSRF) composed of 15,000 elements, a third of them civilians. In addition, the Barcelona report also highlights a legal framework that will govern the intervention decisions and coordinate field operations. In order to strengthen the arguments of the 2004 report and take stock of the proposals, the Study Group on Human Security

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<sup>6</sup> Because the line between the different phases of a crisis or conflict is extremely tenuous, the authors consider that these principles should be applied to a continuum, from prevention to reconstruction.



presents the Madrid report on 8 November 2007. The report, composed of a proposal and a background report, proposes a Protocol or a Declaration to promote human security in CFSP/ESDP, stressing that human security is the most appropriate security strategy for the EU.

## CONCLUSION

In its essence, human security can be defined as a practical guide for action to free the individual from all fears and needs which gives priority to a collaborative and cooperative multilateralism. In this sense, the implementation of human security requires a double hierarchy. The first one is top-down intervention from states, multilateral organizations and the international community as a whole. The second is a bottom-up action from NGOs and work on the ground from international organizations such as the OSCE or the EU to eliminate the roots of conflicts and achieve the minimum guarantees of survival. The two approaches are certainly complementary. Thus, despite the different angles of analysis that a broader or narrower human security agenda may suggest, it is fair to say that: human security is first of all an attitude. Rather than a programme, it is an attitude, a way of being, a way of viewing the world, of viewing international relations, of viewing the interaction between economics and politics, between politics and culture, between culture and society, and so forth. It is a stance. Military security was not a stance; it was a budget, and it was a policy. Human security is a way of being and a way of fitting into the international system. (Badie, 2000: 41)

In the following, we will discuss some of the problems of such a loose understanding of 'human security'. The first set of questions arises from the fact that the UNDP defines human security in a negative way. For the UNDP, human security is a child who did not die, a disease that did not spread, a job that was not cut, an ethnic tension that did not explode in violence, a dissident who was not silenced. Human security is not a concern with weapons-it is a concern with human life and dignity. (UNDP, 1994:22) The fact that the UNDP defines human security in a negative way illustrates immediately one of the greatest weaknesses of the concept: it is neither noticeable nor measurable or newsworthy; it does not cover anything in particular and is too broad; it does not fix anything in concrete so that its effectiveness can be assessed; we do not know if it really exists, if we miss it, if someone suffers from human insecurity or what the therapy is for such an uncertain diagnosis. In other words, how can we recognise it when we see it? Moreover, the human security narrative tends to seem more like a panacea for all problems of and threats to individuals and communities: it promises freedom from all insecurities and aspirations to all forms of happiness. Therefore, the concept of human security (in the form of philosophy or moral code) has like

all 'sexy' narratives inspired by the philosophy of ideas, they can be manipulated to justify new protectorates or international interventions under the umbrella of other concepts, such as the 'responsibility to protect'.

By linking security and development and focusing on collective responses to new threats, human security has thus gradually become a topic on the agenda of the United Nations, Canada, Japan and even the European Union. Among the different definitions and perspectives that we could distinguish here, two trends have dominated in the last few years. They lie in the opposition between a comprehensive approach focused on 'freedom from need' and a narrow approach focused on 'freedom from fear'. Therefore, the concept of human security suggests that autonomy and empowerment are the key for ensuring that people achieve the freedom to act in their own interest and following their aspirations, to participate in decision making and to create systems that give people the rights of survival, dignity and livelihood. But are all the people willing to engage in this process? That is for sure one of the never-ending challenges that human security faces. Moreover, we should not forget that human security is a Western approach to protection and empowerment, and that there might be other useful approaches to assure democracy in an ongoing state. It is no wonder that for most scholars, concepts like human security are useless if we do not see them implemented in practice, denying, for instance, that "our model fits all". Indeed, if there is a concept that seems to raise more questions than it provides answers, and that tends to divide researchers all over the world is most certainly the one of human security. However, one aspect that all authors seem to agree is that human security is concerned with the physical and material security of individuals and communities, rather than that of states. But if we look carefully to today's main conflicts the state is not only "the" security player but also that territorial integrity remains the key value of international relations both to map securities and insecurities.

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# **THE PRINCIPLE OF NON-INTERFERENCE IN THE DOMESTIC AFFAIRS AS A PARAMETER AND A MEASURE OF SECURITY**

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## **1. PRELIMINARY CONSIDERATIONS**

The object of this important Conference – *Researching Security: Approaches, Concepts and Policies* – is very well expressed in its presentation and, among several aspects, contents, exigencies and instruments for the protection of security (or, at least, for guaranteeing a higher level of security), it is generally underlined that security is a complex phenomenon and a controversial notion not well defined over the years; in the same way, it has been correctly pointed out that any research in the field of security is necessarily connected to the different circumstances and categories as, for example, the physical security which guaranties the survival, the absence of a structural violence, and the peace and stability. Specifically, within the international relations, security is identified in several ways and frequently in the literature concerning international relations at different levels, as the one concerning the international law; the notion of security is pointed out in different ways, as mentioned, without a shared definition of any unitary notion. On political grounds in general, the notion of security is clearly and prejudicially a necessary condition for the existence of the individual and the social groups, and it is clearly identified in the absence of threats and in the protection from the threats.

Therefore, as clearly evident, the implication of security reflexes the primordial interest of every individual and social entity as specifically, for what concerns in this paper, the Nation and the State with respect to which the analysis of the international system is directly implicated even and mostly in its normative expressions in order to measure the existing level of security in the relations between States, being this the specific point of view and the object of the present paper.

It is about a specific and well identified way of addressing the notion of security in the mentioned contexts, as the international one, beside the other different contexts with respect to which, the problem or the exigency of guaranteeing a minimum standard of security is rightly posed.

## **2. GLOBALIZATION, EVOLUTION OF THE INTERNATIONAL RELATIONS, NEW EXIGENCIES AND CONTENTS OF SECURITY**

We could not avoid to agree on the fact that in recent times, the evolution of the international relations, the economic interests, even the religious disputes, the new and rapid communication and mobilization means, in a larger context of *globalization*, have determined not only the new exigencies of security but a different content of the security notion itself. Just to recall, for this purpose are used the non-conventional armed conflicts (the so-called “asymmetric”) as well as the broadening phenomenon of national and international terrorism. This evolution has subsequently determined the necessity to reconsider the concept of security within the national limits but even and mostly within the international ones. If it is true that the modalities and forms of security at international level underline their substantial continuity in the historical retrospective and perspective, it is about to evaluate if these forms and modalities of the international security system have been changed and in what way these changes are nowadays represented; keeping always in mind, however, that the international security is necessarily related to the State and its way of being. Thus, the consequence deriving from the fact according to which, in the presence of the above mentioned *global* changes, a credible standard of international security would not abstract from a situation of internal peace within the State which means an orderly and pacific life of inter-individual relationship, but also and very often, it implies to a condition of freedom from any kind of threat and a condition of innate exigency of defense from external threats which may threaten the sovereignty of the State in terms of political independence as well as in terms of territorial integrity.

This aspect comes to evidence as a central element of the notion of security only if we observe how, most frequently, the sovereignty of the State in the indicated terms is threatened or compromised through the external organization of seditious or subversive phenomena and even through the instrument of terrorism. This happens, mostly, in those state realities characterized by weaker national identity and social cohesion which can be easily jeopardized from internal seditions provoked by outside aiming towards the achievement of socio-economic contrasts. The recent case of Ukraine where a real *coup d'état* was promoted and organized from the outside

demonstrates what is sustained above. This is also with regard to the minorities existing within the State, as well as with regard to the ethnic realities whose enormous dimensions do not permit to talk in the real sense of “minority” with respect to which the necessary standard of security moves from well different starting points and should be achieved by the means of particular measures which are surely not those traditional guaranties granted by the conventional or general international law in favor of minorities traditionally intended.

An aspect conveniently highlighted with regard to the object of the present Conference, is that without an adequate standard of security there is no room for effective freedom. Therefore, there is a strict relation between the notion of security and the minimal exigencies of individual and collective freedom.

In the level of international relations (more exactly, in the level of the inter-state relations), in conformity of the general and conventional international law, the idea of the necessarily collective freedom, intended as a freedom of the people (of the Nation, in terms politically correct), should not avoid to signify specifically that political independence and territorial integrity that can only be guaranteed by thorough political and legal instruments apt to assure the appropriate protection. According to the prospective and considerations herein followed, the ample phenomena of emigration - immigration almost uncontrolled, as often happens to the European Union member States, comes certainly into appearance as a potential element of threat with regard to the way of being of the State even in terms of proper effective capacity to regulate the phenomenon and self-determinate in an independent way. The aspect of being of a State moves from a specific identity that is manifested in terms of common history, shared values, internal political organization as well as in terms of cultural and political planning finally intended with specific attention to the regulation of the individual relations and among the different social entities living in the State and belonging to the State, as well as, even in religious terms as important composing parts of the cultural and historical model.

## **INTERNATIONAL AND DOMESTIC ORDER**

The Great Mustafâ Kemal Atatürk used to sustain: “Peace at Home, Peace in the World”. On this reflection of the founder of the modern Turkey any consideration becomes necessary in order to underline how the peace internally intended should necessarily mean an orderly and equal regulation of the social relations and a correct balance point between the political and the civil rights and liberties and the fundamental rights of the person of an economic and social nature as well as a balance point between the rights and duties of the individual and the rights and duties of the State as such. We can

say that what is above addressed, concerns the complex problem of recognition and protection of the human rights and liberties as a minimal requirement of the internal security of the State and the security intended within inter-state relations.

With regard to the first aspect of the argument, we should add that it would be mystifying to guarantee only, and only formally, civil and political rights without guaranteeing in real and concrete way social and economic rights (that is the right to life and to a dignified life which has its essential premise, the right to access to a paid labor activity which could only guarantee freedom and dignity to the person) which constitutes the elementary premise for the use of effective civil and political rights and liberties. Again the President Mustafâ Kemal Atatürk used to say: “we need only one thing: to work”. As it could be even less consistent, recognizing individual rights of freedom if the State would not be effectively *free* from external conditioning of general collectivity living within the State, *which is* the State, and is organized in the forms and modalities of the State itself, as freely decided. In other terms, talking about individual liberties within the membership in a social community would seem to be misleading.

## **THE PRINCIPLE OF NON-INTERFERENCE IN THE DOMESTIC AFFAIRS OF THE STATE**

It seems that the international legal scholars, for several reasons, do not show interest about the principle of non-intervention in the domestic affairs of the State. Among these reasons is probably the one according to which the attention of the international legal scholars is almost exclusively concentrated to the questions concerning the fundamental human rights and liberties of the individual. As to say that international law has only this interest in the sense of discipline, among all the fields of inter-state relations, only this sector. Probably it is an effect or an unconditioned reflection of the “globalization” with respect to which the question of the international protection of fundamental human rights and liberties, which itself transcends the national borders of the State, appears specifically coherent. The other reason, certainly unrelated to any problem connected to the way of being of the international legal order and its systematic correlation, is represented by the objective fact of the predominant and decisive role played in the present historical moment of the international relations by the so-called *occidental representative democracies* of traditional liberal inspiration which, as seen and happening in many cases (Iraq, Serbia, Afghanistan, Libya, Egypt and, recently, Ukraine and Syria, without mentioning other cases belonging to state entities concerning the western hemisphere and the African continent), as a consequence of their expansive foreign policies, pervading and aggressive, led

by the United States, actuated to achieve strategic and economic goals that do not have anything to do with the international protection of fundamental rights and freedoms, by assuming the latter as an excuse and justification for proper aggression towards the domestic order, towards the political independence and the territorial sovereignty of the States object of even armed attacks, modestly called “humanitarian intervention” or actions of “international police”.

Even this happens on the grounds of a self-justification in the name of an already allegedly irrevocable and unavoidable “globalization”, which is intended to be extended even in the field of domestic jurisdiction, which is the internal political organization of any State. With any consequence, as it seems to be evident, involving the internal security of the State as well as the international security which finds its main fundament in a correct application of inter-state relations in full conformity with the norms and general principles – normative and structural – of the general international law.

## **PROHIBITION OF INTERFERENCE IN INTERNAL AFFAIRS OF THE STATE, RIGHT TO INTERVENE AND INTERNATIONAL SECURITY**

The pretended predominance of the mentioned humanitarian exigencies and the necessity of the even “preventive” wars aiming the “exportation of democracy”, as announced by the US President Bush (although justifiable for the inadequacy of his covered function), has brought to forget that the international political legal order is grounded in a primordial way. This is done on the balance meeting-point between the principle that prohibits any interference in the domestic affairs of a State and the principle that permits or rather imposes, but however always legitimates, an – even armed – intervention towards any State if the latter is considered responsible for a serious and continuous prejudice for the fundamental interests and *values* that in a certain historical moment are considered worthy of absolute protection by the international Community of the States. In these *values* and interests, though in its historical relativism, its reason of being is recognized, as well as its essential finality (addressed to the preservation of the international public order as historically intended in a certain moment). And even this is an unavoidable element for pursuing the goal of the internal security of a State and the international security in the inter-state relations.

As it was mentioned above, nobody talks about the principle that prohibits the interference in the domestic affairs of the State and what assumes a greater importance is the exclusive and uncritical protection of the fundamental human rights and freedoms which, beyond the fact that, as seen, are assumed as a justifying pretext for proper aggression against the internal order, the political independence and territorial integrity of the States, are



represented nowadays not as an expression of any legal norm or principle accepted by the generality of the States, but rather as a reflection of an ideology or even, as it often happens, of contingent policies aiming, from outside, the legitimating of internal revolutions within the States or, repeating again, proper and explicit armed aggressions against these States. Preliminarily, we should remember that even for the international law the internal way of being of the State does not matter but the element of interest is represented in the manner the State acts in the field of inter-state relations and if, in other words, acts or not in compliance with the customary and conventional norms or with the general principles of the proper legal order of the international community.

It does not pertain to the international law and even less to any State, though economically or military powerful, to evaluate the *democracy* level of other States grounding, in this way, the assumption – which is an illicit pretention – on the fact that the internal political organization of the State should be democratic. Thus, ignoring the fact that a unique form of democratic organization of any collectivity represented in the State does not exist, and with this underlining again that the pretension of the above mentioned *occidental democracies* consists in legitimization of only internal political organization of the State in conformity with the methods and contents of the representative democracy of the old liberal State which – to be said – does not represent any more the effective popular will.

### **PARAMETER OF COMPATIBILITY BETWEEN THE PROHIBITION OF INTERFERENCE IN THE INTERNAL AFFAIRS OF THE STATE AND RIGHT TO INTERVENE. THE RESPONSIBILITY TO PROTECT**

The problem of the individuation of any political and legal measure of compatibility between the principle of non interference in the domestic affairs of the State and the principle of humanitarian intervention for the protection of rights considered superior, as the protection of the fundamental human rights and freedoms and the democracy, was preannounced by the then UN Secretary General Kofi Annan. Replying to the solicitation of the UN Secretary General (and only few States followed this example) the Government of Canada established a special *Commission on Intervention and State Sovereignty*. The assigned task was, therefore, to evaluate contents, premises and limits of military intervention in relation to the protection of the State sovereignty, and thus on the base of what premises and according to what criteria and time the intervention against the domestic affairs of the State was legitimate, to the detriment of the equal political and legal range principle of non interference in the domestic affairs of the same State, as well as of the

equality of the member subjects of the international Community. The result of the work of the mentioned *Commission* did not bring to the adequate clarification of the premises and the limits of the even armed intervention, failing thus in the exigency to determinate the balance point between the opposite principles, that is when humanitarian exigencies should or would have prevailed over the respect of the exclusive competence of the State on the issues of the domestic jurisdiction. To this purpose, more concrete results by the substantial and systematic point of view were achieved by the Organization for Security and Cooperation in Europe (OSCE) which, by the means of a special *Resolution* clarified that an action of intervention used to find legitimacy on the grounds of international law and even with regard to the UN Charter (with specific concern to art. 51), only if the State object of intervention had been practicing (and continued to do so) a *policy* of massive, grave and systematic violations against the fundamental human rights and freedoms. To be added that, in effect, the work done by the Canadian *Commission* provoked the result to misbalance even more the relations between the prohibition of interference in the domestic affairs of the State and the right to humanitarian intervention, establishing as a duty of the State a new and singular “responsibility to protect” (R2P). In other terms, if any State, because of its internal political weakness or even for other *external* reasons, would not be able to guarantee and protect properly the citizens and residents of its territory, the circumstances could justify the legitimacy of any action of collective or individual intervention even through the use of military force.

The assertion, in itself maybe even sharable, has become, in fact, pretension of real interventions or acts of aggression against the political independence and territorial integrity of some States (aggression, therefore, to the sovereignty of the State which is itself a general principle of the structure and organization of the international Community), if only we take under exam the aberrant applications in the practice. The emblematic case regards Libya where the legitimate government (and, again, *legitimate* should not necessarily signify *democratic* according to the meanings and the concepts in use in the occidental liberal-democracies) of Colonel Muammar Khadafy was found responsible for not protecting the Libyan tumultuous gangs that, armed and sustained from France and England, and then by the whole offensive system of the NATO, used to fight in order to depose the legitimate government. A similar situation was verified in Ukraine (but here we are in presence of simple and vulgar mystification) where the President Yanukovych, democratically elected, was accused for not protecting the population demonstrating in Kiev, in Maidan Square, and which were shot by instigators belonging to the same demonstrators.

## **POLITICAL ASPECTS AND MYSTIFICATION: THE CONSEQUENCES ON THE INTERNATIONAL AND INTERNAL SECURITY**

It is very difficult to legally analyze the relation between the two main structural principles of the international Community of the States herein considered, if the facts, the happenings, or the events are not evaluated for how they effectively were verified, beyond any mystification or propaganda, even through television or newspapers, to the benefit of economic or geo-strategic interests of the so-called occidental liberal-democracies that still today continue to persist in the traditional actions of foreign policy of subjugation and disintegration of the territorial and political sovereignty of the States.

How much this compromises not only the internal security but even and especially the international security is shown emblematically in the cases of Ukraine and Syria. It is about situations not resolved yet, in the first case, because of the secession of the Autonomous Republic of Crimea and of the resistance of the Eastern regions of the Country which still contrast the effects of the vulgar *coup d'état* perpetrated in Kiev by the occidental democracies; and, in the second case, because of the ongoing resistance of the President Bashar Al Assad who still effectively contrasts the insurgents, 85% of which are not Syrian but come from other Arab Countries, as Qatar, Jordan, Saudi Arabia or Libya, for competition exigencies internal to the *Arab Nation*, or armed or trained from non-Arab Countries, headed obviously by the United States: to a certain extent it seems that the situation within the Arab Nation is still the one the Colonel Lawrence of Arabia knew; but the most important is that about the effective situations and events happening in these Countries nothing is documented by the means of information, exclusively dedicated to mystifying and propaganda operations – except particular cases as *Frankfurter Allgemeine Zeitung* – to the benefit of the economic and geo-strategic interests of those States which intentionally caused these situations.

The situation summarily highlighted shows how the falsified and intentionally predestined use of the instrument of *humanitarian* intervention (that unavoidably brings situation of real war which continues to be falsely qualified, for its pretended legitimacy, as *humanitarian*), instead of guaranteeing the security of the individuals, of the populations or parts of it, compromises it irremediably with additional and unavoidable consequences of reaction phenomena increasingly vast and bloody of terroristic nature whose responsibility is attributable firstly to the foreign policy actions of the occidental liberal-democracies, which nowadays constitute the most relevant and diffused cause generating individual and collective insecurity in the Southern region, as well as in the so-called *occidental* States and the African Continent.

## THE ROLE AND THE ACTION OF THE EUROPEAN UNION

It should also be underlined that, in order to maintain a minimum standard of collective and / or individual security, the action of the foreign policy of the European Union as such, is substantially inexistent for the simple reason that in the facts, in reality, it does not exist any European Union foreign policy. Even from this point of view it has been rightly observed that the European Union is a *political dwarf*: now, given the substantial economic situation of *stagnation* of the EU in its entirety, we can easily sustain that it is also an *economic dwarf*. The irrelevance of the EU in the field of the foreign policy, unable to conduct an effective common foreign policy and to establish a proper common military instrument, depends on several reasons and among these mainly the fact that almost all the member States of the EU are also NATO members (organization that nowadays, in terms of aggressiveness, is considered as a more relevant and dangerous entity) to which the States of the EU are conditioned in their actions due to the dispositions provided for in the Lisbon Treaty of 2009; and it is known that the operative decisions within the NATO are taken from the US government and its President. The other reason, not less relevant, is that some member States of the European Union, and among these the Great Britain, France and the same Germany, pursue individual economic and geo-strategic interests at international scale and conduct absolutely different actions of foreign policy and even in contrast with those of other member States of the EU because, exactly, of different economic and geo-strategic interests.

## CONCLUSION

Guaranteeing or, better, recovering a more reliable standard of internal and international security of States, without furthermore reducing the level of protection of fundamental human rights and freedoms which only within the State and by the mean of its action could be effectively recognized and protected (not certainly at international level), as also it is implicitly derivable from the finalities (though not sincere) of the individual or collective armed interventions aiming the alteration of the internal way of being of States in conformity with the necessity of protection of the fundamental human rights and liberties, implicates a not only theoretical but even practical, reaffirmation, in the context of the inter-state relation life, of the principle of non interference in the domestic affairs of the State, and in the context of the general international Community of the States.

Paradoxically, this principle was better guaranteed during the period of the *cold war* but later ceased the so-called contrast between the “blocks”

due to the ideological, economic and political decline of the Union of the Socialist Soviet Republics (USSR) and of the Central-Eastern Europe States ruled by similar regimes, with the consequence of the prevalence of the liberal-democratic States of the Occident headed by the USA, the principle of non interference in the domestic affairs of the State has been almost abandoned or however omitted for the reason above mentioned. Nowadays, with the emerging of the relevant function and role of the Russian Federation in the international politics even within the UN, certainly non negligible for its economic and military potential, seems that, as facts demonstrate, with regard, for example to Ukraine and Syria, new balances are being established that objectively in the practice facilitate an operative recovery (therefore, not merely announced) of the principle of non interference in the domestic affairs of the State, unless its containment is legitimately justified from superior necessities and interests of the international Community of the States as such, and with this recovering, as sustained, a higher and effective standard of internal and international security. Actually, to this concern, to be observed that, according to an opposite apparently consequentiality the international security fosters undoubtedly a higher level of internal security for what regards the fundamental human rights and freedoms since it favors a more incisive and inclusive dialogue between the governments and relative populations within proper territories.

The international Community of States, in the field of armed interventions and “humanitarian wars” which have provoked disastrous effects in terms of security, could and should facilitate this dialogue short of any external interference and in respect of the sovereignty of every State in its significance of political independence and territorial integrity. The international Community of States, as such, should operate by guaranteeing every State (in its expressions of government and population) the right to decide freely on the relative choices concerning the proper future and the proper internal dimension even in terms of human security.

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# **REDEFINITION OF MACROECONOMIC AND MACROPRUDENTIAL POLICY AND BASEL III CONCEPT**

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## **ABSTRACT**

As an essential tool proceeding the objective function in the period before the global economic crisis (2008), the focus of central banks and monetary policy has been to provide price stability over the policy interest rate. This led to emphasizing the role of the credit channel on monetary policy impact of the economy through the quantity of reserves and return-bank credit to the real sector. The exception to this rule was the policy of double pillar of the ECB, which paid special attention to the amount of credit in the economy. The regulation and supervision that were focused on individual financial institutions and markets as well as measuring their impact on the funding stability, were largely ignored. Given the enthusiasm for financial deregulation, the usage of prudential regulation for countercyclical purposes was considered improper interference in the functioning of credit markets. Simultaneously, with the positions of sharp political limitations, the power of the impact on fiscal policy was substantially underestimated. The global economic crisis has imposed the need of reshaping the macroeconomic policy. According to the determined objectives of macro-prudential regulators, macroprudential elements which are infiltrated in BASEL 3 concept are necessary to be fully implemented by the end of 2019. This paper, through the methods of induction and deduction, historical analysis and the comparative method, provides an overview of the latest developments in macroeconomic and redefined macroprudential policy, offers proposed measures and tools for

operating the criteria of Basel 3, and illustrates the case of Republic of Macedonia in compliance with the aspect of the banking sector with the new capital standards of Basel 3.

Key words: *global economic crisis, central banks, monetary policy, fiscal policy, regulation, supervision, interest rates, credit channel.*

## **1. INTRODUCTION**

Economic thought, within numerous panel discussions, theoretical and empirical analysis, underscores that pro-cyclical behavior of financial institutions is recorded, especially the banks. In fact, financial institutions take greater risk during economic booms and later, in periods of economic downturns become too averse to risk, which displays their pro-cyclical impact. The existence of moral hazard and simultaneously the idea that some financial institutions are too big to fail, and the recorded failure of the institutions to recognize the broader negative externalities of their behavior, do not lead to the need to redefine the macroprudential and macroeconomic policy. In the past six years, macroprudential policy is trying to deal with the definition of the level of capital rates that financial institutions will have to keep in their reserves, as well as other capital requirements aimed at financial institutions that take too much risk; with the challenge to co-ordinate traditional politics and the available regulatory tools in the best possible way; and with the need to design better automatic stabilizers. And still the ultimate goals are in direction of achieving stable output gap inflation (Blanchard et al., “Macroeconomic Policy”). ECB recently launched Macroprudential Research Network (MARS) aimed at establishing a conceptual framework, models and tools that will improve the macroprudential supervision in the EU.

## **2. DEFINITION AND OBJECTIVES OF MACROPRUDENTIAL POLICY**

Most of the macroprudential tools are related to the regulation of banks' capital but it is important to highlight the fact that most of short-term debt in the obligations of the banks has been identified as a major source of vulnerability. (Brunnenmeier et al. “Financial Regulation”). The main objective of macroprudential policy is limiting systematic financial risk through analysis of the financial system as a whole and its interactions with the real economy and managing a set of prudential tools and instruments that are specifically assigned to the macroprudential authorities. Two goals for macro prudential framework can be distinguished: 1) to increase the resilience of the financial system and 2) to limit the growth of financial cycles. To achieve the first objective, it is necessary during the boom to build buffers that would be put into operation during recessions. For achieving the second objective it is necessary that the created buffers act automatically for limitation

of the amount of credit and price boom in the expansion as well as their increase during the recession. Observations are that the capital created buffers will have to increase significantly before they can refrain from credit expansion, because the capital is plentiful and cheap in good time, i.e. in the period of economic expansion and vice versa. During the period of boom, the financial system can miss the chance to build up enough capital and liquidity buffers, although during this period it is an easier and less expensive thing to do. For this purpose, macroprudential strategy will have to rely on the strengthening of existing policies and instruments, in order that they can effectively and sustainably limit credit growth and asset price boom. For this purpose it is necessary that monetary and fiscal policy complementary and proactively play their role.

### **3. THE ROLE OF MACROECONOMIC POLICIES ON MACROFINANCIAL AND MACROECONOMIC STABILITY**

Historical analysis suggests that during the credit boom and pricing boom, fiscal positions seem unrealistically pink. In fiscal policy it is necessary to apply the same principles that apply to macroprudential framework: to build buffers i.e. budget surplus in good times and budget deficits in times of economic recession. Before crisis, in the most advanced economies the ratio between financial and monetary stability was seen as a fairly simple interaction and they started with basic postulates that price stability is sufficient to ensure macroeconomic stability and the monetary stability should be achieved by an independent central bank closely determined by a two-year inflation target. Recent global recession has shown that this paradigm is too narrow. The crisis has imposed the need for serious consideration of the role of monetary policy in dealing with price bubbles as its further order. The following conclusions on the implementation of this policy are included (Filipovski, “Financial Regulation”):

- There are inherent difficulties to identify bubbles in the price of assets because many of the leading indicators can create false signals. It is therefore necessary to establish a comprehensive analysis of their cause;
- It is expected that the concerns about macrofinancial stability will withdraw the need from the monetary policy to expand its mandate to introduce policies in order to deal with bubbles in the prices of resources;
- The uncertainties associated with identification of the bubbles indicates the immoderate respond to interest rate i.e. of monetary policy, as well as the avoidance of answers based on a strict rule;
- To avoid triggering the moral hazard, responses of monetary policy to prevent the bubbles should be symmetrical: focused on cracking of the



bubbles and their generators and to do this in cooperation with macroprudential policy;

- When it is possible to determine that the bubbles of the price of assets are endogenous, i.e., are generated by monetary policy, then the generator itself can shoot the bubbles;

- On methodological level, there is a need to build a model that will include several variables: monetary (monetary aggregates, nominal interest rates), financial (credit growth, stock parameters, domestic investment) as well real variables (real GDP growth per capita, state of payment balance, labor productivity, demographic structure).

Regarding their thinking of macroprudential policy, two key causes of the regulators were: how to deal with the problem “too large financial institutions to fail” (Too-Big-To-Fail) and how to overcome the pro-cyclic “before the crisis” regulation. Macroprudential regulation takes a broad view and is concerned not only with the system important banks but also with non-banking financial institutions. Possible regulatory measures which would prevent the creation of “too large to fail” institutions include:

- Higher capital and liquidity requirements that will build stronger buffers;

- Taxes and duties that will internalize the costs associated with systemic risk;

- Restrictions on the size and scope of banking activities by limiting combination of traditional banking with riskier activities like proprietary trading in securities and activities typical of the private equity and investment funds;

- drafting so-called wills or plans for proper cushioning in case of insolvency, which would discourage excessively complex business models and internalize the costs of possible failure of the institution.

To counteract the problem of procyclic regulation, regulatory response is focused on several areas:

- Countercyclical design of capital requirements including taxation of financial institutions more in boom times and less during the economic downturn;

- Correction of the loss that will be included in the expected credit losses, when determining the profits;

- Reduction of the pro-cyclical impact level on bookkeeping value for financial institutions (especially when market liquidity is changing dramatically);

- The introduction of corporate governance which will include compensation schemes for managers of financial institutions which create excessive risks and favoring short-term versus long-term profitability.

When it comes to interaction of macroprudential policy over policy interest rates, expectations are that the mitigation cycle of the interest rates will depend on the success of macroprudential policy in restricting the credit boom and price: interest rates will increase more during boom and will decline less in recession. Example of the necessity of complementary action of macroprudential policy with other macroeconomic policies is the situation with capital inflows. Namely, capital inflows into emerging market economies can create strong upward pressure on domestic inflation and credit ranking and rise in the prices of assets. In this situation, the implementation of macroeconomic policies is essential, including monetary, fiscal and foreign policy in order to protect the domestic financial stability. In such conditions, the role of macroprudential policy would be to prevent excessive risk-taking by the domestic financial system. However, the use of macroprudential policy should not mean delayed tightening of monetary policy. On the measures of capital, controls are required to be seen as the last resort and as a safety valve in extraordinary circumstances. The longer the controls are left in place; the greater are the chances of side effects. One of the new offered macroprudential tools is taxation of international lending (Korinek, “Hot Money”).

#### **4.SUGGESTED MEASURES AND RECOMMENDATIONS FOR IMPLEMENTATION OF MACROPRUDENTIAL POLICY**

In order to comprehensively and radically create and deploy macroprudential strategy that will be complementary to other macroeconomic policies, there is a possibility that a policymaker in one area can have veto power on other policies; or members of the body for creating and deploying monetary and macroprudential policy could have folded membership. Analogously, requests for consultation can be channeled; there are also requirements to notify other authorities before the final decision-making, requirements for providing information and opinions, signing of MoUs or similar instruments. Because of the need for independence from political cycles, central banks have a central role in this part (Caruana, “SAARC Finance”). There is no consensus in literature about whether monetary policy, banking regulation, and supervisory functions should be combined with one central bank or whether individual institutions can do it. Some researchers (Blanchard et al., “Macroeconomic Policy”) argue that there are three main reasons which favor the idea that the current trend of separation of decision making for these two policies may have to be canceled. The advantage of monitoring the macroeconomic trends makes central banks obvious candidates for macroprudential regulators. The centralization of macroprudential responsibilities within the central bank will avoid problems of coordination of activities. One different view of the funding stability starts from the view that the origin of financial instability lies not so much in the infection but the

exposure to systemic risk through time, which is closely linked to the business cycle (Borio, “Macroprudential Framework”). According to this view, the risk is fundamentally endogenous and reflects the interaction between the financial system and the real economy. While exploring the systemic risk arising from the financial system two directions have developed, one of which focuses on measuring the systemic risk, while the second is to assess the systemic importance of individual financial institutions. Here are some tools for quantifying the financial instability and systemic risk: indicators of financial distress based on the balance condition, market indicators; early warning indicators (tend to predict events that will happen in the very near future), indicators based on vector autoregression -vars models (these are flexible tools for predicting and monitoring the transmission of shocks in the economy, describing the dynamics of the financial system as well feedback to macroeconomics) and macro stress tests (used to define the answer to the financial system of unusually large exogenous shocks). Regarding the analysis of systemic importance of individual financial institutions, a group of researchers (Acharya et al., “Financial Markets”) considered that the contribution of individual financial institution is commensurate with its size and the percentage of loss. They suggested introducing of taxes that will be designed for each financial institution and will be determined by the expected marginal deficiency (EMD) of each institution. EMD of a financial institution can be interpreted as a contribution to that institution for a dollar systemic risk. Lo, in “Systemic Risk” proposes establishment of a new independent agency to collect data about market prices, balance sheet and off-balance sheet assets and liabilities of US financial institutions, including the banking sector in the shade, in order to monitor liquidity and capital coverage of the banking system in the United States; also to carry out correlation of asset prices and measure the sensitivity of portfolio investment to changes in economic conditions. Sibert in 2010 indicates that similar agency in the euro area is necessary to collect similar data. He also points out that such data will have limited use because it will more allow measuring of the symptoms rather than the causes of financial distress since that systemic risk is not well understood and that would cause difficulties in the interpretation and measurement of the interconnectedness of network effects. To ensure proper database which would enable researchers and regulators to analyze systemic risk, Brunnermeier 2009 offers regular (quarterly) data collection for the risk of partial equilibrium, sensitivity of the risk market and sensitivity of liquidity regulated financial institutions. A group of researchers (Gauthier et al., “UK Mortgage Debt” 2010) found that macroprudential capital allocation mechanisms have reduced probabilities of individual banks as well as likelihood of a systemic crisis by about 25%, which indicates that the macroprudential capital buffers significantly improve financial stability.

Research (Gertler and Karadi, “Unconventional Monetary Policy”, 2009) found a way how the use of macro-prudential tools may affect the conduct of monetary policy within the new Keynesian adapted DSGE model. As a macroprudential tool they take lump-sum taxation and / or subsidy to the banking sector, which can be used to affect the amount of capital banks in order (as required) to stimulate or inhibit the national credit growth (Galati and Moessner, “Macro prudential policy”).

### MACROPRUDENTIAL THREAD OF BASEL 3

Basel 3 represents primary strengthening, and in some cases a radical change in the global capital standards. That, together with the introduction of global liquidity standards, will determine the essence of the global financial-reform agenda (Nikolovska Vrateovska, “Macroeconomic and financial stability”). N'Diaye in “Countercyclical macroprudential policies” found that the binding countercyclical prudential regulation will affect the reduction of production fluctuations; reducing the risk of instability and financial risk of the system; and will provide the monetary authorities to achieve anti-inflation targets with smaller adjustments to interest rates. New measures and instruments (BIS, “Basel Committee on Banking Supervision Reforms”) framed in Basel 3 areas that cover: capital, liquidity and large financial institutions are:

#### ***I. Capital***

##### Pillar 1

- Capital

*Quality and level of capital:* Greater focus on common equity. The minimum will be raised to 4.5% of risk-weighted assets, after deductions;

*Capital loss absorption at the point of non-viability:* Contractual terms of capital instruments will include a clause that allows—at the discretion of the relevant authority—write-off or conversion to common shares if the bank is judged to be non-viable. This principle increases the contribution of the private sector to resolving future banking crises and thereby reduces moral hazard;

*Capital conservation buffer:* Common equity comprising 2.5% of risk-weighted assets, bringing the total common equity standard to 7%. Constraint on bank’s discretionary distributions will be imposed when banks fall into the buffer range;

*Countercyclical buffer:* Imposed within a range of 0-2.5% comprising common equity, when authorities judge that credit growth is resulting in an unacceptable build-up of systematic risk.

- Risk coverage

*Securitized assets:* Strengthens the capital treatment for certain complex securitizations. Requires banks to conduct more rigorous credit analyses of externally rated securitization exposures;

*Trading book:* Provides significantly higher capital for trading and derivatives activities, as well as complex securitizations held in the trading book; introduction of a stressed value-at-risk framework to help mitigate procyclicality. A capital charge for incremental risk that estimates the default and migration risks of unsecuritized credit products and takes liquidity into account;

*Counterparty credit risk:* Substantial strengthening of the counterparty credit risk framework. It includes more stringent requirements for measuring exposure; capital incentives for banks to use central counterparties for derivatives and higher capital for inter-financial sector exposures;

*Bank exposures to central counterparties (CCPs):* The Committee has proposed that trade exposures to a qualifying CCP will receive a 2% risk weight and default fund exposures to a qualifying CCP will be capitalised according to a risk-based method that consistently and simply estimates risk arising from such default fund.

- Containing leverage

*Leverage ratio:* A non-risk-based leverage ratio that includes off-balance sheet exposures will serve as a backstop to the risk-based capital requirement. Also helps to contain system wide build up of leverage.

## Pillar 2

- Risk management and supervision

*Supplemental Pillar 2 requirements-*Address firm-wide governance and risk management; capturing the risk of off-balance sheet exposures and securitisation activities; managing risk concentrations; providing incentives for banks to better manage risk and returns over the long term; sound compensation practices; valuation practices; stress testing; accounting standards for financial instruments; corporate governance; and supervisory colleges.

## Pillar3

- Market Discipline

*Revised Pillar 3 disclosure requirements:* The requirements introduced relate to securitization exposures and sponsorship of off-balance sheet vehicles. Enhanced disclosures on the detail of the components of regulatory capital and their reconciliation to the reported accounts will be required, including a comprehensive explanation of how a bank calculates its regulatory capital ratios.

## ***II. Liquidity***

Global liquidity standard and supervisory monitoring

### **Liquidity coverage ratio**

The liquidity coverage ratio (LCR) will require banks to have sufficient high-quality liquid assets to withstand a 30-day stressed funding scenario that is specified by supervisors.

### **Net stable funding ratio**

The net stable funding ratio (NSFR) is a longer-term structural ratio designed to address liquidity mismatches. It covers the entire balance sheet and provides incentives for banks to use stable sources of funding.

### **Principles for Sound Liquidity Risk Management and Supervision**

The Committee's 2008 guidance *Principles for Sound Liquidity Risk Management and Supervision* takes account of lessons learned during the crisis and is based on a fundamental review of sound practices for managing liquidity risk in banking organisations.

### **Supervisory monitoring**

The liquidity framework includes a common set of monitoring metrics to assist supervisors in identifying and analysing liquidity risk trends at both bank and system-wide level.

## **III. SIFIs**

In addition to meeting the Basel III requirements, global systemically important financial institutions (SIFIs) must have higher loss absorbency capacity to reflect the greater risks that they pose to the financial system. The Committee has developed a methodology that includes both quantitative indicators and qualitative elements to identify global systemically important banks (SIBs). The additional loss absorbency requirements are to be met with a progressive Common Equity Tier 1 (CET1) capital requirement ranging from 1% to 2.5%, depending on a bank's systemic importance. For banks facing the highest SIB surcharge, an additional loss absorbency of 1% could be applied as a disincentive to increase materially their global systemic importance in the future. A consultative document was published in cooperation with the Financial Stability Board, which is coordinating the overall set of measures to reduce the moral hazard posed by global SIFIs.<sup>1</sup> European Central Bank was designed to help policy makers in operationalization of macroprudential policy, which is based on: a) the ability to determine the appropriate timing for activation or deactivation of the instrument; b) the effectiveness of the instrument to achieve the stated political

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<sup>1</sup> BIS (2013)- *Basel Committee on Banking Supervision Reforms-BASEL 3*, BIS, 2013

goal and c) the performance of the instrument in terms of analysis and cost-benefits.

The underdevelopment of the Macedonian financial system and conservativeness and traditionalism of Macedonian banks (as dominant in the total assets of the financial system with participation of high 85.5% in 2012 (НБРМ „Финансиска стабилност”)) were the main pillar of defense crisis. In the sources of funds for Macedonian banks dominated deposits of the natives while the level of capital adequacy in the last decade has continually been over the 8% minimum from the adopted Basel capital requirements. Although the deadline for implementation of the new international capital standards imposed by Basel 3 was initially in 2019 and announced that it will move in 2016, inclusive June 2010, all banks in Republic of Macedonia comply with the new capital standards. In this section banks have capital adequacy over 10.5% at all times and only six banks had rates of capital adequacy ratio above 30%.

## **CONCLUSION**

To overcome the negative international spillover of bank failures international regulatory framework is required that will treat this matter and distinguish the role of regulation of the host country and the regulations of the country of origin of the capital and patterns of bank resolutions. New ideas in terms of locating the regulatory responsibility in international banking relate to reallocating the responsibility of the host country to the country of origin, and abandoning the practice of opening a branch (branches) and on its place to introduce mandatory subsidiarization (opening bank branches in the host country, whose activities will be regulated by the host). In trying to operationalize the criteria of Basel 3, a number of practical tools have been proposed, exposing stylized scenarios, application of alternative approaches that seek to connect systemic risk analysis and selection of instruments and the use of "transfer maps" - astylized presentations how changes in the macroprudential tools are expected to contribute to the goals of macroprudential policy. Redefining macroprudential and macroeconomic policy as a reaction positive action to global policy makers, once again the thesis that the current regulations and macroeconomic strategies are unjustifiably marginalized is confirmed. Financial statements have impact on institutions on macroeconomic and financial stability. Thus, remains the need for closely monetarising respect and implementation of the new Basel 3 requirements and standards, the need for regional networking and regional exchange of information by national regulators, harmonization and unification of fiscal policies among member states of the European Monetary Union, as well as providing complementarity between macroprudential, macroeconomic and fiscal policy at the level of national economies.

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# THE LATENT SECURITY CHALLENGES IN THE WESTERN BALKANS\*

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## **Abstract**

Nearly a decade and a half after the end of the conflict in the region, the Western Balkans failed to transform in the zone of complete stability. On the contrary, numerous unresolved bilateral issues in the Western Balkans have been further deepened, by continuing poor economic trends and parameters, evident gradual neglect of the region by the European Union and the potential strengthening of the new wave of ethnic nationalism in certain Western Balkan countries (Bosnia and Herzegovina, Macedonia, North Kosovo, etc.).

This instability could also be additionally strengthened by insufficient orientation of the Western Balkan countries in connection with the fight against corruption, organized crime, religious fanaticism and radical manifestation of ethnic nationalism. This raises the question whether the Western Balkan countries are ready to deal with these issues individually, or regional response is required. Existing forms of regional cooperation, primarily the Regional Cooperation Council, should have more active and meaningful role. However, the author concludes that the fight against the latent security challenges in the Western Balkans, primarily radical ethno-nationalism and economic crisis, must take place in the countries individually, rather than regionally.

**Keywords:** Western Balkans, security, latent instability, security challenges, ethno-nationalism, economic crisis, regional cooperation, corruption, organized crime.

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## INTRODUCTION

In the period after the Cold War, the Balkans, unlike the rest of the continent that has entered an era of new political and security architecture, has bypassed the necessary transformation from a socialist to a modern liberal society due to the strengthening of local ethno-nationalisms. (Đukanović 2014a: p. 103 – 118) On the contrary, armed conflicts that have marked the disappearance of the second Yugoslav federation contributed to the substantial and deep rootedness of organized crime, corruption, radical ethno-nationalism and religious fundamentalism. (Uljanov, Jović, Đukanović 2014: p. 58 – 72) However, it is important to note, some of these forms of socially undesirable and unacceptable phenomena did not stop at the state level, but gained, and still have, pan (western) Balkan outlines. These newly emerged countries in the Western Balkans have not managed to deal with the above-mentioned issues due to their underdeveloped institutional capacities, and occasionally due to the absence of the actual will of the political elites. The Western Balkan countries, then still in the formation stage, in the early 1990s were primarily dealing with their own set of identity issues, restructuring and internal ethno-national homogenization, while the internal and regional instability was strengthening. (Đukanović 2008: p. 418 – 430) All these were complemented with further armed conflicts, which have essentially redesigned the ethnic structure of the Western Balkans and strengthened the internal division of the dominant ethnic communities and new minorities (a new “South Slavic“ minority, as well as former “nationalities“ in SFR Yugoslavia). (Ibidem: p. 418 – 430) Thus, the new countries, by dealing with facade outlines of their own identities, disregarded the safety of their citizens. The above-mentioned process was followed, when viewed from the regional standpoint, by unsuccessful privatization of a large number of enterprises that during the existence of the Socialist Federal Republic of Yugoslavia were publicly owned. In this way, the most important economic entities in all emerging countries were devastated, and a very narrow circle of the new rich was created – individuals who owned big capital, mostly earned from financial speculations. (Minić, Đukanović, Kronja 2014: p. 3) On the sidelines of the same process, a large number of citizens remained who, instead of the former, often illusory social security, remained without previous quality standard of living, and later with almost completely endangered existence.

On the other hand, the Western Balkan societies have dealt with internal homogenization, not taking into account the origin and genesis of the new security challenges, risks and threats. In this sense, in the past decade, in which all newly created Western Balkan countries included the priority of Euro (Atlantic) integration in their foreign policy agendas, internal problems,

primarily corruption and organized crime, remained neglected. (Đukanović 2014b: p. 9 – 40) Constant feeding of the public with ethno-nationalism, and sometimes strengthening of the role of otherwise dominant religious communities, has resulted in inter-ethnic incidents or ethnically motivated violence, as well as the strengthening of certain forms of religious fundamentalism. The young generations in the Western Balkans, due to family upbringing and later socialization process, and primarily through educational systems, were educated to follow sharp distancing from neighbouring nations and countries and high ethnic distance.<sup>1</sup> The period of cohabitation of South Slavic peoples (from 1918 to 1941 and from 1945 to 1991) was subjected to a comprehensive historical revision and a completely different interpretation in relation to the previous socialist period, and the new neighbours have become permanent hegemony, destroyers of others' national interest, and disturbing factors in the historical context. (Kišjuhas 2008: p. 99 – 102) This was followed by finding of their historical, heraldic, vexilologic and other traditions related predominantly to the XIX century, and / or previous history. (Đukanović 2014a: p. 103 – 118) Thus, the entire Western Balkan was suddenly “brought back” in the earlier history, and all “civilization progresses” that were achieved during the socialist Yugoslavia became threatened. In all countries of the region, possibility of free education, health care, and other social services, gradually disappeared.

### **THE WESTERN BALKANS “IN THE CLUTCHES” OF NEW ETHNO-NATIONALISMS AND ECONOMIC CRISIS**

Even today, despite the evident period of internal pacification and stabilization, the Western Balkans is a rather unstable area. The European Union, which during the last decade was using strong mechanisms of “conditionality policy“, managed to carry out direct and indirect pressures on political and economic elites of the region, and to gradually introduce certain standards in the fight against corruption and organized crime. However, all previous efforts require deeper interiorization of the regulations of European legislation in the above-mentioned area. Therefore, in the context of European integration, the Western Balkans will be expected to join serious fight against organized crime and corruption, which will not be based only on the exaggerated examples from the “top” of the political or economic pyramid of power in these countries. (*Liberation* 2013)

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<sup>1</sup> See documentary series “Perspective” produced by the Radio Free Europe (Balkans Service) and the National Endowment for Democracy (NED) during 2014 — <http://www.slobodnaevropa.org/media/video/serijal-rse-perspektiva-treca-epizoda-mostar/26861554.html>.

Secondly, it is very important to emphasize that most of the Western Balkan countries are faced with certain internal and latent challenges to otherwise very fragile internal stability. “Neuralgic” points of the Western Balkans in terms of potential new escalation of ethnic intolerance are numerous. Starting from the north of the region, certainly significant potential basis for new interethnic tensions is found in a very complex situation in Bosnia and Herzegovina. In the first place, this refers to inadequately defined status of Croats in one of the Bosnia and Herzegovinian entities — Federation of Bosnia and Herzegovina. (*Blic* 2014) Specifically, all the leading actors of Bosnia and Herzegovina, Croats insist on redefining of their status through the introduction of a separate territorial unit (entity, region or federal unit), which would include areas predominantly inhabited by Croats in Herzegovina and central Bosnia, as well as in the far north of the Bosnia and Herzegovina (Posavina). (Resolution of the European Parliament 2014) There are constant tensions not only between the Croatian and Bosnian political elites in the *de facto* ethnically deeply and systematically divided Federation, but also between the Serbian and Bosnian elite in connection with the exaggerated efforts of the Republic of Srpska to significantly distance itself from the central (state) government of Bosnia and Herzegovina. This unresolved situation in Bosnia and Herzegovina can affect the additional instability, not only in this country, but also in the wider region. (Đukanović, Jovanović 2014: p. 69 – 80) After the victory of the candidate of the right-wing Croatian Democratic Union on presidential elections in Croatia in January 2015, Ms. Kolinda Grabar Kitarović, the rhetoric about the inequality of Bosnian Croats and the urgent necessity of changing their status, re-emerged. (*Klix.ba* 2015) The same was underlined when it comes to the status of Croats in Serbia and Montenegro. On the other hand, Serbia insists on the policy of necessary internal consensus between representatives of Bosnians, Croats and Serbs in Bosnia and Herzegovina, and in relation to its internal reorganization and further path towards European, and Euro-Atlantic integration. (*Radio Free Europe - Balkan service* 2015) Unlike Croatia, which in a certain way can (mis)use the fact that it is a member of the European Union, and thus impose the principle of “ethno-federalism” in Bosnia and Herzegovina, Serbia does not have that kind of capacity to influence the internal situation in the neighbouring country. Bosnia and Herzegovina is also threatened by other challenges, such as the strengthening of religious fundamentalism, given the fact that the influence of the three dominant religious communities (Islamic Religious Community, the Serbian Orthodox Church and the Roman Catholic Church) over the past two and half decades strengthened, and that the differences between the spiritual and secular spheres of life were almost completely deleted. (Imamović 2008) Strengthening of religious extremism in Bosnia and Herzegovina in the coming period may represent one of the most

acute security issues. It may cause a potential series and spiral of inter-ethnic violence and it may take this country back to the period before the outbreak of armed conflicts in 1992.<sup>2</sup> It was also evident that the authorities of the Federation of Bosnia and Herzegovina in February 2014 were not able to suppress the social unrest in Sarajevo and other cities of this entity, which has threatened to grasp the whole country. (Đukanović, Jovanović 2014: 69–80)

However, it would not be correct to put Bosnia and Herzegovina on a front place of potential crises in the Western Balkans. Other parts of the region may also be threatened by the same issues of strengthening of (inter)ethnic tensions. In Serbia, they can occur between the Bosnian minority in Sandžak and the central government, and also through the strengthening of local radical elements in the Islamic religious community, as well as occasional aspirations and announcements of a particular type of special status, which implies territorial autonomy. (Joksimović, Đukanović, Šećeragić, Novaković, Goati 2012: p. 12 – 27) Occasional strengthening of extremist religious movements, especially Wahhabi, is also visible in Sandžak. (Ibidem: p. 41 – 45)

Requests of official Romania to “transfer” the local Vlachs in eastern Serbia from indigenous Vlach into Romanian ethnic corpus, could also in the future affect inter-ethnic relations in this part of Serbia. (Chiriac, Andrić: 2012) At the same time, attempts of further reduction of the autonomy of Vojvodina, achieved after 2009, may threaten not only the situation in Serbia, but also its foreign policy position, bearing in mind that this issue is included in the negotiating framework with the European Union, and that certain Member States of the Union insist on this issue. (European Commission 2013: p. 7 – 8)

In Montenegro, as a multi-ethnic country, the inter-ethnic situation is very good and favourable. This country has managed, which represents *specificum* in the post-Yugoslav region, to preserve inter-ethnic and inter-religious harmony in spite of some minor problems that arise from time to time when it comes to the status of the Albanian minority or the local Serbs. (Đukanović 2014c: p. 395 – 422) On the other hand, inter-ethnic relations in Kosovo, especially given the large number of Serbian enclaves in central and eastern parts of the entity, may also be potential zones of uncertainty if, modelled on the March 2004 attacks, intimidation and mass expulsion of the remaining local Serbian population repeats. Similar is the situation with northern Kosovo, which is inhabited predominantly by Serbs, and whose full integration into the constitutional and political system of Kosovo is difficult despite reaching the first agreement on the principles of normalization of relations between the authorities in Belgrade and Priština. (Đukanović 2013:

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<sup>2</sup> See “Al Kai’da u Bosni i Hercegovini: Mit ili stvarna opasnost?” (editor Vlado Azinović) — [http://www.slobodnaevropa.org/specials/al\\_kaida/index.htm](http://www.slobodnaevropa.org/specials/al_kaida/index.htm).

p. 365 – 385) The Kosovo's institutions in the recent years have been announcing the possibility of violent integration of the northern parts of this entity, which would include the use of police units. Such potential scenario would cause new regional instability, because it is unlikely that in this case Serbia would remain indifferent to the developments in northern Kosovo. (Đukanović 2013b: p. 313 – 334)

Macedonia, in addition to the complex internal political situation, is also faced with inter-ethnic problems and latent intolerances. Despite the Ohrid Agreement (2001), the Albanian community in this country is not satisfied with the current status, which according to many analysts of the situation in the Balkans, is unfavourable compared to all non-dominant ethnic communities in this area. (Bieber 2004) There are repeated requests of the Albanian political parties and leaders for the formation of double ethno-federation at the territory of the Republic of Macedonia, but this would not contribute to the improvement of the local situation, but on the contrary, to new strengthening of the inter-ethnic tensions. Moreover, ethnically motivated terrorist attacks (such as the attack on the Macedonian young men on Smilevsko Lake, on April 12, 2012) can lead to a drastic endangering of the security of the country and the new cycle of inter-ethnic intolerance and incidents. (Fazlagić 2012) In the case of Macedonia, same as in the above-outlined case of Bosnia and Herzegovina, the European Union should play a more important role, not leaving these two countries on the periphery of events in the context of its policy towards the Western Balkans. Therefore, it is necessary to further strengthen support to the political leaders of these countries, in order to actually unblock the process of European integration and stabilize the internal situation between the government and the opposition, as well as the inter-ethnic relations. It should also be noted that some pan-Albanian ideas that appear in the discourse of Albania could contribute to the instability of the Western Balkans, primarily its neighbours. Insufficiently clear distancing of official Tirana from the ideas of “natural“ and / or “autochthonous“ Albania, which would bring together areas predominantly inhabited by Albanians in the region of the entire Balkan territory (Greece, Macedonia, Serbia, and Montenegro), also carries the potentials for instability. (*Kurir* 2015)

Additional issue that can affect the safety of the countries and the entire Western Balkan region is related to the economic crisis (since 2008). It has only further “devastated” the economies of the countries already devastated by the transition, and reduced their capacities. Unemployment in all countries of the region has increased rapidly, the level of fixed investment rapidly decreased from year to year, and public debt of countries has increased enormously in the recent years. The depth and intensity of further economic decline of the Western Balkan countries will also affect other phenomena —

corruption, organized crime, inter-ethnic distance and intolerance, and certainly lagging behind in the process of European integration.

The unsuccessful privatization and de-industrialization of the entire region of the Western Balkan influenced the eruption of still peaceful social protests. Certainly, last year's social protests in the Federation of Bosnia and Herzegovina (February 2014) showed that revolts of this kind may be unchannelled, unpredictable, violent, and eruptive. It is quite likely that similar protests could soon be repeated in other parts of the Western Balkans, and that they could also "merge" with latent inter-ethnic tensions. (Đukanović, Jovanović 2014: p. 69 – 80)

### **THE EUROPEAN UNION AND THE WESTERN BALKANS – FREQUENT POWERLESSNESS OF A VERY POWERFUL STAKEHOLDER**

The European Union lags in providing concrete support to the countries of the Western Balkans on their path towards full membership. This became evident in the recent years, especially after the European Parliament elections, which were held in 2014. The European Union cannot provide adequate answers to "difficult" regional issues, such as the situation in Bosnia and Herzegovina and Macedonia. Moreover, it shows, for the umpteenth time, its own powerlessness towards this part of the Balkans. (Đukanović 2011: p. 225 – 227) Despite the Stabilisation and Association Process, which was introduced in 1999, the region is now in a "halfway" situation with very uncertain outcome – the crowning of this process with full membership of all countries in the region in the European Union. Often mentioned "*fatigue*" from the enlargement of the European Union, among the Union itself, but also among its Member States, will now be supplemented with fatigue from the "Euro-integration" process of the Western Balkan countries. This will involve gradual focusing of the countries on their internal problems (dominantly socio-economic), and less on a series of conditions for full membership in the European Union.

Therefore, in the coming period, one should expect that the evident policy of "neglect" of the Western Balkan region will continue, and the situation may further get more complicated with the victory of Euro-sceptic and radical leftist *SYRIZ* in Greece and the announcement of a boycott of certain specific activities of the EU institutions by that country. (*BBC News* 2015) The relationship of the European Union, primarily the Federal Republic of Germany towards Bulgaria and Romania, which evidently failed to timely meet the required criteria for membership but still joined the Union, is extremely rigid lately. (*Novite.com* 2014) Everything that is requested from the leaderships of these countries truly transcends the potentials of the local



political elites. In addition, the local public, especially in Bulgaria, is becoming quite reserved under constant conditions and requirements that come from Brussels. Therefore, the question of access and / or policy of the European Union will soon emerge, no longer only towards the Western Balkans, whose countries are not members of this organization, but also towards the Balkans as a whole. These countries, in spite of the fact that they are on the edge or extreme periphery of the European continent, but also of the European Union, will soon face numerous economic, political, security and other challenges.

### **THE LATENT THREATS TO THE STABILITY OF THE WESTERN BALKANS AND POTENTIAL REGIONAL RESPONSES**

Previously analyzed latent threats to the regional stability in Western Balkans have been additionally strengthened by numerous unresolved issues in the bilateral relations between the countries in this region. Certainly, these are in the first place related to the period of the dissolution of SFR Yugoslavia (the state border, succession of common assets of the former state, the status of refugees, etc.), that is, the 1990s. (Đukanović 2014d: p. 111 – 127) However, it should be noted that there are certain specifics from country to country in their mutual relations. During the last ten years (after 2005), due to a kind of network of bilateral agreements between the countries of the region, cooperation in the area of internal affairs, primarily in the fight against organized crime and corruption, has been improved a lot. Almost all countries have mutually concluded very similar agreements, which gave a certain kind of positive results. In addition, multilateral cooperation in the field of justice in the Western Balkans, as well as in South-East Europe, has also been strengthened. At the same time, especially after 2008, the mechanisms of regional cooperation in the Western Balkans which should reinforce a particular type of joint responses in relation to organized crime, corruption, and terrorism, have also been strengthened. In this context, the affirmative and positive role of the Regional Cooperation Council should be highlighted, which as of February 2008 brought together a number of previous incentives, in the field of internal affairs, migration, asylum, and justice.<sup>3</sup> Of course, multilateral cooperation in this field did not provide some “huge“ results that have fundamentally changed the inter-state cooperation in the field of justice and home affairs, but it should be noted that to some extent, it has unburdened certain distrust between the authorities of the Western Balkan countries.

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<sup>3</sup> See Regional Cooperation Council official web site – [www.rcc.int](http://www.rcc.int).

Therefore, in the future we should expect strengthening of the existing capacities of regional cooperation in the area of prevention of phenomenal forms of endangering the security of the region, primarily through strengthening of the role and position of the Regional Cooperation Council. However, it should not be expected that these regional frameworks prove to be effective in fighting many latent challenges to the regional stability. (Minić, Đukanović, Kronja 2014: p. 3 – 19) These challenges (possible new waves of ethnic nationalism and / or potential social revolts) will not have primarily regional, but dominantly individual (national / state) responses. On the other hand, it should be emphasized that their consequences may affect the situation and security of the entire Western Balkans, beyond any doubt.

## CONCLUSION

The Western Balkan countries are facing the current transnational security challenges, of which certainly the most important are corruption, organized crime and terrorism. There are also human trafficking, migrant smuggling and drug trafficking, money laundering, organized robbery and car theft. Trade in counterfeit products (piracy, smuggling of cigarettes and other excise goods, etc.) can be included in a new group of security challenges in the Western Balkans. (Uljanov, Jović, Đukanović 2014: p. 58 – 72)

However, it is evident that after a decade and a half since the end of the conflict in the Western Balkans, there are certain latent inter-ethnic tensions, which could destabilize not only the countries of the Western Balkans, but also the entire region. In this sense, constant “reheating” of the ethno-nationalism in the Western Balkans can only result in new tensions and, potentially, the emergence of a spiral of ethnically motivated incidents, and potential violence. Although it seems that the Western Balkans managed to successfully “heal” its legacy in connection to the Yugoslav conflict, the entire current “architecture” of the Western Balkans does not give us the right to draw such a conclusion. Specifically, the distance between certain ethnic groups in the Western Balkan countries deepens from time to time, as evidenced by the periodic surveys of public opinion. This is particularly present among young people in the Western Balkans. (Puhalo: 2003 p. 141 – 156) Therefore, it is necessary to somehow differentiate the current and our own, in a certain way “embellished” representation of reality that we currently have of the Western Balkans and, above all, extremely complex local realities.

The consequences of the economic crisis may also contribute to the further strengthening of ethno-nationalisms in the Western Balkans, as well as socioeconomic revolt and strengthening of radical left political options (such as the one in Greece). It is expected that the European Union will continue a rather ineffective policy towards the integration of the entire Western Balkans,

which is supposed to ultimately result in the full stability of the region. On the contrary, the Union, despite the announcement that it has only temporarily “closed” its doors for the admission of new members (i.e. 5 years as announced), evidently decided that this would apply on entire decades. (*Radio Free Europe / Radio Liberty* 2014) The existing and very important aspects of multilateral regional cooperation in the western part of the Balkans, which are related to cooperation in the field of justice and home affairs, might not be adequate frameworks with new or latent security challenges in the region, if there is a new eruption of ethnic nationalism followed by intolerance and violence, or some broader social protests.

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# PEER VIOLENCE: FROM CHILDREN'S AGGRESSION TO DELINQUENCY

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## **Abstract**

Violence among peers is a growing social phenomenon, which is becoming more brutal from year to year and directly threatens children's human rights. There is an entire range of unacceptable behavior among young people, from threats, giving derogatory names, gossiping, ignoring, depreciation to physical violence which, not rarely, lead to serious physical injury. Aggressive behavior of young people towards their peers is a serious violation of human rights and represents every act that causes physical, psychological or sexual injury, suffering or social harm. Peer violence has been constantly increasing in the recent years, with a high probability to become a delinquent criminal behavior. Aggression among peers is only one of the developing phases of aggression and violence toward others. Violators towards peers become delinquents, in a considerable number, who use violence in committing criminal acts and achieving criminal aims.

When studying the problem of peer violence, this must be taken into account: socio-political, socio-cultural, family, educational and individual factors. The responsibility is on everyone and without reviewing all the aspects of the problem, it is realistic to expect drastic forms of violence among peers in which life itself does not represent any value. What kind of contents and negative influences young people face with, is perhaps the best described in the words of Dušan Kovačević: "Children are born and grew up watching live broadcasts of death", or "enduring the terror of mad parents at home, because of politics, or because of sorrow and misery, detonate these days, weeks, years, kill those close to themselves, known and unknown"<sup>1</sup>.

*Keywords: peer violence, verbal violence, psychological violence, physical violence, aggression, delinquency.*

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<sup>1</sup> Kovačević, D. (2008), 20 Serbian divisions (Srbs to Srbs), NN and Novosti, Belgrade, p. 192

## INTRODUCTION

Peer violence is a phenomenon which has been seriously examined only since the last decades of the twentieth century in the world, and only in the last few years in Serbia, so it is not surprising that there is no a single universally accepted definition of peer violence. Although peer violence is not a new social phenomenon, it is still quite aside from scientific studies and social responses. Violence among peers is characterized by permanent transformations, both in character and by the forms and extent of occurrence. Peer violence has been constantly increasing in the recent years, with a high probability to become a delinquent criminal behavior which happens not in a small number of cases. Today, this phenomenon is actualized and great efforts are made to protect children from violence. The problem of the peer violence has been also expressed in Serbia, but only after 2000, an active coping with this issue has begun. The Subcommittee on Children's Rights and the Council for Prevention of the Ministry of Education are formed as a result of that effort. The UNICEF project "School without violence" was realized, such as many other activities at the community level. A significant effort has been made by all these activities in the overall perception of violence among peers. The project "School without Violence" achieved a great success, which was launched in 2005 in only four schools in Serbia, and 120 schools were included later, with approximately 70,000 pupils, 7,000 employees and over 70 trained mentors. But all these projects and actions have ended in the conclusion that it is necessary to adopt a national strategy on violence in schools and ensure its implementation, which would, along with other forms of prevention, give serious and concrete results<sup>2</sup>. Problems of violence, in terms of the adopted models of behavior, are often linked to the problem of identity in the literature, because the identity could simplest and most easily be determined through a model which is build, approved, or transmitted by an individual. In cultural terms, the identity can be defined as commonality, by which a being is identical to itself, means specific to some beliefs, values, and expectations. The psychological interpretation of the concept of violence is linked to the extreme, hyperactive behavior of young people. Sociological determination of violence is based on a social change and community, as basic factors where the elements of violence are sought. From an anthropological point of view, man is a violent being, not only by nature but also because violence is an act of learning, acquired in the process of socialization in a particular social and cultural context.

Violent behavior among peers is a specific form of aggressive behavior, a process that can lead to serious and far-reaching consequences of

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<sup>2</sup> Government of the Republic of Serbia adopted the National Strategy for Youth in 2008

every participant of physical as well as of the social and emotional life. It is considered as the most frequent form of unacceptable behavior of children in school, which can escalate into an extremely serious forms of antisocial and delinquent behavior. This form of violent behavior is a base of many problems associated with the violence among people. Participation in bullying among peers could be an important step in violent behavior, which is a combination of power and aggression, which can be manifested as: sexual violence, violence in relationships, violence in the workplace, spousal abuse, child, adult abuse, and other. Therefore, it is important to identify the elements of this form of deviant behavior and the factors that may be crucial in its formation and also work to prevent them.

### **DEFINITION OF THE TERM AND ETIOLOGY OF PEER VIOLENCE**

Violence is a complex, multidimensional, and dynamic phenomenon and necessarily requires a comparative approach. Definitions of violence range from a narrow definition in terms of equalizing with some of its forms - for example, physical violence, to the broader definition, which inclines of verbal violence toward incivility. Violence is presented in a wide range of human relationships - between parents and children, teachers and students, students and other students, violence in politics, economy, sports, etc. One of the key concepts associated with the term violence is the concept of power. In the widest sense, it can be defined as the ability to achieve the desired intent. Aggressive behavior includes a wide range of specific behaviors which, based on different criteria, can be divided into physical, psychological, and social. Physical and verbal aggression belongs to the direct forms of aggression, and the social to indirect aggression. Anyway, violence is a special form of aggression, whereby the dominant individual (the abuser) continuously behave aggressively towards the less dominant individual (the victim) for a long time.

Peer violence implies any physical or psychological violent behavior focused on children<sup>3</sup> on the part of their peers, and which was done with the intention of injuring. It reflects the unequal balance of power, whose characteristics are: a stronger person against a weaker person or a group against an individual. Bullying as a form of violent behavior of children aims to inflict harm to other child, and suffering and fear are the features of the victim. Study of the problem of violent behavior among young people from the viewpoint of different theoretical approaches enabled the understanding of the complex nature of the phenomenon of violent behavior but, at the same

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<sup>3</sup> According to the UN Convention any person younger than 18 is considered a child



time, contributed to the creation of terminological and conceptual confusion in the determination of the peer violation. The complexity in understanding the problem of peer violence is reflected in the various definitions and terms used for its determination. Today, violence is a particular challenge of theoretical and empirical studies of various sciences and disciplines, and this diversity causes methodological and theoretical outlines and specific conceptual definitions. Violence is a conscious and deliberate hostile activity with the purpose to hurt and cause a fear through threats or continuous severe aggression. Although violence may seem like a chaotic process, it always contains a few basic elements. The following elements are parts of bullying:

- disproportional power of the abuser who may be older, stronger, more popular, richer, etc. than the victim,
- the number of children who participate together in the abuse shows that bullying does not always involve a conflict of two children of equal power,
- the intent of injury - the abuser wants to inflict an emotional or physical pain. Violence implies a desire for harming other person,
- continuing threat of bullying - the abuser and the victim knows that violence will probably repeat,
- fright, fear - occurs as a result of violence, which is used to intimidate others and maintain the dominance of the abuser.

Forms and types of violence are different, according to the contexts in which they are manifested.

Passive (neglect) and active violence (physical, psychological, or sexual) could be considered. There is also individual or collective violence, and organized (gangs, groups), etc. The most common forms of the peer violence are: verbal aggression, threat of beatings, money extortion, "racketeering", physical injury, even armed and sexual violence. In all of this, based on previous research, the school environment does not provide protection from peer violence, in the opinion of a large number of students, teachers and parents. Violence is a behavior that reflects the short-term and long-term effects of socialization and whose expression varies depending on the social context and circumstances. The perception of violence is also socially conditioned. The way in which individuals and groups perceive violence and its severity is subjected to change and is influenced by the cultural and social norms on what constitutes acceptable or unacceptable behavior (Levine & Rosich, 1996: 3)<sup>4</sup>.

At least two types of factors affect a significant range of violent behavior among peers. One is the psychological and emotional structure of personality of an adolescent, and the other is the social environment. Both of

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<sup>4</sup> Ibid, p. 16 - 17

these factors can not be considered truly separately, because socialization of personality depends on the impact of the micro and macro environment, and the personal features are the main base for socialization<sup>5</sup>. Psychosocial explanations emphasize that violence and aggression are learned kind of behavior in response to frustration, to serve for achieving the objectives, and used as a means of violent behavior. Also, these theories indicate the cognitive learning abilities, personality factors, early child development, socialization, but also wider cultural and social factors that influence the peer aggression. The literature emphasizes the role of personal and situational factors in the explanation of the peer violation. Erick Fromm in his book “Anatomy of human destructiveness” indicates that aggression is not a unique occurrence and distinguishes its two kinds:

- benign, which is biologically adaptive and serves to life; and
- malign, which is biologically non-adaptive.

The first is a response to the threat of vital interests, it is reactive and defensive. It is common to human and animals and solves the problem of the threat by removing the one who causes this condition. In contrast, the malign aggressiveness, i.e. destructiveness and cruelty, is related only to the human race and is manifested in the life through violence of all forms and intensity<sup>6</sup>.

The essential question is why children and adolescents become aggressive? What is that in their nature, or better, in their nature modeled by the social circumstances which motivates them to aggressive behavior? These issues are dealt with numerous psychological theories and different theoretical models, including various aspects and factors of formation and maintenance of aggression among children and adolescents. It is considered that many psychosocial factors in the interaction contribute to the creation and manifestation of peer violence: individual characteristics (gender, history of parenting, temperament, personality, emotional intelligence, etc.), situational factors (peer group dynamics, social norms, school) but also dysfunctional patterns in family (corporal punishment and violent emotional outbursts by parents, presence to domestic violence, conflict between parents, etc.). Parents play a very important role in creating the capacity of their children to establish healthy relations with others, and with peers. As a significant figure to which the children are linked, parents provide a secure base which allows the children to trust the others and to cope with stress. As a figure of authority, parents teach their children to appropriate social behavior and set limits for inappropriate behavior. Parents are the model of different roles to the children:

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<sup>5</sup> Prelić, Lj. ( 2012 ) Causes of increase of peer violence among minors, Compilation: Juvenile legislation in the Republic of Serbia, p. 31 - 32

<sup>6</sup> Ignjatović, Đ. (2011) Concept and etiology of violent behaviour, CRIMEN (II) No. 2., Belgrade, p. 181

wife, mother, father, employee, etc., and teach children of social skills and values by their behavior and attitudes, non-violent resolution of marital and other conflicts through assertive communication, relating to others with respect, establishing self-control, tolerance of differences, feeling of justice and fair play. Regarding the risk factors specific for the occurrence of violence among children, numerous studies have dealt with precisely the influence of *family functionality*.

The research indicates that families affect the occurrence of violence among children via four factors. The first factor relates to *a parental commitment*. Children who are low on the scale of parental commitment, parents who are emotionally insensitive to the child's needs and provide little emotional support, attention and interest in the child, are more frequently disobedient, aggressive and have behavioral problems. The lack of warmth and care, especially in the youngest age, increases the risk of subsequent violence of boys and their hostility toward others. Basic emotional relationship between parents is extremely important. Basically, negative emotional approach which is marked by a lack of warmth and care, clearly increases the risk of later children's violence and hostility towards others, who also become violent delinquents in a considerable number of cases. Boldry believes that poor care for children and neglect of their feelings could be significant risk factors for the development and manifestation of the peer violence. Growing up in such a family environment leads to the development of a low level of empathy in the child towards other children<sup>7</sup>.

Another dimension of parental style is *a parental supervision*, and the degree to which the child is supervised, disciplined, and directed. Parents who do not establish clear limits in relation to the violent behavior of their children towards peers and adults, or parent who are permissive for expression of aggression, will increase child's aggression, and thus increase the risk of later delinquent behavior. A greater number of researchers suggests that if manifested aggressive behavior is not sanctioned, then the child reinforces aggressive responses to the failure to adopt mechanisms of inhibition of aggression. To corroborate aggression in any form, inaction, wrong response, or consideration of violence as a child mischief, children enhance their aggressiveness and violence to the scope of a violent crime.

Third important factor that increases the level of the child violence is *a corporal punishment and violent emotional outbursts by parents*. The research results<sup>8</sup> show that children who behave violently towards their peers at school, as well as those who are victims, grew up in families where parents

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<sup>7</sup> Baldry, A.C. (2003) Bullying in schools and exposure to domestic violence, *Child Abuse and Neglect*, 27 (7), p. 713 – 732

<sup>8</sup> Baldry, A.C. (2003) *Ibid*, p. 723

tend to be violent towards each other or towards children. In these families, violent behavior of children and adolescents is explained as a learned behavior. There is less probability for development of children antisocial behavior in cohesive families.

Apart from the child abuse, witnessing domestic violence is a risk factor for the expression of aggressive behavior, and together with it, violence among peers. This standpoint is supported by the results of numerous studies. The study results of the *Canadian National Longitudinal Survey of Children and Youth* (Baldry, 2003) indicate that children who witness home violence often abuse their peers directly or indirectly.

The fourth risk factor for expression of violence among children, which relates to education, is, by Olweus, the temper of the child. Specifically, the researchers (Vasta, Haith, & Miller, 1998) state that "difficult to bring up" children have more behavioral problems. Some authors use the term "difficult temperament", which is defined as frequent and intensive expression of negative emotions since the earliest age. Children who are estimated to have a difficult temper at the age of 6 months, show behavioral problem at the age of 3 to 6, and tend to be aggressive at the age of 6 to 7. Caspi (2000) believes that the most important dimension of children's temper, which is out of control (restlessness, impulsiveness, poor attention, etc.), is what represents a predictor of aggression and delinquency at a later age<sup>9</sup>. However, the results show that there is no direct correlation between temperament and the antisocial behavior, but the connection where the mediating variable is the relationship of parents and children. There is an increased risk that these "difficult to bring up" children develop an insecure commitment in the interaction with insufficiently sensitive, insufficiently patient, insufficiently persistent and insufficiently stable parents, and that parents respond aggressively to the child's behavior. Thus, even when we talk about the role of temperament, we should rather consider the interaction of temperament of the child, and the parents' relationship to the child, rather than the isolated effect of a temperament. It is interesting to note that studies have not found a correlation between the peer violence and educated parents, economic standards, and social status<sup>10</sup>. Socio-economic conditions in the family (parents' educational level, income and housing standards, etc.) based on the research results, are not associated with the level of bullying. There are violent (and nonviolent) students in all social strata, and the same is true for the students who are

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<sup>9</sup> Caspi A. (2000) The child is a father of the man: Personality continuities to adulthood, *Journal of Personality and Social Psychology* 78: p. 158 - 172

<sup>10</sup> Olweus, D. (1978) *Aggression in the schools: bullies and whipping boys*. Washington, DC: Hemisphere

victims<sup>11</sup>. Identifying the causes that lead to manifested violence involves research of the social factors, decoding of latent and symbolic elements that call for violence, which are inherent in different social and cultural discourses. The final aim is to define recommendations for effective social interventions at different levels (educational policy, employment policy, cultural policy) that will prevent the activation of violence on the scale when it is no longer possible to control. We should bear in mind that the nature and source of violence are complex, dynamic, and that the actors of violence often change their social and ideological roles and positions.

The condition of social crisis is what precedes and coincides with violence as a social-psychological phenomenon. The crisis can be defined as a conflict situation that has the potential to change, and sometimes violence appears as a mode of its removal and possible return in a stable condition. However, the crisis may become a permanent condition that persists with smoldering hotspots whose removal is not certain because there is no potential for radical twists, but represents a generator of constant frustration and a source of aggression and violence<sup>12</sup>.

## CONSEQUENCES FROM THE PEER VIOLENCE

Violence is behavior which reflects the short-term and long-term effects of socialization, whose expression varies depending on the social context and circumstances. The perception of violence is also socially conditioned. The way in which individuals and groups perceive violence and its severity is a subject of change and it is influenced by cultural and social norms of what represents an acceptable or unacceptable behavior (Levine & Rosich, 1996: 3), i.e. at different social systems and cultures. Violence is understood and defined differently, which refers to the approach to the problem and the effects of violence prevention. Thus, the acceptability or the legitimacy of violence directly or indirectly addresses the prevalence and forms in a social system<sup>13</sup>. From a psychological point of view, the study of this phenomenon is significant because the aggressiveness in the early period is the basis for the development of aggression in adulthood, and because the quality of childhood and personality development largely depends on the expression and inhibition of aggressive behavior. Peer violence can have

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<sup>11</sup> Batić, D. (2013) *Psycho-social factors of the risks in the etiology of peer violence*, Peer violence (etiology, phenomenology, solutions and comparative experiences), Compilation of works

<sup>12</sup> Pavićević, O. & Kron. L. & Simeunović - Patić, B. (2013) *Violence as a response: social and psychological implications of crisis*, Institute for criminologic and social researches, Belgrade, p. 11 - 12

<sup>13</sup> *Ibid*, p. 16 - 17

numerous negative psychosocial consequences as well as consequences on the mental health, both for the victims and the perpetrators of violence. For these reasons, to violence in general, and specifically to peer violence we can not and should not be neutral, but engaged and active in the prevention of this phenomenon. Numerous studies indicate that children's aggressive behavior undoubtedly leads to increasingly intense aggression and violence during adolescence, which is typically put in the function of criminal behavior. A very high percentage of juvenile offenders who commit crimes with elements of violence had expressed the aggression to peers and younger children in childhood.

### **PREVALENCE OF PEER VIOLENCE**

The severity of peer violation is confirmed by a research conducted on 26,628 pupils from third to eighth grade in 50 primary schools across Serbia in the spring of 2006. The results show that, according to their statements, 65.3% of the students have experienced some form of bullying in the period of three months (the percentage varies from the range of 48% to 80%). The results of the repeated violence show that 20.7% of the pupils are classified as victims, 3.8% are abusers and 3.6% are victims / abusers. Adult violence was reported by 35.7% of the pupils and 42% have witnessed verbal aggression of other pupils to teachers. The most common forms of peer violence were insults (45.6%) and machinations (32.6%). Boys were declared as abusers slightly more often than girls and some were more often exposed to violence by the peers and adults. Older pupils were violent more often and also more often complained of adult violence, while the age differences in exposure to violence were minimal<sup>14</sup>. Surveys conducted by the Health Behaviour in School-aged Children (HBSC) study in 35 countries to more than 120,000 pupils aged 11, 13, and 15 showed a worrying level of school violence - about 34% of the pupils have been subjected to violence at least once. The percentage of those who have been once exposed to violence varies, depending on the country and region, among eleven-year-old children: 14% - 63%; among thirteen-year-old children: 17% - 69%; among fifteen-year old young people: 12% - 61%. The results show that 11% of them were exposed to violence at least two or three times a month. The percentage of frequent exposure to violence varies depending on the country and region: 4% - 28% among eleven-year-olds, 6% - 36% among thirteen-year-olds and 2% - 32% among fifteen-year-olds. It was concluded that exposure to violence decreases with age, and that differences between the two sexes are relatively small. The

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<sup>14</sup> Popadić, D. & Plut, D. (2007) Violence in primary schools in Serbia: forms and frequency, *psychology*, Vol. 40 (2), p. 309

percentage of the pupils who admit that they bullied others is worrying. This percentage is 35% of the overall number of respondents. There were significantly more boys than girls among the abusers<sup>15</sup>.

## CONCLUSION

Aggressive behavior of schoolchildren is one of the most common forms of human rights violations of the modern age. As much as it seems like an internal problem at the first glance, stronger forms of peer violence are closely connected with the forms and causes of family violence, and among peers, in the surroundings of schools, in the city or in the society as a whole. Aggression as a form of peer violence among children is an intriguing topic, because it opens the question of the relationship among the children, away from parental supervision. It is certain that the patterns of behavior, especially aggressive, were learnt from the parent behavior models, but the question is how parents can help to ensure that their child does not become an abuser or a victim. The causes of peer violence among schoolchildren are numerous and they can be classified into those of individual-endogenous and social-exogenous nature. Although there are different theoretical approaches to explain the peer aggression, none of these theoretical concepts can independently and fully interpret such a form of violence. Only by an integrative approach it is possible to explain and understand the aggression of young people in a significant form. The appearance of some forms of aggressive behavior in an early period of growth, in certain cultures, is considered as “normative”, i.e. it is not considered as a deviation from “normal” growth and development of the children. In certain societies and cultures, some forms of behavior, which are a form of violence among school children by definition, are considered as a harmless and acceptable model of behavior. Such a form of “education” certainly confuses the child, and causes confusion in the adoption of a real moral values later. To a more significant elimination of aggressive behavior in the school environment, it is necessary to create the conditions that will encourage the thinking and problem solving through such a model of behavior and communication that leads to understanding and respect. Non-violence as a model that seeks and provides the trust is the need and necessity of every person, above all, the young.

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<sup>15</sup> Popadić, D. & Plut, D. (2007) *Ibid*, p. 313. according to: Craig, W. M. & Harel, Y. (2004), Bullying, physical fighting, and victimization. In: C. Currie, C. Roberts, A. Morgan, R. Smith, W. Settertobulte, O. Samdal, & V. Barnekow Rasmussen (Eds.) *Young people's health in context. Health Behaviour in School-aged Children (HBSC) study: international report from the 2001 / 2002 survey*, WHO Policy Series: Health policy for Children and Adolescents, No. 4. Copenhagen, WHO Regional Office for Europe.

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# **“1989: ANNUS MIRABILIS” – SECURITY CHALLENGES IN THE ERA OF REGIME CHANGES: THE CASE OF HUNGARY**

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## ***Abstract***

In mankind's history there are some years of miracles during which events of major importance took place. The year of 1989 is one of them because of many crucial and quick events happened in Central and Eastern Europe, which led to the collapse of many socialist regimes and finally to the end of the traditional Cold War. Among these changes we can find peaceful (see Hungary) and bloody (for example Romania) ones too, but as a common ground we can confirm that security considerations played extremely important factors in the blow of events.

In this article we are providing a comprehensive historical background of contemporary Hungarian security policy thinking, focusing on different security dimensions such as military, economy, politics, society and environment.

We emphasize the most important influencing factors, with a special view of the Hungarian People's Army (later named as Hungarian Defense Forces), which played a stabilizing role in these times.

It will be highlighted also the role and attitudes among the political and military elites taking into consideration that Hungary was still the member of the Treaty of Friendship, Co-operation, and Mutual Assistance (with Western terms: Warsaw Pact) and Soviet troops were stationed still in the country (they left in the Mid of 1991).

Finally, differences and similarities will be demonstrated in security considerations through the emerging party movements, which formed the so called “Opposition Roundtable” in the mid of 1989, which goal was to provide the adequate legal and formal basements for peaceful changes supposed to be achieved through the first democratic elections in the spring of 1990.

As a conclusion we try strengthen or deny the starting hypothesis: namely, that various basic security needs and considerations could be channelized via joint political and social efforts into a peaceful and remarkable stable regime change procedure.

We will use the methods of historical deduction, of complex security policy approach, of statistical data and of SWOT analyzes.

**Key words:** security policy, Hungary, regime change

## INTRODUCTION

In the history of the mankind, there are some years of miracles during which events of major importance took place. The year of 1989 is one of them because many crucial and quick events happened in Central and Eastern Europe, which led to the collapse of many socialist regimes and finally to the end of the (traditional) Cold War. Among these changes we can find peaceful (see Hungary), and bloody ones too (for example Romania), but as a common ground we can confirm that security considerations played extremely important factors in the blow of events. Some experts are arguing that in the cases of the Eastern Block regime changes in 1989 and 1990 there were experienced transitions through:

- regime defeat (the Czechoslovak Socialist Republic and the German Democratic Republic);
- transaction (Romania);
- or extrication (Poland and Hungary).<sup>1</sup>

What is common in the above mentioned transition forms, is handling the power from the old ruling elites to (more or less) new political leadership. What is different is the role of military, which has had direct or indirect influence on the contemporary events. From legal and administrative aspects, the regime change in Hungary took almost a year: the so called “Opposition Roundtable Talks” (Ellenzéki Kerekasztal) started in March of 1989 and the first democratic elections happened in spring, 1990. However, we have to emphasize that changes in politics, in society, as well as in military started long before (some of them have not finished yet). As an initial framework for better understanding in the forthcoming paragraphs, the international and domestic background will be shortly described.

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<sup>1</sup> Jeffrey Simon: *NATO and Hungary: Problems in Civil-Military Relations*. Oxford, Rowman and Littlefield Publishers INC, 2003, 1

## INTERNATIONAL AND DOMESTIC BACKGROUND

Based on Hungarian historian Ferenc Fischer's explanations, there are eight different Cold War periods from 1941 to 1991. When we arrived to the '80s, we experienced years of "small Cold War" (from 1979 to 1985) and years of transition – "third antagonist cooperation" (from 1985 to 1989).<sup>2</sup>

In the above mentioned period Gorbachev<sup>3</sup> introduced a way of "new thinking" and famous terms like "perestroika" and "glasnost"<sup>4</sup> were expressed by him in 1985, when the Warsaw Treaty was extended by 10 more years, meanwhile it celebrated 30 years of its anniversary.<sup>5</sup>

**Map 1. Eastern Bloc members between 1948 and 1990**



Source:

[http://upload.wikimedia.org/wikipedia/commons/thumb/5/57/EasternBloc\\_BasicMembersOnly.svg/404px-EasternBloc\\_BasicMembersOnly.svg.png](http://upload.wikimedia.org/wikipedia/commons/thumb/5/57/EasternBloc_BasicMembersOnly.svg/404px-EasternBloc_BasicMembersOnly.svg.png), downloaded on 14 February 2015

It means that in the mid of the '80s, the Eastern Bloc countries were considered still as security zone and possible war theatre, especially taken into

<sup>2</sup> Fischer Ferenc: A megosztott világ: A Kelet-Nyugat, Észak-Dél nemzetközi kapcsolatok fő vonásai 1941-1991 (Divided world: main characteristics of Eastern-Western and Northern-Southern international relations in 1941-1991). Pécs, IKVA-JPTE PSZMP, 1996, v-vi.

<sup>3</sup> Mikhail Gorbachev (1931- ), Soviet official, the general secretary of the Communist Party of the Soviet Union from 1985 to 1991 and president of the Soviet Union in 1990 – 91. Read more about him: <http://www.britannica.com/EBchecked/topic/238982/Mikhail-Gorbachev>, downloaded on 14 February 2015

<sup>4</sup> Economical and social restructuring and political openness

<sup>5</sup> Serfőző László and Sterl István: Védőpajzs (Shield of Defense), Ifjúsági Lap és Könyvkiadó, Budapest, 1985, 291.

account of such unavoidable influencing factors as the Soviet imperial thinking (see the contemporary war in Afghanistan) and the balancing of the new arms race (this was basically the so called Strategic Defense Initiative – SDI) launched (or restarted) by the American president Ronald Reagan in 1983. In 1987 in his book titled “Socialism, Peace and Democracy” Gorbachev expressed the famous “common European house” notion and later the so called “Sinatra My Way Doctrine” was added to his comprehensive security policy perception. This last term was a clear message in 1989 for many Eastern European countries: they can go their own way, and they can decide independently which road to choose.<sup>6</sup>

In generally we can determine that the Soviet imperial thinking significantly changed by the end of the '80s and gained the characteristics of:

- rejection of nuclear war;
- complex understanding of the security;
- devaluation of the military force,
- identify and promotion of the mutual nature of security,
- primacy of human values;
- and streamlining international relations.<sup>7</sup>

Regarding to the Hungarian domestic situation in the '80s, we can confirm that Kadar<sup>8</sup> regime was losing its legitimacy. It means that the trust of the Hungarian society decreased slowly in kadarism: by the mid of the '80s, the social acceptance of the ongoing system was shaken and by the end of that decade it shrunk to minimum.<sup>9</sup> These changes were occurred decisively by economic reasons such as:

- By the early 1980s, the source of new labour force depleted, which is a prerequisite for rapid (and extensive) economic growth. Contributory factors were poor performance indicators as well. (Do not forget that “competition” was missing or existed just in a very limited way in communist systems.)

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<sup>6</sup> 'Sinatra Doctrine' at Work in Warsaw Pact, Soviet Says. Los Angeles Times, 1989 October 25, [http://articles.latimes.com/1989-10-25/news/mn-745\\_1\\_warsaw-pact](http://articles.latimes.com/1989-10-25/news/mn-745_1_warsaw-pact), downloaded on 14 February 2015

<sup>7</sup> Iratok a magyar Külügyminisztérium történetéhez 1985 - 1993 I. (Records to the history of Ministry of Foreign Affairs, Hungary). Edited by Sáringer János, Balassi Kiadó, Budapest, 2014, 16

<sup>8</sup> János Kádár (1912-1989), premier of Hungary (1956–58, 1961–65) and first secretary (1956–88) of Hungary's Communist Party. Read more about him: <http://www.britannica.com/EBchecked/topic/309432/Janos-Kadar>, downloaded on 15 February 2015

<sup>9</sup> Romsics Ignác: A Kádár-rendszer legitimitásvesztése az 1980-as években (Legitimacy loss of Kadar regime in '80s). In: [http://www.rubicon.hu/magyar/oldalak/a\\_kadar\\_rendszer\\_legitimitasvesztese\\_az\\_1980\\_as\\_evekben/](http://www.rubicon.hu/magyar/oldalak/a_kadar_rendszer_legitimitasvesztese_az_1980_as_evekben/), downloaded 22 December 2014

- External economic changes in the '70s (in particular, the rise of the oil prices and the Hungarian economic energy dependence of the Soviet Union) led to significant price increases. For the maintenance of the "happiest barrack" atmosphere wages (salaries) were increased, which contributed largely to the high budget deficit. As a substitute, the state took up a significant amount of loans. (Romsics expressed: between 1970 and 1980 amounts spent on consumption and investment were in yearly average of 2,2% higher as the economy produced.)<sup>10</sup>
- In order to avoid bankruptcy, Hungary joined the International Monetary Fund (IMF) and the World Bank in 1982. This step did not present fiscal emergency relief only, but meant also that Hungary became the second communist member state – after Romania – of the Bretton Woods system. From the view of security policy this step included the acceptance of strict financial rules, which was a “hard tool” for the Western countries. On the other hand, it gave the possibility for the Hungarian foreign policy to set up new external relations.
- The average incomes grew until 1987, and then began to decline, which – of course – affected the mood of the society. The political leadership tried to counterbalance this sensitive situation by reduced workload and improved personal and political manoeuvre possibilities. (We have to mention also, that by that time in Hungary there were not such bloody demonstrations as they happened in Romania or in Poland. Hungarians organized sympathy movements to express solidarity and support for those who were killed and beaten in the above mentioned countries).
- However, intellectuals, who realized the strategic inoperability of the existing system, started to be more organized and declared themselves "oppositionist". Romsics argues that – based on a century long division – this intellectual opposition parted into two main branches: for the so-called “urbanists or human rights representatives” and for the “national or folk” groups.<sup>11</sup> In addition to these groups first certain university student movements and different platforms, even meetings appeared, of which the so called "meeting in Monor"<sup>12</sup> stands out, organized in June, 1985.
- In the following years, the oppositionists have created a variety of programs and initiated movements in different organizational forms

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<sup>10</sup> Ibidem

<sup>11</sup> Ibidem

<sup>12</sup> An illegal meeting held by 45 Hungarian intellectuals at a park in a Hungarian city called „Monor”.

(see: forum, alliance, union, etc.). Parallel, they set up single and united actions too (for example in the spring of 1988 they established the Network of Free Initiatives).

- The changes markedly altered the internal conditions of the state party (Hungarian Socialist Workers' Party - HSWP) and also intensified the struggle between the different groups. This resulted not only in a relative fall of the old Janos Kadar by May of 1988, but the emerging of "reformists", who have had to focus – for the time being – their power for struggle with the "old ones" (or technocrats).
- Through 1988 the Central Committee of HSWP accepted such kind of decisions, which – from one hand – made irreversible the collapse of the social ownership, from the other hand they opened the possibility for private property and economic development based on the rules of market and competition. At the same time, it has become increasingly accepted and claimed the earlier demand that the National Assembly should be the real decision-making rather than the state party. Thus the main question became: how will it take place? Within the framework of single or multi-party system?
- The question above was decided on 17 February 1989, since the HSWP took the view that the multi-party system is the only correct answer and solution.

From then, events rapidly spin and deep changes took place in Hungary: the so called “Roundtable Talks” started to evolve and created a semi-half democratic sphere; on 23 October 1989 Hungary became a “Republic” and spring elections happened in March and April, 1990.

## **THE ROAD TO REORGANIZE THE HUNGARIAN PEOPLE’S ARMY: QUICK OVERVIEW**

The Cold War history of the Hungarian armed forces is very similar to other Eastern and Central European countries after the Second World War; however there are some important differences as well. Among these we need to mention:

- the Hungarian armed forces became heavily influenced by the Soviets, especially through the Warsaw Treaty Organization of Friendship, Cooperation, and Mutual Assistance (Warsaw Pact, WP) established in 1955. Soviets practiced power through this organization and provided political and military framework and content for each member country regarding security issues. Hungarian People’s Army (HPA) was under direct party leadership and control.
- After the dramatic revolution happened in 1956, the Hungarian communist government reshaped and reorganized many things in

Hungary, including HPA, which supported the freedom fighters earlier. (As a remarkable result and because of the trust lost in armed forces, the so called “Munkásőrség – Worker’s Guard” as a parallel interior militia was established in 1957).

- When the Warsaw Pact started to function, it did not appear, that there would be so many tensions among the partners, however Hungary, for instance, tried to use every opportunity to oppose, or at least to reduce the heavy military investment pressure arriving from the Soviet – imperial level minded – party politicians and generals.<sup>13</sup>
- By the '60s, '70s and '80s, the Hungarian People’s Army reached the level and characteristics of a “mass army”: too high peacetime strength; using obsolete and new military equipment at the same time; spent high level costs for weapon systems, materiel and service members because the country had to follow WP (the Soviet) military doctrine; and seasonal tasks to support the national economy.<sup>14</sup>
- One of the most remarkable military changes was visible in manpower and budget reduction, which is shown on the following table:

**Table 1. Manpower reduction and military spending of the Hungarian Defence Forces between 1989 and 1993**

Year	1989	1990	1991	1992	1993
<b>Manpower (including conscripts)</b>	155700	143200	121000	104000	100000
<b>Reduction related to 1989</b>	-	8%	22%	33%	36%
<b>GDP%</b>	3,8	3,1	2,4	2,3	2,1

Source: Szántó Mihály, 2002., p. 26. and World Bank, in:  
<http://data.worldbank.org/indicator/MS.MIL.XPND.GD.ZS?page=4>,  
 downloaded: 30 January 2015

- The high level military spending put a lot of pressure on the already suffering Hungarian economy and as a result the Hungarian Socialist Workers' Party decided to launch a military reform in order to build a more adequate military force on the economic realities, the country’s geographical location, the “real” role of Hungary in the Warsaw Pact and the quick and crucial changes that had happened in the military technology.<sup>15</sup>

<sup>13</sup> Kárpáti Ferenc: Puskalövés nélkül (Without Rifle Shooting). Duna International, 2011, 51 – 112

<sup>14</sup> Szántó Mihály: A Magyar Honvédség a rendszerváltástól a NATO tagságig, 1989 – 1999 (The Hungarian Defence Forces: from the political changes to the NATO membership, 1989 - 1999), egyetemi jegyzet (university textbook), Budapest, Zrínyi Miklós Nemzetvédelmi Egyetem, 2002, 6

<sup>15</sup> Ibidem

The reorganization of the Hungarian People's Army – under the code name “RUBIN” – came into force on 1 March 1987, and the division-regiment structure was replaced by brigade organizations commanded directly by the Army HQs. The new unit structure was different from the existing Soviet military structure; they expressed their revulsion but they did not refuse it. At this moment, it is crucial to mention that this “peaceful” approach was related more to the Gorbachev launched politics called “glasnost” and “perestroika”, than to the “kindness” of the Soviet generals.

### ADDITIONAL CHANGES

The earlier mentioned Gorbachev's “openness” led also to the breakthrough in 1989, when the Warsaw Pact forces started sharing openly their force power strength: in the case of Hungary the Armed Forces consisted of 155.700 persons (including civilians) in peace time.<sup>16</sup> In January 1989 – as a result of the changes in the contemporary international relations – it was announced that the Hungarian People's Army would undergo a reduction through 1989 and 1990 by 9%.<sup>17</sup> The changes were supposed to be executed in three steps: the first to be made at the end of 1989, when the political and governmental and the command and control tasks of the Ministry of Defence (MoD) were separated: a small civilian Ministry of Defence was designed for the political functions the direct command and control of the Forces was given to the independent Command of the Hungarian People's Army led by the Commander of the Forces.

The planned second step was overridden by many unexpected international and social changes, because in November 1989 the Prime Minister Miklós Németh declared more radical cuts in the force structure beyond the earlier planned 9%. The new reform goals were more: 20 – 25% cut in manpower and the transforming of the Hungarian Military into the new, nation-defending role. However, some experts were arguing that this step was more related to the expectations that the armed forces needed to compare with the neighbouring countries. The political decision was more ‘driven’ by the upcoming, democratic elections (1990), and it served to support the Communist Party's political campaign efforts.<sup>18</sup> The above mentioned events and procedures significantly affected the Hungarian Defence Forces and resulted in many additional changes too. From the mid of the '80s the military leadership started to look adequate answers for the evolving economic and social crisis and as a result they were new measures introduced, such as:

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<sup>16</sup> Ibidem

<sup>17</sup> Ibidem

<sup>18</sup> Jeffrey Simon: *NATO and Hungary: Problems in Civil-Military Relations*. Oxford, Rowman and Littlefield Publishers INC, 2003, 2



- transformation of cadre and HR work;
- instead of the official communist address "comrade" (elvtárs) they reactivated the old term "brother in arms" (bajtárs);
- elimination of party work and organizations in the armed forces;
- introduction of the military (civilian) service without arms;
- national tricolour on the Buda Castle;
- establishment of the Hungarian Defence Forces Command;
- disarmament of the Workers Guard (Munkásőrség);
- solving the question of the Soviet nuclear weapons stationing in the Bakony mountains (it was denied for many decades, just a few people knew about this among the highest leadership);
- Hungarian political leaders initiated the Soviet troop withdrawal which ended at the end of June 1991;
- the Hungarian Armed Forces gave assistance and support to the refugees escaping from Ceausescu-led Romania;
- at a domestically and internationally crucial moment – in May and June 1989 – Hungary lifted the so called “Iron Curtain” in her western border, and in September opened it to many Eastern-German citizens, which basically gave a huge boost to the upcoming changes, such as the collapse of the Berlin Wall (November 1989);
- on 1 March 1990, the Hungarian People’s Army got back its old name: “Hungarian Defence Forces” (Magyar Honvédség).

Beyond the above mentioned fields and events we need to point out some additional issues. One of the most important question was for many people and oppositionists, how to avoid any possible violent intervention from any side (including police, workers guard, armed forces, etc.), which could turn back the started procedures. By others words, what kind of measures and balances are needed to finish peacefully the regime change procedures started in the mid of the '80s? It is a historical fact that regime change in Hungary happened in a very calm and peaceful manner, however, after a quarter decade there is a need to analyse and evaluate the most important influencing factors. The main characteristics of the relationship between the new political elite elected in the spring 1990 and military leadership is still an open issue. Last, but not least we need to mention the possible role of HDF in the “taxi blockade” happened in October, 1990, which basically resulted in a harsh political debate and judgement of the Constitutional Court.

As we look back to this year, we can have a sense of “euphoria”, but we should not forget that the Soviet Union and the Warsaw Pact still existed in that time.

## CONCLUSION

If we take into consideration how rapidly and unexpectedly communist systems collapsed in Central in Eastern Europe in 1989, then the term “*annus mirabilis*” describes this years in a very visual and plastic way. However, in the case of the Hungarian regime change we can find long time existing and evolved social, economic and political challenges which were depending on the main international trends of “new ways” too. There were many influencing factors, by which the transition went through peacefully and among them the Hungarian Defense Forces played an important role especially by accepting the necessity of crucial changes.

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# CONTROL OF THE POLICE AND SECURITY SERVICES – PROBLEM SOLVING APPROACH

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## **Abstract:**

Security systems in transition countries have experienced tumultuous and dramatic changes in the last twenty years. The changes concerning their civil control are especially important. Control and monitoring of the functioning and operation of the police and the security services are imperative of any democratic society because of their importance but also power. It was thought that the problem of control was solved by adopting relevant laws and accompanying by-laws in the countries in transition. But was it?

Due to the possibility of their interference with the rights and freedoms of the citizens, the problem of controlling these entities requires a very broad and comprehensive approach and constant review. Thus, for example, in the control process there is an entire spectrum of 'controllers' each of which has its own objectives, using its own methods of control and has its own staff for control. Control is equally implemented by legislative, executive and judicial powers. However, there are also other independent civil entities such as non-governmental organizations, ombudsmen, commissioners, and other public subjects.

It is clear, from the above mentioned, that the problem of control is not approached in a unique way and with unique goal, nor are the interests of controllers identical. In this sense, control although having a positive sign of democracy, may have some negative connotations and create some problems. This paper will analyse precisely the control problems from theoretical-professional standpoint i.e. it will provide theoretical basis in the approach to more effective control. They are primarily related to issues such as: the principles of control, politicization, selection of a controller, time control, control objectives, safeguarding of classified information and the like.

**Keywords:** *control, police, security services, security system.*

## **INTRODUCTION**

The beginning of this century was marked by new security tendencies in the world. Today, security is spreading from mostly military sphere into other areas, predominantly economic, energy, social and ecological security,

unifying the safety of an individual and that of a country into one whole. It is well-known that the world has become a 'global village'. It could be freely said that there is no country that for some reason is not endangered, regardless of the degree of development. Events such as: armed rebellion, terrorism, expansion of organised crime, corruption, national and religious extremism, drug abuse, destructive activities of religious sects and many others – are just some of the phenomena that endanger democratic and constitutional order of a country, thus disrupting its safety and the safety of its citizen. In order to reduce these phenomena, each country organises its system of national security.

In contrast to other social subsystems, the system of national security is characterised by the possibility of implementing special authorities and measures that can violate human rights and freedoms. This is the reason why there is an interest in each democratic society to legitimately, transparently and in an organised way control its own holders of force, i.e. to make force be in service of the law, not vice versa.

The main precondition of democracy is to adopt systematic laws in the field of security. These are predominantly laws which, in accordance with the constitution, establish security services, lay down the scope and competences of security bodies and services, and lay down the work control, management, responsibilities and such. This raises the sensitive issue of protection of human rights. The protection of human rights is a civilisation value, base of national security and measure of democratic character of a society or a country.

The special focus in this paper is given to the problem of civil control of the entire system, and especially of the police and security services. Namely, taking into account the importance and power, but also the problems of the police and security services, control and monitoring over the work and function of these subjects are imperative of a democratic society. By adopting appropriate laws and by-laws in the countries in transition, the process of regulation of authorities, organisation, functioning and control of the security sector is somewhat finished. This is the reason why the problem of control was approached in a very wide, comprehensive and democratic way, in accordance with solutions that are applied in almost all developed countries. Therefore, in the process of control and monitoring, there is an entire spectrum of 'controllers' with various goals, which starts with the highest authorities. It can be seen that all forms of control that exists in other democratic countries are present. After careful analysis, it can be concluded that almost all subjects and activities are subject to control. The control includes everything from the choice and responsibility of managers in security service, ways and methods of work, especially when implementing special measures and activities, to financial operations.

## ABOUT CONTROL

Each activity implies that there is a possibility for a mistake, and this is especially true for security services whose law-driven and thorough work is of crucial importance for the security of a country and its citizens. Therefore, the control is performed precisely because of the assumption that mistakes are possible. Having in mind that security services are individual and specific services of public administration, it is necessary to become acquainted with several general facts about the notion of control of the public administration and about the notion of control as a function of managing the security sector and managing the police and security services.

The control is a conscious human activity that consists of comparing the achieved results with the planned ones, i.e. expected ones. In this sense, the control consists of monitoring and assessing other people's activities according to previously defined criteria, after which, if it is determined that there are certain discrepancies, there can be certain intervention that is of corrective character, focused on remedying deficiencies. However, the result of control, due to the nature of things, sometimes cannot be corrective, but only repressive. In this situation, the identified deficiency cannot be corrected. The only thing that can be done is to apply certain sanctions on the administration organ, i.e. on persons responsible in the given organ. Of course, it is possible that the result of the control is combined intervention: elimination of identified discrepancy and implementation of a sanction.<sup>1</sup> If the control is perceived as a process of comparing the real with the intended, then this process can be seen as a whole that passes through four phases:

- identifying what the situation is;
- identifying what the situation should be;
- identifying discrepancies between what the situation is and what it should be;
- assessment of discrepancies and possible intervention.<sup>2</sup>

As it can be seen, the control always includes the relation between two different subjects, which for the sake of discussion could be divided into active and passive. The terms *activity* and *passivity* are used to explain the position of certain subjects in the control process. In order to implement control efficiently, it is necessary to clearly define the following elements:

- the one who implements control (the controller);
- the controlled subject (the one who is subject to control);
- procedure and manner of implementation;

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<sup>1</sup> Dragan Milkov, *Administrative Law III – Control of Administration*, (Novi Sad: Faculty of Law in Novi Sad, 2010), p. 8

<sup>2</sup> Ibid, p. 9

- what is controlled;
- control authorities;
- the purpose (the goal) of the control;
- sanctions.<sup>3</sup>

Furthermore, in order for the control to be successful, certain assumptions must be met. Firstly, this is the *competency* of the controller. Namely, the subject that implements the control must be an expert, because only in this way it can be expected that the controller performs his / her task in a high quality way. The next assumption relates to how *informed* the controller is. A controller must have all the necessary data and information on the given subject of the control. It cannot be expected that the control will be efficient if all relevant data and information on the given subject of the control are not provided. *Diligence* and *accuracy* when implementing control include comprehensive and careful examination of all elements relevant to assessment of other person's work. *Impartiality* of a controller is also a crucial condition for a successful control, and it consists of personal disinterest, which enables critical stance in relation to the subject of the control.<sup>4</sup> It is necessary to mention that the control also has an important preventive effect, because it affects the consciousness of controlled subjects, which, knowing that there is a possibility of control and possible negative consequences, strive to adjust their work with envisaged expectations.<sup>5</sup>

The main purpose of the control of the police and security services is to secure protection of the rights and legal interests of citizens on one hand, and to protect the objective law on the other. It can be concluded from this that the control does not end simply by stating that something happened in the past, but it also focuses on the future in order to ensure rights of citizens and lawfulness, i.e. regularity of work. One should also be aware that, although it is not good to disregard the control, it is also not good to exaggerate with it. Each exaggeration hinders the incentive and actions of the administration bodies, and creates distrust.

## **TYPES AND FORMS OF CONTROL**

The control process can be divided into certain types and forms of the control. In this respect, criteria for classification can be different, therefore

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<sup>3</sup> Compare: Zoran Tomić, "Normative starting points for civil control of the Army and the Police", in: Miroslav Hadžić, *Democratic control of the Army and the Police* (Beograd: Center for civil and military relations, 2001); and Dragan Milkov, *Administrative Law III – Control of Administration*, (Novi Sad: Faculty of Law in Novi Sad, 2010), p. 28.

<sup>4</sup> Dragan Milkov, *Administrative Law III – Control of Administration*, (Novi Sad: Faculty of Law in Novi Sad, 2010), p. 9 - 10

<sup>5</sup> *Ibid*, p. 9

there are different classifications. Depending on whether the controller is within the security system or outside it, the control can be divided into:

- internal control and external control.

Taking into consideration whether the control is implemented according to legal or political criteria, the control can be divided into:

- legal control and political control.

According to the authorities that a controller possesses, the control can be divided into:

- the control implemented according to procedural authorities and meritorious control.

Taking subject into consideration, the control of the administration can be divided into:

- the control of acts and the control of work in general.

According to what is in a controller's focus, the control can be classified into:

- the control of law and the control of expediency.

According to the time of implementation, the control can be:

- prior and subsequent.<sup>6</sup>

There are many ways and forms of the control, and the commonly used are:

- oral briefing,
- reporting (written and oral),
- meetings and conferences,
- monitoring of work (observation, supervision, indirect monitoring through video devices and means of communication),
- visits and presence at work place,
- inspections, technical meetings and reviews,
- exercises (mobilisation, tactic, staff exercises in hierarchical systems like military and some parts of the police),
- checking knowledge and skills (knowledge of regulations or physical competence),
- insight into documentation and records,
- having discussion and collecting notification in some other way (from the management, workers, citizens).

The choice of the form of the control depends on multiple factors: level of management, available time, the nature of control, organisation structure, needs, and similar factors. Each of the above mentioned forms has its advantages and disadvantages. The best results are achieved with combination of certain above listed forms.

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<sup>6</sup> Ibid, p. 11 - 14



## CONTROL OF THE POLICE AND SECURITY SERVICES

Understanding of the notion of the police has not changed just in functional, but also in organisational sense. In the initial phase of development of countries, same bodies performed different administrative, political and judicial tasks, but with differentiation of state functions individual bodies emerged that performed primarily police tasks. The word 'police' today has several meanings, but it is mostly used to denote the state service, i.e. a body of a public administration in charge of keeping the public peace, the existing regulations and order, as well as of protecting personal security and property of citizens.

The police and security services can be defined as 'individual organisational units within public administration, the scope of which are certain actions that relate to the security of a country and its citizens and the organisation, activities and control of which, due to their character, is subject to additional ('special') legal regime when compared to legal regime ('general') that is applied to other bodies of a public administration'.<sup>7</sup> By performing police tasks, the police provide protection of rights and freedoms to all. This stance has a foothold in the general principle of non-discrimination (prohibition of discrimination) and this is also the constitutional principle in all democratic countries. When providing protection to the citizens and the state the police and security services can limit certain rights and freedoms only under conditions and in the manner laid down in the Constitution and laws. These limitations are possible only if this is explicitly stipulated in the Constitution or if it is necessary for the exercise of a specific right owing to its nature, whereby the law may not, under any circumstance, influence the essence of the relevant guaranteed right. In this respect, they are obliged to take into consideration the essence of the right that is being limited, the importance of the purpose of limitation, the nature and extent of limitation, the relation between limitation and the purpose of limitation and whether there is a way to achieve the purpose of limitation with less limitation of the right (principle of subsidiarity).

The need for establishing the control system for the police is also necessary for gaining and strengthening trust of the citizens in the police, which will reflect their willingness to cooperate and help the police during realisation of its very important function. The existence of the control, which also means openness of the police towards the public, affects legitimacy of the police, which further contributes to establishing 'partnership' with the citizens.

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<sup>7</sup> Slobodan Miletić, *Law on Internal Affairs*, (Belgrade: Criminalistics and Police Academy, 2009), p. 23

This is important, because research has shown that the public is irritated by excessive secrecy of the police. Secrecy, as the first obstacle, means unavailability.<sup>8</sup>

The next important question is related to control of the police; it is the choice between external and internal control. It was mentioned that external control is conducted by expert bodies that are not part of the subject whose work is controlled. External control can reflect certain doubt in the institution of police. According to policemen's beliefs, this offends their honour and dignity, and even downgrades their profession. This attitude creates specific subculture of policemen, which can lead to obstruction of work of external control bodies.

This is primarily done by 'covering' mistakes of colleagues. This further causes lack of discipline and waning confidence of the public in the efficiency of internal control, thus initiating the need for further strengthening of external control. The success of internal control inevitably depends on strengthening professionalism, training system, and especially on education of the police forces. Permanent education leads to correct attitude towards work and citizens, creates consciousness about the necessity of lawful actions, respect of human rights and decreases influence of negative elements of the above mentioned police subculture.<sup>9</sup> It can be concluded that the optimal, and thus the most efficient control system is the one that is created by combining mechanisms of internal and external control. Mechanism of external control should act together with internal control, i.e. to lean on the processes of self-control and mechanisms of maintaining internal discipline.<sup>10</sup>

## **RESTRICTION WHEN DETERMINING THE SCOPE OF CONTROL**

One of the basic principles of the work of security services is the principle of comprehensiveness in work. By being comprehensive in work, intelligence services strive to cover all areas of life and work of individuals, groups and countries that are interesting in security sense. In this way, they want to collect the most important and useful data on the state, position and circumstances in the country and abroad.

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<sup>8</sup> Ostoja Krstić, *Applied Criminalistics*, (Belgrade: Institute for Students' Books and Didactical Means, 1997), p. 208

<sup>9</sup> For more detail about security culture of members of the police see: Ljubomir Stajić, Saša Mijalković, and Svetlana Stanarević, *Security Culture*, (Novi Sad: Faculty of Law in Novi Sad, 2013), p. 159 - 163

<sup>10</sup> Ištván Feješ, "The problem of the Police in the legal state – problem of control of the Police", *Compilation of works of the Faculty of Law in Novi Sad*, No. 1 - 3 (2002), p. 264

It is seen, from this definition, that the nature of activities of intelligence services is the collection and analysis of certain data, by using specific methods and means. Intelligence service predominantly collects those data that are specially kept and are not available to wider public. These activities require *high degree of secrecy in the work and use of specific methods and means*. Activities of these services are covered in veil of secrecy for citizens, which is in principle contrary to the goals of the open democratic societies. Having this in mind, there is fear that data collected in secret could be misused.

Therefore, there is need for clear democratic monitoring, which would be able to 'reconcile' the demand for efficient work by the security services and imperative that collected data are not misused, above all to violate rights and freedoms of the citizens, and not to compromise certain actions that are in progress and operatives that participate in them. Therefore, many laws state that certain data cannot be given to a control body, and most often these are: identity of current and former workers in the service, information about authorised personnel of the service that take certain measures, information about members of the service with undercover identity, about the actions that are in progress, about the manner of preparation of certain actions and measures, etc.

Taking into consideration the basic principles of work, force and means, as well as the form and method of work of the intelligence services,<sup>11</sup> there are certain data that have to be presented to the public, and these are:

- documents of strategic importance, like the strategy of national security;
- data on multilateral and bilateral agreements from the field of security;
- data on budget investments in the security sector;
- communications on all important Assembly discussions, decisions, laws and other that relates to the security sector;
- publications on the Assembly (committee) investigations on security issues;
- the annual Assembly report of work of all security services;
- reports by the ombudsman about the security sector;
- laws on the freedom of information.

The supervising the work of security services is based on the following principles:

- subordination and accountability of security services to the authorities;

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<sup>11</sup> For more information about the topic see sections from: Ljubomir Stajić, *Bases of the System of Security – with bases of researches of the security phenomena*, (Novi Sad: Faculty of Law in Novi Sad, 2013), p. 232 - 243

- political, ideological, and interest neutrality;
- obligation to inform the public on the execution of their tasks, in accordance with the Law;
- obligation of entities exercising supervision to inform the public of the results of the supervision;
- professional responsibility and operational independence of security service members in performing the assigned tasks; and
- accountability of heads of security services for the work of the services.<sup>12</sup>

## **PROBLEMS OF CONTROL OF THE POLICE AND SECURITY SERVICES**

When it comes to problems of controls of the police and security services and, in general, the holders of legitimate force in a country, problems of control that is exercised by the Parliament somehow always come to the fore.<sup>13</sup> There are many reasons for this. One of them is certainly the fact that the Parliament is the highest representative body and that in it all interests of a society deflect, at the same time in it are the representatives of the majority, who regulate the work and control of the services, and representatives of the minority who are interested in regulating the work of services in a way in which there is no abuse of their power by the government. The second reason is the fact that the control by the Parliament is a proof of democracy of a society and guarantee of equality for all participants in the political life of a country. The third reason is the fact that in this way supremacy of parliamentary authority over the executive one is achieved. The fourth reason is the fact that the Parliament (among other things) is a keeper and guarantor of human rights and freedoms, but also of interests of the majority of citizens, and a protector of the society values guaranteed by the Constitution.

In that sense, the problems are:

The problem of selection of direct and indirect control - both options have advantages and disadvantages. Issues that need to be solved when making this selection: Which form gives faster, and which one more quality and expert control? Which form interferes less with the principle of secrecy of the work of security services? Which form protects human rights and freedoms more? Which form protects state and other secrets more? There are numerous

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<sup>12</sup> Law on Foundations for the Regulation of Security Services, *Official Gazette of the Republic of Serbia*, No. 116 / 2007 and 72 / 2012, Article 15

<sup>13</sup> See Nenad Radivojević, "Parliamentary control of the Security and Information Agency from the Aspect of the Security Culture – state and problems", *Compilation of Works of the Faculty of Law in Novi Sad*, No. 3 (2013): p. 485 - 491

other issues. The next problem that can be perceived is which control should be given preference - legal or political. Most answers would certainly be: both. However, the practice shows that there is no equal distribution of control of influence among these two forms. One always has supremacy over the other, i.e. legal control often depends on the political one. The ideal solution would be optimisation of both types of control.

The special problem is the focus of control. Namely, the choice of what is to be controlled and to what extent (how detailed) can also increase or decrease the influence of control on achieving the goals of control and creating democratic society. Each society controls its services, even non-democratic ones. The only question is who controls, what is controlled and for what purpose. That is, for the same control two controllers can conclude different things, depending on their goals and what they want to achieve. There are examples of control that are conducted in order to mask the truth and the facts, and in this case the control is turned into its opposite.

Acquiring proper political instructions for democratic control is a separate issue. There is no need to mention that opposition often desires one type of control and in that sense it advocates transparent political instructions regarding control, and when it comes to power acts completely opposite to that which it demanded as opposition, trying to put work of security services under the control of executive authorities. This issue can be also defined as a degree of formality of control of security services, which can span from completely formal to very serious and expert, which certainly depends on political instructions.

The next issue is the problem of time that is available for control. Namely, it is clear that the work of security services is non-stop and of high intensity. This means that during their work there are more activities and events that can violate human rights and freedoms. The amount of time that can be given to control is a key issue for quality, purposeful, timely and proper control. Little time means superficial control, which turns into formality and in time, it can lose its purpose.

An individual issue that should be mentioned here is who has the power, i.e. the authority to place people as managers of security services, but also those who will control security services. If people are placed by the ones in the Government, both work and control will be directed according to political instructions of the Government. It is obvious that the purpose of democratic control is the opposite - that all interested representatives of citizens participate in the control, which is why there are numerous forms of external control, where the importance of the media, the non-governmental sector and other subjects is significantly higher.

The last problem that will be mentioned is making the obtained information a political issue. Intelligence is information that we collect by

security services based on the request of authorities, which meet the needs of the authorities in order to govern internal and external politics of a country. They are collected, processed and summarised in order to meet these needs. This information cannot be politicised, which means that they are formulated in a way so that they cannot be used against political opponents or for the purposes of political struggle within a country. According to H. Born, such a phenomenon of intelligence will probably occur:

- when intelligence serves politics instead of making political decisions (e.g. if warnings about immediate threat are used to support governmental fear campaign during elections);
- if administration can change intelligence;
- if intelligence is formulated for certain political purposes;
- if intelligence agents and their directors are selected according to political background;
- if the system for checking and balancing different governmental branches is poorly conceived or contains some deficiencies, which leads to situation in which one governmental branch could dominate over the intelligence service.

## CONCLUSION

During the democratic transformations in the countries of Eastern Europe, the old legal solutions for the base of functioning of the police and security services proved to be unsustainable. The subjects of state force that figured as pillars of the previous regime were completely weakened at the very beginning of changes by personal and structural reconstruction. The above mentioned led to mass, non-critical and non-systematic copying of the legal provisions of more developed democratic European countries and the USA. Such circumstances could not provide optimal legal base for work of the police and security services in the countries in transition, which especially affected the mechanism of democratic legal control over these state institutions.<sup>14</sup>

Many authors think that it is wrong to perceive legality in work and efficiency of the police and security service in solving new security problems as two inversely proportional principles. They should be perceived as variable characteristics, and in a way that both of them can be made better. In short-term, the ability to conduct monitoring over a terrorist or a terrorist group will be lessened by the need to respect procedures that protect privacy of the ordinary citizen, but in long-term these procedures are necessary to each

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<sup>14</sup> See more about this in: Valery Zorkin, *Comments on democratic oversight of special services in Eastern Europe*, (Strasbourg: European Commission for democracy through law - Venice Commission), 2006.

society that wants to be called democratic. The procedures should be devised in a way that violation of privacy is proportional to the alleged threat. Moreover, the procedures should prevent violation in case of a wrong person or in a way that could escalate in intimidation of citizens. It stems, from the above mentioned, that positive legal norms can also contribute both to efficiency and to respect of legality in work. Of course, in search for a better public control of the police and security services, improvement of positive legal norms can be insufficient. The new laws may also become just symbolic changes. Problems occur in the process of implementing regulations, because if greater efforts are not made to implement these laws, little can actually be changed. Despite the new laws, without adequate implementation of the activities, the manner of work of security services could also remain basically unchanged. Reaching cultural changes in services, which had a complete autonomy from external control or influence for a long period, is a long-term project, which demands greater political will.

In that sense, it is important to define some key forms of control. The control relates to managing the police and security services and can be conducted on different levels. If the Parliament adopts a law that would regulate mandate and authorities, then it can be said that there is a legally prescribed control. Executive or political control exists if the Government can issue directives to a service in accordance with the democratic principles. In the service there could be an acting administrative (internal) control by management, which includes adopting internal regulations and instructions.

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# **POLICE AND PRIVATE SECURITY SECTOR IN SERBIA – FROM COMPETITION TO COOPERATION**

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## **Abstract:**

The development of the private security sector in the last few decades has become a topic of much discussion. This development is not taking place in the same way in all countries. Unlike the developed Western countries, this process in the countries in transition was led with heavy and painful problems. These problems came from the general social, political and economic developments in these countries, which has created an unfavorable climate for the development of such sector which aims to integrate into the national security system.

The so called process of "privatization of the security affairs" was primarily caused by the overload of the national budgets as well as certain organizational and professional difficulties faced by the authority of internal affairs. The current process has led to overlapping of the police jurisdiction and the private security sector, and therefore mutual competition. Thus, both sectors saw themselves and their competence as unique and exclusive, and not as a sub-system of a larger system. In the last twenty years, the private security sector in the Republic of Serbia has been burdened with numerous problems that have significantly influenced the development of relations with the police. Unfortunately, these problems still exist despite the reform changes made after 2000. These problems are particularly evident in practice when establishing the relationship between the private security sector and the police, and they caused these two entities to see each other as competition.

Despite this, the Republic of Serbia is adapting European and international standards in terms of organization and achieving cooperation between the two sectors. The adoption of the Law on Private Security in 2013 is only the first step on this path. In the following period there is the adoption of the following accompanying by-laws which should create conditions for the realization of efficient and effective cooperation. In this regard, the paper will provide a review of the development of relations between the private security sector and police in the Republic of Serbia in the last twenty years. Furthermore, it will try to point out some problems that hinder mutual

cooperation, as well as possible solutions for the improvement of mutual cooperation in the future.

*Keywords: police, private security sector, competition, cooperation.*

## **INTRODUCTION**

There is a trend in almost all countries of the world, according to which the country is no longer the exclusive provider of security and therefore non-governmental (private) security sector has an increasingly important role in offering security services. This phenomenon is primarily caused by the overload of national budgets as well as certain difficulties faced by the authority of internal affairs which were unprepared to adequately respond to the modern security problems. This led to the so-called "privatization of security affairs" phenomenon by which police affairs were slowly narrowed while at same time the affairs as well as the responsibility of the private security sector broadened.

One of the basic tendencies and developments in the field of internal security in the past few decades is to establish closer cooperation between the police and the private security sector. This is primarily due to the mutual benefit arising from this cooperation. Of course, it should be noted that this cooperation is not established and developed on the same grounds in all countries. A long tradition of relations between the police and the private security sector is found primarily in the United States, Canada, United Kingdom and Australia. In the last twenty years, the establishing and development of the private security sector in the Republic of Serbia has been burdened with numerous problems that have significantly influenced the development of relations with the police. Unfortunately, some of these problems are still present despite the reforms made after 2000. The problems are particularly evident in practice when establishing an interaction between the private security sector and the police, and they have influenced the model of relation that exists between the two sectors.

## **DEVELOPEMENT OF THE PRIVATE SECURITY SECTOR IN THE REPUBLIC OF SERBIA**

Despite the existence of archival material on the creation and functioning of the private security sector in Serbia at the beginning of the 20th century,<sup>1</sup> it must be said that it started developing more intensely in the late

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<sup>1</sup> See: Momčilo Talić, "First Institutes of Private Security (of the Police) in Serbia", *First International Conference "Private Security – State and Perspectives"*, (Novi Sad: Faculty of Law and Business Studies, 2008): p. 40 - 63

eighties and early nineties of the 20th century. Some of the first companies that were providing certain security services on a commercial basis have opened then. These companies have operated in accordance with the Law on Social Self-Protection that was passed in 1986, which had regulated this area relatively well by expert evaluation.

The further development of the private security sector in this period was significantly influenced by the socio-political, social and economic circumstances in the country and the region. The civil war in Bosnia and Herzegovina and the sanctions of the UN imposed on the Federal Republic of Yugoslavia led to an enormous increase of grey and black economy. The civil war has caused the emergence of a large number of paramilitary and para-police forces. When the war ended, due to weakened economy and lack of jobs, many of these people have found a job in the private security sector. The culmination of everything was putting the Law on the Social Self-Protection out of force in 1993. Practically, since that moment until 2013, when the Law on Private Security was passed (Hereinafter referred to as: the Law),<sup>2</sup> this field was not systematically regulated. This has led to many problems, predominantly those regarding security, which led to violation of the human rights and freedoms. A negative image was therefore created in public and the police, which reflected their mutual relations. Great intolerance and even open hostility between the two sectors were common. The period after 2000 was characterized by the intensification of the privatization process, which included "privatization of security affairs". Then, a great number of foreign companies emerged on the market, which gave additional incentive to the development of the entire sector. In this period there has been an intensification of activities in relation to the adoption of an "umbrella" law that would systematically regulate the field of private security. In addition to the Ministry of the Interior, some vocational and non-governmental organizations also participated in this process.

## **PROBLEMS AND MODELS OF RELATIONS BETWEEN THE POLICE AND THE PRIVATE SECURITY SECTOR IN SERBIA**

In the last ten years, the scientific and professional community continuously pointed to the necessity of passing laws in the field of private security, which would be a condition sine qua non for overcoming of the problems that have occurred in practice so far. By adopting the Law on Private Security it was expected that legally defined responsibilities, organization, tasks, powers and control of private security would eliminate many problems

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<sup>2</sup> *Official Gazette of the Republic of Serbia*, No. 104 / 2013

that existed in this area in the past two decades. Some of the most important problems indicated in our professional literature were:

- the absence of a permanent, organized, and legally based cooperation with the state security sector;
- the absence of effective mechanisms for external control of the private security agencies;
- inadequate market regulation of private security;
- extremely high rates of work in the grey economy, which led to budgetary losses;
- the absence of national and international standards in the field of private security which would be applied;
- unfair competition between the public and the private sectors;
- the existence of informal connections between agencies, political parties, and competent authorities;
- the possibility of an agency being opened by a person from criminal environment;
- hiring people with criminal past to perform certain security jobs;
- uninstructed and under-equipped personnel dealing with management and executive security tasks;
- engaging in dubious and risky affairs which illegally interfered with human rights and freedoms;
- low level of security culture in the majority of agencies and their employees, and more.<sup>3</sup>

Legal regulation of private security should have, among other things, facilitated the institutionalization of cooperation with the police. The existing "cooperation" is still at an extremely low level. With the adoption of the Law in 2013, conditions that would enable the convergence of the two sectors, as well as their in-depth cooperation have not been created. This is evident from the problems that have occurred or will occur only when it is applied. When we talk about the relation between the police and the private security sector, the main shortcomings of the law in this regard are:

- normative, organizational and other requirements have not been fulfilled for the implementation of the Law (non-compliance of the existing legal regulations with the Law, etc.);
- organizational requirements for achieving cooperation between the two sectors have not been fulfilled;

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<sup>3</sup> Ljubomir Stajić and Goran J. Mandić, "Some controversies of the Law on private security", *Compilation of works of the Faculty of Law in Novi Sad*, No. 2 (2014): p. 147 - 148

- the methods (mechanisms) of achieving cooperation or communication have not been regulated;
- the private security sector is still at a disadvantage when compared to the police;
- the legislator did not recognize the necessity of having two (equal) components of internal security (public and private sector) as it is done in the National Security Strategy;
- in some cases, the Ministry of Internal Affairs is given too much and apparently unfounded power in terms of control over agencies;
- questions which by their nature should be regulated by the law, are to be regulated by by-laws.

### ***Competition as a model relation***

The process of privatization of the security affairs has led to overlapping of the police jurisdiction and the private security sector, and therefore mutual competition. Thus, both sectors see themselves and their competence as unique and exclusive, and not as a sub-system of a larger system. Police often sees the private security sector as a separate and inferior occupation, which poses a threat to their (police) status.<sup>4</sup>

Police today, in an attempt to regain their former positions, enters the market of security services. The police take the stand that anyone who has a certain commercial gain from police engagement, should pay for it. For example, developed countries have introduced regulations that financially penalize companies that provide electronic security services via alarm systems, in case the police respond to false alarms is more than a particular number of times. Also, fees are being charged for the provision of security services at concerts, professional sporting events and various festivals. In some cities some companies have even joined and hired additional police patrols in order to get the protection they think they should.<sup>5</sup> In North America, the police not only provide security on a commercial basis, but allow their members to be hired as private security officers (i.e. moonlighting). Thus, the American officers regularly have two jobs in which they are engaged by the state and by a private company. This process is also considered as an additional source of income for police officers. This has advantages for the private security sector itself. Namely, the private company gets trained

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<sup>4</sup> Bruce Swanton "Police & Private Security: Possible Directions", *Australian Institute of Criminology*, No. 42 (February 1993): p. 6

<sup>5</sup> David H. Bayley and Clifford Shearing, "The Future of Policing", *Law & Society Review*, Vol. 30, No. 3 (1996): p. 589 - 590

personnel which, despite of being hired for part-time private purposes, retains its legal authority as a police officer.<sup>6</sup>

It should be said, however, that such involvement of police officers for private purposes can produce numerous problems related to the following issues: 1) to whom does the police officer answer for his operation, the police organization or a private employer; 2) whom is going to be responsible in case of an offence at their private work; 3) who will pay for the police officer who is on sick leave due to injuries sustained on their private work; 4) if in the course of performing private work the police officer notices criminal activity that is taking place outside the area he is protecting, should he in this case act as a police officer who is required by law or continue to protect the space and the object for which he is engaged; 5) will the police officer be psychologically and physically ready for performing police tasks if he is engaged privately in his free time; 6) what if he is engaged in the affairs of protecting persons with criminal backgrounds, etc.<sup>7</sup> In order to avoid these problems, most European countries have incorporated a provision that police officers cannot perform activities that could lead to a conflict of interests in their legislation, and a private security job certainly could. In the Republic of Serbia, despite the adopted National Security Strategy and the Law, competition between the two sectors continues. Key reasons for this which are mentioned are the issues of politicization, conducting training, unfair competition and the process of employees moving from one sector to the other. The problem of politicization is still one of the biggest problems in the work of the police, and then indirectly in the work of the private security sector. It is not rare that former or current members of the police appear on the market as intermediaries in providing security services and use their connections with the political elite to achieve more favorable conditions.

Regarding the conduction of training, the Law provides the possibility for the training to be conducted by the Ministry of Internal Affairs or a specific natural or legal person with the approval of the Ministry of Interior. Therefore, there has been a serious concern in the professional and scientific community that the political elite abuses this situation, and that in order to create another source of financing for their activities, it started lobbying for the license for conducting training to be issued to various "expert groups", "education centers" or other forms of organizing supporters.<sup>8</sup> This issue was one of the

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<sup>6</sup> *Ibid.*, 590

<sup>7</sup> Zoran Kesić, *Private sector in the control of criminality*, (Belgrade: Dosije studio, 2009), 72 and Robert J. Fischer, Edward Halibozek and Gion Green, *Introduction to Security*, (Oxford: Elsevier Inc., 2008), 61.

<sup>8</sup> Dušan Davidović and Želimir Kešetović, "Professionalization and partnership of the public and the private security sector in Serbia – assumptions and obstacles", *Science – security - police*, No. 3 (2007): p. 25

key points of contention between the Ministry of Internal Affairs and the professional associations when preparing the draft Law.

One of the key problems that the private security sector states is the issue of unfair competition, which is systematically and economically conditioned.<sup>9</sup> Systematically unfair competition for the private security sector is the Ministry of Internal Affairs which is allowed to commercialize some of its services,<sup>10</sup> which puts the private sector in an unequal competitive position in the market. Namely, among other things, the Rulebook on the types of services by which the Ministry of Interior achieves additional resources<sup>11</sup> envisages that the Ministry of Interior can achieve additional resources by providing the following services: official escort and transport of hazardous materials, weapons, money, securities, precious metals and other valuables, art and other objects and heritage of the Republic, for the purposes of the National Bank of Serbia, commercial banks, institutions and other organizations and other legal entities; securing of sporting events and other public events in accordance with the law (Article 2 (1) 3) and 4)). One may ask whether the police officers still retain their full powers as authorized officers of the police while providing these services or act in accordance with the Law on private security. On the basis of the Law on the Prevention of Violence and Misbehavior at Sports Events<sup>12</sup> police can sign a contract with the event organizer for the performance of certain tasks of securing sporting events and the implementation of specific measures for the prevention of violence and misbehavior of spectators, which are not part of the regular tasks of maintaining public order and peace (Article 19). By law, mandatory cooperation of the organizers of sports events with the police is also provided for, which is de facto reduced to the implementation of orders issued to the monitorial service by the police department. It can be seen in Article 9 (1) on the basis of which the organizer is obliged to cooperate with the Ministry, in order to *implement measures and orders* relating to maintaining of public order and peace. It is logical that these measures and orders will be instructed by the police.

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<sup>9</sup> Milan Milošević, "The influence of the private security sector", in: *Private Security Companies – friends or threats?* (Belgrade: Center for civil and military relations, 2008) p. 62 and 63

<sup>10</sup> See: Regulation on fees for services provided by the Ministry of Interior, *Official Gazette of the Republic of Serbia*, No. 126/2014, Rulebook on the types of services by which the Ministry of Interior achieves additional resources, *Official Gazette of the Republic of Serbia*, No. 64/2006, 71/2007, 14/2008, 8/2013 and 119/2014 and Instruction on official escort of special transport in road traffic, *Official Gazette of the Republic of Serbia*, No. 68/2013, 96/2013 and 1/2015.

<sup>11</sup> *Official Gazette of Republic of Serbia*, No 64/2006, 71/2007, 14/2008.

<sup>12</sup> *Official Gazette of the Republic of Serbia*, No. 7/2003, 101/2005 - other law, 90/2007, 72/2009 - other law, 111/2009 and 104/2013 - other law

Economic aspect is the second element of unfair competition. Associations of former or retired police officers who bid their services on tenders under the economically viable labour costs may appear on the market. This is because providing security services is an additional source of income for them, apart from their regular job or pension incomes. This certainly does not contribute to the professionalization of the private security sector and establishment of trust and cooperation with the police. A number of countries have solved this problem in the way that the law provides for a certain period of time that should elapse before former or retired police officers could deal with matters of private security.

The trend of police officers moving to the private security sector is mostly conditioned by the financial aspect, and in our country it was at its peak in the mid 1990s, when wages in private agencies were up to ten times higher than the salaries of the police. Today, the Law on Police (Article 133) provides that a police officer and other employees in the police cannot carry out independent economic or professional activity which is incompatible with the affairs of a police officer. Despite of the above mentioned, in practice police officers often work part-time as security officers in nightclubs or as security guards. This only discredits the work of the police in general and complicates the process of professionalization of the private security sector.

### ***Cooperation as a model relation***

The idea of this model lies in mutual cooperation, which basically implies that one party provides support to the other, thus reinforcing the power of both sectors.<sup>13</sup> As such, cooperation implies joint action and is set out in the regulations as a basic principle of operation of both sectors.

Cooperation should be organized and permanent, and it is mostly based on timely exchange of information. Therefore, the establishment of an effective cooperation can shorten the time required for reaction. The police often, by doing their preventive and repressive function, can obtain certain knowledge in the sense of vulnerability of certain persons, property or business. Furthermore, the police can determine certain failures in the security of certain companies, and they will notify managers of agencies for private security about that and offer help to eliminate these failures. Apart from these preventive activities, cooperation is also based in repressive domain in situations after certain crimes had been committed (capturing perpetrators,

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<sup>13</sup> Zoran Kesić, *Private Security and Control of the Criminality*, (Belgrade: Dosije studio, 2009), p. 73



securing sites, offering relevant information to shed light on cases, testimony at court, etc.).<sup>14</sup>

According to a research conducted in Slovenia in 2006 and 2007, cooperation between the two sectors mostly takes place in the following areas: public gatherings (e.g., football matches and other sporting events, concerts, rallies, fairs); transport of money; taking over perpetrators; joint involvement during the activation of alarm systems and information exchange. The data indicate that the forms of cooperation are primarily related to the tactical and operational level, while cooperation at the strategic level is not documented.<sup>15</sup> This indicates that there is still room and areas in which it is possible to achieve cooperation. Areas where it is also possible to achieve cooperation for mutual benefit, are related to the following activities: establishment of joint databases; organizing joint trainings; common initiation on adopting new and amending existing legislation in the field of operation; implementation of joint projects related to crime prevention (prevention of violence at sports events, school, etc.); adoption of plans of joint action in emergencies (earthquakes, fires, floods, technological accidents, etc.) and others. Cooperation between the two sectors in the Republic of Serbia is still regulated only by regulations governing the work of the police. Namely, the Law on Police and the Code of Police Ethics establish that the police cooperates with non-state (non-governmental) entities. Police Code of Ethics provides that police sets their internal organization and improves it in a way that promotes good relations between the police and the citizens, and where appropriate, *effective cooperation* with other authorities, *agencies*, local communities, NGOs and other citizens' organizations, including ethnic minority groups.<sup>16</sup> In order to achieve mutual cooperation or partnership, the Minister of Interior may, in agreement with the state authorities and *non-state entities*, adopt certain acts on cooperation and establish *coordinating bodies* of importance for the prevention and detection of torts and the perpetrators and to exercise other security goals.<sup>17</sup> There was a chance to reaffirm this cooperation by the Law and raise it to a higher level, which would lead to clearly defined areas and models of cooperation.

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<sup>14</sup> Nenad Radivojević, "Safety Culture in the Private Security Sector," Human Security: Twenty Years of Human Security Y20HS (Belgrade: Faculty of Security Studies, 2014): p. 117

<sup>15</sup> Andrej Soltar and Gorazd Meško, "The relationship between the public and the private security sector in Slovenia – from Coexistence towards Partnership," *Varstvoslovje*, Year 11, No. 2 (2009): p. 281 - 282

<sup>16</sup> Code of Police Ethics, *Official Gazette of the Republic of Serbia*, No. 101/2005, Article 10

<sup>17</sup> The Law on Police, *Official Gazette of the Republic of Serbia*, No. 101/2005, 63/2009 – decision of Constitutional Court and 92/2011, Article 6 paragraph 188

It should be said, however, that Article 75 of the Law authorized the Minister of the Interior to make a decision to establish a special working group, in accordance with the regulations governing the state administration - *Expert Council for the promotion of private security and public-private partnerships in the security sector*. The aim of this Council is to establish cooperation with associations of legal entities and entrepreneurs for activities of private security and security officers and monitoring the field of private security and submitting an incentive to improve the performance of operations in that area in accordance with the new standards. It is envisaged that registered associations of legal entities and entrepreneurs and security officers will propose to the Minister a candidate for a member of the Expert Council from their ranks. It remains unclear, however, why the legislator has not fully regulated this question. It is unclear who else, besides the delegated Representative of a professional association, becomes a member of the Council, what is the length of their mandate, which are the responsibilities of the Council, what is the decision making procedure, etc.

## CONCLUSION

The development of the private security sector in the last few decades has become the topic of many discussions, both in the world and in our country. This development is not taking place in the same way in all countries. Unlike the developed Western countries, this process in the countries in transition was led with heavy and painful problems. These problems came from the general social, political and economic developments in these countries. This has created an unfavorable climate for the development of such an important sector of the society. The increasing role and importance of the private security sector in the Republic of Serbia led to some confusion about the very justification for their existence. This has especially come from police circles who questioned the justification and necessity of transferring to private sector affairs, which were under the inviolable jurisdiction of the police. The police was initially explicitly against it arguing that private agencies and their officers, unlike police officers, are not sufficiently qualified to provide security services. Such attitude of the police is certainly contributed by the lack of legal regulations and standards, which represent constituent elements on the path towards professionalization. Despite the above, the process of expansion of the private security sector has continued. The failure of the police to adequately respond to the growing and sophisticated threats to the security of citizens, corporations and their assets and operations, has certainly contributed to the expansion.

When we talk about the relations between the police and the private security sector, it should be noted that they are necessarily conditioned by the

new status, role, and function of the private security sector. The existing legal regulations still reflect the competitive relations between the two sectors. The adoption of the Law on private security is entirely commendable; however, it is necessary to take into account the views of certain scientific circles about the shortcomings of the Law. Also, it is necessary to make certain amendments to other legislation adopted before the Law itself, which, as we have seen, still do not allow the realization of cooperation at full capacity. By fulfilling these requirements, the Republic of Serbia will be included in the trend of development of cooperation between the public and the private security sector, with the ultimate goal of achieving the so called public-private partnerships.

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# **SOUTH-EASTERN EUROPE IN QUEST OF NATIONAL SECURITY AND EURO-ATLANTIC INTEGRATION**

**Olga Brusylovska**

## **INTRODUCTION**

This paper highlights the problem of national security that has been a subject of extensive debates in the South-Eastern Europe since 1989. After the collapse of the USSR in late 90's, the most Eastern European states have decided to join Western institutions. The main questions of the integration are: Which new national security concepts do emerge in the region of SEE? How were challenges for security defined in these concepts? How did Bosnian tragedy influence on the improving of security concepts? Will NATO be considered only as the military power or as organization able to accelerate economic modernization in South-Eastern Europe? When will NATO countries accept the idea of enlargement? Which are the basic requirements for the candidate states? How did NATO enlargement influence on NATO transformation? Does NATO Membership Action Plan have any new peculiarities?

The theoretical frames of this article are based on the Regional Security Complex Theory. RSCT demonstrates why particularly the security determines the development of all other spheres of social and political life in the peripheral (unstable) regions. The security of each actor in the region interacts with the security of the other ones. There is strong security interdependence within the region, but not among regions. This feature has an impact on the region and makes the regional security an interesting area of study. The purpose of this paper is to analyse the process and results of formulation of the new security agenda in South-Eastern Europe.

## **THE BEGINNING OF THE NEGOTIATIONS OF EASTERN EUROPEAN COUNTRIES WITH NATO**

The economic and political priorities of the Eastern European countries were clearly related to the purpose of joining the EU, while the problem of national security has been the subject of extensive debate. It was not a coincidence, as during the Soviet times, the countries of this region did not

have their own national security concepts; all of them were defined by the Soviet Union.

The most efficient in creating of the new concept of the national security were the Polish military analysts and the experts in international relations. This can be explained by the fact that Poland has the longest border with the former Soviet Republics, where according to the Polish estimations of 90's were 76 regions of potential ethnic conflicts. Furthermore, Russia has been permanently unstable and unpredictable (Koval, 1999). The only way out, which the new political elite of the Republic of Poland saw, was the quick location under NATO "umbrella".

The other concepts of national security of states in this region do not talk about "the threat from the East", but the possible local conflicts in the former socialist countries, and in particular, on the territory of SFRY, are considered as the main challenge. But the real threat was in the internal security challenges: the growth of nationalism, which was deliberately stoking and using by the populist leaders in the struggle for power; an insecure status of the national minorities and the beginning of their struggle for equal rights; worries about the revision of the post-war borders, etc.

The negotiations with NATO were begun by the Czech President Václav Havel, who during the speech at NATO headquarters in Brussels in March 1991, openly demanded from NATO to provide the new European states with the security guarantees. In three months after the dissolution of the Warsaw Pact (October 1991), was held the meeting of the Ministers of foreign affairs of Poland, Hungary, and Czechoslovakia. These three states officially expressed their desire to join NATO (Michta, 1992). Their aspirations to join NATO provoked a sharp reaction of the USSR. Someone considered that "The Visegrad Group" would benefit from the permanent East-West confrontation as the only way to ensure its own *raison d'être*; that their accentuating and sometimes excessive politico-military loyalty to the West, was the key strategic resource, the main "export product" of the region (Bojцова, 2004). The rejection of NATO expansion to the East by the Soviet Union perturbed even the conservative circles in the Eastern Europe. Now the renouncement of the idea of joining NATO would have meant the recognition of Russia's right to put a veto on their decisions and the actual limitation of sovereignty.

The concernment in cooperation with NATO was stoking by the numerous failed attempts to fill the security vacuum through the creation of the new multilateral structures within the Visegrad Group, "Pentagonal" ("Geksagonal"), CEI in the early 90's. The ideas such as the "belt of neutral states" (the idea of the head of the Supreme Soviet of Belarus Stanislav Shushkevich), the "safety zone" (the idea of the President of Ukraine Leonid Kravchuk), and "NATO-bis" (the idea of the Polish President Lech Walesa) were also promoted, but have never been implemented. The most longstanding

was an attempt to establish close cooperation between the Czech Republic, Slovakia, Hungary and Poland within the framework of the Visegrad Group. The official statement about the contract termination has not still been adopted despite the fact that the membership in NATO and the EU allows that. The primary goal of the Visegrad Group was the mutual support in order to join the EU and NATO as soon as possible. So, from the very beginning, the union was considered as temporary by its members. It is hardly a surprise that after joining the EU and NATO, the Visegrad Cooperation has not almost been mentioned.

At first, 16 NATO countries led by the U.S. expressed the temperate enthusiasm in regard to the idea of enlargement. At the first stage, the main deterrent was the position of the Soviet Union. Its claims were based on the "Treaty on the Final Settlement with respect to Germany", the Article 5, which prohibited the stationing of foreign troops or nuclear weapons on territories of the East Germany. The Soviet elite broadly interpreted the article as a general ban for NATO to extend its influence in the East (Rahmaninov, 1997).

The task to transform NATO within the framework of the "new security structure" was put forward after the long-term discussions at NATO Summit (Rome, November 1991). NATO, the Conference on Security and Cooperation in Europe (CSCE), the EU, the WEU, and the European Council should complement each other. Thereafter, in order to revive the dialogue between the former opponents was created the North Atlantic Cooperation Council (NACC), opened to all European states. In 1992, it has already included 37 countries (Koval 1999). However, in May 1993, the Minister of Defense of the Federal Republic of Germany Volker R  he at the parliamentary session of the North Atlantic Assembly in Berlin advocated for accession of the CEE states to NATO (Rahmaninov, 1997). Despite the fact that it was not the incentive of U.S., but the main reasons for changing of NATO position was to use the weakness of Russia and to maintain NATO as a tool of leadership in Europe and other continents.

In autumn 1993 Anthony Lake, the Assistant to the U.S. President for National Security Affairs conceived the "enlargement strategy", where he laid the emphasis on providing the assistance to the states, which took the path of democracy and market economy. The other version of this concept was submitted to the Congress by the President Bill Clinton as the "National Security Strategy of the United States (1994 - 1995), engagement and enlargement". The stress was laid not on the promotion of democracy and market, but particularly on the security issues. On October 13, 1993 in Prague, the President Clinton stated that "it is not referred to the problem whether NATO should admit the new members, but to the question - when and how". The U.S. State Department also announced that this issue would be only under the NATO consideration, and it should not be a matter of dispute for the other

OSCE's participants (Rahmaninov, 1997). This statement was not coordinated with the U.S. allies in NATO, including the United Kingdom and France, which at that time did not share the American opinion about the NATO enlargement. France proposed own "Stability Pact" project, and its approval would make meaningless the vision of CEE states as a "gray area" of the potential danger. In January 1994 at the meeting of NATO member states in Brussels, an official statement about the launching of the new program "Partnership for Peace" was made. Its key requirements were: 1) the democratic control over the military forces; 2) NATO's access to the process of national defense planning and funding; 3) participation in peacekeeping and humanitarian operations of the UN and the OSCE; 4) interaction with NATO member-states in peacekeeping missions with military component, in field training exercises, etc. The first states which joined the Partnership for Peace were Romania, Lithuania and Poland (Brusylovska, 2007).

On the one hand, the Partnership for Peace can be regarded as a transitional form of the cooperation just before the full NATO membership. On the other hand, the idea of NATO transformation from military-political alliance to an instrument of peace and security safeguarding, was still on the agenda.

## **THE NEGOTIATIONS: STAGE 2.**

The radical change in NATO position took place in 1995. In the U.S. policy emerged the formula of the "intensive dialogue" with the candidate states. The reason for this apparent policy revision was a fear of the U.S that the weakening of NATO will lead to a discredit of the American leadership in the world. In turn, Germany was waiting for the repeal of Article 5 of the "Treaty on the Final Settlement with Respect to Germany" if NATO expands eastward. But the most radical changes underwent the French position. According to its calculations, it would be better if the CEE countries joined NATO now, and only over a certain period of time became the member of the EU. The desire of the military-industrial complexes of NATO member-states was an important motive to create the new trade areas for their products (Maksimichev, 1996). Actually for the United States there was no considerable economic interest, unlike for Germany and other developed economies of Europe, which regarded the Eastern European region as the potential "gold mine". The American politicians and experts also pointed at the importance of geo-strategic factor in the process of NATO enlargement. Jeffrey Simon (Washington Institute for National Strategic Studies) said: "Today, the geostrategic role of the candidate states is taking into account more than ever. Slovakia and Slovenia appear as the "bridge" to Hungary; Romania and Bulgaria "restrain" Serbia and "stabilize" Macedonia, at the



same time bind Hungary, Greece, and Turkey” (Simon, 2004). Further it should be pointed out that Poland and the Baltic States “restrain” Russia. All this has of a great importance in the context of an explicit gravity of NATO toward the Caspian region and the Middle East – the sources of energy. Brussels also understood that the accession to NATO membership can be used as one of the main tools of control over the general processes in post-communist Eastern Europe. In Hungary and Poland, the attractiveness of NATO helped to achieve national consent in implementation of the radical political and economic reforms. Not only the former communists, but also liberals and conservatives in the government and in the opposition, understood the necessity to meet all the requirements of NATO. The achieved social consensus without doubt contributed to the success of democracy in the region.

In order to become a potential candidate for NATO membership, states had to demonstrate the significant progress in a settlement of conflicts with their neighbors by peaceful means and their loyalty to the idea of the multiethnic democracy. For example, in the mid-90s it was the starting point of the rapprochement between Hungary and Slovakia. In the speech to the Parliament the Prime Minister of Hungary Gyula Horn, claimed: “What do the EU and NATO want from us? They have firmly declared that we should adjust the relations with our neighbors. Neither the EU nor NATO is going to admit the states with unsettled border disputes or problems, connected with the minority rights” (Iden, 1995). In 1995 Hungary and Slovakia have signed an agreement under which they agreed to respect the existing boundaries. The similar agreement was reached between Hungary and Romania: the borders were recognized inviolable, and at the same time the rights to the Hungarian minority in Transylvania were guaranteed.

The Bosnian tragedy, ended with the Dayton accords in 1995, was an additional argument for the states in this region. It showed the weakness of the OSCE and the fact that NATO remained the most powerful military force in Europe without any alternative. Despite all the shortcomings of the organization, only NATO membership could ensure that a conflict like the one in Bosnia would not occur within the territory of these states.

The nation’s leadership of the Eastern Europe hoped that the accession to NATO would accelerate the economic modernization and strengthen their position in the international economic arena. The membership in the strongest military organization had to become an important factor in attraction of the foreign investment.

At that point in time, NATO had already finished the formulation of terms for the Eastern European states, which wanted to join the Alliance. Warren Christopher announced the basic requirements at the meeting of NATO foreign ministers in December 1994: 1) completed and unwavering

loyalty to the principles and structures of NATO; 2) ensuring of parliamentary control over the military sphere, appointment of civilians to heading positions in this field; 3) the armed forces must be professional, apolitical and strictly perform the function of deterrence and defense; 4) abidance of the democratic and international conduct standards by a candidate state. New members had to adhere to the basic principles of the UN Charter, to promote democracy, individual freedoms and rule of law (Brusylovska, 2007). Thus, along with the specific requirements for the reform of army, the candidate countries should achieve a certain stage of the democratic state system, but this purpose was rather generally formulated.

There were long fierce debates on the need to change the NATO's role in the post-bipolar world, which in turn determined the need of its transformation with laying an emphasis on the political structure, and less on the military one. Despite this, it was finally decided to perform the next NATO enlargement. If to take into consideration the critical basis for this decision, it is clear that it requires the further explanation. From the point of view of the U.S, such solution was optimal. The U.S. has always viewed NATO as its main tool of the European policy. NATO in its current form - as a military and political organization - completely satisfied the American elites. Such a shift in emphasis of its activities could only cause damage to the interests of the U.S. It is not so easy to explain the position of the Western European allies of the U.S. At first, they were opposed to the enlargement, in favor of transformation, especially France, which even had not joined the NATO military structure. But then the Western Europeans let themselves to be persuaded. The main purpose of this change was the priority of the EU enlargement issue for the European great powers. First of all, the accession to NATO membership of the Eastern European states on an individual case basis could be considered by the Europeans: 1) as a "litmus test" of their actual situation at that point in time; 2) as an opportunity to acquaint the United States with the cost shifting for the accomplishment of the post-communist transformation.

In July 1997 at Madrid Summit, the Czech Republic, Hungary, and Poland were invited to the negotiations with the purpose to join NATO in 1999 (the 50th anniversary of the Alliance). Slovakia, another member of the Visegrad Group, was not invited to the talks; the main reason was the pro-Russian policy of Vladimír Mečiar and signing of the Slovak-Russian agreement for military-technical cooperation on the eve of Madrid Summit. But in Madrid was announced that other countries, regardless of their geographic location, might be eligible for membership in the future according to "their evolving" toward democratic government and the market economy (Molnar, 1998).

## THE NATO ENLARGEMENT AND ITS CONSEQUENCES

On December 16, 1998 in Brussels, the foreign ministers of Hungary, the Czech Republic, and Poland signed a protocol of accession to the Alliance. On March 12, 1999 in Independence (Missouri, USA) after the Ministers of Foreign Affairs have deposited "instruments of accession", Poland, Hungary, and the Czech Republic officially became NATO members. The goal of further reformation of the armed forces until 2006 was set. The program consisted of about 200 goals and more than 100 tasks related not only to the changes of the main standards of the material resources, but also to the structural and personnel modernization. The funding was provided primarily from the state budget and secondly from NATO (Brusylovska, 2007).

Because of the Kosovo crisis, in 1999 at the NATO summit in Washington was announced not only the new approach to local conflicts and enlargement of the traditional area of its responsibility, but also, in general, to the European security in the context of NATO – EU relations. This approach was named “European Security and Defense Identity” (ESDI). The Alliance activated the creation of the new European security architecture, which was aimed at complementarity of the functions and roles of NATO, the OSCE, the EU, the WEU, the Council of Europe, and others.

Also, in 1999 the governments of NATO states ratified the decision to increase the flexibility of the structures of the Alliance through the use of the Combined Joint Task Force (CJTF). According to this new mechanism, NATO member states are not obliged to participate in separate missions, if they feel that their vital interests are not affected, but they cannot prevent other members from participation in operations. In 1999 these decisions marked the beginning of a new era in the history of NATO.

At Washington Summit 1999 nine more candidate states were named: Slovenia, Slovakia, the Baltic States, Bulgaria, Romania, Macedonia, and Albania (Croatia, perhaps, supposed to be the tenth). There substantive divergences were over the issue of one or another candidate state. Thus, Albania and Macedonia did not look as more stable than Serbia or Bosnia; however, some of them became candidates, while others did not. The stand of Germany, France, and England on a matter of the further enlargement was quite restrained. But the new members supported the U.S., whose position within the Alliance has become much stronger. The reasons of Poland, Hungary, and the Czech Republic were quite clear: due to the expansion to the East these states would not be on the last defense line any more. Besides, they were counting on the U.S. support in the matter of their early entry into the EU, but putting it mildly, the major European states did not hurry with that. The certain fears of the Czechs and Poles were also related to the German factor, but the influence of the U.S. had to prevent that.

NATO membership has been quite clearly associated in the minds of the Eastern Europeans with the need of the preliminary implementation of the radical internal reforms. For example, Peter Weiss, the leader of the Socialist Party of Slovakia, declared: "Although our country was named as one of the first candidate states for NATO membership, first of all we should meet a number of conditions, including: compliance with the rules of democracy, which are the norm in the participating countries; progress in the development of market economy; enforcement of human and civil rights and freedoms of Mass Media. We must admit openly the fact that our partners consider the Slovak democracy as unstable, this cannot meet our interests" (Brusylovska, 2007). The similar arguments are adduced in the report of Anthony G. Brown independent group: NATO enlargement will help the Central and Eastern European countries to consolidate the reforms, ensure their protection from the internal instability and external aggression. In turn, only by means of enlargement, NATO can complete its transformation from a military alliance since the Cold War times to more political entity and integrated military structure for crisis management, and, in general, for joint actions in the Wider Europe (Is the enlargement of NATO necessary?).

The famous American researcher Michael Mandelbaum sticks to a different point of view. He has quite unexpectedly remarked: the foreseen extension is not sufficiently wide, if the new NATO mission is the promotion of democracy. Exactly these states, which are touched upon, can implement the successful transition to democracy and market economy much better than others even without NATO. Another factor - the possible revival of the Russian imperial policy - also does not explain the choice of NATO. From the viewpoint of West, Ukraine is under the greatest threat of the revival of aggressive Russia. However, no one proposes Ukraine to join NATO. Consequently, the expansion in the form in which it was planned, is counter-productive and will work only towards a new division of Europe and to the renewal of the "Cold War" atmosphere (Mandelbaum, 1995).

Each of these positions was well reasoned, it was obviously that the chosen by NATO officials form of the expansion was far from being the best. But the events on September 11, 2001 significantly accelerated the growth of the number of supporters of NATO enlargement to the East. The process of searching for strategic partners became the global task for all states. Therefore, considering the possible candidates for the accession, their internal characteristics became less important than the external, connected with the international system factor.

In March and April 2004, just a month before the EU enlargement, there was another NATO enlargement - the affiliation of seven new member states: Slovakia, Slovenia, Bulgaria, Romania, Lithuania, Latvia, and Estonia. It is evident that the new NATO members did not have sufficient political

experience of harmonization of the Atlantic partnership with their own national interests. The governments of Poland, Romania and Bulgaria consented to deploy the American military installations on their territories. We understand the motivation of Romania and Bulgaria: they rely heavily on the American lobbying of their interests in the EU, but we should not forget about the negative experience of Turkey. It is NATO member since 1952, but for almost 20 years it has been trying and failed to obtain a membership in the EU. Poland, which considers itself as the main partner of the U.S. in the Eastern Europe, must bear even a more crippling burden of cooperation than it is provided by the formal agreements. For example, Poland played an active role in the reformation of NATO. In September 2002, when NATO came up with an idea to create the rapid reaction forces, Poland initiated the foundation of Warsaw Response Forces of NATO. In the report of this group in 2004, special attention was paid to the need of strengthening the ties between the U.S. and the EU (Brusylovskaja, 2007).

The new NATO members become an outpost in combating international terrorism; therefore, the threat of terrorism is potentially increased for these states. The terrorist attacks in Madrid and London have shown that NATO's military operations contain a threat to the civilian population of the European states and they become a hostage at this struggle. Such problems as refugees, military expenditures for carrying out of missions, in areas which previously were not in NATO's responsibility zone (Yugoslavia, Afghanistan, and Iraq), are intensifying. The necessity to increase defense expenditures, especially for the candidate states before their accession to the Alliance, became another negative consequence related to NATO joining. Thus, in 2003, Romania increased its military budget by 20% - to 1.2 billion dollars, while the standard of living remained one of the lowest in Europe. For the transition economies, the need to reduce severely the size of armies was troublesome. From 1993 to 1999 the Czech Republic reduced the armed forces posture from 93 to 53 thousand people, thus it had an impact on the unemployment rate (8.5%) and the social tensions heightened (Serfaty, 1999). Other states of the region followed the "Polish scenario": they decided to rearm their troops through the purchasing of military equipment in the U.S. Now they depend on the US companies (e.g. "Lockheed Martin") in such matters as maintenance and repairing of new military equipment (Brusylovskaja, 2007). And, in global sense - their defensive ability totally depends on the U.S.

Comparing the defense budget size of the U.S. and the European countries, it seems that they are not members of one block (pact). In 2003 the USA increased their defense spending by 48 billion dollars – it is more than the total defense budget of any European state. In 2003, the defense spending of all European NATO member states accounted for a half of the U.S.

spending. It is obviously that even the economic leaders of Europe cannot compete with the U.S. in the military sphere (Brusylovska, 2007). So, what we can say about the newcomers is that their contribution to the modernization of weapons and the transformation of arm forces is minimal, but it imposes an additional burden on the national budgets.

The attempts of certain countries to reduce the defense spending after joining NATO caused a sharp reaction of the NATO leadership. For example, in 2004 in Brussels Hungary was officially reproached that its military budget was not answerable to the minimum, which the Alliance determined. In order to temper the criticism, the Hungarian leadership had to make the concessions on the more important for the United States Iraq issue. At the end of 2004 in accordance with the decision of the Parliament the Hungarian military units left Iraq, but the Government immediately decided to continue the participation in the settlement of the situation in Iraq and sent there 150 experts for training of staff from the local defense and law enforcement departments and agencies (Brusylovska, 2007).

On the other hand, the example of Poland shows that the incentive in NATO is encouraged. According to the data of 2003, the Alliance became the most significant investor in the economy of the state. The share of Poland in NATO budget is 78 million dollars per year, while at the same time, NATO investments in Poland are estimated at about 700 million dollars per year. Until 2008 the Alliance planned to invest more than 2 billion zloty in the expansion of the military infrastructure of Poland (modernization and construction of ports, airports, oil storage tanks, control systems). The projects that have already been carried out include the construction of the supply systems of sea ports in Gdynia, laying of the landing strips in Malbork near Gdansk. In 2005 was signed the agreement for building of the training center for NATO joint forces in Bydgoszcz (the project was estimated at 33 million euro) (Brusylovska, 2007). All this goes to prove that in the new NATO, Poland holds a key and advantageous position of integrator.

After analysis of the potential threats and benefits from joining NATO, the other countries of South-Eastern Europe gave the precedence over the advantages. We can understand them: the difficulties were mainly determined by the transition period collisions, and the task of the national security assurance was always up to date; so very slight doubts remained in relation to the effectiveness of NATO.

In 2004 the Alliance complimented Albania, Croatia, and Macedonia on their progress as the candidate states, as participants of "NATO Membership Action Plan" (MAP). Since the very beginning in 1999 Albania and Macedonia took part in it, Croatia - since 2002. In 2003, they also signed the Adriatic Charter with the U.S., according to which the United States should support their prompt accession to the NATO membership.

Current participants in the MAP are the former Yugoslav Republic of Macedonia, which has been participating in the MAP since 1999, and Montenegro, which was invited to join in December 2009. A welcoming progress was made in its reform efforts in April 2010 when the Allies formally invited Bosnia and Herzegovina to join the MAP. However, the North Atlantic Council will only accept the country's first Annual National Programme when the immovable property issue had been resolved. Allied leaders agreed to invite Macedonia to become a member as soon as a mutually acceptable solution to the issue over the country's name has been reached with Greece.

Each participating country chooses those component parts of the MAP, which are best of all consistent with its requirements, and sets its own planned targets and timelines. NATO representatives constantly keep watch over the implementation of the MAP. The advisers get to the heart of all matters related to the key aspects of future membership of candidates: politics, economy, defense, resources, information, security, and law. First of all, the candidates sent troops for participation in NATO operations beyond the Euro-Atlantic region (Iraq, Afghanistan). As the partners they also participate in many types of NATO activities (military servants from these countries serve in NATO headquarters and commanding units, study at NATO Schools in the West European states).

On April 1, 2009 Albania and Croatia joined in the sixth enlargement. So, since 2009 NATO is an Alliance that consists of 28 independent member countries. Albania is in favor of the extending cooperation with the other countries in the region - Serbia, Montenegro, Bosnia and Herzegovina. It must help to break with the old stereotypes - considering the Balkans as the "Tinderbox of Europe". So, the idea of accession of all Eastern European countries to NATO is getting more and more real.

## CONCLUSION

At the turn of the Millennium, NATO looked like anachronism; the organization was interesting neither for the USA nor for the Western Europe. The USA tried to help their allies in the maintenance of the organization, and began to embody the idea of collective security and collective responsibility. According to G. W. Bush, it meant that the EU had to provide its own safety and to find the means to reequip their military forces with new technologies. To some extent the political leaders of the European Union continued to dream of the impossible - to keep the presence of the U.S. in the Old World, but under the EU control. However, in 2004 NATO's position strengthened with its transformation from the Euro-Atlantic organization to the global politico-military structure. The Eastern European states, which wanted to be placed under the NATO's "umbrella", were engulfed in conflicts "necessary" for the

U.S., but all members had to bear the responsibility for the actions of NATO on equal terms with Washington. To a greater extent the Western Europeans lost the confidence to create their own center of power that would extend its influence far beyond the Europe. Thus, the strengthening of NATO strengthens primarily the American power, but in the longer term, it does not mean that the U.S. partners “have lost”.

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# VICTIMS OF SEXUAL VIOLENCE IN CONDITIONS OF WAR

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*Rape must not be a weapon of war.  
“The use of rape during wartime as a weapon  
is the worst possible form of warfare.”*

## INTRODUCTION – WAR AND CRIMINALITY

At times of war, the regular functioning of the system is disrupted; that is to say, warfare gives rise to social disorganization accompanied by inadequate, passive and non-objective work of the police and the judicial organs. Such conditions result in increased possibilities and circumstances for higher levels of criminality, primarily due to the existence of objective lack of control over the competent institutions and lack of respect for the public order and the established rules of conduct. Such circumstances encourage primitive urges among individuals, including punitive actions. In the case of members of armed forces, such behavior is even more strongly expressed, as a result of the position and power they have. Social disorientation generally encourages people with past criminal inclinations to continue committing criminal acts and to be even more brutal and greedier in such situations; it also encourages criminal activities among citizens who used to be model and law-abiding ones before the war. There are views that these people only “naturally” adapt to the circumstances of disorganization, as this is the only way to survive. All of this contributes to temporary changes in the scope, structure and features of the criminal conduct in the warring states; thus, various forms of criminal activities usually take place, starting with the conventional ones and all the way up to organized and war crimes.

The situation regarding the practice of reporting criminal acts is also unfavorable, since a substantial portion of such acts is not reported. What about the sexual violence under conditions of war, which is the subject matter of our paper? Incomplete records of criminal acts primarily as a consequence of the failure of the institutions of the system to function, the fear among victims to report criminal acts, and the lack of confidence in the institutions, all lead to underreporting sexual crimes, with the dark number of this type of

criminality being at the same time on the increase. Yet, under the circumstances of the modern – so-called new – wars, this is changed due to the significant role of the media and their contribution in making the victims of sexual crimes visible, as well as due to the rising number of non-government organizations involved in monitoring the phenomenon and in aiding the victims. The example of Bosnia - where the number of victims of sexual violence was even unrealistically augmented –illustrates another type of phenomena when the media place themselves at the service of politics and the authorities.<sup>1</sup>

The rise of criminality in the course of a war may also be explained with the theory of learning and the theory of anomy. People primarily acquire criminal motives through the general social beliefs. Once violence becomes accepted as a legitimate means for conflict resolution, people tend to start believing that they, too, just like their leaders should resolve their mutual conflicts by the use of violence. This form of learning criminal conduct is especially typical of young people; hence, juvenile delinquency escalates. In the process of learning, the role of the media is of a particular importance. The theory of anomy, on the other hand, is based on the explanation of a warring society as a typical society of anomies in which not even the elementary rules of conduct are adhered to and which is characterized by a crisis of the institutions, along with a crisis in the values, i.e. disorientation in the system of values.

Still, when discussing war, one may not avoid the post-war period, mostly because of the consequences of war and the manner in which society is to cope with them. “Following a war, society is faced with the consequences of it, with the most serious ones certainly including widely spread criminalization and victimization, as well as disappearance of the clear boundaries between what is and what is not allowed in terms of behavior. Furthermore, this also leads to one of the warring parties denying its own crimes and simultaneously exaggerating the ones done by the other party. The response to war crimes includes retributive and restorative forms of response.”<sup>2</sup>

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<sup>1</sup> These are simplified perceptions of the victims and aggressors and the forms of suffering to which the victims – predominantly women – were exposed to in the war; such perceptions were created by the media and this was used for political and military goals, but caused considerable damage to the victims themselves in the first place, on whose behalf and for whose benefit this was allegedly done. This was a result of the negative - as opposed to the indisputably positive – role that the media played during this war. In fact, the role of the media in this war deserves attention in itself and ought to be studied separately.

<sup>2</sup>On the relation between war and criminality, see more in Konstantinović-Vilić, S., Nikolić-Ristanović, V., Kostić, M. (2009), *Criminology*, Pelikan Print, Niš, pp. 357 - 359.

This paper's aspiration to debate on the victims of sexual violence at times of war comes as a result of several circumstances: until one decade ago (when it comes to our legislation), crimes related to sexual violence were not recognized as crimes against humanity and some of the forms of sexual violence were not granted the status of war crimes; then, because of the seriousness and long duration of the consequences caused by such crimes, as well as for the purpose of overcoming certain stereotypes when it comes to the application of the principle of incrimination (e.g., that they should be a part of ethnic cleansing). The same significance may also be assigned to the expansion of the notion of sexual violence, which is not determined merely as rape and forced prostitution under the latest legal definitions (the latter having their basis in the international documents). This is also true because of the high incidence of the phenomenon. Namely, according to UN data, between 100,000 and 250,000 women were raped in the course of the 1994 war and genocide in Rwanda. The same source tells us that about 60,000 women were raped during the Sierra Leone civil war (1991 – 2001), more than 40,000 in Liberia (1989 – 2003), around 60,000 in the countries of former Yugoslavia (1991 – 1995), of which the majority in Bosnia and Herzegovina, and close to 200,000 in the Democratic Republic of Congo (since 1998).<sup>3</sup>

## **INTERNATIONAL DOCUMENTS CONCERNING VICTIMS OF SEXUAL VIOLENCE IN CONDITIONS OF WAR**

The issue of the position of victims of sexual violence was raised following World War II (with regard to the famous Nuremberg and Tokyo trials), but was given special attention during and following the wars in former Yugoslavia and in other parts of the world (for instance, in Rwanda). The establishment of the ad hoc Tribunal in Hague and the charges brought by it had an impact not only on the perfection of the international documents<sup>4</sup>, but also on the search for solutions for the practical problems related to the consistent implementation of such documents.

This is why this section of the paper turns to the Statute and Rules of the International Criminal Tribunal for the Former Yugoslavia (also known as the Hague Tribunal), the Statute of the existing International Criminal Court, as well as to the UN Declaration of Commitment to End Sexual Violence in Conflict (adopted in 2013). In this, we will devote special attention to the protection of victims of sexual violence in warfare. At the same time, it is

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<sup>3</sup>[http://www.bportal.ba/index.php?option=com\\_content&id=22411%3Ageneralna-skuptina-un-a-usvojena-deklaracija-o-eliminaciji-seksualnog-nasilja-u-ratu&Itemid=60#sthash.xt90UOrO.dpuf](http://www.bportal.ba/index.php?option=com_content&id=22411%3Ageneralna-skuptina-un-a-usvojena-deklaracija-o-eliminaciji-seksualnog-nasilja-u-ratu&Itemid=60#sthash.xt90UOrO.dpuf) (accessed on 27.04. 2014)

<sup>4</sup> In this sense, improvement of the status of the victims of sexual violence may already be observed in the Statute of the International Criminal Tribunal for Rwanda.

worth noting that the international protection against sexual violence is made part of a wider context in terms of the achievement of justice and recovery of the victims and society as a whole by means of establishing long-lasting peace in the specific country and in the entire region. We underline that the notion of sexual violence or – as it is otherwise referred to – sexual abuses is not defined merely as rape. Namely, “sexual abuses of women in war, in addition to rape – also include threat of intimidation with rape, various forms of sexual harassment and sexual blackmail, sexual slavery in the sense of forced concubinage, as well as forced prostitution (in brothels for soldiers and as a survival strategy)”<sup>5</sup> This understanding is, therefore, owed to the theoreticians. It was later also accepted in the international documents. The novelties in our Criminal Code (primarily the one in 2004 about which we will speak in more details later on) are also along the lines of such an understanding of sexual violence.

Taken as a whole, the Statute of the International Criminal Tribunal for the Former Yugoslavia (known as the Hague Tribunal) constitutes progress at the international level when it comes to human rights related to the protection of the rights of victims. On the other hand, the shortcoming of the Statute is the fact that rape is explicitly treated as crime against humanity (Article 5 of the Statute), but only when it is systematic and widely spread against the civil population. In other words, rape is treated as a crime against humanity only when committed as part of an ethnic cleansing strategy, but not when it involves individual and even group acts of rape... Rape is not explicitly mentioned in the Statute of the Hague Tribunal as a serious violation of the Geneva Convention, but was – on the basis of the interpretation of feminist lawyers – additionally classified as a serious offence under “inhuman treatment”, with the possibility to also classify it under two other serious offences – that of “torture” and that of “willfully causing great suffering or serious injury to body or health” (Article 2).<sup>6</sup>

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<sup>5</sup> Nikolić-Ristanović, V. et al. (1995) *Women, Violence and War*, Criminological and Sociological Research Institute, Belgrade, p. 37.

<sup>6</sup> Nikolić-Ristanović, V. (1998) *Victims of Rape in Armed Conflict and the International Tribunal in Hague*, “Temida”, p. 13. Upon insistence of the feminist lawyers, the American State Department determined that rape constitutes grave breach of the Geneva Conventions and this was subsequently treated by the International Criminal Tribunal for the Former Yugoslavia as a war crime, more precisely as “willfully causing great suffering or serious injury to body or health”, “torture”, or “inhuman treatment” (grave breaches of the Geneva Conventions), as well as a violation of the law and customs of war. Namely, in 1998, Hazim Delic (Chelebichi case) was sentenced to 20 years in prison and this was the first-ever ruling of the Tribunal on rape as an instrument of torture. (Nikolić-Ristanović, V. 2000, *Sexual Violence in War: From Nuremberg to the International Criminal Court*, “Temida”, vol. 3 - 4, p. 37).

Regardless of such imperfections, it must be emphasized that the Hague Tribunal will go down in the history of international punitive law and judiciary as the first-ever international tribunal to have initiated proceedings against perpetrators of wartime sexual violence. It needs to be especially stressed that, as reported by Nerma Jelashic, spokeswoman of the Hague Tribunal, sexual violence charges were also brought against almost half of the 161 individuals accused by the Tribunal.

The benefits for the position of the victims arising out of the solutions in the Statute of the International Criminal Court (hereinafter: the Rome Statute), which postulates forced prostitution as a crime against humanity and rape and sexual slavery as both a crime against humanity and a war crime. It is of particular importance that this was the first time in the history of the international (and not only of the international) criminal law that forced pregnancy was incriminated as both a crime against humanity and a war crime. Enforced sterilization and any other form of sexual abuse of such or similar nature in terms of the other explicitly postulated crimes against humanity involving sexual violence also constitute crimes against humanity, but are not war crimes. However, the provision of the Statute related to genocide remains unchanged, but - in the light with the previous practice – it may be expected that it will be construed in such a way that it will also include rape as a powerful genocide instrument.<sup>7</sup>

The advancement made by the Rome Statute in comparison with the Hague Tribunal one is that the former treats rape as crime even when not a part of a wider ethnic cleansing. Under the Rome Statute, sexual violence is treated as a war crime and is classified in the group of serious offences of the law and customs applicable in the international armed conflicts (Article 8, paragraph 2 b) XXII) and in armed conflicts that are not of an international character (Article 8, paragraph 2 d) VI). The difference between the two is that the first case refers to serious violations of the Geneva Conventions in general, and the second one to grave breaches of Article 3, which is common to all four Geneva Conventions.<sup>8</sup> Pursuant to the Rome Statute, the Court shall act in respect of war crimes, in particular when those crimes are committed as part of a plan or policy or as part of a large-scale commitment of such crimes (Article 8 paragraph 1). In accordance with the Statute, the crimes that shall be treated as sexual violence related war crimes include rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence constituting a grave breach of the Geneva Conventions (Article 8 b) and e)).

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<sup>7</sup> Nikolić-Ristanović, V. (2000) Sexual Violence in War: From Nuremberg to the International Criminal Court, „Temida”, vol. 3 - 4, p. 38

<sup>8</sup> Rome Statute of the International Criminal Court (“Official Gazette of the Republic of Macedonia” no. 12/2002).

In addition to doing so by acceptance of the international documents, our substantive criminal legislation (especially under the 2004 Novelty of the Criminal Code) also accepts the list of acts related to sexual violence, and the forms of such violence, thus treating them both as crimes against humanity and as war crimes.

Both incriminations treat the issue of sexual abuse of individuals of both genders in armed conflicts, namely: Article 403-a (crime against humanity) introduced by the 2004 Novelty and Article 404 (War crimes against civilians), also amended in 2004 (“Official Gazette of the Republic of Macedonia” no. 19/2004) and – on top of the already existing acts of forced prostitution and rape – also added the following: sexual exploitation or slavery or causing forced pregnancy, enforced sterilization or any other form of grave sexual violence (Article 403-a), while Article 404 speaks only of any other form (without the qualification “grave”) of sexual violence. In this context, let us also mention yet another international document adopted recently (2013), which has been especially relevant and present in the public discourse as of lately<sup>9</sup>; a document that has already been accepted by 137 countries worldwide (or 70% of the UN Member States) – **“The Declaration of Commitment to End Sexual Violence in Conflict”**.<sup>10</sup>

Among other things, the Declaration calls for:

- Adequate funding for sexual violence prevention and response efforts;
- Comprehensive, improved, and timely medical and psychosocial care for survivors;
- Exclusion of crimes of sexual violence from amnesty provisions in peace accords;
- Full participation of women in all decision-making processes during conflict, post-conflict, and peace time;
- Strengthened regional efforts to prevent and respond to rape in war;
- Enhanced support for conflict-affected states for national security and justice reform efforts aimed at addressing sexual violence in conflict;
- Military and police training on prevention and protection obligations;
- Improved collection and access to data and evidence of sexual violence during conflict;

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<sup>9</sup> The relevance of the document is due to the fact that the commitments to its affirmation and consistent implementation (visiting in the process specific states infamous for the large-scale sufferings of the victims of sexual violence) include British Foreign Secretary William Hague and the world-renowned actress Angelina Jolie.

<sup>10</sup>The Declaration was adopted on September 24, 2013. The integral text of the Declaration is available at

[https://www.gov.uk/.../A\\_DECLARATION\\_OF\\_CO...](https://www.gov.uk/.../A_DECLARATION_OF_CO...) (accessed on 30.04.2014)

- Support and protect of the civil society's efforts to document cases of rape in war; and
- The development of an International Protocol on the documentation and investigation of sexual violence in conflict

It may be concluded most precisely that this is a document aimed at improving the care for and protection of victims of sexual violence in conflict.

***Procedural Provisions Related to the Position of Victims of Rape and Other Sexual Crimes***

The special Victims and Witnesses Section has a special role in the protection of victims of war crimes, including victims of sexual violence. It is interesting to note that such an organizational solution was introduced with the acts of the Hague Tribunal and was accepted as a good experience in the Rome Statute as well. Pursuant to Article 34 of the Rules of Procedure and Evidence (of the Hague Tribunal), the activities of the Victims and Witnesses Section shall consist of: 1) recommending protective measures for victims and witnesses in accordance with the Statute; and 2) providing counseling and support for the victims and witnesses. In this, the provision particularly underlines that the Section will provide the counseling and support “in particular in cases of rape and sexual assault”, and that “due consideration shall be given... to the employment of qualified women” in the appointment of staff. According to the interpretation by Niarchos, while there is no special provision to that effect, it may be assumed that the last note suggests the creation of a special unit composed mostly of women, which – in the way that proved to be useful at a national level in many countries – would deal with cases of rape and other sexual abuse.

Another provision of the Rules is of special significance for the victims of rape and other sexual crimes. Namely, Rule 75 postulates that the court shall, whenever necessary, control the manner of questioning to avoid any harassment or intimidation. With regard to this, the provision contained in Rule 96, the intention of which is precisely the protection of such victims, is of particular importance. In this sense, additional evidence shall be required to corroborate the victim’s testimony, examination of the victim’s prior sexual life shall not be acceptable and – in case the defense claims that there was consent on part of the victim, the court is to consider factors that may have influenced such consent, including physical violence and moral and psychological limitations. This includes not only threats and pressures to the

victim, but also to other individuals that are close to the victim or that the latter cares for.<sup>11</sup>

Under the Rome Statute that the Republic of Macedonia ratified by the Law Ratifying the Rome Statute of the International Criminal Court (“Official Gazette of the Republic of Macedonia” no. 12/2002), the Court shall undertake certain measures to protect the physical and psychological integrity, dignity, and privacy of the victims and witnesses. The Court shall take into consideration all relevant circumstances of the case in question, including the age of the victims and witnesses, their gender in the sense of Article 7 paragraph 3, their health condition, and the nature of the crime committed. This the Court does particularly, but not exclusively when the specific criminal act involves acts of sexual abuse and abuse of children. Notwithstanding the principle of public hearing regulated in Article 67 of the Statute, the Court may – for the purpose of protecting the victim, witness or accused – conduct certain procedural activities involving the presence of the stated parties to the proceedings in a special court room (in camera) or may allow the evidence to be produced by electronic or other similar means, in particular when a child appears in the capacity of a victim or witness. The Victims and Witnesses Unit of the Court is authorized to propose to the Prosecutor the application of appropriate measures of protection of the stated categories of persons, appropriate arrangements guaranteeing the safety of such persons, counseling for victims and witnesses, as well as other forms of assistance, in accordance with the provisions of Article 42 paragraph 6.

Namely, pursuant to the above stated Article 43 paragraph 6, the Secretary shall set up a Victims and Witnesses Unit within the Registry. In consultation with the Office of the Prosecutor, this Unit provides the application of protective and security measures and other appropriate assistance for the witnesses and victims appearing before the Court, as well as for others who appear before the Court. What is even more significant for the subject matter of this paper is the provision under which the Unit shall include psychotherapists, including ones specializing in providing assistance to victims of sexual abuse, which in itself evidences the need of specialized assistance for this category of victims, having in mind their position and the consequences arising out of these crimes for such victims. In cases when - pursuant to the provisions in this Statute - the production of evidence and admittance of information may result in jeopardizing the safety of the witness or their family, the Prosecutor is authorized not to disclose the type of evidence

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<sup>11</sup> On these and all other procedural provisions contained in the Hague Tribunal Statute and its Rules of Procedure and Evidence related to victims in general, including victims of rape, see more in my article (2001): Rights of Victims – Prerequisite for Successful Cooperation of the Republic of Macedonia with the Hague Tribunal, *Macedonian Magazine on Criminal Law and Criminology*, vol. 1 - 2, pp. 103 - 106.



and information in question and instead only to present a brief report, for the purpose of conducting procedural actions preceding the proceedings itself. These measures... (Article 67 paragraph 5).

In compliance with the Statute and under procedures of their national law, State Parties are obliged when so requested by the Court to provide legal assistance in the investigation, pre-trial and trial stages, among other things also to the protection of victims and witnesses and the preservation of evidence (Article 93 paragraph 1 j)). The significance of this provision lies in the fact that it overcomes the previously observed weakness of the international legal solutions when it comes to the protection of victims and witnesses, which was reduced to the trial stage only. In this context, the provision would have been complete had it also included the protection of victims and witnesses following the completion of the trial as well, particularly if they are to return to the places of their previous residence.

### **FEATURES OF SEXUAL VIOLENCE IN CONDITIONS OF WAR WITH A SPECIAL FOCUS ON RAPES**

Under war conditions various forms of sexual violence are present, primarily such that are aimed at civilians and specifically at women as the most frequent victims of rape and other forms of sexual violence. "... Women have been sexually abused in regions affected by military actions, as well as in regions not under direct threat of a war, in which the various ethnic groups still live together. Women have been subjected to sexual violence in various situations: during house searches, arrests, escape, in camps, in special premises intended for isolation and rape, etc.<sup>12</sup> It must be, however, noted that rape – as one of the forms of sexual violence in times of war – is by far the most frequent or visible one. In fact, papers in this area are much more focused on rape. This is not to say that the majority of perceptions related to rape do not include other forms of sexual violence as well. Bearing in mind these remarks, we will also primarily speak about rape in this study.

What features of rape may we point to?

a) Rape is primarily committed by members of armed forces, but also by civilians, members of various ethnic groups, and even members of the same ethnic group.

b) Rape is more a result of the imbalance of power and is used as a means for the attainment of goals having nothing in common with sexuality; just like when committed in peace, rape in armed conflicts is more a result of

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<sup>12</sup> Nikolić- Ristanović, V. et al (1995) Women, Violence and War, Criminological and Sociological Research Institute, Belgrade, p. 37

the imbalance of power than it is due to purely sexual motives.<sup>13</sup> There are views that the sexual meaning of rape is of marginal importance during war. Under such circumstances, rape is used as a means of vengeance or humiliation of the victim of rape who is a civilian, causing enforced pregnancy or rape accompanied by enforced prostitution, etc.

c) Rape is the result of a certain policy and strategy of the warring parties and the goal expected to be achieved by the armed forces – conquering a territory, the conquerors also acquired the “right to sexual conquer” that over time came to be an accepted manner of evaluating manliness, i.e. a manner of demonstrating dominance and superiority over women. Still, when the armed forces are predominantly consisted of male members, it is the masculine nature of war that prevails and the gap between the man possessing power and freedom to act as a result of the situation in which he finds himself, on one hand, and the woman deprived of power and with no possibility to protect herself and to resist the man, on the other hand, becomes larger. Rape in armed conflict is not only a matter of incidence where the female victim happened to be in the wrong place at the wrong time (Chinkin, 1993).<sup>14</sup>

d) One of the features of rape in wartime is the cruelty of the act, i.e. the cruelty in treating the victim of rape. This cruelty is mainly due to the impact of the circumstance that – in the eyes of the rapist – the victim symbolizes the adversary and that the latter is thus harmed and vengeance is achieved for certain other actions of the enemy; in such cases, women are also considered to be the property of men and the enemy is to be defeated – among other things – also by causing disgrace, deprivation of honor, and humiliation; in other words, by destroying the woman as the property of the man. The women of the adversary combatant are often abducted for the purpose of committing group or repeated rapes and enforced prostitution. The ultimate symbolic expression of rape in warfare may be treated as humiliation of the enemy, since men traditionally perceive rapes of “their own” women as part of their own defeat. The myth of the male protector, activated in most of the wars, is – as Seifert puts it – nothing but a myth.<sup>15</sup>

e) The use of rape as weapon in war – the Conference on Prevention of Sexual Violence in Conflicts held in Sarajevo (March 2014) states among other things the following: For a long time it has been assumed that rape of civilians simply happens in war. However, the use of rape as a weapon of war is the worst possible form of fighting. Perpetrators are often aware of their doings. They separate families, with men also being victims. Women must no longer be afraid to go out in the street to take care of their family, fearing that

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<sup>13</sup> Ibid, p. 38.

<sup>14</sup> as cited in Nikolić- Ristanović, V. et al., *ibid*, p. 38.

<sup>15</sup> Ibid, pp. 38 - 39

they will be raped. Soldier must be educated how to treat women. Sexual abuse and raping women must not be usual weapon in the wars worldwide.” (Angelina Jolie in Sarajevo, 27 March 2014)

f) For the victims of sexual violence, the post-conflict period is also a traumatic one, which is to say that the victimization continues as a rule: the problem of stigmatization and social exclusion of victims of sexual violence in war and in the post-war period is yet another example of secondary or prolonged victimization the already severely victimized individuals. The victims must be integrated back into society and this is the unquestionable task of every organized society. The following are important elements in this respect: prevention, justice and reintegration (accessed on the internet on 30.03.2014).

g) Victims of wartime rape in the post-conflict period “mainly live in a dire financial situation, do not have the psycho-social support that they so much need, no free legal aid, and usually no job... At the same time, the perpetrators of such crimes are still out there living a free life, in some cases even in the same place where these women live. They see each other and their families know each other. It is a small number of women who decide to initiate criminal proceedings against the perpetrator, primarily due to the lack of psycho-social assistance that would make it easier for them, but also due to fear.”<sup>16</sup>In this context, the role of the family is rather important; it is the family that must demonstrate understanding for the victim and provide the assistance and support required for their rehabilitation and reintegration. It is the family that must stop the process of prolonged or so-called secondary victimization. Secondary victimization is also a serious problem encountered by the victims, especially in patriarchal environments. It is in this sense that we suggest that work be done with the families as well, as they constitute a significant link in this process.

## **RESOLVING CONFLICTS RELATED TO SEXUAL WARTIME VIOLENCE IN THE POST-CONFLICT PERIOD**

Sexual violence committed during wars inevitably imposes the need to search for possible responses in the post-conflict societies. The conventional response to this issue related to the so-called retributive justice will not be the focus of our interest on this occasion. We will instead turn our attention to the so-called transitional justice, as an alternative of more far-reaching goals than bringing the perpetrators to justice. More precisely, its main objectives are tied

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<sup>16</sup>[http://www.bportal.ba/index.php?option=com\\_content&id=22411%3Ageneralna-skuptina-un-a-usvojena-deklaracija-o-eliminaciji-seksualnog-nasilja-uratu&Itemid=60#sthash.xt90UOrO.dpuf](http://www.bportal.ba/index.php?option=com_content&id=22411%3Ageneralna-skuptina-un-a-usvojena-deklaracija-o-eliminaciji-seksualnog-nasilja-uratu&Itemid=60#sthash.xt90UOrO.dpuf)

to the efforts to arrive at the truth and at reconciliation, the ultimate goal being the establishment of a lasting peace in the specific country and the wider region, to prevent the conflicts from “spilling over”.

Resolving conflicts related to wartime violence in the post-conflict period is a process requiring time and numerous efforts on part of the opposing parties. The losses suffered and the consequences of the violence and fear gone through at times of war make the resolving of conflicts and their consequences following the end of the armed conflict painstaking and long-lasting. In this context, various forms of resolving violence-related conflicts are used, including the possibilities provided by the truth and reconciliation commissions as an alternative or complementary form of dealing with perpetrators and victims in the post-conflict period. This is about implementation of transitional justice in the so-called transitional countries. In fact, transitional justice embodies a wide spectrum of truth identification mechanisms, such as investigation initiatives and documentation commissions and centers.<sup>17</sup>

An example of this is the setting up of truth and reconciliation commissions (in Rwanda, South Africa or El Salvador). As observed by Minow, it is only if we admit that the prosecution is slow, partial and narrow that we can realize the value of the independent commissions investigating large numbers of crimes and the complex lines of liability and accomplice. These commissions combine restorative justice with the search for truth. The truth speaks of perpetrators and sexual violence committed, i.e. rape and victims suffering consequences of the deed; as a result, the commissions offer amnesty to the perpetrators who have committed crimes following orders, i.e. for political reasons, in exchange for the truth. Amnesty, however, may and must not be granted to all those asking for it. Depending on the crime committed, its graveness and consequences, perpetrators are prosecuted criminally.<sup>18</sup>

In the case of South Africa, the establishment of a Truth and Reconciliation Commission provided a formula – in the words of Bishop Desmond Tutu – between “Nuremberg and amnesty”, such that would enable the community to head for a more stable peace by facing the truth. The Commission reduced the number of processes, but did not grant amnesty en bloc. The perpetrators had to publicly admit to their doings and to face the victims. Justice is, therefore, understood as collectively facing the truth,

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<sup>17</sup>[www.balkaninsight.com/rs/](http://www.balkaninsight.com/rs/)(accessed on 28.04. 2014)

<sup>18</sup>More details on the essence of this process, especially through the South African Truth and Reconciliation Commission, may be found in Nikolić-Ristanović, V., in the section of the paper with an inspirational title: What next: justice, healing society or all together?, as part of the study entitled *Sexual Violence in War: from Nuremberg to the International Criminal Court and beyond*, “Temida”, Belgrade, 2000 / 3 - 4, pp. 38 - 39

publicly admitting/confessing on part of the perpetrator, compensation for the victims, aspiring to achieve forgiveness that would lead to reconciliation/peace in the community... The objective was social, instead of political reconciliation, i.e. justice establishing an inclusive political community, sawing back together the social tissue torn, and re-establishing individual rights instead of being satisfied merely by legally punishing the guilty party.<sup>19</sup>

It is in the context of such work of the truth and reconciliation commissions that we speak of the manners of dealing with the past violations of the human rights in the transition societies. Transitional justice is one of the most important instruments in the process of democratization led with the support of the international organizations, so that it may function as an efficient catalyst of the post-conflict reconciliation and stabilization.

According to the International Center for Transitional Justice, the basis for the actions of transitional justice include: calling for liability of the offenders of human rights in the past by means of criminal prosecution and out-of-court forms of investigation (as truth finding mechanisms), reparations for the victims and efforts to meet their needs, and transformation of the security systems, so that the perpetrators are liable for past violations of human rights and so that they are potentially removed from public institutions; also reforms of the public institutions to prevent repeated violations of human rights from the past.

Nowadays, transitional justice is often confused with the international justice and criminal prosecution. As this project demonstrates, however, transitional justice has more far-reaching consequences than simply bringing the perpetrators to court. Its main objective is to build sustainable peace and assist in the democratization by healing the society and reconciliation.<sup>20</sup>

Can we talk of such experiences in our environment? It may be concluded that, in addition to the court ones, other truth establishing mechanisms have also been initiated in the region, such as national fact finding centers, the regional truth identifying commission RECOM and several fact finding initiatives in the form of various investigation and documentation centers. The regional coalition of non-government organizations (Coalition) initiated the formation of a regional truth finding commission (RECOM) in 2008. The Coalition consists of a network of 1,500 non-government organizations, associations and individuals, with some of these organizations coming from Macedonia. Still, it may not be said that this initiative has had any significant impact in this country.

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<sup>19</sup>Nakarada, R.(2011) Roads to Reconciliation, in the Yearbook of the Faculty of Political Science, Belgrade, vol. 5, pp. 368 - 369

<sup>20</sup> [www.balkaninsight.com/rs/](http://www.balkaninsight.com/rs/) (accessed on 28.04.2014)

At the very end, it may be concluded that the experiences of the Republic of Macedonia when it comes to the application of truth and reconciliation processes – thus also of transitional justice – are indeed too modest for any relevant conclusions to be deducted. Yet, an encouraging sign that things will “get off the ground” is the information that the subject of *Transitional Justice* has been introduced in the latest study program of Criminology and Criminal Policy at the Faculty of Security in Skopje that started in this academic year (2013/14), with the purpose of studying this significant novelty in the implementation of justice on a scientific base.

### **INSTEAD OF A CONCLUSION**

Sexual violence in times of war is a type of crime that has been unjustifiably neglected and even considered to be a “normal” phenomenon or collateral damage wars inflict. Owing to the intensified efforts of the international community – and in particular of the feminist movement – this crime started to be treated as a war crime and a crime against humanity and its definition is being expanded, instead of being brought down to mere rape or enforced prostitution. It is of unquestionable importance to study sexual violence in armed conflict; in this, any specifics in terms of sexual violence in peace are to be especially identified; treatment of this type of violence needs to be determined in the international documents; its features need to be recognized; and one of the possible ways of resolving it in the post-conflict period is to be pointed to (by means of truth and reconciliation). Thence, the need arises to study it further and more deeply.

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# DISASTERS AS A CRIMINAL CONTEXT

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## **Abstract**

Criminologists usually study the crime and deviance under normal circumstances. Researches of human behavior during natural, industrial and social disasters begun almost a century ago with Samuel Henry Prises and his book “Catastrophe and Social Change, based upon a sociological study of the Halifax Disaster” from 1920. When social control is weak or absent, deviant behavior emerges, crime rates rise and exploitative behavior spreads. After this important study, two forms of crime were determined: property crime (looting) and economic crime (market frauds including goods and prices) and the belief that these were inevitable companions of disaster and that they were criminogenic ipso facto has become rooted. In general, people are considered prone to panic and reverting to a more savage, self-centered nature, leading to a breakdown of social order and criminal activity. On the other side, extensive social science research provides little support to these disaster myths of antisocial behavior, suggesting that people affected by a crisis generally become focused on loved ones and become extremely creative in dealing with the disaster generated problems. Despite these empirical findings, media often account focus on concerns of looting and other forms of crime occurring during disasters. Whether the crisis or a disaster will be used as a crime opportunity depends on the wide range of factors such: as national culture, social control, type of crisis, structure of the community and consensus upon its basic values.

*Key words: crime, disaster, social disorder, media*

## **INTRODUCTION**

Natural disasters constitute a major threat to the health, safety, and property of human communities. It is very difficult to collect comprehensive data, but according to the statistic, in 2013 only, global natural disasters caused economic losses of USD192 billion, 4% below the ten year average of USD200 billion. The losses were generated by 296 separate events, compared to an average of 259. The disasters caused insured losses of USD45 billion, 22% below the 10-year average of USD58 billion and the lowest total since



2009. In a reversal from 2012, when the year's largest events occurred in the United States, the largest global events of 2013 were heavily concentrated in Europe and Asia. Notable events during the year in these regions included major flooding in Central Europe, Indonesia, the Philippines, China, and Australia, in addition to Super Typhoon Hainan's landfall in the Philippines. Flood represented 35% of all global economic losses during the year, which marked its highest percentage of aggregate losses since 2010. Severe drought conditions also contributed to billion-dollar (USD) losses in Brazil, China, New Zealand, and the U.S. (Annual Global Climate and Catastrophe Report Impact Forecasting, 2013)

Natural hazards not only cause human casualties and property loss, but also disrupt social order and community life. Indeed, Fritz (Fritz, 1961) argues that natural disasters present a real world laboratory for testing basic questions on how individuals and communities respond and adapt to conditions of loss and dispossession. While news media frequently cover natural disasters as agents of social disorder, panic, looting, and criminal deviance (Fischer, 1998), the empirical link between disasters and crime is disputed in mass emergency and disaster research. Disagreement among researchers is understandable. What research exists on the relationship between natural hazards and crime is limited to case studies of single events, small sample descriptive analyses, or statistical accounts of behavior in one location during a single point in time. As a result, not much can be scientifically concluded about the degree to which disasters affect criminal behavior (Zahran et al 2009).

There is a widespread belief that looting, violent crimes and other antisocial behaviors are common in the emergency time periods of community crises created by natural and technological disasters or social unrests. Generally, people are considered prone to panic and to reverting to a more savage, self-centered nature, leading to a breakdown of social order and criminal activity. However, extensive social science research lends little support to this disaster myths of antisocial behavior, suggesting that people affected by a crisis generally become focused on loved ones and become extremely creative in dealing with the disaster generated problems (Kešetović, 2011).

## **RESEARCH FINDINGS**

The largest number of criminologists investigated crime and deviance under normal circumstances, although Emile Durkheim put the focus of his research precisely on the exceptional conditions and circumstances (Dirkem, 1997). When it comes to exceptional, extraordinary circumstances, the interest

of researchers went to the complete dissolution of previously established power structures (National Socialism, Bolshevism, and Fascism).

Regarding the criminological research of human behavior during the disasters, they started at the beginning of XX century with a book by Samuel Henry Price, *Disaster and social change - based on sociological studies of disaster in Halifax* (Price, 1920). After the explosion, the ship ammunition wave that wiped there was a part of the city of Halifax, killing 2000 and causing an injury to 6000 Jews. All the usual means of social control were disturbed and the disaster led to the expression of two types of crime: property crime (looting) and economic crime (fraud with prices, commodities and such). After this important study the belief that these two forms of crime are inevitable companions of disaster and that the disasters are criminogenic ipso facto has become deeply rooted. Robberies occurring in these circumstances are usually interpreted as an evidence of human deprivation. In times of natural or social chaos we see the rise of the human animal and disappearing social control.<sup>1</sup>

However, Canton points out that people are generally considered prone to panic and reverting to a more savage, self-centered nature, leading to a breakdown of social order and criminal activity, particularly looting. Research shows, however, that people almost consistently act just the opposite. People affected by a crisis generally become focused on the loved ones and neighbors and become extremely creative in dealing with the problems generated by a disaster. Almost 90 percent of disaster victims are rescued by private individuals, not by public agencies. Panic is usually limited to situations where there is an immediate, overwhelming threat to life in a confined area and it is usually of short duration. (Canton 2007)

This myth of antisocial behavior was demonstrated during the Hurricane Katrina. Despite extensive media reports of looting, an investigation by sociologists from the University of Delaware showed only 237 actual robbery arrests, which, when compared to the normal crime rate, actually represented a decrease in crime from pre-disaster conditions, a situation consistent with previous research.<sup>2</sup> Interviewees stated that pro-

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<sup>1</sup> When people think of disasters, the common image is one of a social breakdown. In contrast, researchers have found - at least in the immediate aftermath of disasters - that community resilience and unity, strengthening of social ties, self-help, heightened incentive, altruism, and pro-social behavior prevail more often (Heide)

<sup>2</sup> According to Quarantelli, research has also found that during disasters, standard crimes drop as a whole, some substantially below the usual everyday rates, whether in terms of what is reported to the police or in terms of arrests made. While a drop could be partly attributed to a failure of the police to uphold certain laws during the emergency period (e.g., parking violations), this would hardly explain the usual decrease across-the-board. Furthermore, survey and other data from affected populations do not indicate that they suddenly become major victims of a range of crimes. (Quarantelli, 1994)

social behavior (e.g. sharing of supplies, helping neighbors) was more prevalent than antisocial behavior and suggested that many involved in looting were those likely to commit crimes pre-disaster. There were also suggestions that some robberies may have been the product of social inequality resulting in behavior normally seen in civil disturbances. While comparison with the crime rate does present a problem owing to the difficulty of keeping records in a disaster and the discretion given to the police when determining looting versus appropriation, it does, nevertheless, seem as if media reports of robberies were exaggerated. (Canton 2007)

The breakdown of social control agencies, loss of power, anonymity of collective male groups, and unsafe environment of disaster shelters and other temporary housing during the disaster may facilitate sexual assaults on women, as it happened in the earlier phases of the Katrina Disaster. However, the literature about the sociology of disaster (including works by criminologists and disaster researchers) generally offers little empirical evidence on the sexual victimization of women during catastrophes. The dearth of evidence on this phenomenon impedes the development of key policies related to emergency preparedness and planning, which recognize women's vulnerabilities and serve to protect them against violence and sexual assaults.

Dunes and Quarantelli recognized that there are significant differences in criminal behavior after natural disasters such as floods, hurricanes, earthquakes, tornadoes and after the civil unrest. They, in fact, suggest that the occurrence of robbery crimes is much more likely after the social crisis such as civil unrest. Also there are differences in the types of goods that are being stolen in the wake of natural disasters and during the social disorders. What also differs is the public condemnation. Taking someone else's property during social crisis might not be considered as a robbery as it carries an important message from deprived parts of the population. These authors also stated that cases of looting are considerably less common after natural disasters than after civil unrests. (Dunes and Quarantelli, 1968).

A number of disasters that have later occurred presented the opportunity for researchers to deepen their knowledge regarding the links between disaster and deviant behavior. However, mainstream criminologists have not dealt with this issue more thoroughly. Aside from this, a particular problem is to fit scarce empirical insights into the general theoretical framework in order to explain the impact of disasters on deviant behavior.

In an attempt to determine why, despite the empirical data which suggest that the robbery crimes after natural disasters are relatively rare, there is a widespread perception they are frequent, Dunes and Quarantelli cited four factors that prevail in the post-crisis period:

- misinterpretation of the observed behaviors,

- misconceptions about who owns the property,
- inflated reports on looting, and
- sensationalist coverage of crisis events by the news media. Reports on robberies are often based on misunderstanding of human motives. (Canton 2007)

On the basis of empirical research, Quarantelli claims that robberies almost never happen during and after a disaster. And when they occur, offenders are usually individuals not from the local community (Tierney, 1989; Quarantelli, 1993). Officials often take measures to prevent looting, even though media reports about them during and after disasters and those stories are often spread by aid distributors.

It is possible that the validity of the presented reports is limited and that the phenomenon of antisocial behavior should be observed in the cultural context. However, based on the reports of witnesses, during the one of biggest industrial disasters caused by emission of toxic gas in Bhopal, India (1984, 30.000 dead) systematic robbing, and even murders were recorded (Lapierre, and Moro, 2001). Similar situation was in Haiti after the devastating earthquake in 2010. The opposite example is Japan where there were no robbery crime records after the tsunami (Kešetović, Toth, Korajlić, 2013).

## **REACTION OF THE CRIMINAL JUSTICE SYSTEM**

Disaster myths have altogether been neglected in legal literature. Yet these myths have important implications for the disaster law and policy in USA. Belief in the disaster myth of looting and violence may spur legislation that serves little purpose, distracts from other disaster legislative priorities, and perpetuates the mythology itself. The most prominent examples of such legislation are looting laws. Widespread adherence to disaster mythology has caused many states, including some of the nation's most disaster prone, to pass laws which address looting during and after natural disasters. These laws are premised on the belief that looting will be prevalent during natural disasters, just as it is during civil disturbances. Eight states (California, Delaware, Hawaii, Illinois, Louisiana, Mississippi, North Carolina, and South Carolina) currently have laws that create a distinct offense criminalizing looting done by civilians in the wake of natural disasters. Another six states (Iowa, Minnesota, Oregon, Pennsylvania, Texas, and Wisconsin) have a penalty enhancement for theft that occurs during a disaster.

According to Sun there are a number of unfortunate legal consequences of this myth, including the deployment of military troops in a law enforcement, rather than humanitarian capacity; distortion of response priorities outlined in disaster plans; imposition of restrictions on freedom of movement and other basic rights. The disaster myth of widespread robbery and violence has

engendered a legal and policy structure that frames natural disaster response too much as law enforcement, rather than a humanitarian problem. The deleterious effects of the myth on disaster laws can best be countered by constraining official discretion to overemphasize security risks in immediate-response decisions, rejecting calls to pass broad looting laws that can reflect and perpetuate the myth, and, perhaps, reforming the structure of federal disaster agencies by removing the Federal Emergency Management Agency from the Department of Homeland Security and reestablishing it as a cabinet-level agency. (Sun 2010 – 2011)

Report on the Galveston Hurricane of 1990 spoke of people who were executed after having cut off human fingers with rings on them found in their pockets. Similarly, after the earthquake in San Francisco in 1996 and the fire that followed, the federal troops were killing the robbers who were cutting the fingers and ears from corpses in order to steal the jewelry. From calls to expand the role of the military in disaster law enforcement, to diversion of police from search and rescue missions to looting patrols, to disaster-spurred restrictions on movement, to the passage of looting laws, we overemphasize law enforcement concerns and security risks at the expense of humanitarian efforts to provide the needed aid to disaster survivors, to allow survivors themselves to help their neighbors and rebuild their lives, and to mitigate harms from future disasters.

During the Hurricane Katrina, Louisiana Gov. Kathleen Blanco warned rioters and looting in New Orleans that National Guard troops are under her orders to “shoot and kill” to end the rampant violence in the city in the aftermath of the Hurricane Katrina. Announcing the arrival of 300 Arkansas National Guard troops in New Orleans fresh from service in Iraq, Blanco said, “These troops are battle-tested. They have M-16s and are locked and loaded. These troops know how to shoot and kill and I expect they will,” she said. (Jouner, 2005)

On the other hand, however, it appears that any permissibility of looting done only for survival needs (food, water, and other survival items) exists at the graces of law enforcement officials. While we can hope that police officers will use their discretion not to arrest "survival" looting and that prosecutors will use their discretion not to pursue criminal charges, those arrested and charged with looting need an explicit defense that is subjected to their own control. After witnessing the fury and aftermath of the Hurricane Katrina, society has seen how looting sometimes serves the larger purpose of survival instead of the traditional purpose of greed. In these cases, robbers' actions should be justified, and criminal penalties should be waived for their otherwise criminal behavior (Hamrick, 2006 - 2007).

Salgado, Marchione and Gill have reported the results of an ABM (agent-based model) to study the emergence of looting behavior after the

occurrence of a disaster. The model suggests that, in an absence of any external policy, a disaster triggers a deviant behavior escalation in the system. They had also analyzed the impact of three different policies that could be implemented by government agencies:

- an increase of the police power,
- an increase of the information available to the affected population, and
- a combination of both policies.

Additionally, they tested the effect of time in the implementation of these policies. The results indicate that an early joint intervention successfully contained the escalation of deviant behavior. Late interventions were not able to restore the artificial society to its initial ordinary state. Moreover, the intervention policies taken into account seem to affect two different aspects of the artificial society. Whilst applying a social policy would bring about an overall decrease of hawks, a police intervention would efficiently protect the resources available. Therefore, the outcome of those policies depends ultimately upon the timing of their application. Thus, a mixed policy of reinforcement of the police forces and a recovery of the communication systems that allows people to be informed of their environment early after a disaster strikes a population might prevent or thwart the escalation of looting behavior (Salgado, Marchione, and Gill, 2010).

## **CONCLUSION**

Relations between disasters and crime are only coming into the focus of interest of sociologists and criminologists as a relevant topic. Although significant number of empirical studies has been conducted so far, their results are still not integrated into the appropriate theoretical framework. Also, there is still no general agreement among academics about the relationship between disasters and crime or anti-social behavior, as well as on an adequate response of the criminal justice system to crimes committed in the context of disasters. The majority of the research was conducted in USA so one must be very cautious in extrapolating the data and conclusions to other environment because of the social, cultural, economic, and political differences in other countries. One should be careful when drawing overall conclusions on this issue. Whether the crisis or a disaster will be considered and used as a crime opportunity depends on the very nature of the concrete disaster and actual socio-political circumstances and, also, on a wide range of factors such as national culture, social control, type of crisis, community structure and its resilience and consensus upon its basic values. Also there are a number of conceptual and methodological problems associated with analysis of this issue. Important relationships between natural disasters and crime might be considered only as a starting point in what should be a more thorough empirical investigation of the topic.

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# WHEN DOES SELF-PROTECTION END AND AUTOCRACY BEGIN?

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## INTRODUCTION

No modern, regulatory state would allow the individual to arbitrarily exercise his rights, or the rights he considers is entitled to, according to the principle of the prohibition of arbitrary exercise of rights. Not only would the authority of state authorities thus be violated, but would the individuals themselves decide on the way of exercising these rights, which, in some cases, could be accompanied by violence, and therefore the possibility of carrying out serious crimes (Stojanovic 2012, 870). It can only be imagined what kind of negative consequences could have been caused by arbitrary exercise of rights in modern societies. Therefore, all individuals are instructed to exercise their rights primarily through the state authorities, in the ways regulated by laws and regulations.

However, the organized protection of subjective civil rights is exceptionally present as a form of extra-judicial protection of rights. It is determined by law as a subsidiary and complementary form of protection, as arbitrary exercise of rights. It is the case of the situations when the help of the state authorities cannot be timely received, and the realization of the rights would be either impossible or considerably more difficult (Stojanovic / Antic 2004, 292). The inefficiency of the state authorities and the need to maintain procedural economy are often the reasons of unsolicited protection of rights. Within the law of the Republic of Serbia the concept of self-defense, as well as the forms and general conditions for its exercise, are regulated by the Law on Obligations (“Official Gazette of SFRJ”, No. 29/1978, 39/1985, 45/1989, 57/1989; “Official Gazette of SRJ”, No. 31/1993; “Official Gazette of SCG”, No. 1/2003). Special forms of self-defense are also regulated by other laws

within the certain civil legal relations, such as Negotiable Instruments Act, the Act on the basis of property relations, and others.

Self-help, especially the right of retention as one of its forms, is insufficiently scientifically explained, even though it is always very intriguing for professional as well as general public. Historically, the self-help is considered to be the oldest form of legal protection, the perception of which it is based on the so-called *Selbsthilfetheorie*: the protection of subjective rights solely through private, unregulated self-help. According to Yering's theory of self-help, the right (*ius*) can only be incurred from the force (*vis*), and therefore the self-help represents "the primal form of law" (Pettrak, *Critics on the Theory of Self-help as a Primal Form of Legal Protection* (Selbsthilfetheorie) 2006, 1249). However, the reasons for creating self-help within the evolution of the procedures for protection of the rights through the history are completely different from the reasons for its contemporary application.

The aim of this paper is to determine the *ratio legis* of this institute today, its legal nature, conditions of permissible exercise, and especially the clarification of the relation between permissible self-defense and the felony of autocracy. In an attempt to answer these questions, this paper will analyze the domestic regulation together with the regulations of the neighboring countries, which Serbia has a shared legal tradition with, as well as the views of the doctrine and jurisprudence. This issue is particularly important at this time, when the preliminary draft of the Civil Code of the Republic of Serbia, which embodies the future Serbian law, has been made. Within the General provisions of the Code, in section 9, the protection of civil rights is basically regulated, but no general provisions on self-protection and self-help are determined. The final aim of this paper is to evaluate the expediency of such a solution and, possibly, to formulate the adequate proposal *de lege ferenda*.

## CONCEPT OF SELF-PROTECTION

The right to self-protection is granted *ex lege* to any person as an authorization to, with no help of the state authorities, repel the attack upon themselves, others, or of certain properties, in order to protect their personality or their properties, or in the cases of imminent danger of damage (G. Stankovic 2003, 119). The following general conditions for its permitted exercise are implemented into the legal doctrine: 1) the rightholder must have a liquidity right, as the subject to the act of self-defense; 2) judicial protection must be unachievable or at least untimely; 3) the manner of its exercise must be adequate to the circumstances; 4) counterattack must be necessary and proportionate to the attack; 5) there must be a natural will, that is, a factual ability for self-protection, not a business one (Stankovic / Vodinelic 2007, pp. 235 - 237).

The legal system, therefore, regulates this mechanism of legal protection as well, reducing it to a legally controlled application of force. This legal restriction is necessary because the arbitrary protection of someone's own rights could mean the violation of someone else's. The important legal effect of self-defense is the elimination of the obligation to an indemnity caused to "attacker" during the action of self-defense.

## **FORMS OF SELF-PROTECTION**

### ***Self-defence***

In the domestic legislation, there are several types of permissible self-defense. Its basic form is a self-defense, which is regulated by the Article 161 of the Law on Obligations. Its primary form is a necessary defense, that is, the right of an individual to repel the current, simultaneous, unlawful attack upon themselves or another person by a man as the attacker. Another form is the extreme necessity, that is, the state of emergency as a form of self-defense "from things" in which other people's right to smaller values is sacrificed. The influence of the criminal law on the theory of civil law is evident through the formulation of the conditions for self-defense, considering that the elements which are used in defining self-defense within the Criminal Code of the Republic of Serbia, are also applied in the civil law (Perovic / Stojanovic 1980, 503).

The laws of our neighboring countries regulate the mentioned forms of self-defense in a similar way, within their Laws on Obligations: the Article 148 of the Law on Obligations of the Republic of Macedonia; the Article 161 of the Law on Obligations of the Federation of Bosnia and Herzegovina and Republika Srpska; the Article 155 of the Law on Obligations of the Republic of Montenegro; the Article 1052 of the Obligations Act of the Republic of Croatia; the Article 138 of the Code of Obligations of the Republic of Slovenia.

### ***Self-help***

The other form of permissible self-protection is self-help, which in the domestic law is regulated in a general way in the Article 162 of the Law on Obligations. Identical conditions of permissible exercise of self-help are regulated by the laws of the mentioned countries: the Article 149 of the Law on Obligations of the Republic of Macedonia; the Article 162 of the Law on Obligations of the Federation of Bosnia and Herzegovina and Republika Srpska; the Article 156 of the Law on Obligations of the Republic of Montenegro; 1053 of the Obligations Act of the Republic of Croatia; the Article 139 of the Code of Obligations of the Republic of Slovenia. Based on these, it is possible to make assumptions of permissible self-help within the

domestic and the comparative law: 1) the existence of a claim against the person whose property is the subject of the claim is necessary; 2) there must be a real risk of thwarting or at least considerable procrastination in collecting receivables; 3) the protection provided by the competent state authorities is untimely; 4) self-help action must be taken by the creditor of claims alone, and not by a third party. The fulfillment of the above conditions authorizes the creditor to provide their own right, making legally permissible intervention in the property rights of another person. This is allowed in the following situations: the possessor of things can catch the thief and recover the stolen proper, to take the car keys, the creditor can cut the tire on the vehicle to prevent the escape of the debtor, the damaged may keep someone else's animal that had caused damage to his real estate, etc. (Radishic 2004, 228). The optional character of the self-help is reflected in the fact that it is a right, not an obligation, for the authorized person who can always have a choice of the regular judicial procedure, that is, the court procedure due to a violated right (Tour / Schnyder 1986, 567). By analyzing these elements, it is possible to list the following forms of permissible self-help in the civil law: the objection to the unfulfilled contract (*exceptio non adimpleti contractus*) in duplex binding contracts; unilateral termination of the contract due to non-compliance, unilateral compensation, tenure self-help and the right of retention. The last two are especially significant, but in the same time, controversial forms of self-help, wherefore they are going to be carefully considered in the forthcoming part of the paper. Tenure self-help is, within the domestic law, regulated in the Article 76 of the Act on the basis of property relations, while the right of retention within the Article 286 - 289 of the Law on Obligations.

### ***Self-help in tenure protection***

*Self-help as a form of tenure protection* in the domestic law which also performs a defense of the individual's rights or the alleged rights with their own forces (Simonovic, Right to Self-help in Protection of Possessions 2011, p. 210). A holder, or a detentor, is authorized to take the action of self-help against those who unauthorizedly disturb them or their possessions, or who take the things away of the possession, under certain conditions. In fact, the danger must be immediate, self-help necessary, and the manner of its exercise adequate to the circumstances of risk. Exceeding the limits of permissible self-help (breaking the conditions of proportionality) makes the action taken legally impermissible. In legal theory the lawfulness of defensive self-help is considered to be indisputable, which is also the prevailing attitude of legislators in comparative law. What is disputable, however, is the so called offensive self-help, when the attack on the possessions is "remediated" by a new attack. Then the holder autocratically returns the thing previously taken away from them, which represents the response to the act of lawlessness, that

is, the way of defending possession, and not the felony of autocracy (Orlic, Protection of Possessions 1979, 304). It is obvious that the line between self-defense and felony of autocracy is sometimes hard to be determined, essentially as well as terminologically. Thus, in the legal literature certain forms of self-help (especially the offensive ones) are mistakenly referred to as autocracy.

It is the fact that the possessory self-help represents a wider aspect than a self-help, which is generally referred to as a necessary defence, extreme necessity or a self-help in general. Although its exercise is limited in time (as opposed to general self-help), tenural self-help in the domestic law is not limited to the moment of the attack; it may involve the use of force, but not necessarily; nor is the condition of unattainability of judicial protection always necessary; it does not even represent the protection of rights but of the factual state. It only depends on the requirement of proportionality between the attack and the defense. Due to wider rights that are legally recognized to a disturbed holder, this modality of self-defense is also called the privileged self-help. In the foreign doctrine, this kind of self-help is even considered the "naturally given", "self explanatory" and "the most natural form of tenure protection" (Vodinelic, Why Possessory Procedure? On the Reasons for Possessory Protection of Possessions? 2013, 327).

### ***The right of retention as a form of permissible self-help***

The institute of self-defense, whose legal nature has been the least reported of, especially when in function of permissible self-help, is the *right of retention (ius retentionis)*, to which we are going to pay special attention. This question seems important, because it is an institute which, despite the great potential it provides to the creditor, it is not used broadly enough in practice. The reason for this is, as legal writers allege, a doubt of an individual that as a subject of the private law it can become an instrument for the execution of justice, which is, as a rule, in the exclusive domain of public authorities (Montessori 1906, 10). Due to the ignorance that a retention represents a form of permissible self-help, the parties express an unjustified fear that by retaining the debtor's possession they perform a felony of autocracy (Lorenc 1966, 4). The right of retention can be defined as the right of a creditor to, under certain conditions, keep the debtor's property which he already had in his possession, regardless of the debtor's will, until the moment of payment by the debtor, and even to be reimbursed from the property's value if the payment is not made. This definition is derived from the Article 286 paragraph 1 of the Law on Obligations of the Republic of Serbia, which means that the institute representing the form of self-help is regulated *ex lege* by the general norm of the obligation law (and not casuistic, as in some foreign laws).

General conditions for the establishment of retention are the following: secured claim of any kind must be unpaid (and that is not obsolete), matured and enforceable; retained property must be the debtor's, provided that it is possible to cash it by selling; immediate possession of a property must be obtained through voluntary submission by the debtor, with the exception of contracts on holding or use (Planojevic 2012, 420). By specifying the conditions under which the right of retention may be exercised, the limitations of its application are being underlined, and the status of a legitimate exception to the prohibition of autocratic exercise of rights is being confirmed (Stankovic / Vodinelic 2007, p. 234). In the literature, a self-help is often referred to as a form of "primitive justice", or as a concept of the former principle of "retribution and reprisals", a relic of prelegal rights (Petrić 2004, 17). However, the *ratio legis* of this institute in contemporary law are numerous legal, political and practical reasons which provide the individual with legal authority to arbitrarily and autocratically exercise their own right, regardless of or against the will of the debtor, by making legally permissible intervention in another individual's property. The right of retention therefore performs a variety of purposes: 1) first of all, it represents a means of exerting psychological pressure on the debtor to fulfill the obligation as soon as possible, and in this capacity it has a temporary effect; 2) then, it is potentially the means of settlement of claims, as the creditor may be satisfied from selling retained properties, when the effect of retention is final; 3) it is the right of the creditor to refuse the debtor's extrajudicial request for the submission of his properties; and 4) it is also the response to the owner who is trying to recover (vindicate) his properties by judicial means. Various functions that retention performs are the causes of various qualifications of its legal nature: a complaint, a subjective right – an obligation right, real or mixed right, to a "factual state with specific legal effects" (Stipković, The Right to Retention and Some Similar Institutes, 1972, p. 290). The determination of retention as a so-called "negative right" can even refer that essence of retention is self-help: passive retaining of the creditor, who is entitled to omission (failure to deliver the debtor's belongings). However, without determining legal nature of retention, we can conclude that the temporary denial of delivering the properties to a debtor represents a specific real means for securing claims, and also a legally permissible form of self-protection of the creditor, where social effect of retention is reflected.

By evaluating the importance of general social interests compared to individual interests of a negligent debtor, the legislator decides to intervene in the debtor - creditor relation (*inter partes*), authorizing the creditor to establish a legal relation with the debtor (*erga omnes*). This also protects, even favors, the legal position of the creditor, the holder of the debtor's property, but in fact this legal authorization has the opposite goal: the establishment of (previously

disturbed) equality of contractual relationship. The legitimacy of this form of self-help originates from the general principles of civil law, such as the principle of equality and proportionate protection of the interests of the parties in contractual relations, the equivalence of mutual benefits, the principle of fairness (*aequitas*) and consciences and honesty (*bona fides praestare*). Only these important principles can justify the Interference into the acquired right of property of the debtor (the opponent to retention), through a general social aspect of this institute, which represents the protection of the rights through permissible self-help, and not the autocracy. The advantages which the retention provides the creditor with as a means of defensive self-protection, eventually led to an expansion of its application into many other areas of law, in addition to the obligation and the real laws. The right of retention has a great practical use in comparative law within the following areas: commercial, maritime, securities law, and potentially wider *de lege ferenda*. This is in accordance with the previously observed "paradoxical" tendency of modern legislations where the government deliberately expands the sphere within which it gives up on its exclusive jurisdiction (Scapel 1981 / 3, p. 543). This seems justified on condition that it is in accordance with the fairness, which represents the primal source of retention, with the principle of prohibition of abuse of rights and in accordance with the principle of procedural economy. Retention, as a form of self-help, authorizes an individual to, by his factual action towards the debtor's property and without filing the charges or judicial intervention, protect their violated right quickly, cost-effectively and efficiently. In this way, out of court, it is possible to resolve the situation of deteriorated contractual relationship, to unilaterally sanction the irresponsible party, to improve one's own position and achieve the desired goal - payment of due receivables.

It is known that there is no perfect means of securing, since each claim holds uncertainty and always carries the risk of collection (Medic, *The Right of Retention* 2013, 529). The right of retention, besides being accessory, is less perfect as it is inextricably linked to immediate holding of the retained properties. By losing retained property the retention ceases to exist, as well as the right to self-help exercise. In addition, it is necessary for all the legal requirements to be cumulatively fulfilled as a precondition for its legal establishment and execution. Since the basis of retention, as a rule is not the contract but the law, and considering it is performed bypassing or against the will of the owner of the retained property, no law provided element must be omitted. Particularly important is the way of establishing the tenure of the holder: with mandatory consent of the debtor. In contrast, viciously acquired tenure (*vi, clam, precario*) exceeds the permissible domain of self-help and represents the felony of autocracy.

## CONCEPT AND FORMS OF THE FELONY OF AUTOCRACY IN THE LAW OF THE REPUBLIC OF SERBIA

In the criminal legislation of the Republic of Serbia the felony of autocracy belongs to the group of crimes against the state authorities, which provide protection to undisturbed, lawful and proper functioning of the mentioned. Within this group, the felony of autocracy belongs to the subgroup of the offenses of appropriation of the functions of the state authorities. The basic form of autocracy is performed by the individuals who autocratically acquire their own right or the right they believe they are entitled to. Thus, the act of commission consists of obtaining rights. However, in order to obtain the rights of any criminal offense, it must be performed autocratically, which primarily means that a person is not entitled to obtain the right, and that there is no legal basis for it. For example, the acquisition will not be performed autocratically, if it occurs in the application of an institute of the criminal law which excludes unlawfulness, and therefore the existence of a criminal offense, such as self-defense or extreme necessity. Also, it is not this criminal offense that is the case within permissible self-help, nor within the authorization of an individual, based on special regulations, to obtain his own right under specific conditions. So, it will not be the case of this offense if there are any general or specific grounds for excluding unlawfulness, that is, when an individual is authorized to undertake certain activities in order to accomplish their rights. For example, it is not a felony of autocracy when a robbed individual chases the thief and takes the stolen property away from the thief, but it would be a criminal offense if that individual later entered the apartment of the thief and forcibly took away his stolen property (Lazarevic 2011, p. 953). Criminal Court often has to take into account the particular institutes of civil rights when deciding whether or not the unlawfulness is excluded, that is, whether it is on the basis of a civil law institute that a perpetrator is actually authorized to acquire some of his rights bypassing the state authorities. For example, in practice it is possible the perpetrator to have in his or her possession the properties of the person to whom he has matured claims. In this case, the criminal court is required to determine whether the defendant really has matured unsettled claims against the perpetrator. If a response to this question was positive, there would be a civil institution of "the right to retain", which would mean that the defendant is entitled to retain the debtor's belongings. Thus, in that case the defendant would keep the property on the basis of some legal grounds, and the unlawfulness would then be excluded, that is, the felony of autocracy would not exist. There are some opinions in judicial practice that the execution of this offense would mean that the perpetrator is not in possession of the properties that belong to him or that he or she believe they are entitled to. In one criminal case, the defendant was



released of charges that he committed the felony of autocracy in a manner that he autocratically acquired the right he believed he was entitled to in respect of overdue receivables - unpaid salaries by his company, retaining for himself the properties entrusted to him during his work (motor vehicle, fax machines). In such a situation, the court concluded that a felony of autocracy implies that the offender cannot be in detention of his rights (decision of the District Court in Subotica Kz. 54/2007 of 23th February 2007).

For all these grounds, which exclude the unlawfulness of the offense of autocracy, it can be said that they represent the *ultima ratio*, the final means, that an individual can apply when he is not able to exercise his rights in another way, and when the state cannot provide him with his rights through its bodies (Стојановић, Коментар Кривичног законика 2012, 871). It should be explained that obtaining the rights in the context of this offense does not mean acquiring the rights, but ensuring their exercise. Namely, the offender cannot exercise his own right or the right he believes he is entitled to, so bypassing the authorities and the regulated procedure he takes his own initiative by undertaking certain activities to obtain his rights (Lazarevic 2011, 952).

Serbian Criminal Code does not specify the manner in which the obtaining can be performed, but the practice has shown that this is usually done by force, threat, deception, or fraud. In fact, it can be any manner of bypassing state authorities and the regulated procedures, which would enable the exercise of one's own or the alleged right, ensuring in the same time not to commit the elements of some other criminal offense. In the judiciary practice of the Republic of Serbia it has been shown that this criminal offense is most often performed when a household autocratically makes a connection to the power grid after being disconnected of electricity by the power company due to unpaid bills. The subject of the actions of this criminal offense can be the right belonging to the offender, or the right he believes he is entitled to. In the first case it is the right that really belongs to the perpetrator, and in the second case, the right to which the offender mistakenly believes that he is entitled to according to some legal grounds or on the basis of an existing legislation. It is not the case of this criminal offense if the offender is aware that he is not entitled to the right he is obtaining (Stojanovic, Criminal Law – a special part, 2013, pp. 280 - 281). Then it would be the case of some other criminal offense – theft, the confiscation of the property, etc. In the judiciary practice it is considered that this criminal offense does exist even then when the offender autocratically obtains the right to which it was determined in court he was not entitled, under condition that he still believes he is entitled to that right, as long as this belief is based on some objective criteria (the attitude of the Supreme Court of Yugoslavia in the judgment Kzz. 91/65). As far as the nature of the rights that are obtained is concerned, these can be different rights: real, obligation, parental, guardian, hereditary, and other.

The criminal act is considered accomplished when the perpetrator obtains, that is, begins to exercise the right. It is intention that is considered a form of guilt, which has to include the awareness of the offender that he is entitled to the right he is obtaining, and the awareness that the obtaining is done autocratically, that is, in a manner of bypassing the state authorities and the regulated procedure. A special form of this offense is considered when the autocracy is carried out for some other person. This means that the right is obtained by the person to whom it does not belong but it is performed on behalf of another person. Both forms of criminal offenses are punishable with a fine or imprisonment up to one year. If the offense is committed at the expense of citizens, it shall be prosecuted by private action.

### **FELONY OF AUTOCRACY IN THE CRIMINAL LAWS OF THE NEIGHBOURING COUNTRIES**

In the Criminal Code of Montenegro the felony of autocracy is regulated under the offenses against the state authorities. The basic form of autocracy is entirely consistent to the basic form of this criminal offense in the Criminal Code of Serbia. A specific form is also regulated in the same way, the one which exists when the basic form of autocracy is performed for another person. However, the criminal legislation of Montenegro also regulates two more severe forms of autocracy. The first severe form is the case of performing the basic form with the use of force or threats, while the other severe form means that the basic form is performed with the threat of death or serious bodily injury. If any of these forms is performed at the expense of citizens, prosecution is undertaken by private action.

In the Criminal Code of Macedonia, the criminal act of autocracy is regulated within the group of offenses against the public order. Macedonian legislator regulated the basic form of this crime in the same way as other countries in the region. The difference is evident in other forms. Thus, it is the case of a more severe form when the main form is performed with the use of force or serious threat that the life or body will be attacked. A specific form of performing the basic or more severe form on behalf of someone else is also regulated. Criminal prosecution for the basic form is undertaken by the private prosecution and for a specific form according to the proposal. The criminal act of autocracy within the Criminal Code of Croatia belonged to the group of offenses against the public order and peace. The basic form of this offense was regulated in the same way as in the Serbian Criminal Code, that is, this form of autocracy was performed by the individual who autocratically obtained his own right or the right he believed he was entitled to. The manner of obtaining rights was not determined, wherefore there were present all means and manners which could be of help to the perpetrator to obtain his rights, but

which were not included in regulated procedures, such as the civil or administrative procedures. The reason for incrimination was the same as in the Criminal Code of Serbia, which was preventing citizens to autocratically and illegally obtain their rights, since there were state authorities and courts to do so (Pavišić, Grozdanić / Veić 2007, p. 695). The more severe form of autocracy was regulated, which was the case when the basic form of this offense was committed by an organized group or several criminal groups. By some amendments to the Criminal Code of Croatia, the decriminalization of autocracy was performed, and since then all cases of autocratic obtaining the individual rights are dealt with within the civil proceedings.

## CONCLUSION

The procedure for protection of subjective civil rights is, in all modern societies, regulated by law and entrusted to the relevant state authorities. In this way, the individuals are prevented from conducting autocratic acts of endangering public order and legal security. However, the important principles of civil law justify deviations from this rule, and civil norms exceptionally allow autocratic exercise of rights within certain relations, and under the terms set in advance. This type of protection is of complementary and subsidiary character, and its *ratio legis* represents the idea of protection of the legal order. These are the cases of the following situations: immediate and imminent danger of disturbing personal properties; unavailability or untimely performed judicial protection, and inflicting great or irreparable damage. Then, the autocratic protection of the rights even the legislator considers to be fairer, safer and more cost effective than the legal toleration of unlawful acts in anticipation of late, untimely reaction of the state authorities. Permissible self-protection is present in the domestic and comparative law in several modalities: as self-defense, in the form of necessary defense, extreme necessity and as a self-help, especially in the form of tenural self-protection and the right of retention. Each of its forms is: 1) legal, as provided by the law; 2) legitimate, because it justifies the basic principles of the civil rights, among which the most important is the principle of justice; 3) meaningful, because it serves not only to the economical protection of individual threatened rights, but also to protection of the legal system as a whole; and 4) exceptional and subsidiary, since self-protection represents a significant deviation from the principle of prohibiting autocratic obtainment of rights.

It can be concluded that the differences between self-defense and autocracy are numerous: 1) the regulation within different areas (criminal and civil law); 2) the relation between rule (autocracy) and exception (self-defence); 3) the active role of the perpetrator of felony of autocracy and the passive role of the performer of self-help; 4) the element of unlawfulness with

autocracy and the legality of self-defense; 5) exceeding the limits of permissible force, and proportionate, adapted to the circumstances, use of force in self-defense; 6) the intention as a necessary degree of culpability of the felony of autocracy, as opposed to the factual capability of performing the action of self-defense.

The similarity between self-protection and autocracy is primarily of terminological nature, but also of technical. The individual represents the means of the realization of rights (or the alleged rights) in both cases. The similarities end here, because the measure of permissible autocratic self-protection is limited by the terms of substantive civil law. On the contrary, the norms of criminal law incriminate the unlawful conduct that does not comply with the requirements of exceptional and proportional autocratic performance. However, determining the permissible limits in the exercise of self-defense is actually the most problematic in practice, and it also represents the evidence of its imperfections as a legal means of protecting the violated rights. Despite the shortcomings, the self-protection is a useful legal remedy, which should be *de lege ferenda* regulated specifically as a subjective civil right, in a general manner, with a single norm. We believe that the General section of the preliminary draft of the Civil Code should explicitly regulate the right to self-defense in general and only afterwards its individual forms. In addition, it is also necessary to regulate a self-help, which is not included in the current formulation of this law (the Article 212 of the General section of the preliminary draft of the Civil Code regulates only the necessary defense and the state of necessity). Finally, we believe that this is the proper way to contribute to delineating self-protection from autocracy.

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