



Research Article

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Received: 26 July 2021 / Accepted: 26 October 2021 / Published: 5 November 2021

Juvenile Delinquency with its Social and Criminal Dimensions: The Case of Fushe Kosovo

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DOI: <https://doi.org/10.36941/ajis-2021-0172>

Abstract

In the last century, it has been emphasized that children differ from adults and that they should be protected, and many national and international regulations have been made to ensure the rights of children, including children who are delinquents. Despite all the importance given to children, many wars and efforts for their sake, they can be the subject or victim of the crime as adults, or they can be the perpetrators of the crime themselves. For this reason, juvenile delinquency has been a highly debated issue in the legal world due to different worldviews that aim to define its full meaning. Given that the factors affecting juvenile delinquency vary according to conditions and countries, its determination is of great importance. For this reason, the laws that guarantee that the child has the right to life, protection, development and participation aim to provide social justice for all children. This paper presents general insights into the dominant factors influencing juvenile delinquency as well as research using qualitative, statistical and legal-dogmatic methods, which are the main reasons supporting the emergence of juvenile delinquency in the city of Fushe Kosova.

Keywords: *Juvenile delinquency, deviant behaviour, affecting factors, marginalization, family*

1. Introduction

Historically, we know that our society has always been subject to deep and radical changes, having both positive and negative consequences. These changes often cause the appearance of various phenomena that are harmful to the society. The phenomenon of juvenile delinquency has existed as

far as we know about the criminality and anti-social behaviours. Given this fact, it is alleged that various factors have influenced the spread of the delinquent behaviours among the juvenile, such as family, social circle, delinquent peers, economic status, low education level, media and mass media.

Various sociologists have introduced the theory that the juvenile delinquency may result from the social disorganization. Another theory that is worth mentioning states that the juvenile delinquency may spread because of intentions for material benefits or achieving a social status.

In Kosovo, a different factor in the spread of juvenile delinquency is considered the post-war transitional period, where the severe circumstances derived from the devastating consequences left by the last war have resulted in the expansion of this phenomenon. In addition, various internal migrations from one city to another, then from villages to big cities, for better socio-economic conditions have often had undesirable impact on juveniles due to their inability to integrate into the new circle successfully.

Consequently, it is necessary to identify these factors accurately in order for us to come to the necessary measures to prevent and address this phenomenon.

2. Literature Review

In order to understand the delinquency better, it is necessary to see what our legislation says about the term "juvenile". Immediately following the liberation of Kosovo, the state bodies took a decision to include a special criminal code in the juvenile criminal legislation. Our Justice Code has distinguished the terms "child" and "juvenile".

Pursuant to the Juvenile Justice Code, the child is a person who is under the age of eighteen (18) years, whereas juvenile is a person who has reached fourteen (14) years old, but not eighteen (18) years.¹ Therefore, based on this Code, the term "child" means persons who have not reached the age of fourteen (14) yet and are not criminally liable.

On the other hand, in the second category, i.e., the term "juvenile", the Juvenile Justice Code makes another division taking into account the criminal liability of juveniles by age, and to distinguish them in terms of measures imposed when committing a criminal offence.

The legislation has clearly categorized the term "juvenile" in the first case as "young juvenile", assuming the person who has reached the age of fourteen (14) but not sixteen (16) years; in the second case, "adult juvenile" is the person who has reached the age of sixteen (16) years, but not the age of eighteen (18) years (Bajrami, 2020). This Code has also provided for another division from the age of eighteen (18) to the age of twenty-one (21), referring to them as "young adults", who have full criminal liability and are punished for their acts; however, in certain cases, the Code provides for the imposition against them of measures imposed against juveniles.

The term juvenile delinquency has a broad meaning and there are different perspectives and theories that aim to define this term. However, ambiguous and not holistic definitions are often given. For example, in Article 6 of the Turkish Penal Code No. 5237, the term "Child" is defined as a person who has not reached the age of eighteen yet. In Article 31 of the same law, it is regulated that children who have not reached the age of twelve at the time of the crime do not have criminal responsibility and that criminal prosecution cannot be conducted against these people, but security measures specific to children can be applied. There will be no criminal liability if those who have completed the age of twelve but not completed the age of fifteen at the time of committing the act cannot perceive the legal meaning and consequences of the act they have committed or if their ability to direct their behavior is not sufficiently developed. It has been regulated that if there is the ability to direct their behavior in relation to the act, or who have completed the age of fifteen but not completed the age of eighteen at the time of committing the act, a lesser penalty will be imposed

¹ Juvenile Justice Code No. 03/L-193, Article 2, Paragraph 1.

(Turkish Criminal law, 2004).

In addition, according to the United Nations Convention on the Rights of the Child, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members (Convention on the Rights of the Child, 1989).

France, on the other hand, in terms of juvenile criminal sanctions means provides in its Article 122-8 the age for criminal responsibility, so the person under 10 years of age is considered criminally irresponsible, although it provides to which appropriate educational measures may be applied. This code also provides for persons aged 10-13, which consequently, are regulated in detail by the Juvenile Justice Code of France. When comparing it with that of the Republic of Kosovo, it does not foresee the measures of diversity, the measure of increased supervision by the other family and the educational measure.

The Croatian state has defined criminal sanctions against minors in the Criminal Code as well as criminal sanctions for adults (Simović, 2015). The Criminal Code of the Republic of Croatia, in comparison with the Juvenile Justice Code of the Republic of Kosovo, does not provide diversity measures as special types of educational measures, the measure of increased supervision and expressly not the punishment with fine and the order for community service.

As for the Romanian state, this state has also regulated criminal sanctions for juveniles in the Criminal Code of this country. It provides the criminal liability from the age of 14 years. Pursuant to Article 90 of this Code, a juvenile who has reached the age of 14 to 16 years will be considered criminally liable only if it has been established that he committed the criminal offense with discernment (Haines, 2018). On the other hand, a minor who has reached the age of 16 is considered criminally responsible. In accordance with Article 100 of this Code, educational measures and punishments may be imposed on juveniles (Bucandra, 2012).

The Romanian Criminal Code, in relation to juveniles, does not provide for the possibility of imposing diversity measures, and some institutional measures, for example, sending a juvenile to a correctional facility, nor an order for community service.

3. Juvenile Delinquency as a Notion

The term juvenile delinquency usually refers to the repeated habits, behaviours and actions of juveniles, which are in conflict with the morals, customs and laws of the country in which they live (Bajrami, 2020).

Based on this, the delinquency includes not only those acts that are contrary to the law, but also those antisocial behaviours and acts that do not correspond to traditions, customs, morals, i.e. generally, those behaviours that are socially unacceptable.

This also gives rise to the term "deviant behaviour" which, according to the philosopher *Gjurij*, represents any human activity, regardless of whether it is presented as an action, attitude or thought that is mainly above or below the limit of the average allowable deviation from social norms and which while visible in social frameworks, provokes spontaneous or organized reaction (Gashi, 2017). This includes not only the legal aspect, but the sociological aspect as well - what is not normal in Kosovo's society.

In addition, there is the broader perspective or understanding of the notion of juvenile delinquency, which is explained by the expansion of the meaning of juvenile delinquency to all deviations in young people's behaviours, such as: social incompatibility in the broadest sense of the

word, wandering, smoking in school, leaving family and school and other behaviours, which often go beyond the limits of legal restrictions, as well as those activities that are incriminated by the norms of substantive criminal legislation (Rexhepi, 2017).

Given that delinquency is a term, which in addition to anti-social behaviour, refers to juveniles who commit criminal offenses as adults, there are worldviews that the notion of delinquency should include only those juveniles who commit legal offenses, exclusive of anti-social behaviours. This worldview justifies that juveniles cannot be called criminals like adults for committing criminal offenses, as it is a rather rude term to be used for juveniles, so the term delinquent is more appropriate for this category of persons.

Halili (2016) has analyzed another term "youth crime", in which case the criminal activity of young people is emphasized, which includes both juveniles and young adults, i.e. all young people regardless of age.

This term is treated more in the sociological aspect and less in the legal aspect as it is a more general term. The basic characteristic of juvenile delinquency in contemporary society is that it is constantly growing and manifested in various very dangerous occurrences; therefore, the juvenile delinquency is today one of the greatest concerns of all societies and countries (Halili, 2016).

Because the legal position of juveniles differs from that of adults, it is necessary to treat this category in a more specific way employing other measures or methods that contribute to the proper treatment of this phenomenon, given that the employment of the same methods as in adults does not bring efficiency, on the contrary, it only leads to an increase in deviant behaviours among juveniles.

In addition to treatment, it is very important to identify the possible causes and circumstances that affect the occurrence of juvenile delinquency, as identification of the source leads to easier treatment and prevention.

Given that this paper aims to address these causes, there are a number of different factors that play a role in the spread of this phenomenon.

4. Factors Affecting the Juvenile Delinquency

This term is treated more in the sociological aspect and less in the legal aspect as it is a more general term.

A group of authors support the opinion that one of the most common and important factors, which for certain reasons affects the delinquency of juveniles, is the family. The family is the basic and essential community of society, from where the individual takes the first steps of character formation and is educated according to the spirit of that family.

Author Leon Tolstoy of the novel "Ana Karenina" states that "happy families are all alike; every unhappy family is unhappy in its own way" (Halili, 2011).

Family may influence the juvenile delinquency in the following cases:

- *The first case* is related to the basic emotional relationship of the family. First of all, the lack of warmth and care for children increases the risk that later these children will become hostile and violent;
- *The second* important case is the freedom given to the child and allowing violent behaviours in childhood. If there is no clear boundary of behaviour, then these children at school start behaving violently with other students as well (Gashi, 2017);
- *The third case* is related to the application of educational methods "verification of force" by parents, such as corporal punishment and motivation for violence. This proves that "violence brings violence";
- *Finally yet importantly*, is the temperament of the child. The child with an active temperament is more likely to become violent compared to the child with a calmer temperament (Beljanski, 2009).

In addition, single-parent families have been shown to be more likely to experience

delinquency. Another case is the social status of the family in society, more specifically the stratification in society. This means that in families belonging to the lower strata in economic terms, i.e. poor families, this phenomenon is much more likely to occur.

Therefore, the family is a hearth of education for children, and must be very careful in the education it gives to their children. So the family should be at its obliged level, to educate, care for, motivate, advise, and why not, even reprimand the child when they go beyond the bounds of responsibility (Morina, 2018).

Irregular school attendance is another important factor that contributes to juvenile delinquency. School is not only a place where the individual acquires knowledge and is educated, but also includes a structured routine, which enables them to be equipped with a purpose to fulfil every day. Waking up, getting ready, going to school, finishing and coming home is a kind of basis for good choices in the future. Children who are not encouraged to follow this routine use their free time to follow other routines that are harmful to their future.²

One of the other factors is the influence of peers. It is well established that the constant association of pious juveniles with deviant juveniles who commit delinquent acts greatly influences them to follow the same path.

There are two mechanisms associated with peer influence: associating with peers with deviant behaviour and rejection by peers (Gashi, 2017).

In addition to the first mechanism, rejection by peers also greatly affects the psyche of the individual, making him/her feel ignored by society. Here the individual may initially experience grief by passing into resentment, losing hope and eventually deviating.

The war has proven many times to be a factor in the spread of delinquency not only in the world but in Kosovo too. Because war brings great destruction both in the structure of society and economically and psychologically to individuals, this brings a great incentive to the practice of deviant acts by juveniles. In addition, there have been numerous studies, such as studies conducted in the Soviet Union after World War II, which showed that the demographic and social changes as a result of the movement of vulnerable people coming from the villages, who had to adapt to the values of the city, the increase in the number of divorced marriages and the weakening of control over the family, led to disorientation and created the conditions for inappropriate behaviour (Hollander, 1990).

The war period in Kosovo had serious consequences not only in terms of victims, but also in the spread of other negative phenomena, such as delinquency. Due to the instability of society at that time, young people could not meet the needs of their age, consequently pursuing other alternative ways that are radical and unacceptable to society in order to meet their needs (Mexico Documents, 2016).

The media also plays a significant role in juvenile delinquency. The mass media outlets report various cases of juvenile delinquency, which often know how to influence other juveniles who follow this news. In addition, because transparency and information of citizens are the main goals of the media, it tends to inform us on a variety of occasions, including various serious crimes that affect the awareness of juveniles. Various films with graphic content affect the psyche of young people by stimulating in them a kind of desire to imitate them (Halili, 2011).

Migrations of individuals from one state to another, or from one city to another can have a negative effect on young people and often lead to delinquency. We can see this clearly in the case of Fushe Kosova.

² Baysingerlaw.com, "Factors Contributing to Juvenile Delinquency", 13.3.2018. [Online] Available: <https://baysingerlaw.com/2018/03/factors-contributing-juvenile-delinquency/> (September 25, 2021).

5. Case of Fushe Kosova

Fushe Kosova is a city located in the centre of Kosovo, about 6 km away from the capital of Kosovo, Prishtina. This city is relatively new in terms of demographics, economy and infrastructure. It has an area of about 83 km², with about 15 villages, and has a population of 34,827 inhabitants. This city is composed of different ethnic groups where Kosovar Albanians dominate (30,275), followed by communities, such as Ashkali (3,230), Roma (436), Egyptians (282), Serb community (321), as well as Turkish, Bosniak, Gorani, etc., communities. The infrastructure of this city in recent years has undergone a very significant development, which has included the asphaltting of all roads connecting to the villages, then the construction of parks, apartments, various facilities, etc. The economy of this city has also experienced significant growth with about 900 registered private businesses with 5200 employees (OSCE, Municipal Profile, Prishtinë/Pristina Region, Fushë Kosovë/Kosovo Polje, 2018).

One of the attractions of this city is the Dardania neighbourhood, which is one of the most populated neighbourhoods in Fushe Kosova. What makes this neighbourhood unique is that no more than a decade and a half ago the space where it is currently located was a predominantly plain area, with very few buildings with a relatively small population. In a fairly short time, this part of the city has changed drastically, undergoing various constructions, as well as massive population. It can be said that this neighbourhood now makes up over ¼ of the population of the entire city.

It is necessary to state that these population statistics include only residents with registered residence in this city, as a significant part of the population are residents from other cities and are not registered. All this is a result of mass migration in recent years for socio-economic purposes given that the proximity to Prishtina enables them to find work and create better living conditions. As we saw above in the Dardania neighbourhood, undergoing a sudden development and population, young people having a great opportunity to have access to nightlife, join gangs and use narcotics, it is arguable that all this has led to the spread of juvenile delinquency in this city.

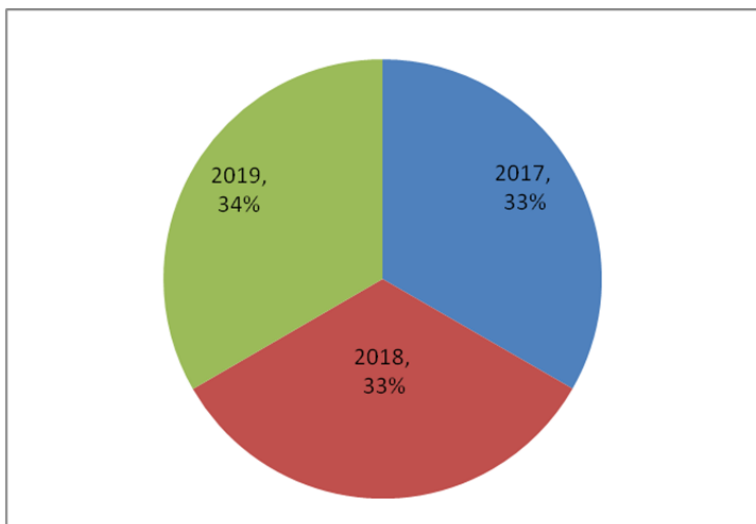


Figure 1: Juvenile delinquency in Fushe Kosova

The main problem that has arisen from the numerous migrations of the population from other cities for a better life is their inability to adapt and stabilize in the new circle, affecting the marginalization of the juvenile category.

Given that migrations have occurred from different parts of the country, the subcultures have clashed, producing a negative effect on society. Consequently, this is manifested through the spread of juvenile delinquency in this city.³

As can be seen from Figure 1, juvenile delinquency is increasing in the Municipality of Fushe Kosova. The period from 2017 to 2019 saw a tendency to increase the number, on which occasion, during 2019, the Centre for Social Work in Fushe Kosova has handled 23 cases of juvenile delinquency.⁴

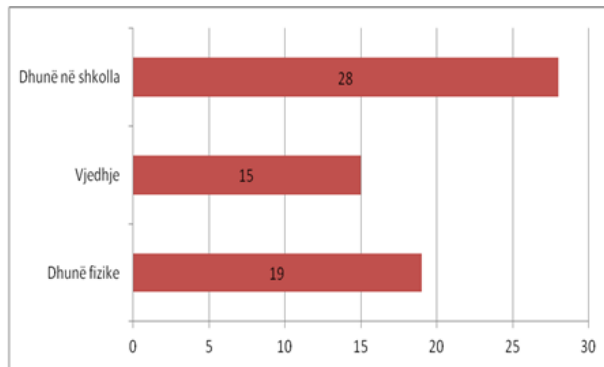


Figure 2: Types of legal violations

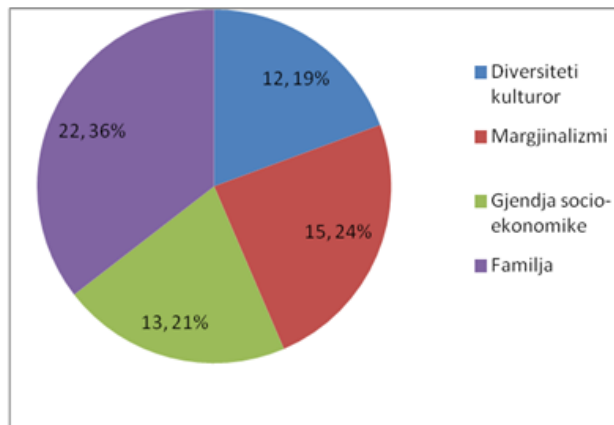


Figure 3: Main causes for the spread of juvenile delinquency

As it can be seen in Figure 2, the most common legal violation caused by juvenile delinquents is the physical violence either inside the school premises or even outside the school premises in the form of settling scores between groups of young people. According to high school teachers in Fushe Kosova, violence in schools is on the rise and the education system is powerless to address this phenomenon,

³ Interview with Bajram Marolli, Social Worker at the Centre for Social Work in Fushe Kosove. The interview took place on 04.05.2020 in Fushe Kosova.

⁴ Data are analyzed from the Center for Social Work in Fushe Kosova, 04.05.2020.

i.e., mitigate it. Among others, the abuse of young people with narcotic substances is clearly obvious, which is manifesting itself in the form of rivalry and violence between groups of young people.⁵ In the Municipality of Fushe Kosova, the most common factors in the spread of juvenile delinquency include: Dysfunctional families, marginalization in society, aggravated socio-economic situation and cultural, racial and ethnic diversity, etc. It has been observed that the largest number of juvenile delinquents comes from dysfunctional families, where family members are often victims of domestic violence.⁶

Moreover, based on the statistics of the Centre for Social Work, the most common age groups for delinquent juveniles are 12, 14, 16, 18 and 21 years old. This shows that in general delinquency is present in almost all ages in the category of juveniles.

6. Conclusion

Sociologists and lawyers are constantly conducting research to come up with the most crucial causes of juvenile delinquency, which depend on social changes, as well as on various circumstances.

Nowadays, it has been proven that there are several main factors that affect the delinquency of juveniles. Given that the family is a fundamental community in society, it directly affects the juvenile from an early stage of his/her development. When the family is not stable, followed by violence and various abuses, this is reflected negatively on the development of children, manifesting themselves in the form of delinquency.

In addition to the family as a general factor, other factors influencing the delinquency of juveniles have been proven as well, such as the influence of delinquent peers, the media with its transparency revealing graphic images that encourage the desire among young people to imitate them and lack of education in family.

Moreover, as an important cause in juvenile delinquency has been argued to be the war, which left serious consequences in society, brought poverty to the population, made the proper education impossible, and no essential conditions, has had an adverse impact on juveniles. This is also present in post-war Kosovo and especially in this difficult phase of the general social transition, which is emerging as a strong stimulus in the emergence of these deviant behaviours.

The case of Fushe Kosova, in addition to general factors such as family, diversity, socio-economic situation, brings another distinguishing factor from other countries, i.e., the numerous migrations from other areas in which case the drastic increase of population has had a direct effect on the marginalization of juveniles. Consequently, insufficient supervision by the family and relevant institutions and the inability to integrate into the new circle, has had a major impact on the spread of delinquency in this city. Moreover, according to the data, it is evident that this phenomenon is increasing.

By researching from the perspectives of other fields (sociological, psychological), it has been possible to understand the real causes that lead to juvenile delinquency. Therefore, accurate identification of these causes enables the implementation of appropriate measures and mechanisms for the prevention and proper treatment of this phenomenon, taking into account the specific circumstances of different environments in Kosovo.

Legislation and practices need to be fully aligned with the UN Convention on the Rights of the Child, the Beijing and Riyadh Rules and other relevant international standards. In this context, increasing the minimum legal age of criminal responsibility, ensuring the effective implementation of the Child Protection Law for all children up to the age of 18, expanding the protection afforded to children and making this practice effective by establishing juvenile courts in every province are

⁵ Interview with Maliq Asllani, teacher at the upper secondary school in Fushe Kosova. The interview took place on 05.05.2020.

⁶ Based on the data of the Centre for Social Work in Fushe Kosova.

positive developments.

In particular, the situation of juvenile offenders should be taken into account in order to prevent the time that passes without being interviewed during detention periods. It is important that pre-trial detention should be considered only as a last resort and implemented for the shortest possible time, and not take longer than prescribed by law. Where possible, alternative measures should be applied to prevent the child from being taken into pre-trial detention. In this context, an effective complaint mechanism should be developed for children who commit crimes in terms of all actions taken against them and this mechanism should be accessible. Appropriate rehabilitation measures should be implemented to assist the reintegration of children in the juvenile criminal justice system. In this regard, international cooperation and cooperation are important.

Education systems, beyond providing education and professional formation, especially to give children an attitude of respect for their basic values and their own cultural identity and traditions, the values of the country they live in, different civilizations of their own history, other civilizations different from their own, human rights and fundamental freedoms; should undertake the task of supporting activities that will develop children's sense of belonging and identity to school and society.

There is no shortage or widespread problem with international conventions on children's rights. What is important here is the full implementation of international conventions and the elimination of some deficiencies in implementation. For this, national legal rules on children's rights, international conventions and protocols should be learned and fully implemented by all segments of the society.

References

- Agnew, R. & Brezina, T. (2012). Juvenile Delinquency: Causes and Control.
- Bajrami, T. (2017). Masat Ndaj të Miturve Delikuentë në Kosovë. *International Scientific Journal Centrum* No. 7, 290.
- Bucandra, R. (2012). New regulations the sanctions applicable to minors in the new Romanian Criminal Code, pg. 4: https://www.law.muni.cz/sborniky/dny_prava_2012/files/trestnepravniaalternativ/RaducanuRuxandra.pdf
- Burfeind, J. & Bartusch, D. (2015). Juvenile delinquency: An integrated approach.
- Çoşar, Y. (2005). Child Denied In Urbanizing Turkey.
- Gashi, M. (2017). Aspekti Sociologjik i Delikuentëve së të Miturve në Kosovë në Periudhën Kohore 2005-2010, Tirana. [Online] Available: [file:///C:/Users/HP/Downloads/Miranda_Gashi_Delikuenta%20e%20te%20miturve%20\(1\).pdf](file:///C:/Users/HP/Downloads/Miranda_Gashi_Delikuenta%20e%20te%20miturve%20(1).pdf). (September 25, 2021).
- Gove, W. R. & Crutchfield, R. D. (1982). The Family and Juvenile Delinquency.
- Güngör, M. (2008). Child Delinquency As A Universal Problem And Children Working And Living On The Street.
- Haines, A. (2018). Juvenile crime and punishment in Budapest, pg. 9: <http://www.internetjournalofcriminology.com/Haines%20-%20Juvenile%20Crime%20and%20Punishment%20in%20Bucharest.pdf>.
- Halili, R. (2011). *Kriminologjia*. Prishtina.
- Halili, R. (2016). *Kriminologjia*. Prishtina.
- Lander, B. (1954). Towards an Understanding of Juvenile Delinquency.
- Lundman, R. J. (2001). Prevention and control of juvenile delinquency.
- Morina, M. (2018). Legal-criminal oversight into criminal sanctions for the juvenile, International Conference ICES VII – Białystok, Poland.
- Patacchini, E. Zenou, Y. (2012). Juvenile Delinquency and Conformism.
- Rexhepi, J. (2017). Delikuenta e të Miturve dhe Trajtimi Penal në Republikën e Maqedonisë. *International Scientific Journal Centrum* No. 8, 172.
- Rutter, M. Giller, H. (1983). Juvenile Delinquency - Trends and Perspectives.
- Schmallegger, F. Bartollas, C. Turner, M. G. (1985). Juvenile Delinquency.
- Siegel, L. J. Welsh, B. C. (2014). Juvenile delinquency: Theory, practice, and law.
- Simović, M. (2015). Svrha i vrste maloljetničkih krivičnih sankcija u Federaciji Bosne i Hercegovine. Sarajevo.
- Tappan, P. W. (1949). Juvenile delinquency.

OSCE, Municipal Profile 2018, Prishtinë/Pristina Region, Fushë Kosovë/Kosovo Polje. [Online] Available: <file:///C:/Users/HP/Downloads/13118.pdf> (September 25, 2021).

Interview with Bajram Marolli, Social Worker at the Centre for Social Work in Fushe Kosove.

Data from the Centre for Social Work in Fushe Kosova.

Interview with Maliq Asllani, teacher at the upper secondary school in Fushe Kosova.

Kosovo Juvenile Justice Code No. 03/L-193.