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DOMESTIC VIOLENCE– THE POSITION OF THE CHILD IN VIOLENCE SUFFERED BY THE PARENT AS A VICTIM

ABSTRACT: Domestic violence, regardless of how it is manifested, represents a phenomenon which has recently attracted more and more significant doctrinal and media attention and it is a very complex problem. There are numerous questions about domestic violence to which this paper tried to provide answers. However, it is important to point out that domestic violence is not the only type of violence to which a child can be exposed, or to which he/she can be connected in an indirect or direct way. Bearing in mind that one form of violence predominantly causes and entails the other forms of violence to which a child can be exposed, and even find him/herself in the capacity of being a bully, the authors of the paper considered it important to briefly mention the other forms of violence in which the center of attention can be the child, such as digital violence and violence in schools. The focus of the paper has certainly concerned the position of the child in situations where violence against one of the parents (mostly against the mother) by the other parent (mostly the father) occurs. The conclusion is that the direct or

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indirect child's presence and/or his/her knowledge of the violence suffered by the mother is actually an extremely negative pattern of behavior being adopted by the majority of children during their development.

Keywords: *domestic violence, child, victim, abuser, the Family Law, the Law on prevention of domestic violence.*

1. Introduction

Violence in the family with its various manifestations and forms is attracting the attention of the scientific and professional public, especially in the last few decades. The consequences it causes do not only affect the individual and his personal development, but have multiple negative implications for the narrow and wider social environment and society as a whole. Most often, women and children are victims of domestic violence, and the world takes extensive measures and a multidisciplinary approach to prevent domestic violence and minimize its consequences (Merdović & Bjelajac, 2021). Domestic violence, regardless of how it manifests itself (whether as violence in partner relationships, marital or extramarital violence, violence against children, violence against parents, etc.), is a phenomenon that in recent years has attracted increasingly significant doctrinal and media attention. Who are the victims of domestic violence, and who are the perpetrators? What are the characteristics of domestic violence, and what forms of violence can we distinguish? Then, what is the relationship of the victim to the abuser, and what is the relationship of the abuser to the victim? Also, whether they are and to what extent are the other family members involved in the violent relationship of one of the family members towards the victim – a family member? These are just some of the important questions that arise when considering the topic of domestic violence.

According to Article 3, paragraph 3 of the Law on the Prevention of Domestic Violence (2016), domestic violence is “an act of physical, sexual, psychological or economic violence by the perpetrator towards a person with whom the perpetrator is in a current or previous marital or extramarital or partnership relationship or towards to a person with whom he is related by blood in the direct line, and in the collateral line up to the second degree or with whom he is related by in-laws up to the second degree or to whom he is an adoptive parent, adoptee, foster parent or foster parent or to another person with whom he lives or has lived in a joint household”.

Article 197 of the Family Law (2005) defines domestic violence as “behavior by which one family member endangers the physical integrity,

mental health or tranquility of another family member.” The following are considered to be domestic violence in particular: causing or attempting to cause bodily harm; causing fear by threatening to kill or cause bodily harm to a family member or a person close to him; coercion into sexual intercourse; inducing sexual intercourse or sexual intercourse with a person who has not reached the age of 14 or a disabled person; restriction of freedom of movement or communication with third parties; insulting, as well as any other insolent, reckless and malicious behavior”. Family members in the sense of the same law are considered to be: “spouses or ex-spouses; children, parents and other blood relatives, and persons in in-law or adoptive relatives, that is, persons bound by foster care; persons who live or have lived in the same family household; common-law partners or former common-law partners; persons who were or are still in an emotional or sexual relationship with each other, i.e. who have a child together or a child is about to be born, although they have never lived in the same family household”.

According to Petrušić and Konstantinović Vilić (2010), contemporary theory and practice know “multiple types of domestic violence, namely: violence in marriage, violence against members of the joint household and violence against children” (p. 9). In this part, Krstinić and Vasiljković (2019) state that “every type of this violence manifests itself by injuring and endangering the domain of safety and trust, and is characterized by power and control over the victim” (p. 68). Bearing in mind that the family represents the foundation of the growth and development of society and that it is within the family that the proper development of the individual is enabled, primarily in the social, emotional, psycho-physical format, “and that, as a rule, for most of his life, from birth to death, man spends within the family, unfortunately, understanding and mutual respect are not present in every family, so there are often disturbed relationships within it” (Bošković, 2009, p. 93).

2. Relationships between the victim, the abuser and other family members in domestic violence

Very often, the public asks who are the victims of domestic violence and who are the perpetrators, what are the characteristics of domestic violence, what are their mutual relationships and whether and to what extent other family members are involved in the violent relationship of one of the family members towards to the victim – a family member. According to Matijašević Obradović and Stefanović (2017), “violence in the family is disclosed, that is, reported much less often than the actual representation in practice. Patriarchal

understandings of family relationships, fear of revenge from the abuser or other family members, fear of the opinion (condemnation) of the environment or friends, or reasons of an existential nature, are some of the reasons why victims rarely report this form of violence” (p. 15).

Violence in the family as a phenomenon at first glance “is very clear, specific, extremely obvious and recognizable. However, one must not lose sight of the fact that phenomena, at first glance simple, are in reality very complex. Accordingly, domestic violence is a far more complex phenomenon. There is no unified view of the range of behaviors that are considered violent” (Matijašević Obradović & Stefanović, 2017, p. 15). According to research conducted in previous years in the field of domestic violence, certain conclusions were reached precisely in the sphere – who is the victim, who is the perpetrator, what are their relationships and how these relationships reflect on other family members. The goal of analyzing the data of these researches is to come to a review of the role of children and their position when perpetrating violence in the family by the parent of the abuser, and towards the parent who is the victim.

Namely, according to the results of the research “on domestic violence that was conducted in 9 departments for social work, out of 949 registered users, female persons are represented as direct victims of domestic violence in 73.5% of cases.” Victims of violence are of all age categories. Minor victims of violence make up a third of the sample, or 37.7% of all cases, while the remaining victims of domestic violence are adults. Almost half of the registered victims of violence – 45.6% are middle-aged, between 26 and 45 years old. When the gender of the victim of violence is observed in relation to the age structure of the beneficiaries, in adulthood, in all age categories up to 55 years, women make up the majority. While with minor victims of different sexes, the situation is reversed – 57.5% are boys and 42.5% are girls” (Ignjatović, 2004, pp. 19-20).

According to the same research, “persons who commit violence against family members, according to records from the department of social work centers, in the vast majority – 82.6% are male, which is in accordance with all previous statistics and research data.” Males make up two-thirds of the perpetrators of violence against minor victims (63.7%), while women represent a third of the perpetrators (36.3%). In relation to adult victims of violence, 556 men were identified as perpetrators, and only 35 women were perpetrators of violence, 10 of them according to persons in the oldest category (Ignjatović, 2004, pp. 20-21).

If the relationships between victims and abusers are analyzed, “more than half of all cases of violence (53.1%) originate from partners – current and ex-husbands.” Parents are the perpetrators of a third of all identified cases – 35.1%.

Simultaneously with violence against female partners, in almost half of the cases of domestic violence, children are also victims (419), and when the violence is directed towards children, in slightly less than half of the situations, female partners are also victims of violence (409)” (Ignjatović, 2004, p. 21).

Ignjatović points out that “thugs also behave violently towards other relatives – their own (98) and their partner’s parents (86 cases), but also towards other relatives who live in the same household or help solve problems within the family (72), even towards to other close people – non-relatives (34). Threats, as well as exposure to immediate violence, distance close people, due to feelings of fear or powerlessness, from the family where violence occurs, leaving the victim isolated from the help of close relatives and friends, which contributes to the sense of power and control that the abuser has” (Ignjatović, 2004, p. 21).

By analyzing the previously presented numerical data and the previous conclusions of the authors of this paper regarding the relationship between the victim – the abuser – other family members, the following can be said.

There are several ways in which victims react to the violence they suffer from their family members. Very often there is a search for justification for the abuser, which often leads to the denial that the violence happened at all. The most numerous group of victims are those who do not oppose the violent behavior, hoping that things will improve by themselves and that the abuser will change his behavior if he sees that the victim does not oppose. There is again a group of victims who show more or less open hostility towards the abuser, not agreeing to compromises in their further relationship and behavior. Establishing healthy boundaries in the relationship with the abuser and other family members is not a common case, especially in situations of enduring long-term violence.

Bullies, on the other hand, can show signs of remorse for what they have done, seeking justification for themselves while working to improve family relations. However, this is not so often the case in practice. Some of the abusers refuse to cooperate with the relevant institutions, ignoring calls and cooperation, especially with the center for social work. The largest group of abusers denies the propensity for violence and committing violent activities, criticizing the family member who is the victim. As Ljubičić (2020) states in his research, “several possible variants of the involvement of other family members in a violent relationship were identified. Family members can be completely excluded from the abusive relationship. That would be a situation in which, when it happens, they do not get involved in the violence, maybe they don’t even know about it, nor do they participate in the evaluation process before the centers for social work. There are also those who occasionally get involved when violence occurs, or intervene after a violent episode.

Intensively involved family members in violent episodes participate either on the side of the victim: by defending her or hiding together with her from the abuser, or on the side of the abuser, protecting him and/or inciting him to violence” (p. 167).

What has been said leads to the conclusion that the family is a suitable ground for the manifestation of aggression and violent activities. As Račić (2021) states, “the family is a closed, intimate, gender-traditional environment. An environment in which personal and developmental needs are most openly placed, a place of numerous frustrations, a place that is most suitable for relieving tension and tension, whether it is within the family or outside the family, a place where earning and in the name of belonging and love count on boundless suffering and forgiveness” (pp. 271-272). In this whole situation, children “can be direct and indirect victims of violence.” Namely, a child can be directly exposed to physical, psychological and sexual violence, while indirectly when he witnesses violence against another family member. Often, indirect violence quickly turns into direct” (Račić, 2021, p. 272).

3. Family – parents – child

The family is usually defined, “as the basic social cell and as one of the most complex, oldest and earliest social groups. A family is a universal community consisting of adults, reproductively capable partners and their offspring” (Počuča, 2010, p. 49).

According to Article 2 of the Family Law (2005), “the family enjoys special protection from the state, and everyone has the right to respect for their family life.”

According to Mladenović and Panov (2003), “the family can also be defined as a circle of persons bound by marriage (or extramarital union) and kinship, between whom there are legally established rights and duties, the non-compliance of which entails certain sanctions” (p. 44).

The family has its primary functions that make it a category as defined above. Namely, “biological and educational functions are the basic functions of the family, which have not changed since its foundation until today. The biological fiction of the family is reflected in the satisfaction of the individual’s sexual drive, the birth of a new generation and the extension of the human species. The educational function of the family is to raise new generations into acceptable and reliable members of the social community. The social function of the family is also not without importance, which is the care and protection of family members” (Počuča, 2010, p. 50).

It is very important to point out that “the protection of individuals within the family is certainly a very important task of the family. The family is a refuge, where an individual finds security and peace. The family protects the individual from external violence, physical and psychological. The family also has an economic function, because it earns money, distributes the earned money and spends it to satisfy family and personal needs” (Počuča, 2010, p. 50). Certainly, external influences on the family are of great importance. In this context, Počuča (2014) states that “looking at the family as a primary sociological category, it is evident that social crises (social, economic, political, etc.) significantly affect relationships and processes within this community in a fundamental sense” (p. 31). However, what characterizes a stable and emotionally stable family is the absence of any activities that would disrupt the economic, emotional, social, educational, and biological function of the family. Parenting is the most important role for both parents. According to Hodžić (2021), “parenthood implies the care of a mother, father or some other person for a child. Parenting requires commitment to the child. Children need support from both sides, and if it is absent later, there may be problems with concentration, integration into society and the development of unacceptable and harmful emotional patterns and forms of behavior in children” (p. 13). According to Article 7 of the Family Law (2005), “parental rights belong to the mother and the father together.” Parents are equal in exercising parental rights”. In the context of what has been said, childhood can be defined as “the period of life during which a human being is considered a child, and when considering that period, its cultural, social and economic characteristics are necessarily included” (Frenes, 2004, p. 113; Jerončić, 2015, p. 13). Everyone is obliged to be guided by the best interest of the child in all activities concerning the child. Article 6 of the Family Law (2005) stipulates that “the state has the obligation to take all necessary measures to protect the child from neglect, from physical, sexual and emotional abuse and from any type of exploitation.” Also, the state has an obligation to respect, protect and promote the rights of the child”. The same article stipulates that “a child born out of wedlock has the same rights as a child born in wedlock, as well as that an adopted child has the same rights towards adoptive parents as a child towards parents”. The last paragraph of the mentioned article stipulates that “the state is obliged to provide protection to a child without parental care in the family environment whenever possible.”

As can be concluded from the above, “there is no universal definition of the term child. The reason for this lies in the fact that the child, his origin, development and his position are directly related to the socio-political system

in which he is born and lives. In the past, it was stated in professional literature that a child is a human being born from partner relationships. Today, in the modern world, this circumstance has also changed significantly, because a child is no longer just a product of partner relationships. Today, a child can be born from a surrogate union or through in vitro fertilization” (Račić, 2021, p. 269). Račić (2021) still points out the conceptual definition according to which a child is “a living being who, by his birth, acquires the inalienable right to life, the right to opinion, to speech and to all other civil rights established by the Declaration on Human and Civil Rights from 1954” (p. 270).

If we consider the matter of violence against children, or violence in which children are conscious or unconscious participants, or witnesses or are indirectly or directly connected to some act of physical, verbal, psychological or other form of violence, it can be said that there are numerous varieties of forms of violence, but also the roles that a child or minor can play in that context. This will be discussed more in the next two subheadings.

4. Forms of violence to which children are exposed or connected in an indirect or direct way

According to Petrušić and Konstantinović Vilić (2010), domestic violence is one of the “most serious forms of violence, because its manifestation violates the basic human rights and freedoms of family members, such as the right to life, the right to freedom and security, physical, sexual and psychologically integrity and dignity” (p. 8). As already mentioned, domestic violence is a complex problem, conditioned by the “joint action of psychological, socio-economic, social, cultural and other factors” (Opsenica Kostić, Todorović & Janković, 2016, p. 133).

It is important to point out that domestic violence is not the only type of violence to which a child may be exposed, or to which he may be connected in an indirect or direct way (Matijašević & Dragojlović, 2022, p. 99).

As Račić (2021) points out, “violence against children is not a constant category. The environment, manner and mechanisms of the nation change along with the development of society, having its wider and more deviant forms. When we talk about the environment in which violence against children is perpetrated, we distinguish between violence within the family and violence outside the family, which can be within educational institutions and outside them, as well as violence on social networks” (p. 270).

Proceeding from what has been said, the following forms of violence to which a child may be exposed, or to which he may be connected in an indirect or

direct way, can be distinguished: family violence, digital violence and violence in schools (violence in educational institutions is distinguished as a subcategory).

Digital violence is “violence created by the development of technique, technology and the development of social networks and represents every form of violence that arises from the use of digital technologies.” Its primary goal is to publicly intimidate, expose to public ridicule or cause anger and resentment in the victim of violence. Depending on the use of the platform, we distinguish digital violence through social communication networks, mobile phones, gaming platforms, etc. Digital violence against children is mostly represented among peers” (Račić, 2021, p. 273).

Violence in schools and in general in educational institutions certainly deserves more attention in society, but also in scientific reviews. According to the findings of one of the most detailed studies on school violence, which was carried out as part of the “School without violence – towards a safe and stimulating environment for children” project a few years ago, “44% of students were exposed to violence in the three-month period that preceded the research. Among those who were exposed to violence, 45.8% experienced verbal violence, 33% physical violence, and the same amount of social violence, that is, relational violence, while 21% of children committed violence. Boys are more likely to be perpetrators of bullying than girls and are more often exposed to peer and adult violence” (SeConS & Unicef, 2023, p. 13).

In addition to the above, “a quarter of students attending from the fifth to the eighth grade of elementary school stated that they were exposed to teacher insults, 15% stated that the teacher hit them, and 5% said that they were exposed to teacher threats/ ca. However, the research showed that student violence towards teaching staff is also widespread – 43% of students stated that they witnessed situations in which another student insulted or threatened the teacher, while 9% stated that witnessed physical attacks on teachers” (SeConS & Unicef, 2023, p. 14).

According to the same research, “violence among peers is somewhat more common in special schools, where 58% of children were involved in incidents of violence (28% as victims, 7% as bullies and 23% as both victims and bullies)” (SeConS & UNICEF, 2023, p. 114). As can be seen, a child can be exposed to different types of violence, and can also be found in different roles in such situations. What is certainly interesting to analyze is the position of the child in situations where violence is committed against one of the parents by the other parent. In those situations, the child can be seen as a secondary victim of an act of violence, and he is certainly a participant whose presence entails significant repercussions (Bjelajac & Merdović, 2019).

Children can be hurt in many ways. They can be physically or psychologically abused, sexually assaulted, mistreated and neglected. A large part of violent acts against children are committed by adults from the children's immediate environment - sometimes even by their legal representatives (Bjelajac & Matijašević, 2013).

5. The position of the child in situations where violence against one of the parents by the other parent occurs

According to Petrušić and Konstantinović Vilić (2010), “the procedure for protection against domestic violence is most often conducted in order to provide legal protection to persons of the female gender. Out of a total of 287 lawsuits included in the research, 253 were conducted on the occasion of violence committed against a female family member, which accounts for 88.2% of the total number of lawsuits” (p. 41). From the conducted research, it can be concluded that in the majority of cases of domestic violence, the victim is actually a woman.

Research shows “that more than 80% of children who witness violence against their mothers, the term “violence witness” is vaguely defined because it can include the presence of children in the situation of violence, but not necessarily, because the child can hear (from another room), to see the consequences (hurts or feelings of the mother), but may also be forced to watch or commit violence against the mother, listened to or used to “spy” on the mother, may be exposed to accusations that the mother is guilty of violence or the arrest of the father, witnessing the arrival of the police or emergency medical services, participating in assessments and court processes or witnessing a suicide attempt or the murder of a mother” (Ignjatović, 2020, p. 308).

Furthermore, the researches came to the general conclusion that “in more than two thirds of cases, children witnessed violence committed by their father towards his wife – their mother – in the past and in the last 12 months.” A very small number of these children were present at one violent event – that is, in almost 95% of cases, the children were present more than once at the father’s violence against their mother” (Ignjatović, 2015, p. 71).

Numerical data on the position of children in domestic violence, in situations where the violence is directed towards the child’s mother, and by the spouse – the child’s father, are shown in the following table.

Table 1. The position of the child in the violence suffered by the mother – the victim parent

	Ever before		In the last 12 months		One time		Multiple times	
	N	%	N	%	N	%	N	%
Number and percentage cases								
Children attended violence	130	76,5	124	72,9	7	5,4	123	94,6
Violence present towards the children	78	45,9	63	37,1	13	16,7	65	83,3

Source: Ignjatović, 2015, p. 71.

According to the research, “a long list of different experiences of children follows this data.” The mothers state that the children saw various forms of physical and psychological violence against them, that the fathers generally did not care whether the children were present or not, that the children were sometimes in the next room and could hear everything, or could they see the immediate consequences of violence. Very young children were sometimes in the hands of their mothers, some children were forced by the father to watch, and others were punished. Only in individual, rare cases did the abuser beat the woman when they were alone, and he sometimes introduced this type of control after reporting the violence to one of the institutions” (Ignjatović, 2015, p. 71). Furthermore, “mothers think that the children knew, felt or saw the consequences of the violence that their partner did to them even when they did not (directly) witness the violence, in almost two fifths of cases (38.8%). The expression on the mother’s face (crying, sad, silent, humiliated, upset), or the injuries, told the children who did not witness the violence that something was wrong in the relationship between the parents” (Ignjatović, 2015, p. 72).

Research has also shown that “children’s reactions to the violence suffered by their mothers, to which they themselves were exposed in a large percentage, were different and certainly depended on the age of the children. Younger children have fewer resources to stand up to fathers or protect mothers. Some of them showed fear and dismay at their father’s behavior, turned away and remained silent, while others showed initiative, called for help or asked their mother to report or leave their father. Although the physical or verbal involvement of children, in order to protect the mother from violence or to stop the father from doing it, represents a great risk that the child himself will be injured, this was the most frequent reaction of children, present in more than two fifths of cases” (Ignjatović, 2015, p. 73).

What has been said certainly indicates that the direct or indirect presence and/or knowledge of the child’s violence suffered by the mother is actually an

extremely negative pattern of behavior that the majority of children themselves adopt during development.

Children's reaction to violence against their mothers is numerically and percentageally shown in the following table.

Table 2. Children's reactions to violence to which their mother – a victim of violence – was exposed

How did the children react?	N	%
Physically or verbally they got involved	73	42,9
They ran away, took cover	67	39,4
They called for help	42	24,7
They asked the mother to leave the father	42	24,7
They asked the mother to report the father	24	14,1

Source: Ignjatović, 2015, p. 74.

The research led to another conclusion. Namely, “in some cases, children asked their mothers to withdraw the report of violence against their father, fearing that he would lose his job or go to prison, or they begged their mothers to return to the abusive husband they had left.” Rarely, the children joined the father in blaming the mother for the violence” (Ignjatović, 2015, p. 75).

6. Conclusion

Domestic violence, regardless of how it manifests itself, is a phenomenon that has attracted increasingly significant doctrinal and media attention in recent years and is a very complex problem..

Some of the significant questions that arise when considering the subject of domestic violence, and which are definitely analyzed in the paper, are: Who are the victims of domestic violence, and who are the perpetrators (violators)? What are the characteristics of domestic violence? Then, what is the relationship of the victim to the abuser, and what is the relationship of the abuser to the victim? Also, whether and to what extent other family members are involved in the violent relationship of one of the family members towards the victim – a family member?

It is important to point out that domestic violence is not the only type of violence to which a child may be exposed, or to which he may be connected in an indirect or direct way. Bearing in mind that one form of violence predominantly causes and entails other forms of violence to which the child can be exposed, and even find himself in the capacity of the bully himself, the authors of the paper

considered it important to briefly mention other forms of violence in which a child can be found in the center. Thus, starting from what has been said, the following forms of violence to which a child may be exposed, or to which he may be connected in an indirect or direct way, can be distinguished: family violence, digital violence and violence in schools. Each of the mentioned forms is analyzed in the paper.

The focus of the work certainly concerned the position of the child in situations where violence against one of the parents (most often the mother) by the other parent (most often the father) occurs. The research part of the work concerns this very topic, and as a conclusion, the statement that the numerical and percentage data indicate that the direct or indirect presence and/or knowledge of the child's violence suffered by the mother is actually an extremely negative pattern of behavior that in the largest percentage of the children themselves adopted during development. That is why full attention of the scientific and professional public is necessary precisely in the segment of preventing domestic violence, but also working with children in situations where domestic violence has already occurred.

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NASILJE U PORODICI – POZICIJA DETETA U NASILJU KOJE TRPI RODITELJ ŽRTVA

REZIME: Nasilje u porodici, bez obzira na koji način da se manifestuje pojava je koja poslednjih godina skreće na sebe sve značajniju doktrinarnu i medijsku pažnju i veoma je složen problem. Brojna su pitanja o nasilju u porodici na koja je rad pokušao da pruži odgovore. Međutim, bitno je istaći

da nasilje u porodici nije jedini vid nasilja kom dete može biti izloženo, ili sa kojim može biti povezano na posredan ili neposredan način. Imajući u vidu da jedan oblik nasilja pretežno uzrokuje i povlači za sobom i druge oblike nasilja kojima dete može biti izloženo, pa čak se i naći u svojstvu samog nasilnika, autori rada su smatrali da je bitno u kraćim crtama pomenuti i druge oblike nasilja u čijem središtu se može naći dete, kao što je digitalno nasilje i nasilje u školama. Težište rada svakako se ticalo pozicije deteta u situacijama kada se dešava nasilje prema jednom od roditelja (najčešće majci) od strane drugog roditelja (najčešće oca). Zaključak je da je neposredno ili posredno prisustvo i/ili saznanje deteta o nasilju koje trpi majka zapravo izrazito negativan obrazac ponašanja koji u najvećem procentu deca i sama usvajaju tokom razvoja.

Ključne reči: *nasilje u porodici, dete, žrtva, nasilnik, Porodični zakon, Zakon o sprečavanju nasilja u porodici.*

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