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The connections between cybercrime and family crisis and their impact on children, along with their potential criminal law implications

Abstract

In Hungary, the number of marriages and civil partnership break-ups has been on the rise for a long time, and there are many reasons and circumstances that can lead to a crisis in family ties. In proceedings for the dissolution of a marriage which has broken down completely and irretrievably, where there is a child born during the marriage who is still a minor, one of the most important tasks of the court is to determine the fate of the child.

The court must always have the best interests of the child at heart, but there are questions about how this very important interest is actually reflected in court practice. In many cases, the extent of the right of access decided by the court is disproportionate and unfair to one of the parents, and therefore to the child. As a result, the separating parent is, if not formally, deprived of his or her rights in practice, and is unable to participate in the child's life to the extent and in the manner that would be in the best interests of the child's healthy physical, psychological and spiritual development. In many countries, the main rule for the judicial settlement of parental custody is joint custody, which means that the court must give priority to the possibility of shared care. One of the main benefits and consequences of this approach is that the child will have the opportunity to receive positive role models from both parents - mother and father - in similar amounts and for similar periods of time. Another important aspect is that it prevents the generally unacceptable but common phenomenon of a relationship of subordination and superiority between the parent and the separated parents, which can exacerbate an already existing crisis. In this case, it is possible for parents to raise their children in a co-parenting and cooperative relationship, and for their children to develop a similar deep and loving bond, not only with one parent but with both, which is essential for their physical, emotional and spiritual development.

In many cases, the only escape route for a child without positive parental role models is the digital space of his or her family in crisis - away from his or her parents - whose uncontrolled influence can have a number of negative effects. In some cases, it can lead to personality distortion, deviance, the adoption of false moral standards and even lead the vulnerable child down the path of criminality. Today, the level of vulnerability of children in the online space has reached a level that requires extreme attention, a strong sense of responsibility and continuous good examples from both parents and the child's environment, from a very young age. In order to protect our children from the dangers outlined in the study, a calm, exemplary and predictable family and parental environment free of deviance should be established in all cases.

The study explores the connections between the crisis within the family, the dangers of online space and cybercrime, which have a major impact on children's personal development, their life trajectories and their future. The research aims to explore how family tensions, such as divorce and parental alienation, increase children's vulnerability in the online space, and how deviant behaviours in the digital sphere contribute to socialisation problems and possible delinquency among children. The study focuses on understanding the impact of the digital environment and the role of family dynamics, while analysing the effectiveness of existing legal frameworks, with a particular focus on instruments to protect children. The analysis aims to contribute to a more effective cooperation between family law and criminal law for the protection of children. The study adopts a multidisciplinary approach, drawing on Hungarian academic literature and international sources. The research explores the links between family crises and children's vulnerability in the digital space. It also requires a legal, sociological and psychological perspective to address the multifaceted challenges of child protection.

Keywords: Domestic Deviancy, Child Protection, Cybercrime, Hungarian Legal System.

1. Introduction

When a marriage or partnership dissolves, both before and after this event, in most cases the partners, that is, the parents and their children, go through various deep and traumatic crises. This family crisis and disharmony invariably casts a shadow on the children's future lives, negatively affecting their personality and prospects.

The most crucial duty and right of parental supervision is to ensure the child's subsistence and upbringing, providing care and maintenance for the child. Parents must always prioritize their child's best interest and welfare in matters of their subsistence, care, and education. This obligation must be fulfilled by the parents in such a way that, upon reaching adulthood, the child is capable not only of independent living but also of integrating into society.¹

The resolution of dissolving family relationships primarily falls under family law and administrative law, where regulations concerning child custody, support, and visitation are determined.

The Civil Code of Hungary's Family Law Book regulates the exercise of parental supervision rights, using the term "child placement" only when a minor is placed with a third party. The Family Law Book also emphasizes an important

¹ Barzó, T. *A magyar család jogi rendje*. Patrocinium Kft., Budapest, 2017, p. 388.

aspect: visitation rights are not only the rights and duties of parents, but the child also has the right to maintain contact with the non-custodial parent.

In family law cases, criminal law is increasingly emphasized. The criminal law aspects of a family crisis can vary widely, including crimes related to child placement, domestic violence, endangering minors, behaviors that harm the child's interests or are against the family, and the unlawful removal of a child.

Numerous psychological and sociological studies indicate that in most cases, shared parental supervision and alternating care are the best long-term solutions for the child. It is an undeniable fact that a child equally needs both parents. However, if this is not provided for the child, it can jeopardize their developing personality and severely harm their best interests, making the child the biggest victim in such vulnerable situations.

In many cases, deviant behaviors emerging within the family can unfortunately steer the child in the wrong direction, partially or entirely into the digital realm. Here, fleeing from family crises, they attempt to live a full life, while serious dangers in this digital space they consider home can negatively influence their personality and, consequently, their actions.

Parents bear immense responsibility in this matter, as they set the examples. Essentially, through their behavior, they teach their child what kind of person to be, how to behave, and how to react in various life situations. Once certain behaviors and attitudes are established at this level, there is often no turning back. It underscores the vital role of parental guidance in shaping a child's personality and future conduct.²

2. Criminal law and family law

In this field, the character of criminal law as the ultimate ratio is particularly emphasized. Here, the focus is not on individual legal matters but on the criminal law support of family law provisions, especially in cases such as the modification of child placement, failure to provide maintenance, or the obstruction of contact, which are considered crimes. The characteristic feature of the relevant criminal regulations is that they primarily penalize the non-compliance with judicial and administrative decisions. Behind this "second line" of defense, the protection of the interests of the individuals affected by these decisions only faintly appears. The reason for this is that criminal law naturally cannot and does not reorganize family relationships, including child placement, maintenance, and contact—even when such reorganization might be necessary in a particular case. Crimes are committed regardless of these needs, as criminal law also pro-

² Hottó, I. *A gyermekkori traumákkal és agressziókkal kapcsolatos szülői felelősség*. In V. konferenciakötet: A pécsi jogász doktoranduszoknak szervezett konferencia előadásai. Pécs: Pécsi Tudományegyetem Állam- és Jogtudományi Doktori Iskola. Pécs, 2023, p. 74.

ffects the judicial and administrative decisions under review, even if it would be necessary to place the child with someone else, reduce the maintenance amount, or re-regulate contact. Criminal law, by its nature, is therefore quite insensitive to changes in life situations, and this requires special care both in the creation of criminal legal situations and in their application.

In the context of the criminal law protection of family relations, Szomora Zsolt identified two important questions to articulate:

1. To what extent is criminal prosecution harmful, and how does it further deteriorate already disorganized family relationships (known as secondary victimization)?
2. To what extent can the sanction system of criminal law be necessary and suitable for enforcing family law rules that organize relationships; or conversely, can the imposition of sanctions act against the fulfillment of obligations?³

Today, criminology distinguishes between episodic offenders and so-called chronic life-course criminal types. In the first case, a young person's aggression is limited to a single incident or a few instances, and as an adult, they manage to integrate into society more or less successfully. Unfortunately, for the second type, their entire life revolves around crime, spending almost more time behind bars than in free society. Generally, certain risk factors can be identified that predict the development of a violent attitude, such as behavioral disorders, extreme risk-seeking behavior, a functionally impaired family, a series of academic failures, and a disorganized environment.⁴

The role of criminal law in family-related matters highlights the need for a flexible and adaptable legal framework. Social crises such as pandemics show how legal systems need to evolve to meet new challenges. This principle also applies to family crises, where existing legal structures may need to be adapted in order to adequately protect the best interests and rights of children.⁵

3. Deviances in the family and their possible effects

Today, the prevailing view emphasizes the primacy of socialization factors, meaning the importance of the family environment, parental behavior patterns, and the correct or incorrect acquisition of communication competencies. Violence is fundamentally a learned behavior, as if a young person observes that aggression is the mechanism for resolving disputes between their parents, they are likely to emulate these violent exam-

³ Szomora, Z. *Gyermekelhelyezés és kapcsolattartás – mikor avatkozik be a büntetőjog? Családi Jog. Budapest, 2009(2)*, pp. 13-19.

⁴ Interjú Dr. Kőhalmi Lászlóval, a Pécsi Tudományegyetem Állam- és Jogtudományi Kar egyetemi tanárával, tanszékvezető professzorával, <https://pemonline.hu/feltekenysegbol-olhetette-megtestveret-a-13-eves-fiu-interju-dr-kohalmi-laszloval-a-pte-ajk-tanszekvezeto-professzoraval/>. (accessed on: 05.12.2024)

⁵ Gál, István László. *A spanyolnátha, a koronavírus és a büntetőjog* Büntetőjogi Szemle. Budapest, 2020, pp. 57-64.

ples in their own conflict situations. A child who is 'disciplined' through beating only becomes more aggressive as a result of the abuse.⁶

The origin of deviant behavior can be traced back to acute stress situations, which may be caused by escaping into the digital realm, bringing with it additional tensions that require a healthy personality to cope. However, a harmonious family background and good relationships with the environment are indispensable for healthy personality development because, without the proper family background, socialization disorders are likely to occur in the lives of adolescents. The objective and subjective elements of youthful deviance jointly modify and shape the behavior of young people.

It should not be overlooked that, in the context of deviance and desocialization, there is also a need to investigate such behavioral disorders before, during, and after child placement legal proceedings, which, although not legally contentious, are morally questionable from all perspectives, clash with moral norms, and while not legally assessable, are condemnable from a social coexistence standpoint based on moral grounds.

It is a common phenomenon that the non-custodial parent—often the father—who finds themselves at a disadvantage from a legal standpoint regarding contact with their child, experiences a lack of positive role models, and the alienating effects of the custodial parent and their environment. This can lead to desocialization and deviant behaviors in the child's behavior and psyche. These behavioral patterns, while "accepted" by law from the custodial parent or sometimes the grandparents, are entirely objectionable from a moral standpoint.

Closely related to this issue is the PAS (Parental Alienation Syndrome) which is a common and highly damaging phenomenon in the lives of children of broken families and divorced parents.

The distinction and conflict between *Ius* (law) and *Mos* (custom or morality) remain significant and unresolved issues in this context, as in most cases, the moral deficiencies and negative behavior patterns present in one or both parents, which can lead to the child's desocialization or potential deviance, are not currently being effectively sanctioned or addressed by the law. In my opinion, the law is not adequately protecting the endangered adolescent, nor the non-custodial parent who suffers from disproportionality.

4. The family crisis and the digital space

Our world has fully realized human freedom, which has been further enhanced by digitalization. However, this fulfillment has also resulted in a distinctly different worldview, which, often shackled by false information and in-

⁶ Interjú Dr. Kóhalmi Lászlóval, Op. cit.

fluences, encloses and endangers the user, who is most commonly an adolescent, in an illusory world. This dual effect can lead to non-conformity with societal norms and deviance, while a milder form of this is the process of desocialization, which is likely much more common. Primarily, we can mention the most important objective reasons that may be rooted in the family environment, not in every case but especially within a family community in crisis. These family issues can include various morally questionable parental behaviors, harsh parental treatment, incorrect educational principles, the disruption of family equilibrium, parents' divorce, or possibly the formation of new family relationships.

A society has accepted norms that vary over time and space. The rapid development of our digital world and environment has changed the entire society, including family customs. According to generational theories, members of Generation Z are "digital natives," while others call them "digital initiates." The affected children and youths grow up with the main achievements of recent technology easily accessible to them, forming an integral part of their daily lives.⁷

Children suffering the effects of the family crisis often find a home in the digital space, where they are exposed to various dangers, such as moral violations and exploitation, as István Gál discusses.⁸

For today's youth, peer groups, technology, and the patterns mediated by the online space are becoming increasingly influential, while the role of family models diminishes and becomes less significant. Clearly, detachment from a harmonious family intensifies external influences and can lead to deviance (such as alcoholism, criminal behavior, and drug addiction) in the lives of adolescents.

To what extent do these influences reinforce each other? A child whose parents live separately and who has experienced the effects of family crisis over time is more likely to turn to the digital world, seeking anchors, compared to a child raised in a balanced family environment. In most cases, it is inevitable that they escape from the family, and then the digital world fulfills their sense of freedom, living in an illusion where almost every piece of information from the surrounding world becomes instantly accessible. During their escape, the online space practically becomes their home, so going forward, they will not seek and find their anchors in their family, but in a digital world that often conveys false information and untruths to them.

Unfortunately, young people from inadequate family backgrounds tend to use social media platforms (like Facebook, TikTok, Twitter) more extensively, obtaining their information from these sources, encountering mostly negative

⁷ Prensky, M. *Digital Natives, Digital Immigrants*. From on the Horizon, MCB University Pres, 2001., 9(5), 1-6.

⁸ Gál, István László. *A nemi élet szabadsága és a nemi erkölcs elleni bűncselekmények* In: Polt, Péter (szerk.) *Új Btk. kommentár: 4. kötet, Különös rész, Nemzeti Közsolgálati és Tankönyv Kiadó Zrt. Budapest, 2013., p. 39.*

behaviors and patterns which they learn, follow, and quickly come to regard as exemplary. In the online space, the child becomes truly lonely, making friends who are usually not genuine and convey harmful patterns and behaviors.

Older children, due to their age, are in the stage of adaptive risk-seeking, which evolutionary psychology refers to as the "young male syndrome." The lack of "shared experiences" with a parent or friends heightens feelings of loneliness, depression, and boredom, which increase the risk of internet addiction and the desire for cyberspace. There may be periods during this age when a young person shows strong addiction due to some emotional, mood, or impulse-control problem, has a desire to explore themselves, wishes to escape parental supervision, and seeks new relationships outside the family. Under the guise of anonymity, they are willing to take risks without fully understanding the possible consequences. It is concerning that the vast amount of information available on the internet – as numerous cases show – further exacerbates and intensifies young people's worries about their personal problems.⁹

Escaping into the digital realm not only fails to alleviate the loneliness of adolescents but also introduces additional tensions for them. If their personality is not healthy and there is no appropriate family background where they could discuss these issues, then this life situation will pose a significantly increased risk to the child. In most cases, this process leads the child into a negative spiral, adversely affecting society, the family, and the child's environment.

Many families, while appearing balanced and harmonious from the outside, are actually experiencing a crisis filled with deviances and problems, the signs of which they often do not notice in themselves or their surroundings, or they simply choose to ignore the issues and their potential causes and consequences.

There are numerous important questions related to this problem that can be articulated, for which we still do not have adequate answers today.

What is the difference between deviance and desocialisation? What is the impact of the digital world and family breakdown on minors, i.e. to what extent is the impact of family breakdown exacerbated by the development of information technology? To what extent do digitalisation and the ways in which it is used and behaviours influence desocialisation and deviant behaviour among young people?

To what extent do family relationships, undesirable behaviours (e.g. parental alienation) and deviance in the family or in the immediate environment of the foster parent or family members influence the development of deviance in minors? What is the impact on the juvenile of the foster parent's desire to appropriate the juvenile, which could be considered deviant? How is the problem currently regulated by law, and how should it be regulated in the future, in order

⁹ Szegediné Lengyel, P. *Számítógépes bűnözés, avagy fiatalok a cyber-térben. (Computer crime or young people in cyberspace)* Hadmérnök, 2011(2), pp. 366-379.

to act as a deterrent to harmful behaviour and deviance within the family? To what extent is the legislator able to take account of the need to prevent desocialisation and deviance in families in crisis?

5. Crime and deviance in cyberspace

Children born in the 2000s grow up completely immersed in an environment interwoven with the internet; for them, there is no concept of a time before the internet.

Those children who suffer emotional injuries are disproportionately exposed to the dangers of the digital space, where encountering cybercrime and cyber deviances becomes almost inevitable for them.

Defining crime in cyberspace is not an easy task for criminologists, who have to provide concrete answers to events that take place in a space and dimension that is disconnected from reality and that has a strong impact on society.¹⁰

According to Snyder, it would be a mistake to view the internet as a technology that independently triggers destructive actions; rather, it should be seen as a blank slate that members of society individually fill with content. Thus, cyberspace and the internet evolve and are shaped based on how they are intended to be used.¹¹

In Hungary, Péter Polt was the first to draw attention to virtual criminality and crime in his article "Computer Crime," which appeared in the "Internal Review" in 1983.¹²

András Zoltán Nagy was among the first to summarize the criminological aspects of crimes committed in a computer environment, highlighting the extensive range of dangers.¹³

According to András Zoltán Nagy, the computer itself, as well as any network accessed through a given computer, can serve as both the tool and target for crimes committed in a computer environment. It is a tool because perpetrators access data files through the network with the intent of acquiring, modifying, or intercepting in-transit data. In the process of committing crimes over the network, the goal may involve creating data files that incite hate, promote racism or anti-Semitism, or disseminate pornographic or drug-promoting content.¹⁴

¹⁰ Köllő, D. *A gyermekek szexuális kizsákmányolása a kibertér felhasználásával. (Sexual exploitation of children using cyberspace.)* Belügyi Szemle, 2020., (2), pp. 60-87.

¹¹ Snyder, F. *Sites of Criminality and Sites of Governance. Social & Legal Studies*, 2001., 10(3), pp. 251-256.

¹² Polt, P. *A számítógépes bűnözés (Computer crime)*. Belügyi Szemle, 1983(6), pp. 60-64.

¹³ Nagy Zoltán András. *Bűncselekmények számítógépes környezetben (Crimes in a computer environment)* (2. kiadás). Budapest: Ad Librum. 2009., p. 257.

¹⁴ Nagy Zoltán András. *Az informatikai bűncselekmények*. [Doktori disszertáció, Pécsi Tudományegyetem]. Pécs: Pécsi Tudományegyetem Kiadó. 2000., pp. 102-111.

In recent years, the most rapidly growing computer threat has undoubtedly been ransomware¹⁵, which is more complex and intricate to investigate and uncover than child pornography. These malicious programs use strong encryption algorithms to render files unusable, and the perpetrators demand a ransom for the decryption key. Cyberspace offers many possibilities for harassment in addition to extortion, with an increasing number of young people falling victim. Whereas previously, victims of school or workplace harassment could retreat to the safety of their homes or secure workplaces, in today's digital world, harassers can reach their victims online anywhere, making escape impossible.¹⁶ The role of parents, providing a safe, protective, and honest family environment, is critically important in prevention and in supporting their children after a crime has occurred.

6. Cybercrime and cyberbullying

The term "cybercrime" itself carries an exceptionally broad meaning, and its precise definition may seem nearly impossible. However, with a sufficiently broad and flexible formulation, it is possible to create a useful and up-to-date concept.¹⁷ Accepted definitions in our interpretation have rather faded away. Each approaches the issue from a specific perspective and does not provide sufficient leeway for the concept, which is continuously evolving. New forms of cybercrime, such as cryptojacking, are emerging in practice.¹⁸

Cybercrime can be defined as a crime where the perpetrator invariably uses information technology tools and systems as the means or locale for committing

¹⁵ Ransomware: Malicious software that aims to somehow "hold hostage" data stored on users' IT devices, making it available again only after a ransom has been paid. A common feature of this type of malware is that it encrypts files, displays a ransom message, sets a deadline for the payment of the ransom, deletes part of the files, and over time makes more and more files permanently unrecoverable. Nemzeti Kibervédelmi Intézet. National Cyber Defence Institute, Budapest, <https://nki.gov.hu/it-biztonsag/tudastar/zsarolovirus-ransomware-v2/> (accessed: 03.12.2024.)

¹⁶ Torma, A. – Bendes, Á. L. *A cybercrime és a gyermekpornográfia összeolvadása. Lépést tud-e tartani a jog a XXI. század kihívásaival?* In Pécsi Tudományegyetem Állam- és Jogtudományi Kar Doktori Iskola (Szerk.), Konferenciakötet. Pécs, 2019., p. 25.

¹⁷ Tóth, D., - Nagy, Z. A. *Computer related economic crimes in Hungary*. Journal of Eastern European Criminal Law, Budapest, 2015., 2, p.165.

¹⁸ Tóth, D. *A virtuális pénzzel kapcsolatos visszaélések. (Abuse of virtual money)* In Baráth, N. E., & Mezei, J. (Szerk.), Rendészet-tudomány-aktualitások. A rendészettudomány a fiatal kutatók szemével. Doktoranduszok Országos Szövetsége, Rendészettudományi Osztálya, Budapest, 2019., pp. 243-245.

the act.¹⁹ The act is always carried out using cyberspace. Based on this, we distinguish three main categories: crimes directed against a computer as a combination of software and hardware, cases where the computer serves as a "medium" for committing the crime, and instances where the computer acts as a storage device. The perpetrator can commit these crimes with both direct and potential intent.²⁰

Cybercrime and digital crimes, while distinct, are related concepts that often overlap and blend into each other. It is not only possible but necessary to precisely define and record the differences between these terms. However, in our view, both concepts share a common foundation that becomes unique and distinct through their own specifications. The foundational concept is the same, yet a key difference directs the two terms in different directions. While the execution of cybercrime always involves the use of cyberspace, the execution of digital crimes does not necessarily require cyberspace. Computer crimes can be committed without an online connection, such as illegal DVD copying or digital data theft. Cybercrime always presupposes a computing background that either created the digital data or operates the online platform.²¹

When classifying cybercrimes, it is prudent to consider categories previously defined by criminal law, which divide computer crimes into four distinct groups. The first group is cyber trespass, such as virus attacks and hacking, where someone crosses the boundaries of another's computer via a network or other methods, causing damage. The second group involves cyber deception and theft, where unauthorized acquisition of money or property occurs, such as credit card fraud or intellectual property infringement, including piracy. These two groups encompass property crimes. Critical groups in terms of dangers to children are cyber pornography and cyber violence, which embody crimes against morals and persons. These crimes are committed through the distribution of obscene content and pornographic recordings, as well as hate speech and covert surveillance, potentially exposing victims to both psychological and physical harm.²²

Among scholarly views on the regulation of cybercrime, two dominant perspectives exist. One perspective holds that the provisions of the Criminal Code should also guide crimes committed electronically, and these challenges arising from technological changes should be handled with conventional tools. The other perspective advocates for specific regulations tailored to cybercrime. The

¹⁹ Kőhalmi, L. *Jogállam és büntetőjog - avagy kételyeim az ezredforduló krimináljoga körül* In: Karsai, Krisztina (Szerk.), *Keresztszemet: tanulmányok fiatal büntetőjogászok tollából*. Pólay Elemér Alapítvány, Szeged. 2005., p. 123.

²⁰ Torma, Op. cit. p. 25.

²¹ Gál, I. L., - Nagy, Z. A. *Informatika és büntetőjog*. Pécsi Tudományegyetem Állam- és Jogtudományi Kar Büntetőjogi Tanszék. Pécs, 2006., pp. 30-41.

²² Wall, D. S. *Crime and Deviance in Cyberspace*. New York, NY: Routledge Taylor & Francis Group., 2009., p. 161.

Hungarian regulation, detailed in the 2012 Criminal Code (Act C of 2012)²³, compiles a comprehensive, codex-like, and dogmatic system of criminal offenses.²⁴

A significant milestone was the Convention on Cybercrime, proclaimed in Budapest on November 23, 2001, and came into effect in 2004. This convention, issued by the Council of Europe, regulated crimes committed in a computer environment and introduced significant tightening concerning them. The Cybercrime Convention categorizes the methods of committing crimes related to computer data content, including crimes involving child pornography.²⁵

The concept of cyberdeviance differs from traditional notions of deviance in two key respects: the necessity of occurring within cyberspace and the presence of digital competence. The tie to a specific space and digital competence, however, are constants only on the part of the norm violator, not necessarily the victim. Traditional societal deviances that pose risks to communal living include enduring patterns of behavior and actions such as alcoholism, drug use, suicide, mental illnesses underpinning antisocial behavior, and criminality. These patterns and actions, irrespective of their physical manifestation, have rapidly integrated into the cyber environment, primarily due to the possibility of anonymous operation by the offender. Deviances occurring on the internet and related information systems often migrate from the offline space to the online world in a "simple" transition and are frequently limited to this realm. These are mostly derived from sexual impulses, aggressive emotions, and needs related to material gain, while society and its control institutions provide the basis for their assessment. The most common violations in the virtual space include the display of sexual content (sexting) and pornographic content, grooming (including cybergrooming), intimidation (cyberbullying), extortion, fraud, internet addiction, harmful or destructive actions, breaches of information systems, and extremism and terrorism.²⁶ One characteristic method of perpetration in the modern digital age involves targeted attacks and harassment facilitated by technology. With the advent of messaging methods and social media, attackers find even more opportunities to inflict harm on others. Such attacks are often even more harmful and painful than others, considering that the identity of the attacker often remains unknown, and the abuse can be perceived on a much wider scale (worldwide) by others, with the victim being vulnerable to attack at any time, even within their own home. It is difficult to take action and fight against

²³ 2012. évi C. törvény a Büntető Törvénykönyvről <https://net.jogtar.hu/jogszabaly?docid=a1200100.tv> (accessed: 02.12.2024)

²⁴ Szabó, A. *Az online-térben terjedő deviancia, a cibercrime az információtechnológia tükrében*. Infokommunikáció és Jog, 2017 (Különszám), Budapest, 2017., pp. 60-67.

²⁵ 2004. évi LXXIX Törvény az Európa Tanács Budapestén, 2001. november 23.-án kelt Számítástechnikai Bűnözésről szóló Egyezményének kihirdetéséről. https://jogkodex.hu/jsz/budapesti_egyezmeny_2004_79_torveny_6721328 (accessed: 02.12.2024)

²⁶ Kiss, Parti, Prazsák. *Cyberdeviancia*. Budapest: Dialog Campus Kiadó. 2019. p. 74.

such perpetrators, given that they typically commit their attacks anonymously, not from a specific location, but over the internet, in the online space. Examples include sending harsh, offensive messages, creating fake websites where harassing and false, harmful, and derogatory information about the victim can be sent.²⁷

According to András Zoltán Nagy's classification, types of cyberbullying can include: flaming, harassment, denigration, exclusion, impersonation, outing, trickery, cyberstalking, cyberthreats, and sexting. The crimes that could be associated with these actions include violence against a community member, harassment, breach of mail secrecy, humiliation of a vulnerable person, defamation, slander, fraud, fraud committed using an information system, misuse of personal data, and extortion.

One of the darkest dimensions of online abuse is the online sexual exploitation of children. This heinous activity not only violates the most basic rights of children but also exposes them to long-lasting psychological and emotional damage. The pervasive reach of the internet magnifies the impact and potential recurrence of such exploitation, making it a particularly severe facet of cyber-crime.

The Criminal Code regulates the offense of child pornography among crimes against sexual freedom and morality. The legal object of this crime is the healthy sexual development of children and the societal interest associated with combating organized criminal groups that exploit child pornography. This legislative approach underscores the importance of protecting children from being victimized and exploited, aiming to dismantle networks that perpetrate such crimes.²⁸

Child pornography, which generates significant public outrage and scandal, represents approximately 1% of all criminal proceedings in Hungary against sexual life and freedom. This percentage is relatively low when viewed within the entire procedural system. However, a shocking statistic is that 47% of these proceedings involve child pornography, making it the most prevalent crime in this category. The majority of registered cases in Hungary are attributed to Nógrád county. Between 2001 and 2016, there were 5,168 registered victims, with more than 90% of the victims under the age of 13 when the crime was committed. This data underscores the severe impact of this crime on the most vulnerable members of society.²⁹

In Hungary, the criminal act of child pornography was first incorporated as an independent offense under the subheading "Creation of Prohibited Porno-

²⁷ Somfai, B. *Bullying" azaz iskolai erőszak (Bullying - school violence)*. Pécs: Jura, 2009(1), pp. 184-187.

²⁸ Tóth, M., - Nagy, Z. (Szerk.). *Magyar Büntetőjog: Különös rész*. Osiris Kiadó. Budapest, 2017., p. 147.

²⁹ Kovács, I. (2018). *Kiberbiztonság? Gyermekes szexuális kizsákmányolása az interneten*. Budapest, Rendvédelem, 7(1), 2018., pp. 243-248.

graphic Material" into the Criminal Code (Act IV of 1978) in 1997. This inclusion was in response to the ratification of the Convention on the Rights of the Child, adopted in New York on November 20, 1989. Initially, it was categorized under crimes against marriage, family, and youth. In 2007, the classification was moved to crimes against sexual morality, which is considered more appropriate given that its legal object is related to the corruption of minors, similar to the existing laws at the time. This shift reflects a refined understanding of the nature of these crimes and aligns the legal framework with international standards on child protection.³⁰ Online peer bullying is a significant underlying source of tension in school conflicts, creating challenges in all aspects. Several psychological studies have raised the question of whether childhood bullying and harassing behaviors are a natural part of growing up, community status seeking, and becoming independent, and to what extent they influence whether an individual becomes an offender later in life. However, personality distortion in the online space, increasing aggression, dehumanization, and the sense of "protection" afforded by anonymity are factors that may reasonably be assumed to predict future criminal behaviors. The role of schools is crucial in managing this phenomenon, but their position is often challenging even when resolving traditional conflicts. Recognizing and addressing online harassment places a particularly heavy burden on them. A correct and firm response from both parents and schools to both online and offline norm violations is essential, as they play a key role in preventing childhood crime. This involvement is critical in shaping healthier social behaviors and preventing the escalation of such issues into more serious crimes in the future.³¹

6. Conclusions

Every child deserves and has the right to grow up in a loving, supportive and safe family environment where they are protected. This predictable and nurturing environment is something that parents, in particular, can and should provide together and collectively, and it is necessary to support and protect the cohesion of the family unit through the law, in the interests of children, even when the family is in crisis.

The overall conclusion of the study is that family crisis plays an extremely important role in children's turning to the digital space, where they may encounter deviant behaviours and even become victims of cybercrime. The study highlights that the lack of a supportive and stable family environment often leads children to seek refuge in the digital world, where they may be exposed to harm-

³⁰ Tóth, Op. cit. pp. 146-150.

³¹ Pongrácz, I. *Gyermek a digitális világ útvesztőiben – veszélyek és lehetőségek*. Miskolci Jogtudó, 2019(2), 55-69.

ful behaviours. The importance of balanced judicial decisions in child custody cases and the presence of co-parents in the child's life should be stressed. This parental presence should optimally be of equal proportion and duration, as it represents and promotes the best interests of the child.

Today, children face the risk and problem of alienation and loneliness, and are exposed to far more negative stimuli than in the past, in a less complicated and more relaxed world. They are bombarded by a mass of information, stimuli, events and noises, and in many cases the child's inner tension becomes so great that it triggers aggression.³²

However, it is primarily the responsibility of the family, the parents, to be prepared for situations where their child is unable to make sense of something, when they are affected by something that could lead to unresolved tensions. Today, the situation of educational institutions and the expectations placed on schools have changed. Digitalisation has not only had an impact in terms of re-thinking teaching methods, but has also redefined the way in which problems and offences arise in school communities, with the emergence of online deviance.³³

In Hungary, the fight against juvenile deviance was formulated both in the previous National Strategy for Social Crime Prevention and in the current National Crime Prevention Strategy, which is valid until 2023. The most organised and effective way of preventing young people from becoming offenders is through education and training.³⁴

Today, in the world of the twenty-first century, it is of particular relevance to see how these effects, which otherwise cause desocialisation and deviance, are stacked up against each other, and to determine what fine-tuned legal regulation is needed to prevent them and to prevent their emergence.

Professor László Kóhalmi's thought is true and eternal: „The best, most successful remedy is a loving, affectionate, supportive environment, and no one has ever been able to invent more or better than that”³⁵

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³² Hottó, Op. cit. p. 74.

³³ Pongrácz, I. *Gyermek a digitális világ útvesztőiben – veszélyek és lehetőségek. (Children in the digital maze - risks and opportunities)*. Miskolci Jogtudó, 2019, (2), p. 69.

³⁴ Interjú Dr. Kóhalmi Lászlóval, Op. cit.

³⁵ Ibidem.

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Szomora Z., Gyermekek helyezés és kapcsolattartás – mikor avatkozik be a büntetőjog? *Családi Jog* 2009, Vol. 2, pp. 13–19.

Związki między cyberprzestępczością a kryzysem rodzinnym oraz ich wpływ na dzieci, wraz z potencjalnymi aspektami prawnymi

Streszczenie

Na Węgrzech liczba rozpadających się małżeństw i związków partnerskich rośnie od dłuższego czasu, a istnieje wiele przyczyn i okoliczności, które mogą prowadzić do kryzysu więzi rodzinnych. W postępowaniu o rozwiązanie małżeństwa, które uległo całkowitemu i nieodwracalnemu rozpadowi, gdy w trakcie trwania małżeństwa urodziło się dziecko, które jest jeszcze małoletnie, jednym z najważniejszych zadań sądu jest ustalenie losu dziecka.

Sąd musi zawsze mieć na uwadze najlepszy interes dziecka, ale istnieją wątpliwości co do tego, w jaki sposób ten bardzo ważny interes jest faktycznie odzwierciedlany w praktyce sądowej. W wielu przypadkach zakres prawa do kontaktów ustalony przez sąd jest nieproporcjonalny i niesprawiedliwy dla jednego z rodziców, a tym samym dla dziecka. W rezultacie rodzic separujący się jest, jeśli nie formalnie, to w praktyce pozbawiony swoich praw i nie jest w stanie uczestniczyć w życiu dziecka w takim zakresie i w taki sposób, który byłby w najlepszym interesie jego zdrowego rozwoju fizycznego, psychicznego i duchowego. W wielu krajach główną zasadą sądowego rozstrzygnięcia kwestii opieki rodzicielskiej jest opieka wspólna, co oznacza, że sąd powinien przede wszystkim rozważyć możliwość wspólnej opieki. Jedną z głównych zalet i konsekwencji takiego podejścia jest to, że dziecko będzie miało możliwość otrzymywania pozytywnych próbek od obojga rodziców - matki i ojca - w podobnym zakresie i przez podobny czas. Innym ważnym aspektem jest to, że zapobiega to ogólnie niedopuszczalnemu, ale powszechnemu zjawisku relacji podporządkowania i wyższości między rodzicem a rodzicem w separacji, co może zaostrzyć już istniejący kryzys. W takim przypadku możliwe jest, aby rodzice wychowywali swoje dzieci w związku współrodzicielskim, pracując razem, a ich dzieci rozwinęły podobną głęboką i pełną miłości więź z obojgiem rodziców, a nie tylko z jednym, co jest niezbędne dla ich fizycznego, emocjonalnego i duchowego rozwoju.

W wielu przypadkach jedyną drogą ucieczki dla dziecka pozbawionego pozytywnych wzorców rodzicielskich jest cyfrowa przestrzeń jego rodziny w kryzysie - z dala od rodziców - których niekontrolowany wpływ może mieć szereg negatywnych skutków. W niektórych przypadkach może to prowadzić do zniekształcenia osobowości, dewiacji, przyjęcia fałszywych standardów moralnych, a nawet doprowadzić wrażliwe dziecko na ścieżkę przestępczości. Obecnie poziom bezbronności dzieci w przestrzeni online osiągnął poziom, który wymaga szczególnej uwagi, silnego poczucia odpowiedzialności i ciągłych dobrych przykładów zarówno ze strony rodziców, jak i otoczenia dziecka, od najmłodszych lat. Aby chronić nasze dzieci przed niebezpieczeństwami opisanymi w badaniu, we wszystkich przypadkach należy stworzyć spokojne, wzorowe i przewidywalne środowisko rodzinne i rodzicielskie wolne od dewiacji.

Słowa kluczowe: Dewiacja domowa, ochrona dzieci, cyberprzestępczość, węgierski system prawny.