

FOREWORD

The international scientific thematic conference “The right to life and body integrity” is organized by the Institute of Criminological and Sociological Research and Vojvodina Bar Association, with the support of the Ministry of Science, Technological Development and Innovation and branch of Serbian Academy of Sciences and Arts in Novi Sad. It took place on 24th and 25th October 2024 in Novi Sad, Serbia and brought together experts from various fields regarding this year topic. This scientific monograph entitled as „The right to life and body integrity” contains contributions not only from the authors that presented their papers at the conference, but also from the authors who were not able to attend the conference.

The aim of the monograph is to present current trends when it comes to the right to life and bodily integrity protection, based on human rights paradigm and through a discussion organized in several thematic chapters. In this regard, thematic units have been determined around the related areas in which the topic in question is presented. Since the authors from a various scientific fields and academic environment (more than 10) have contributed, the monograph is offering an important comparative and multidisciplinary view.

At the time of wars and bestial aggression that are taking place around the world, the importance of this year's topic is particularly important. Regardless of the fact that the process of implementation of the of human rights doctrine into the national legislations and international documents has long gone through the phase of institutionalization, constitutionalization, and even internationalization, there are still so much opened issues that need to be continuously discussed. There is no unanimous academic and normative position even when it comes to the sole nature of the right to life in terms of the question whether this right is of an absolute character. Furthermore, there is no doubt that the implementation of human rights standards at the national level is largely influenced by historical, cultural and political determinants what make the issue more demanding and

complex. Having that in mind, as well as the fact that the right to life requires a certain quality of life, and that the new age technologies come with the further necessity of rethinking right to life, the paper contributions are divided into two thematic chapters: *The right to life - the right to survive* consists of the papers that provide a comprehensive and wide consideration of the right to life issue and *The right to life and bodily integrity in the context of family and sexual freedom* consists of the papers oriented around specific issues of the sexual freedom and family in light of the right to life concept.

Hopefully, this monograph will answer at least some of the numerous current questions concerning human rights' protection regarding right to life and the text below offers a short overview of the papers presented at the Conference and contained in the publication:

Chapter 1

The right to life - the right to survive

PhD Vlado Kambovski, retired Professor at the Faculty of Law “Justinianus Primus” in Skopje and member of the Macedonian Academy of Sciences and Arts presented the paper **THE RIGHT TO BODILY INTEGRITY AND BODILY AUTONOMY** in which he analyzed the new challenges regarding legal interpretation of the term bodily integrity which are related to the dynamic nature of human rights and the social environment for their embodiment. He was considering issues such as the human body and its boundaries in the light of the development of new technologies that enable the use of various implants and prostheses and other devices that help a person to function normally (“bionic man”), the understanding of bodily integrity as a symbiosis of the biological and mental components of the person and on that basis connecting of these rights with similar personal rights and finally, bodily autonomy and its transformation of its basis from the ownership right (“my body my property”) to the freedom of choice (“my body my choice”).

PhD Mario Caterini, Professor at the Faculty of Law, University of Calabria, Director of the Alimena- Criminal Studies Institute (ISPA), Interdepartmental Research Centre of the University of Calabria and **Morena Gallo**, PhD

candidate in Criminal Law at the University of Calabria presented the paper, LIFE: RIGHT OR DUTY? REFLECTIONS ON CERTAIN 'END OF LIFE' ISSUES THAT HAVE ARISEN IN ITALY and investigated the most recent Italian constitutional jurisprudence on the subject of the 'end of life' and the effects on the presumed obligations of penal protection of life, with an overlapping, if any, of the judgement on the 'meritability' of punishment to that on the 'necessity' of the same, which instead should be referred to the discretionary evaluation of the legislator and, a fortiori, to the will of the people in the event of a referendum.

PhD Dragana Kolarić, Professor at the University of Criminal Investigation and Police Studies and a Judge of the Constitutional Court of the Republic of Serbia, presented the paper NEW TENDENCIES IN THE PROTECTION OF THE RIGHT TO LIFE IN THE PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS - challenges for the Republic of Serbia, in which a comprehensive judicial decisions and practice of the European Court of Human Rights have been analyzed.

PhD Aleksandar Stevanović, Assistant professor of the University Business Academy in Novi Sad, Faculty of Law, provided the paper THE ETHICAL BASIS OF THE RIGHT TO SELF-HARM in which the author analyzed the interesting question regarding right to self-harm from the philosophical point of view within the context of the right to life.

PhD Marina Matić Bošković, Senior Research Fellow at the Institute of Criminological and Sociological Research, presented the paper RIGHT TO BODILY INTEGRITY AND CRIMINAL JUSTICE aiming to contribute to the more comprehensive understanding of ethical and legal dimensions of the right to bodily integrity, by examining theoretical frameworks and practical implications.

PhD Laura Maria Stanila Assoc. professor at the Faculty of Law, West University Timisoara and Director of the Center for Research in Criminal Sciences analyzed the case-law of the European Court of Human Rights with regard to the Romanian State in paper THE RIGHT TO BODILY INTEGRITY AND HEALTH AND THE RIGHT TO LIFE IN THE LIGHT OF THE ECHR CASE-LAW AGAINST ROMANIA considering those decisions pronounced against Romania through which the Court found violations of the rights provided for by the Convention which also affected the bodily integrity, health or life of a person.

PhD Miloš Babić, Professor at the Faculty of Law, University of Banja Luka and **PhD Ivanka Marković**, Vice President of the Constitutional Court of the Republic of Srpska, Full Professor at the Faculty of Law, University of Banja Luka, presented the paper **CRIMINAL LAW PROTECTION OF THE RIGHT TO LIFE IN THE LEGISLATION OF THE REPUBLIC OF SRPSKA**, and analyzed the situation in Bosnia and Herzegovina regarding the system of parallel and divided jurisdiction in criminal legislation, stated that the criminal law protection of the right to life belongs to the entities and the Brčko District of Bosnia and Herzegovina. The authors analyzed the criminal law protection of this right in the legislation of the Republic of Srpska, pointed out the differences that exist in this area within the criminal laws of Bosnia and Herzegovina.

PhD Zoran Pavlović, Professor of the University Business Academy in Novi Sad, Faculty of Law, presented the paper **MULTIPLE HOMICIDE AND THE PUBLIC PERCEPTION**, in which the author considered the specific form of the aggravated murder - criminal offence proscribed in the Criminal Code of the Republic of Serbia, from criminological and criminal law point of view.

PhD Jelena Kostić, Senior Research Associate, Institute of Comparative Law, Belgrade contributed with the paper **OBLIGATIONS OF INSTITUTIONS REGARDING THE PROTECTION OF THE RIGHT TO LIFE** started from the assumption that at the level of various institutions there is no awareness of the need to establish mechanisms for the protection of life, as well as the potential responsibility for not establishing them and violating the aforementioned values.

Aleksandar Stevanović, Research-associate of the Institute of Criminological and Sociological Research, contributed with the paper **THE RIGHT TO LIFE: HUMAN RIGHTS APPROACH IN CRIMINAL LAW** and considered the right to life within the relationship between criminal law and human rights law, especially the role and importance of human rights doctrine in criminal law when it comes to the protection of the life within criminal law.

PhD Yuriy Pudovochkin, Professor and Chief Researcher of the Criminal Law Research Department at the Justice Issues Research Centre of the Russian State University of Justice, contributed with the paper **SYNTHESIS OF CRIMINOLOGICAL-HISTORICAL KNOWLEDGE AS A DEVELOPMENT PERSPECTIVE OF A CRIMINAL LAW SCIENCE** in which the author underlined the importance of the multidisciplinary approach in criminal law science,

and particularly analyzed the relationship between criminology and history in that context.

PhD Elek Balázs, Head of Criminal Procedural Department Debrecen University Faculty of Law, contributed with the important comparative insight into Hungarian criminal law with the paper **THE THREE STRIKES PENALTY AND THE RIGHT TO LIFE IN HUNGARIAN LAW** and analyzed provision of the Criminal Code according to which, if at least three of the offences in the group of offences are completed offences of violence against a person committed at different times, the maximum penalty for the group of offences is doubled. If the maximum sentence thus increased would exceed twenty years or if any of the offences in the group of offences is punishable by life imprisonment, the offender shall be sentenced to life imprisonment.

PhD Elena Tilovska Kechedji, Professor of the Faculty of Law, University “St. Kliment Ohridski” - Bitola, North Macedonia, contributed with the paper **VIOLATION OF THE BODILY INTEGRITY AS A VIOLATION OF THE FUNDAMENTAL HUMAN RIGHT**, oriented around discussion on the importance of the right to bodily integrity as an inherent part of the right to life.

PhD Vadim Vladimirovič Khilyuta, Associate Professor of the Department of Criminal Law, Criminal Procedure and Criminalistics, Yanka Kupala State University of Grodno (Republic of Belarus), contributed with the paper **MAN AND CRIMINAL LAW IN THE SOCIAL DIMENSION**. He considered the main problems of criminal law of post-Soviet states through the prism of global institutional transformations in politics and economy, development of new information relations and stagnation of society. The main features and ways of impact of criminal law on social relations are revealed, where criminal law is given a new global function - ensuring security. For this reason, attention in the paper is focused on the essence of crime and criminal law impact.

PhD Yang Chao, Associate Professor at Beijing Normal University, College for Criminal Law Science, China, gave the important comparative view in the paper **THE LIFE IMPRISONMENT AND HUMAN SAFE GUARD IN EXTRADITION SYSTEM OF CHINA** focusing on the life Imprisonment in Chinese law system, then by analysis the key cases of European Court of Human Rights, he considered the obstacles results by life imprisonment in extradition, and how could that legal obstacles be resolved.

PhD Adrian Stan, Teaching and Research Assistant, Faculty of Law, West University of Timișoara, presented the paper **THE NEW AGGRAVATING CIRCUMSTANCES REGARDING HOMICIDE AND BODILY HARM, A NEW VISION OF THE ROMANIAN CRIMINAL LEGISLATOR**, where he concluded that some of presented and analyzed criminal policy options are useful, but others raise serious problems of predictability and will lead to certain inequities.

PhD Jasmina Igrački, Research Associate at the Institute for Criminological and Sociological Research, Belgrade, analyzed in her paper **LIFE SENTENCE AND THE RIGHT TO LIFE** the life sentence within the protection of the right to life and gave important theoretical and comparative view in considered topic.

PhD Filip Mirić, Research Associate; Associate at Post-graduate Studies, Faculty of Law, University of Niš and **Bojana Kojić**, PhD Student, Faculty of Law, University of Belgrade, contributed with the paper **MERCY KILLING IN LEGISLATION AND JUDICIAL PRACTICE** aimed to draw attention to the complexity of the criminal act of mercy killing, taking into account its legal, social and ethical characteristics.

Túlio Felipe Xavier Januário, a PhD Candidate at the University of Coimbra - Portugal and **Renata da Silva Rodrigues**, PhD candidate University of Vale do Sapucaí - UNIVAS/Brazil, presented the paper **ARTIFICIAL INTELLIGENCE AND MEDICALLY ASSISTED PROCREATION: AN ANALYSIS OF PREIMPLANTATION GENETIC TESTING (PGT) IN THE LIGHT OF BRAZILIAN CRIMINAL LAW** focused on the legal limits of preimplantation genetic testing - PGT and their possible criminal implications under Brazilian criminal law.

Filip Novaković, Corresponding Member of the Bosnian-Herzegovinian-American Academy of Arts and Sciences, considered the issue of religious killing in the paper **RELIGIOUS KILLING: A REVIEW OF THE MURDERS OF TYLEE RYAN AND J. J. VALLOW**, focused on the case of taking the lives of Tyla Ryan and J. J. Vallow that was a complex illustration of criminal behavior motivated by religious beliefs.

Chapter 2

The right to life and bodily integrity in the context of family and sexual freedom

PhD Ranka Vujović, assistant professor at the Faculty of Law, Union University in Belgrade and assistant director of the Republic Secretariat for Legislation, presented the paper PERMISSION FOR UNDERAGE MARRIAGE: DENYING THE CHILD'S RIGHT TO PROTECTION with the to identify, through the analysis of the rules of court procedure and established practice, the various implications of the license for child marriage on the key players in the procedure - the child, the parents, the guardian, in order to provide additional insight into the way in which protection of children at risk of early marriage is organized and ensured in Serbian legislation, and to make a scientific contribution to the research of this topic on a critical, contextual and conceptual level and support the national implementation of the recommendations of the UN Committee on the Rights of the Child regarding the removal of exceptions that enable the conclusion of child marriages.

PhD Dragan Obradović, retired Judge at the Higher Court in Valjevo and Faculty of Health and Business Studies Valjevo, Singidunum University Belgrade, contributed with the paper CRIMINAL OFFENSES AGAINST SEXUAL FREEDOM - ASSESSMENT OF THE TESTIMONY OF JUVENILE VICTIMS and pointed to certain significant international regulations, as well as the most important domestic regulations that provide protection to victims of sexual violence. The question important for court proceedings is being considered - to what extent can the testimony of children or minor victims of sexual violence be believed, given the fact that these victims are usually alone against the perpetrator of the crime to their detriment, as a rule, a person older than them. Through examples from individual court cases, the importance of evaluating the testimony of that category of victims as acceptable evidence for passing a conviction is indicated.

PhD Milana M. Ljubičić, Full Professor, University of Belgrade, Faculty of Philosophy, contributed with the the paper SOCIAL MANAGEMENT OF PARENTHOOD: FORCED STERILIZATION OF MENTALLY DISABLED

WOMEN and presented a retrospective overview of the practices of forced sterilization of mentally disabled persons in the USA and European countries, while pointed out to ethical dilemmas accompanying this practice.

PhD Lorena Velasco, assistant professor at the University Francisco de Vitoria in Spain, opened up the issue of sterilization and disability in her paper **STERILIZATION AND DISABILITY: FROM ATYPICALITY TO CRIMINALIZATION**. This paper seeks to analyze the regulations related to the sterilization of judicially incapacitated people with disabilities in Spain, its origin and evolution, and to make a comparative analysis of the regulation in different European countries. The aim is to understand the changes that have occurred in the different legislations and the current legal framework.

PhD Slađana Jovanović, professor at the Union University Faculty of Law, Belgrade presented the next paper opened up the issue regarding femicide as a criminal offence in the paper **FEMICIDE/FEMINICIDE IN CRIMINAL LAW: DO WE NEED A NEW CRIMINAL OFFENCE?** She examines relevant definitions, surveys and actual legal responses to femicide, focusing on the state of affairs in the Republic of Serbia, especially dilemma about introducing femicide as a new, separate criminal offence.

PhD Zorica Mršević, retired principal research fellow at the Institute of Social Sciences, in Belgrade, gave one more insight on femicide as a possible criminal offence with the paper **FEMICIDE AS A CRIMINAL LAW DEED - PRO ET CONTRA** in which she considered arguments and counter-arguments for the legalization of femicide as a criminal offense.

Svetlana Janković, from Center for Encouraging Dialogue and Tolerance, Čačak, contributed with the paper **THREATENING THE RIGHTS, HEALTH, AND LIVES OF WOMEN WHILE PROTECTING THEIR REPRODUCTIVE HEALTH** in which she stated that obstetric violence is a global problem to which women are exposed in gynecological and obstetric institutions.