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PREVENTION AND PUNISHMENT AS ESSENTIAL ELEMENTS OF THE EDUCATIONAL SYSTEM

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Abstract: This paper highlights the importance of issues related to the normative presentation of the penal provisions contained in the current Law on the Foundations of the Education System. Through a theoretical framework and a methodological approach based on narrative presentation and analytical examination, the paper compares, evaluates the justification of, and provides an overview of all penal provisions prescribed by the aforementioned law, as well as a comparison with misdemeanors of the same or similar nature. The study employs analytical methods focused on normative legal acts. The significance and relevance of this research lie in the fact that particular attention is devoted to the penal norms embedded in the Law on the Foundations of the Education System, which remain insufficiently known, inadequately explained, and rarely applied in practice. The practical implications of the study point to the need for analyzing the applicability of these penal provisions, as well as the extent of their practical implementation as a result of the interaction among all stakeholders involved, ranging from the broader social community to educational institutions at all levels. Furthermore, the paper provides a foundation for future research directions and offers proposals for innovation and potential improvement, rather than merely engaging in criticism that is often driven by implicit objectives.

Keywords: education, society, system, governance, correction.

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Introduction

The role and importance of knowledge and education in the contemporary world, founded on new technologies and innovations, are of paramount significance. Innovation serves as the primary driver of progress, encompassing technological, organizational, infrastructural, environmental, and social innovations. Given this comprehensive scope, modern society would be inconceivable without educated and professionally competent human resources capable of performing key social functions. Knowledge represents a unique quality that must be continuously cultivated; therefore, every society bears a significant responsibility to encourage and motivate its individuals and groups to pursue education, personal development, and lifelong learning. The role of society in the educational process is reflected primarily in the management of all processes necessary for the uninterrupted functioning of educational activities, as well as in the allocation of adequate resources to improve, modernize, and integrate educational institutions with the labor market while enhancing communication among stakeholders for synergistic purposes (Mlađenić, 2025; Vuković et al., 2025). According to one influential perspective, the role of the state in higher education is to ensure the existence of universities without interfering in the processes of knowledge transmission and scientific research (Prnjat, 2023).

Improving the quality of education contributes to the recognition of individual and collective abilities, opportunities, interests, and needs, as well as to the effective functioning of specialized institutions established within the normative frameworks of a given society (Vuković et al., 2023; Stanković et al., 2024). The primary purpose of education is to guide individuals and fully prepare them for the performance of specific professional and social activities. In the Serbian epic poem *Banović Strahinja*, the protagonist's superior education and multilingual abilities place him in a higher moral position than his contemporaries, elevating him above both his society and his historical context (Prnjat, 2024, pp. 123–124).

In contemporary society, knowledge possesses not only cultural and social value but also a distinct economic dimension, reflected in the valuation of acquired competencies and skills within the labor market. Knowledge, abilities, and skills are exchanged in the labor market similarly to other economic goods, while employers compensate qualified workers through wages and other forms of remuneration. Income derived from employment provides the basis for economic security, social integration, wealth creation, the development of individual needs, and participation in various social activities (Vilić, 2014, p. 391).

The once-prevalent debate regarding whether investment in education should be regarded as a cost or an investment has largely been resolved. Today, investment in education is widely recognized as one of the most valuable forms

of investment. Individuals who invest in their education secure better future opportunities, improved living and working conditions, and simultaneously contribute to the advancement and progress of society. Research consistently demonstrates that the most prosperous organizations and economies are characterized by advanced technological infrastructure, highly educated and professionally trained human resources, strong commitments to market research, and substantial investments in improving working conditions and employee development. To achieve these goals, organizations continuously modernize their work processes through the adoption of new communication technologies and educational content, thereby creating new employment opportunities and restructuring existing job classifications (Giddens, 2005, pp. 512–513).

Despite the undeniable importance of education, not all countries can boast high levels of educational attainment or strong interest in learning. It is alarming that more than 130 million girls worldwide remain excluded from formal education. According to research conducted by the organization Global Citizen in 2019, ten major challenges currently affect global education systems. The most significant of these is the lack of financial resources. Developing countries often lack the financial capacity to adequately support education and therefore allocate only minimal funding to this sector. Such an approach has far-reaching consequences for knowledge acquisition, professional competence, and workforce development, affecting both current and future generations across all sectors of the economy and society.

Additional challenges include shortages of qualified teaching staff, insufficient educational infrastructure, inadequate learning resources, limited access to education for children with special needs, and discrimination against girls. These difficulties are compounded by more extreme circumstances, such as restrictions on access to education, long distances between schools and students' residences, and prohibitively high tuition costs. Acting individually or collectively, these factors significantly discourage participation in education at all levels. Educational challenges are further exacerbated by wars, social unrest, and forced migration, all of which disrupt regular educational processes and often result in long-term exclusion from learning opportunities (Global Citizen, available at: <https://www.globalcitizen.org/en/>).

At the same time, continuous learning, educational research, and the ongoing development of teaching practices are indispensable components of the modern educational system. The term “school” in this context refers generically to all levels of education rather than any specific institution. The education of future leaders in educational processes must cultivate an awareness of the importance of learning and innovation, while professional development programs should be adapted to the individual characteristics and comparative advantages of each educator. These unique strengths provide opportunities for fostering creativity and innovation. Effective collaboration must extend beyond occasional professional training sessions and be realized within educational institutions

themselves, which remain the primary sites for acquiring and applying new knowledge. High-quality communication and interaction among all participants in the educational process facilitate greater progress in fostering creativity and educational development.

The concept of the learning community has gained considerable attention in contemporary educational theory and practice. Emerging in the United States during the 1990s, the learning community represents a social structure that connects learning with enhanced interaction among learners and educators, who jointly participate in the process of knowledge creation and acquisition. Unlike occasional professional development activities, a learning community may be defined as a group of voluntarily associated individuals who communicate shared values, develop a common vision, collaborate to improve professional practice and personal learning, and critically reflect upon their activities and the conditions under which they operate over an extended period (Bognar, 2007, p. 112). The value of this approach should be recognized as a significant opportunity for developing all essential elements of a modern educational system.

When discussing education in the Republic of Serbia, it is evident that the country faces a paradoxical situation characterized by an increasing number of functionally illiterate students on one hand and a growing number of academically outstanding students on the other. Unfortunately, education does not enjoy the social status it deserves, largely due to insufficient financial investment in this sector. Educational professionals are often inadequately compensated, which reduces motivation and affects the quality of their work. Likewise, many students lack motivation to acquire new knowledge, skills, and competencies because they fail to recognize the significance of education or perceive tangible benefits from it. This situation is further exacerbated by the inadequate public promotion of education and knowledge through mass media, which frequently prioritize less educationally valuable content while reducing or completely eliminating educational programming.

The Role and Importance of Punishment – A Necessity at Any Cost?

When discussing punishment, it should be understood as a necessity arising from socially unacceptable conduct. Punishment essentially represents society's response to such behavior, and its function is twofold. On the one hand, it serves to ensure compliance with legal norms; on the other hand, it constitutes a response to conduct that violates those norms.

Through its provisions, the law prescribes rules of conduct that are binding on all citizens. However, every legal norm consists not only of a disposition but also of a sanction, which is activated whenever the disposition is violated. Punishment, or sanction, therefore constitutes an integral part of every legal norm. The disposition establishes the required rule of conduct, while the sanction guarantees compliance by prescribing consequences for its violation.

Whenever the disposition is breached, the sanction is applied to the individual who has acted contrary to the prescribed rule.

Punishment may be defined as a measure imposed on the perpetrator of an unlawful act with the aim of suppressing such behavior, based on a final and legally binding judicial decision. Through the application of punishment, the offender is deprived of certain rights or benefits, or is subjected to a form of hardship as a consequence of unlawful conduct (Ignjatović, 2010, pp. 95–98).

In legal theory, there is a long-standing division between two opposing approaches to the purpose of punishment. According to the first approach, punishment should possess a retributive character, meaning that its primary purpose is to inflict suffering upon the offender. Advocates of this perspective argue that wrongdoing must be answered with an equivalent response and that the most effective reaction to unlawful conduct is punishment proportional to the offense committed.

The second approach views punishment as having a broader and more meaningful social purpose. According to this perspective, punishment should not serve merely as retaliation but should fulfill an educational and corrective function by encouraging feelings of responsibility, remorse, and a willingness to undergo resocialization and reintegration into society. Proponents of this view argue that retribution alone deepens the divide between the offender and society, whereas punishment as a corrective and rehabilitative mechanism facilitates the adaptation of socially maladjusted individuals to a lawful and socially acceptable way of life (Antonović, 2018, p. 345).

From the perspective of a progressive society committed to continuous development, the latter approach appears more humane, balanced, and constructive. This is particularly relevant when the age of the offender is taken into consideration. Within educational systems, individuals are often still in the formative stages of personal development, and their identities continue to evolve. Excessive rigidity and punitive severity may therefore carry the risk of interrupting the personal and social development of young individuals whose personalities have not yet fully matured.

As one of the most common legal institutions, punishment occupies a central place in criminal law and forms an integral part of numerous legislative acts. Most statutes contain a separate chapter devoted to penal provisions, usually located near the end of the legal text. These provisions serve to protect the implementation of legal norms and ensure their observance. However, recognizing the importance of sanctions should not diminish the need for broader social engagement. In order to preserve the authority of legal norms without creating conditions that could lead to social instability or disorder, it is necessary for neglected social groups, public institutions, and relevant services to demonstrate a stronger presence and more effective action in addressing the underlying causes of unlawful and socially undesirable behavior.

Penal Provisions in the Law on the Foundations of the Education System

The current Law on the Foundations of the Education System contains penal provisions in Chapter XII. At the outset, it is necessary to distinguish between sanctions applied to students by educational staff within the educational process and statutory penalties prescribed for other participants in the educational system. Disciplinary measures imposed on students are generally intended to shape and improve behavior and educational outcomes. However, existing practices of student punishment have not consistently produced the desired results (Jevtić, 2018, p. 99). In the context of this paper, particular attention is devoted to legal sanctions prescribed for educational institutions, parents, and legal guardians, whose roles, responsibilities, and influence are often overlooked despite their importance within the educational system.

Article 191 of the Law prescribes fines ranging from RSD 100,000 to RSD 1,000,000 for an educational institution in a variety of circumstances, including: failure to enroll a child in a preschool institution or primary school for participation in the compulsory preparatory preschool program; failure to enroll a child in primary education; failure to adopt a development plan and annual work plan; failure to perform the national anthem of the Republic of Serbia; conducting experimental educational programs without the approval of the Ministry or implementing status changes during the experimental period; failure to adopt and implement an Individual Education Plan (IEP); failure to adopt or implement educational programs and standards in a timely manner; failure to prescribe procedures for the protection and safety of children and students; failure to undertake appropriate measures in cases involving violations of the law or serious breaches of employee duties; permitting political party activities within the institution; employing personnel who do not meet statutory requirements; failure to provide the Ministry with relevant information concerning the licensing of teachers, educators, and professional associates; failure to suspend employees in cases involving serious breaches of duty; and concluding contracts for the delivery of instruction contrary to legal provisions.

Responsibility for these violations is also borne by the institution's principal, who may be personally fined between RSD 25,000 and RSD 100,000. Educational institutions may additionally be fined from RSD 200,000 to RSD 2,000,000 if they commence operations, establish satellite departments, perform extended activities, implement status changes, or change the institution's name or headquarters contrary to legal requirements. In such cases, principals may also be fined between RSD 50,000 and RSD 150,000.

The legislator has also prescribed penalties for legal entities that use or disclose data obtained through educational activities contrary to the purpose specified in the request for data collection. Such legal entities may be fined between RSD 50,000 and RSD 1,000,000. Likewise, natural persons who use or disclose collected data for unauthorized purposes may be fined between RSD 5,000 and

RSD 100,000. Higher education institutions, student welfare institutions, and other publicly recognized educational providers may be fined between RSD 50,000 and RSD 100,000 if they fail to update data in the relevant official registers. Responsible persons within these institutions may additionally be fined between RSD 5,000 and RSD 50,000.

Parents or legal guardians who act contrary to statutory provisions governing parental responsibility may be fined between RSD 5,000 and RSD 100,000. Article 84 of the Law on the Foundations of the Education System stipulates that parents are responsible for enrolling their children in preschool and school institutions, ensuring regular attendance, ensuring attendance in preparatory educational programs, informing the school within 48 hours of any circumstance preventing attendance, justifying student absences, participating in educational and developmental processes, and respecting the rules of educational institutions.

A fine ranging from RSD 30,000 to RSD 100,000 may be imposed on a parent or guardian who physically, psychologically, sexually, or digitally abuses or neglects a child. The same penalty applies to individuals whose conduct violates the honor, reputation, or dignity of a child or student.

Furthermore, an institute responsible for preparing or participating in the preparation of secondary legislation may be fined between RSD 500,000 and RSD 1,000,000 if it fails to prepare and submit the required materials to the competent minister. In such cases, the director of the institute may also be personally fined between RSD 5,000 and RSD 100,000 for failure to fulfill these obligations.

Effects of Punishment – Have the Intended Objectives Been Achieved or Has the Opposite Occurred

As can be seen from the descriptive analysis of the penal provisions contained in the current Law on the Foundations of the Education System, the primary purpose of punishment is to ensure the proper functioning of education and the professional development of children and young people. It is also evident that the legislator intended to strengthen the implementation of the Law through penal norms and to encourage legally acceptable behavior by means of the threat of financial sanctions. Given the social and economic context, monetary sensitivity appears to have been one of the principal motivations behind the design of these provisions.

An examination of the penal provisions reveals that their primary object of protection is children and young people participating in the educational process. At the same time, these provisions seek to safeguard the lawful operation of educational institutions, protect state authority and integrity within the educational system, and preserve the supervisory role of the competent ministry. For example, several penal provisions are directly related to the obligation of

school-age children to participate in education. In this regard, parents or legal guardians whose children fail to attend school or complete compulsory primary education may be subject to financial penalties. This issue is particularly evident among certain national minority groups in Serbia, where irregular school attendance or non-participation in primary education remains a challenge. Consequently, judicial decisions and sanctions are most frequently imposed on these individuals, although such measures may produce consequences that differ significantly from the objectives originally intended by the legislator.

In this context, it is important to mention the initiative to introduce compulsory secondary education in the Republic of Serbia. Mandatory secondary education is envisaged in the Draft Education Strategy until 2030. Although approximately 95 percent of primary school graduates in Serbia continue their education at the secondary level, leaving only about 5 percent without further formal education, the Ministry of Education has maintained the position that secondary education should become compulsory and thereby attain the same obligatory status as primary education. This position is also consistent with the United Nations Agenda 2030, which has been ratified by the Republic of Serbia and which recognizes both primary and secondary education as essential components of universal educational access.

The introduction of compulsory secondary education would likely require corresponding amendments to the existing system of sanctions and parental responsibilities. Such measures would further strengthen the legal framework governing educational participation but would also raise important questions regarding the effectiveness of punitive mechanisms in achieving educational objectives. The central issue remains whether financial penalties alone are sufficient to address the underlying social, economic, and cultural factors that contribute to educational exclusion. While sanctions may encourage compliance with legal obligations, sustainable educational outcomes often require broader measures, including social support, awareness campaigns, institutional cooperation, and targeted interventions aimed at vulnerable populations.

Therefore, the effectiveness of punishment within the educational system should not be assessed solely through the number of sanctions imposed or the level of legal compliance achieved. It should also be evaluated according to its ability to contribute to higher educational participation, improved educational outcomes, and the broader social inclusion of children and young people. In this sense, punishment may serve as a necessary legal instrument, but its ultimate success depends on its integration within a wider framework of educational policy, social support, and preventive action.

Highlighted Case Studies – Evidence of Imperfection

Judicial practice provides illustrative examples that raise important questions regarding the effectiveness and broader implications of penal provisions within the educational system. According to the practice of the Misdemeanor Court in

Pančevo, two parents were fined RSD 5,000 because they failed to justify the absences of their children, who were students in the third and seventh grades of primary school. If the fine was paid within fifteen days of the judgment, it could be substituted by community service. In cases of non-payment, the sanction could be converted into a custodial sentence or enforced through compulsory collection procedures.

Statistics from the Misdemeanor Court in Pančevo indicate that during 2017, eighty-eight misdemeanor charges were filed against parents due to their children's school absences. Thirteen decisions were issued, including two monetary fines and eleven warnings. Financial penalties were generally imposed on repeat offenders, namely parents whose failure to justify school absences had occurred on multiple occasions. Mitigating circumstances considered by the court included first-time violations, shorter periods of absence, difficult socioeconomic conditions, and similar factors.

Parents are legally obligated to justify a student's absence within forty-eight hours. If they fail to do so, the school must notify the competent municipal administration, which is then required to initiate misdemeanor proceedings against the parent or guardian. The prescribed penalty for such violations ranges from RSD 5,000 to RSD 100,000.

The problem of unjustified school absenteeism has long been recognized as a serious social issue. The habit of unauthorized absence from school may contribute to the development of negative attitudes toward obligations and responsibilities later in life. Although school absenteeism may initially appear to be a relatively minor issue, its long-term consequences may include the formation of deviant attitudes toward work, responsibility, and social norms. Evidence suggests that students who frequently engage in unjustified absenteeism during primary education often continue this behavior throughout secondary education.

From a phenomenological perspective, unjustified absenteeism may be either individual or collective. Individual absenteeism is primarily motivated by personal factors and involves students independently avoiding attendance. Collective absenteeism, by contrast, is usually associated with shared goals or group interests. It often occurs under the influence of informal student leaders who exert peer pressure on other students. However, individual absenteeism tends to have more lasting consequences because it may be linked to antisocial attitudes and difficulties in adapting to the school environment. Collective absenteeism, on the other hand, frequently diminishes as students mature and develop stronger personal identities and greater resistance to peer influence (Bouillet & Uzelac, 2007, p. 209).

Outside the judicial system, schools employ various pedagogical measures to address unjustified absences. These measures include warnings issued by homeroom teachers, reprimands imposed by teachers' councils, educational

supervision programs, and warnings preceding expulsion from school. Educational institutions may also establish additional regulations through their statutes to address excessive absenteeism. Furthermore, schools may require students with prolonged absences to take grade examinations if they have not been sufficiently assessed during the academic year.

Unjustified absenteeism is a global educational challenge. Research findings indicate that 46% of students miss classes for justified reasons, while 26% are absent without valid justification. Collective absenteeism resulting from peer agreements accounts for approximately 11% of cases. Interestingly, students rarely identify uninteresting lessons or teaching methods as primary reasons for absenteeism. Instead, absenteeism is more frequently associated with collective perceptions of school and education in general. Research has also revealed that many students do not clearly distinguish between justified and unjustified absences, often treating both categories as equivalent. Consequently, there is a strong argument for providing students with clearer guidance regarding attendance obligations and for introducing student codes of conduct that explicitly address absenteeism (Kostadinović, 2007, p. 101).

Research has further examined where students spend their time while absent from school without authorization. This issue introduces an important social dimension to the problem. Approximately 31% of students spend their time in various commercial establishments, where they may be exposed to harmful social influences and risky behaviors. Around 13% return home or remain near their homes. This raises an important question regarding parental awareness and involvement: if students are at home during school hours, why are parents not concerned about their absence from school and why do they not question the reasons for it (Budevac, 2018, p. 188)? Approximately 11% of students remain near the school premises, 13% spend time with romantic partners, 7% wander aimlessly, 6% socialize with friends, and only 3% spend their time walking around the city (Klapan et al., 2018, p. 50).

Sanctioning such behavior represents an important preventive measure against antisocial conduct among school-age children, where absenteeism serves as an early manifestation of avoidance of social obligations. In later stages of development, similar patterns of behavior may evolve into more serious forms of socially and legally unacceptable conduct, including delinquency and criminal activity. Therefore, school truancy should not be viewed merely as a harmless childhood mischief or a temporary developmental phase. Instead, it requires an appropriate response that combines sanctions with educational and developmental interventions designed to foster positive values, responsibility, and respect for social norms at an early age.

Conclusion

The legislator's starting premise is that every legal act should contain penal provisions. Such provisions protect and guarantee the implementation of legal

norms while establishing a system of sanctions for those who fail to comply with the law. Punishment has traditionally served as a corrective mechanism intended to direct behavior toward compliance with legal requirements. Without an adequate sanction, there can be neither an effective legal norm nor a reliable guarantee of its observance. Within the educational system, however, punishment should primarily function as a safeguard ensuring that educational processes are conducted effectively and without significant irregularities.

A fundamental question, relevant both to this study and to future research, concerns whether penal policy within the educational system should be equated with penal policies applied in other areas of social life. The phenomenon of the “interrupted flight,” previously discussed in an educational, symbolic, and exploratory context, points to the need for further examination of the long-term consequences of punitive measures on young individuals whose personal development remains incomplete. The importance of education and the role of the educational system in society will always remain central topics of discussion. Educating future generations is essential for the effective functioning of any society. Well-educated generations constitute a valuable social resource and provide a strong foundation for social progress and development. Consequently, investment in education is widely regarded as one of the most valuable investments in the future. Given the significance of education, it is understandable that the legislator seeks to ensure the implementation of the Law on the Foundations of the Education System through penal provisions. The primary issue open to debate is not the existence of sanctions themselves, but rather the appropriate degree of repression in light of the circumstances involved.

The penal provisions examined in this paper fulfill an important function by ensuring compliance with the most significant provisions of the Law on the Foundations of the Education System. They are directed toward protecting the most sensitive aspects of educational regulation, including compulsory school attendance, the safety and well-being of students, the quality of educational processes, and the lawful functioning of educational institutions.

The judicial practice discussed in this study demonstrates that these penal provisions are not merely symbolic but are actively applied within the legal system of the Republic of Serbia. The case studies examined primarily concern the phenomenon of unjustified school absenteeism, which has been analyzed not only as a legal issue but also as a long-standing sociological phenomenon. School absenteeism is recognized as a potentially serious social problem because it may represent one of the earliest manifestations of antisocial behavior. For this reason, it is encouraging that judicial institutions respond to such cases and hold parents accountable in order to encourage corrective action regarding their children's attendance. The analysis also highlights the circumstances under which students engage in truancy, the motivations behind

such behavior, and the environments in which students spend their time while absent from school without authorization.

The overall conclusion of this study is that the penal provisions contained in the Law on the Foundations of the Education System are both justified and necessary. They provide a legal guarantee for the implementation of the Law and offer judicial authorities an appropriate basis for sanctioning conduct that contradicts statutory requirements. These provisions address behaviors that directly or indirectly endanger the educational system of the Republic of Serbia and the interests of students participating in the educational process.

At the same time, there remains considerable room for innovation and improvement in the application of sanctions within the educational system. Future efforts could focus on adapting penal measures to educational objectives, strengthening awareness of legal obligations under the Law on the Foundations of the Education System, and ensuring more consistent judicial enforcement. Although examples of judicial practice have been presented in this paper, there remains a strong impression that court cases involving violations of educational legislation are not examined as frequently as the prevalence of such violations would suggest. Media reports regularly indicate substantial breaches of legal provisions by students, parents or guardians, educational institutions, and responsible officials. Consequently, one might reasonably expect a much richer body of judicial practice than is currently visible.

An unavoidable conclusion is that a significant “dark figure” of undiscovered or unreported violations exists. Many breaches of the Law appear never to reach judicial proceedings and therefore remain unsanctioned. This phenomenon carries important social, pedagogical, professional, and scientific implications, particularly for the analysis of legal effectiveness, the formulation of policy recommendations, and the refinement and proper interpretation of educational norms. Addressing this gap represents an important challenge for both policymakers and future researchers concerned with the development of a more effective and accountable educational system.

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