

Homicide against Children – First Impressions of a Criminological Research Project

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Key Words

Homicide · Infanticide · Neonaticide · Child maltreatment deaths

Summary

Background: Homicide against children in Germany is of great public and political interest, but an under-researched subject. The ongoing criminological research project presented here aims at achieving reliable data about characteristics and backgrounds of child homicides as well as the respective criminal proceedings. **Methods and Results:** Data are derived from all identifiable court files regarding homicide against children aged <6 years within the years 1997–2006 in Germany. The first part of this article describes some results regarding the phenomenology of child homicide in Germany. The preliminary analysis of about half of the cases shows that it is necessary to distinguish different types of homicide in order to conduct sensible analyses. We suggest the following differentiation: neonaticide, abuse, neglect, homicide during acute and severe mental illness, extended suicide, purposeful homicide and other. The different types of homicide are heterogeneous and not without overlap. **Discussion:** The second part of the article discusses some of the difficulties courts encounter in judging the cases. Those difficulties are due to the fact that not only is it quite often difficult to fully prove the relevant facts, but also because court decisions necessarily involve considerations that are not free of value-judgments.

Schlüsselwörter

Tötungsdelikte · Kinder · Neonatizid · Tödliche Kindesmisshandlung

Zusammenfassung

Hintergrund: Tötungsdelikte an Kindern in Deutschland sind trotz des großen medialen und politischen Interesses bisher nicht ausreichend erforscht. Das hier vorgestellte kriminologische Forschungsprojekt strebt an, verlässliche Daten zu Erscheinungsbild, Hintergründen und strafrechtlicher Aufarbeitung zu erlangen. **Methoden und Ergebnisse:** Empirische Grundlage ist die Analyse der Strafakten aller vorsätzlichen, vollendeten Tötungsdelikte an Kindern <6 Jahren im Zeitraum 1997–2006 in Deutschland. Im ersten Teil des Beitrags werden einige Ergebnisse zur Phänomenologie skizziert. Erste vorläufige Auswertungen auf der Basis etwa der Hälfte der Fälle lassen erkennen, dass eine Differenzierung nach Fallgruppen unerlässlich ist, um sinnvolle Analysen durchzuführen. Vorgeschlagen wird folgende Unterscheidung: Neonatizide, Misshandlungstötungen, Tötungen durch Vernachlässigung, Tötungen im Zusammenhang mit einer akuten, schweren psychischen Erkrankung, erweiterte Suizide, gezielte Tötungen und sonstige Tötungen. Diese Fallgruppen sind in sich durchaus heterogen und nicht überschneidungsfrei. **Diskussion:** Im zweiten Teil des Beitrags werden einige Probleme der strafrechtlichen Bewertung der Fälle dargestellt, die sich daraus ergeben, dass es einerseits nicht selten schwierig ist, die Tat vollständig aufzuklären, andererseits immer auch wertende Abwägungen zu treffen sind.

Previous Findings on Child Homicides

Homicides against children have increasingly been a subject of public debate in recent years – e.g., in the discussion about the Child Protection Act (which was, at least temporarily, defeated) (Bundestagsdrucksache 16/12429) or in the context of controversies surrounding the benefits of ‘baby hatches’ (i.e. a safe place in a hospital, where mothers can bring their babies, usually newborn, and leave them anonymously to be found and cared for). Spectacular individual cases which have been very widely reported by the media have created the impression of a sharp increase in the number of children who are being killed. The language used is often dramatized, or is at any rate usually imprecise. Killings of newborns by their mothers immediately after birth are frequently called ‘child murders,’ and sometimes killings by severe abuse are too. This paper reports on a criminological research project, ongoing since 2007 and funded by the Fritz Thyssen Foundation, on homicide against children <6 years of age.

There is surprisingly little data on child homicides in Germany up to now. The little official data available, Police Crime Statistics (PKS) and cause-of-death statistics, do not make it possible to have meaningful, systematic analysis of basic data on the portion of all criminal events in a given period that is officially known and registered. The age of the crime victims is only very roughly covered by the PKS, which are oriented toward offenses cited in the German Penal Code (StGB): 0 to <6, 6 to <14, and 14 to <18 years of age. The PKS data thus hardly permit in-depth analyses of the interesting questions. Since data for individual cases are not available, the aggregate PKS data also do not permit the researcher to connect various features (of the few that are mentioned in the PKS), so that currently, for example, it is not possible to say anything about whether and how victim/suspect configurations differ with respect to the age of the victims. The cause-of-death statistic is listed as ‘assault’ – the deliberate killing or injury by another person, by any means. It uses a different age

range than does the PKS: 0 to <1, 1 to <5, 5 to <10, and 10 to <15 years. PKS and cause-of-death statistics thus cover different circumstances and are not comparable for this reason alone. They also have different problems with respect to data collection, not discussed here, that prevent them from being used to compile prevalence data. In the absence of better data on the frequency of recognized homicides against children, they can still provide a rough approximation (table 1).

It has been consistently shown that, during the period under investigation, there has been no increase in the number of officially reported cases. The data from 2007 and 2008 show no increase either. It is undisputed that there is a non-negligible number of unreported cases, in addition to known crimes. The precise magnitude of these unreported cases and the question of whether the reported acts differ significantly from those that are not reported, are facts that are largely unknown and can only be ascertained to a very limited extent [Höyneck and Görden, 2006].

Comprehensive studies of child homicides do not exist in Germany. The only two recent major studies are in a forensic context [Raic, 1997; Vock, 1999; Vock and Meinel, 2000; Vock, and Trauth, 1999a, b]. Forensic and psychological case histories provide insight into certain aspects of individual cases (recently, e.g., Hornstein et al. [2009], Mundt [2009]). Some features have been taken up in Germany in various contexts, sometimes politically highly controversial ones. Particularly controversial now is the question of the legitimacy and efficacy of ‘baby hatches’ and anonymous births. Both measures are primarily intended to prevent killings and infant exposure, and therefore research findings about the mother’s killing of a newborn [Swientek, 2004] are quite relevant. The topos of child abuse resulting in death has been of great political and scientific interest to various disciplines for a long time [Kindler, 2008].

What predominates internationally, aside from special evaluations of official data, are case reports or descriptive findings based on smaller, often more selective sampling of, for example, offenders in prisons or psychiatric institutions, or cases from cer-

Table 1. Deliberate homicides against children; number of victims according to PKS and cause-of-death statistics

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
PKS ^a	91	98	94	106	94	102	84	85	75	82
ICD-10 X85–Y09 ^b	–	55	44	44	43	38	36	31	30	33

^aAccording to PKS table 91.

^bValidity of the ICD-10 starting from 1998.

Table 2. Deliberate homicides against children; victims and offenders (only West Germany, with all of Berlin, 1997–2006)*

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
PKS, victims	68	73	63	82	72	82	74	64	57	48
Number of offenders	43	35	28	38	36	23	28	17	26	31

*[Federal Criminal Police Office] [Federal Statistical Office] In the criminal justice statistics: convictions under §§ 176b, 176 IV aF; 178; 177 aF III, 211; 212; 213, 227, 226 aF. StGB. Those convicted under §§ 178, 177 III aF for the years 2002–2004 were not reported separately.

The data refer only to West Germany and the whole of Berlin; there is still no unified data for those convicted in the new federal states.

tain forensic institutes, which are so different methodologically that they can hardly be correlated with one another. Therefore, relevant reviews come to the conclusion that our knowledge about predictors and risk factors for child homicides remains rudimentary [Bourget et al., 2007, Friedman et al., 2005, Schwartz and Isser, 2007].

Questions and Methodology

We investigated all cases from 1997–2006 in which the police suspected a premeditated homicide (including aggravated assault, e.g., assault resulting in death) against a child younger than 6 years. The study is based on a census and analysis of all relevant court records. The priority points include:

1. to obtain reliable data on the characteristics of this group of offenders;
2. to ascertain causes, developmental conditions, and risk factors;
3. to gain knowledge about the discovery of the crime, how it was solved, and its criminal prosecution; and
4. from looking at the totality of these features, to draw conclusions about how to prevent the killing of children.

To address these questions, a very large amount of data was compiled, mainly from a legal-criminological perspective, on victims, defendants, the course of events, and the legal cases. The compilation phase of document analysis was completed at the end of 2009. Besides the main study, two additional modules of interviews are being conducted, starting in 2008: one with convicted offenders and the other with employees of youth services departments.

The state criminal police mainly provided access to document reference numbers; the district attorneys' offices made the documents available. There were different problems of access to records in the various states. A precise analysis of the response, the sources of error, and the consequent validity of the data is presented below. The results also require a more precise analysis of records that are not always of optimal quality. The records contain – in theory – all the documents involved in the criminal case, from the first police interrogation to the final verdict. But practically speaking, record-keeping practices and quality are very inconsistent. Important documents are occasionally missing, such as expert assessments or records of depositions. Even if the records are complete, one must still consider that any reality of the record is selective and may be subject to distortions: It is true that most homicide cases are very comprehensively investigated, including the background to the act; nevertheless, a criminal act is documented without recourse to a comprehensive reconstruction of the events, but in an effort to solve a crime and to determine an appropriate legal consequence.

The findings presented here refer to 336 files, or more precisely, 358 victims. There were 22 cases which had 2 victims in the research group. We assume that eventually it will be possible to find and evaluate between 550 and 600 files. Thus all these findings must be regarded as tentative, despite our effort to present only data that we can assume will remain stable once all the cases are included. Detailed evaluations of small case groups will be meaningful only after the completion of data collection. Whether or to what extent it is feasible to analyze specific regions and time periods, taken as a totality, will only be apparent after a detailed analysis of the responses.

First Results

On the Need to Distinguish among Case Groups

To consider and describe homicides against children as a uniform phenomenon does not do justice to the diversity of the

situations, as we can see from just a few cases. Thus data about the average age of child homicide victims may conceal the fact that the risk of killing is by no means equally distributed over the age groups, but rather declines steadily from the first day of birth to six months, and after that undergoes only very slight fluctuations (fig. 1).

There are several attempts in the literature to develop appropriate typologies for homicides. The distinction being used more and more, especially in Anglo-American literature – although not always consistently – among neonaticides (killing of a child by the mother directly after birth), infanticides (killing of children <1 year of age by the mother), and filicides (killing of one's own child), seems fruitful mainly to distinguish neonaticides from other killings of children. Resnick [1969] is considered a classic study, classifying child homicides by motive, on the basis of 131 cases from the world literature of the 18th to 20th centuries. More recent classifications consider alternatively, or in addition, the victim's age, the offender-victim relationship, and intentionality [Bourget et al., 2007] – and often a combination of these.

Each typology has its weak points, has a certain slant on the subject, and is subject to simplification. However, it seems necessary to structure the broad field of research on child homicides so that we do not discuss completely different phenomena in (conjectural) criminological terms; this is also important from the standpoint of possible preventive actions. Currently the KFN research project distinguishes eight case groups, which are oriented primarily to the characteristics of the incident itself, thereby mixing up the characteristics of the act, the offender, and the victim. This categorization, with its readily observable phenomena, seems the most suitable for a broad investigation into causes and backgrounds (fig. 2):

1. 'Neonaticide': cases in which the mother kills the child immediately after birth, actively or by neglect.
2. 'Abuse': cases in which the death of the child was caused by the use of blunt force, with or without objects, by shaking, or (rarely) substance administration.
3. 'Neglect': cases in which the children died solely because they were supplied with no (or not enough) food and/or drink, or because necessary medical treatment was not provided.

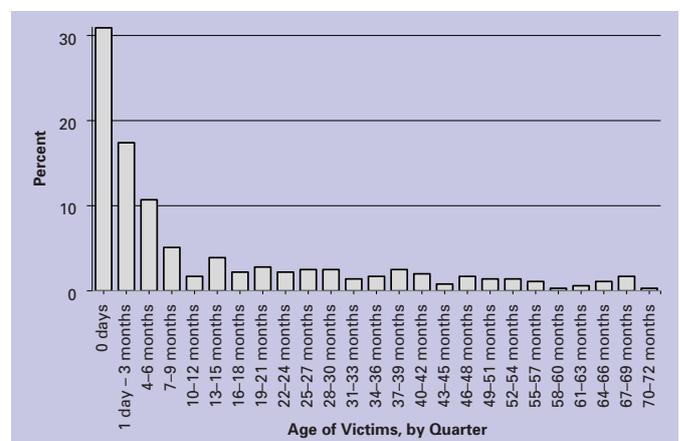


Fig. 1. Age of all victims, by quarter.

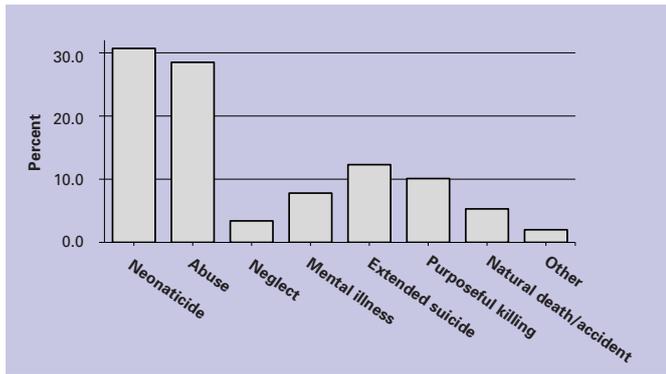


Fig. 2. All victims, by case group.

4. ‘Mental illness’: cases without suicidal components, in which the killing was predominantly triggered by an acute phase of a severe mental illness.
5. ‘Extended suicide’: Suicides and attempted suicides (i.e., suicides that failed, for whatever reason), in which the child was killed immediately before the suicide (attempt).
6. ‘Purposeful killing’: cases in which the offender had a clear intent to kill, using a method that was relatively certain to lead to death, without one of the other factors being present (notably murder-suicide or mental illness).
7. ‘Natural death/accident’: cases in which the investigation showed that the child died a natural death, or the death was clearly an accident.
8. ‘Other’: a residual category.

We can surmise from these brief descriptions of the case groups, that, while they are not completely free of overlap, they are also, to some extent, quite heterogeneous. This becomes especially clear when we consider more closely the largest case groups: neonaticides and cases of abuse.

Neonaticides

As expected, the victims of neonaticides present no special characteristics with respect to our previous evaluations. They are usually healthy, full-term newborns, with roughly equal numbers of girls and boys. The offenders are, by definition, the biological mothers. In interpreting the findings outlined below, it should be noted that a fairly large proportion of neonaticide cases have not been solved (approximately one-quarter of the cases that we have been able to evaluate up to now – mostly unidentified newborns who were found dead), and ultimately one can only speculate whether the unsolved cases differ from those that were solved.

‘Classic’ cases of neonaticide are those in which the mother abandons the child to neglect immediately after the (usually unassisted) birth, or in which she kills the child, usually by suffocation, without having consciously planned to do. This almost always involves unwanted, repressed, or denied pregnancies, in which childbirth begins as a surprise and is quickly completed.

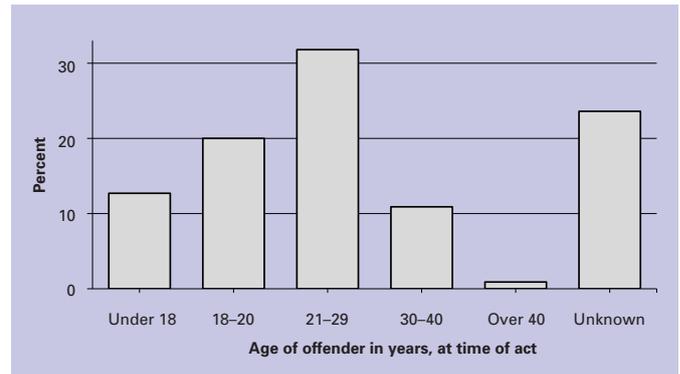


Fig. 3. Solved neonaticides, by age of offenders.

Contrary to frequent descriptions, this does not mainly involve very young mothers; the average age is just over 23, only 2–3 years below the average age of all first-time mothers in Germany, which is 25–26 years [Statistisches Bundesamt, 2007] (fig. 3).

There are very great differences with respect to whether and how the pregnancy was repressed and/or concealed. Besides cases of complete repression of pregnancy, described mainly by Wessel [1998], in which the mother is not aware of the pregnancy at all, there are also cases in which the mothers are more or less aware that they are pregnant, but deny it. The transitions between repression and denial are so fluid that, in our view, clear differentiation is impossible in most cases, since it is questionable how reliable or precise the information one discloses about oneself may be in such a situation. Denial of pregnancy occurs also in very different forms. While some pregnant women develop elaborate ‘stories’ and expend considerable effort to stage them, for others the denial is a way to simply or vehemently cut off inquiries. According to the records, it is an exceptional case when no one suspects the pregnancy. Usually the mothers have been spoken to forcefully, several times, about the pregnancy.

The ‘typical’ lack of planning of the neonaticides is often shown by the fact that the women make no efforts to conceal the act, or very few that stand a reasonable chance of succeeding. Among the cases that we have evaluated up to now, there are, to be sure, some mothers who make elaborate efforts to dispose of the evidence; but often the offenders do not attempt to conceal the act, or choose a very ‘bad’ place to hide the bodies, e.g., in the mother’s bedroom closet. The cases given the most attention by the media, in which the offenders successfully hide the corpses for a long time in their immediate environment, are actually quite rare. Only more detailed analyses after the completion of data collection will be able to show whether typical patterns and mechanisms can be identified.

So far very little is known about the role of fathers in neonaticides. Our data, too, provide only rudimentary information. This is mainly because in none of the cases investigated so far was a criminal case brought against the father (a few individual cases were initially investigated, but soon dropped), and the role of fathers was addressed only tangentially in the legal proceedings

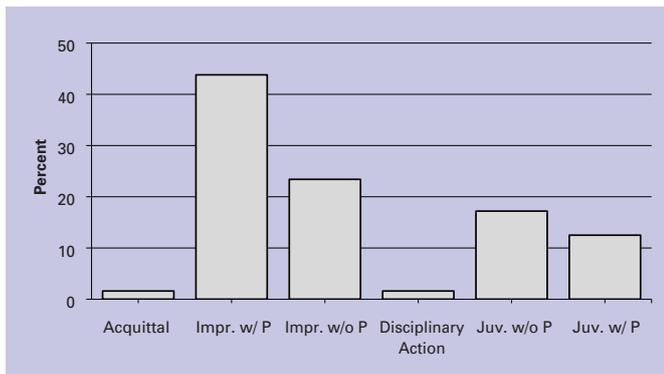


Fig. 4. Neonaticides: final verdict in criminal proceedings against offenders. (Impr. = imprisonment; w/o P. = without probation; w/ P. = with probation; disciplinary measure = special sanction under §§ 13 ff. Juvenile Court Act, e.g., youth detention or fine; Juv. = youth custody).

against the mothers. Although the vast majority of offenders live in one household with their families of origin or with their partners, the fact is that fathers or other persons are only very occasionally involved. Whether and to what extent they are (criminally) complicit in the event can rarely be determined. It seems quite plausible, however, from the accounts in the files, that those in the personal environment of mothers who have repressed, often barely visible pregnancies, don't notice anything, or believe the denial, because they see no reason not to believe the pregnant women, or they participate in a kind of collective repression, since 'what should not be cannot be.'

It is striking that in the case group of neonaticide, quite a large range of sanctions is imposed (fig. 4). Approximately two-thirds of offenders were sentenced to enforceable imprisonment or youth custody. This includes both moderate and very stiff sentences. More than one-third of those convicted were sentenced to probationary youth custody or imprisonment. In slightly more than half of all convictions, the punishment was mitigated because of a reduced degree of culpability (§ 21 StGB). Upon completion of data collection, the criminal procedure will become a focal point of analysis – including the question of how to explain the differences in sentencing.

Fatal Abuse

The group that we categorized as fatal abuse cases is very heterogeneous. What they have in common is that all the children were killed by active physical violence. As a result of further differentiation within the case group, after closer review of the cases, this perspective was abandoned as misleading. For example, in quite a large number of cases, it cannot be unambiguously determined whether there was one-time or repeated abuse. Also, the so-called shaken baby cases – in which shaking an infant or young child causes internal injuries which are often not outwardly visible, and which can lead to death – often turn out to have little in common, when viewed as a totality. We will attempt to identify the more complex patterns upon completion of data collection.

Well over half the victims of fatal abuse are infants <6 months of age; the risk of victimization falls drastically until 9 months; after that it is subject to only minor fluctuations (fig. 5). This finding suggests, among other things, the particular vulnerability of very young children.

In all age groups, >60% of the victims are male. We shall look closely for reasons that boys are more often affected.

Convicted offenders, whether female or male, are almost always the child's biological or social parents (the latter being persons who have de facto assumed the parental role in daily life). The very few other offenders also come from the victims' immediate social environment (e.g., someone who lives with the mother) (fig. 6). The significant proportion of social fathers is striking here. Whether and to what extent this first tentative finding really signifies a so-called Cinderella Effect [Daly and Wilson, 2005; Temrin et al., 2004] – that is, an increased risk of the victimization of stepchildren – will have to await more detailed analyses of family configurations and situations, after the completion of data collection. Further investigation is also required of the fact that, in the data we have evaluated up to now, the victims are most often male if the offender is the biological mother.

Nearly 80% of those convicted of fatal abuse were sentenced to imprisonment or youth custody without probation, whereas about one-fifth received a suspended sentence. The offenses for which these convictions were handed down range from murder (§ 211 StGB, with mandatory life imprisonment) to assault resulting in death (§ 227 StGB), since an intent to kill had not been established. This shows that fatal abuse can have highly unequal degrees of culpability: The spectrum ranges from apparently sadistic, very serious, and long-term abuse, to one-time events in a situation of aggravating emotional overload.

There is always renewed speculation about gender-specific sanctions in child homicides. Schläfke and Hassler [2008] perceive a trend that, 'for male offenders, it is rather more rare to provide expert ex-/inculpatory or prognostic advice, even though a similar situational and motivational background is described.' Leaving aside the question of how well such a 'trend' can be determined on the basis of a small sample (N = 19), it seems problematic to establish a 'similar situational and motivational background.' While subject to more detailed analysis after completion of data collection, it appears doubtful that a significant number of cases will be found in which female offenders face a situation very similar to that of male offenders. As stated above, one certainly cannot speak of a uniform phenomenon of child homicides, since individual situations and backgrounds differ a great deal. Furthermore, at least for homicides against young children, male or female offenders are almost always the victim's (biological or social) parents, and so everything suggests that the offender-victim relationship is not independent of gender, but rather is related to the person's role as mother or father, which is not gender-neutral. We shall have more to say about the role of gender in the offense and the sanctions applied.



Fig. 5. Abuse cases: age of victim.

Problems in Evaluating the Cases

It is often very difficult to assess child homicides, as described here. The judgments frequently indicate an intensive struggle to reach an appropriate outcome. The circumstances of a criminal act that are in many cases difficult to evaluate are counterposed to the extremity of harm caused by homicide. Because the victims are innocent children and the acts objectively ‘senseless,’ there are frequently public calls for harsh sanctions; on the other hand, the culpability for the act becomes less compelling in a large number of cases, if the situation as a whole is taken into account. Most cases become more comprehensible, the more intensively one deals with them. As for acquaintance crimes in general, there are almost always extreme, emotional, aggravating circumstances, and most offenders are also themselves victims; the question of diminished culpability is often very obviously posed.

The number of people who are convicted for deliberate child homicide is significantly lower than the number of suspects in such cases. The available official figures do not allow us to compare data differentiated according to the crime; comparability would in any case be limited, for various reasons. ‘Disappearance’ of statistics on convictions from the PKS is not uncommon [Kreuzer, 2002]. An initial suspicion on the part of the police can prove to be unfounded for various reasons, leading to termination of the proceedings or an acquittal. Inability to determine guilt also leads to this result.

The assessment criteria provided under criminal law in cases of homicides against children [Dolling, 2009], namely §§ 211 (murder), 212 (manslaughter), and 213 (less serious cases of manslaughter), as well as the rules regarding unlawfulness and guilt, allow a very wide range of case characteristics to be considered. Nevertheless, the typical problems posed here in the practice of criminal law are not always easy to comprehend. The central subjective aspect, which is hardly any easier to account for, causes particular difficulties for criminal assessment: What exactly did the defendant know and intend at the time of his or her crime?

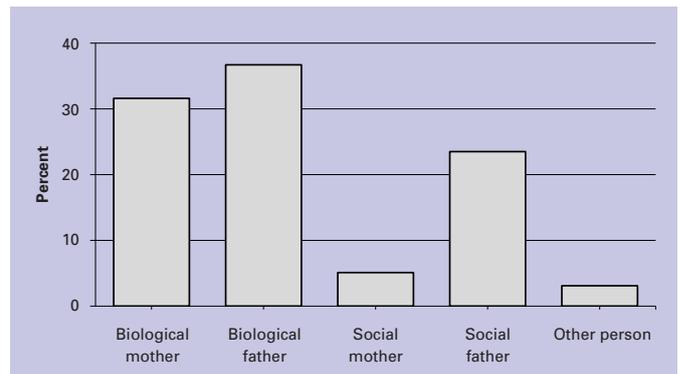


Fig. 6. Abuse cases: relationship of offenders to victims.

At the same time, value judgments are made (only) in reference to non-factual questions, such as whether the murder was perpetrated for base motives – and this is always involved in the assessment of penalty. Two examples from a recent ruling of the Bundesgerichtshof (Federal Court of Justice) may illustrate how problematic this can be. The court had to decide on the appeal of a very high prison sentence for a convicted perpetrator of neonaticide; it found that the double-digit term imposed on the accused was no longer just. The court stated: ‘To be sure, the accused’s mother had not refused to support her – as is usually the case in such circumstances – and objectively workable solutions for care of the child were available to the accused. The fact that the accused took no advantage of that and finally decided to kill the child, is, however, due not least of all to her own personality characteristics...’ (Federal Court of Justice, BGH 4 case no. StR 105/08). This raises the question, as Lammel [2008a] also emphasizes, of whether the court is not failing to recognize – since the overall situation is quite typical – that such a killing involves no conscious decision, no weighing of objective facts, and therefore the finding that no objective emergency existed was, at least indirectly, an unjust judgment of culpability.

Other considerations raised by the Federal Court of Justice also raise questions: ‘Faced with what appears to be a recent accumulation of the number of such cases, general preventive considerations may be taken into account when determining penalties (still) based on the seriousness of the crime.’ First, there is not much reason to believe that potential perpetrators of neonaticide would be influenced by the deterrent effect of harsher judgments. As already mentioned, neonaticide is usually not a planned action which would be weighed against the possible extremity of sanctions. Besides, there is no data at all to support the assertion of an accumulation ‘of such cases’: The proportion of neonaticides out of all child homicides has not risen, at least according to the data we have so far evaluated, from 1996 to 2007, and the total number of killings has actually declined. Swientek’s [2007] data, evaluating media reports, also show no increase in killings of newborns during this period.

On the Role of Expert Opinion

Assessment by forensic medical experts of the circumstances of death of the victim and the psychiatric or psychological evaluation of the offender's mental condition not infrequently play an important role in criminal proceedings for child homicide. In fact, a forensic medical evaluation was commissioned in almost every legal proceeding examined here, because homicide against a child was at issue. In the overwhelming number of cases in which a trial was held, an expert psychological/psychiatric assessment was obtained, to clarify the issue of legal culpability.

For example, sometimes in a suspected neonaticide, only such a forensic medical evaluation can clarify whether the child was born dead or alive. Especially with infants and young children, so-called homicides without a trace, such as suffocation with a soft covering such as a pillow, are often not possible to distinguish from natural deaths, without forensic medical examination. For abuse cases, forensic medical assessments are often able to clarify questions about the origin of injuries or the existence of older injuries. This does not always succeed, however, in clearing up all forensic medical issues, so other evidence is still very important.

While the forensic medical assessment usually involves the issues most relevant to the proving of the case, the results of psychiatric evaluation enter into the assessment of guilt, notably on the question of whether the degree of culpability, at the time of the act, was diminished (§ 21 StGB) or rescinded (§ 20 StGB). In about one-quarter of the proceedings studied up to now, in which a trial was held, the preconditions were met for allowing reduced culpability, for the reasons stated in § 21 StGB. In quite a few other cases, the offenders did have mental disorders, but these were not of the intensity required to diminish the degree of culpability. In 15 cases, there was no indictment, but a backup procedure

was conducted under § 413 ff StPO [Penal Procedure Code], i.e., because of inability to determine guilt or because of incapacity to stand trial, an admission order to a forensic clinic (§§ 63 or 64 StGB, psychiatric/drug treatment facility) was immediately obtained.

The diversity of expert opinion with respect to structure and contents, and the question of how the reports are to be assessed appropriately, cannot be discussed here in detail. The debate about the difficult role of forensic psychiatry and psychology in particular, fills entire libraries. For offenses that take place in exceptional or extreme psychological situations, as is usually the case for child homicides, it is not always obvious which expert assessments pertain to whether culpability can be determined, and which provide only general information about the motives and mood of the offender at the moment the act was committed. The important distinction between these two, as Lammel [2008b] and Marneros [1998] concretely emphasize with respect to neonaticides, places high demands upon all parties. This is not infrequently the case, as the use of such expert assessments in practice also shows, because only psychological-psychiatric expertise allows the subjective aspect of the offense to be understood and evaluated appropriately, regardless of whether there is a mitigation of culpability under § 21 StGB. The practice of examining the requirements of §§ 20, 21 StGB will be subjected to closer analysis. This is highly important, since the result of the proceedings crucially depends upon how the question that is submitted for expert review is ultimately judged.

Conflicts of Interest

None.

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