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SOCIAL FUNDAMENTAL OF CRIMINALITY

The work substantiates the concept of criminality as an aggregate of offenses of one or several types of mass character, committed regularly in a country or a separate region during a certain period. It is argued that the social basis of criminality is the ill-conceived transformation of the economic, political, social and cultural spheres of life, the violation of the principle of equality, unfair privatization, sharp social dissociation, unemployment, inflation, corruption, poverty, and social conflicts.

Key words: criminality, society, poverty, criminalization, personality, corruption.

Combating crime in any country is one of the priorities of the state. This problem is also relevant for modern Ukraine, in which the criminogenic situation has sharply aggravated. "Traditional" causes and preconditions of crime are now supplemented with the negative circumstances that stem from the difficulties of current state development. The leading social problems Ukraine is facing right now are: the war in the eastern regions, unsuccessful or incomplete reforms in all spheres of public life, full control of the main resources of the state by minority groups, the neglect towards social problems of the majority, the economic crisis, the devaluation of the national currency, the decline of industrial production, which is causing significant job cuts, impoverishment and corruption. All these contribute to catastrophic crime growth. In this regard, it is necessary to determine the social basis of criminality to be able to effectively fight it.

First, we should address the notion and the concept of criminality itself. Usually, criminality is regarded as a historically changing, social and criminal phenomenon, an aggregate (system) of offenses committed in a given state (region) for a given period of time. Criminality is provoked by social phenomena and processes, embodied in the scale of society as a whole, manifests itself through the mass of crimes.

The concept of crime (as an act) is determined by a state in criminal legislation. Thus, according to Part 1, Article 11 of the Criminal Code of Ukraine, a crime is a socially dangerous offense (action or inaction) provided for by this Code committed by a subject of crime. An offense is always a culpable act of a sane subject who has reached a certain age required to understand the meaning and consequences of his/her actions and manage them.

Such a characteristic as a correlation to a social phenomenon, which is

always present in this concept, does not make it possible to distinguish criminality and crime, deviance, social interactions. This characteristic can be used to distinguish the genesis of crime, but not its concept [1].

What are social phenomena? These are all those aspects of social life, the result of the joint people's activities, a direct consequence of the current and pre-existing period of relations between people. A separate crime can be recognized as a social phenomenon, however, not every crime is necessarily a consequence of a relationship between people, it may even be a psychological need of an insane person. Obviously, no previous social relations are considered when talking criminal negligence.

We should also not the fact that a phenomenon in philosophy is a manifestation, an expression of the essence, something through which essence is manifested. A phenomenon (Greek *φαινόμενον*, from *φαίνεσθαι* – to exist, to be visible, to appear) is an event, a subject given through sensory perception (in an experience that is perceived by senses). A phenomenon differs fundamentally from a noumenon, which remains outside the experience and is the subject of intellectual contemplation. If the term noumenon denotes the hidden essence of an object or an event, which can be comprehended only in the process of its profound study, understanding, speculative contemplation, a phenomenon is the result of the influence of the object on the senses of a perceptive person, the external manifestation of some things, mistakenly perceived as its essence. The word phenomenon is also used to describe an unusual, rare event, an exceptional fact [2].

The notion of a term should contain a set of essential features that distinguish this term from all others. Based on the foregoing, we propose to understand the notion of criminality as an aggregate of crimes of one or more types of a mass character committed on a regular basis in a country or a separate region over a period of time.

The main, most significant feature of criminality is the aggregate of crimes, their repeatability. If a single crime, such as fraud, has become widespread, this doesn't mean criminality. This will only be widespread fraud. But if there is a situation of mass fraud, robbery, brigandage, murder, etc., constantly being committed – then we have criminality. Consequently, it is not correct to assert that criminality is a social phenomenon, criminality is a set of social phenomena.

The most important social factor operating in all modern societies and causing the growth of deviations, along with a complex of other phenomena, is a fundamental contradiction between the relatively similar needs of people and the essentially unequal possibilities of their satisfaction. Inequality of opportunities for satisfying needs is predominantly determined by the place of individuals and social groups in the social structure of itself. In other words, social inequality can be regarded as one of the most significant sources of criminality. A modern person is no longer satisfied being an observer of the well-being of others, it strives for well-being on its own. The opinion of the famous German lawyer and psychologist H.-Y. Schneider on this issue is interesting in this context, he stated that "objective" poverty does not contribute to the growth of criminality while society is in

more or less equally difficult financial situation. Criminality increases with the emergence of a sense of poverty, which manifests itself when individuals in the welfare society find themselves unemployed and, accordingly, become "relatively poor" [3, p. 5–6].

Recently Oxfam, an international organization dedicated to addressing poverty and related inequities, has published a further report on property stratification in the world. The report, coinciding with the International Economic Forum in Davos, Switzerland, states that the wealth of the planet's richest people grew over the year and now only 1% of the Earth's population owns more than half of all wealth. The poor half of the Earth's population is satisfied with less than 1% of the world's wealth, or even 0.5% if you discount their net debts [4]. According to Kaushik Basu, Professor of Economics at the Cornell University, income and overall welfare differences have become so extreme and rooted into social relations that they pass through generations; thus, family welfare and heritage have a far greater impact on economic prospects than talent and hard work. This works in both directions: children from wealthy families are more likely to become wealthy in their mature years, while children of former workers who work from childhood are more likely to work from childhood as well [5].

These global trends are fully realized in Ukraine, where the gap between the rich and the poor is shocking, and property inequality affects the direction of criminal encroachment. Significant material assets have now become the focus of unlawful and especially grave actions. Among the total number of

criminal manifestations registered by law enforcement, a significant percentage is namely theft, robbery, and fraud [6].

According to Corresponding Member of the National Academy of Sciences of Ukraine, Academician of the NALS of Ukraine V. F. Sirenko, the most significant cause of the poverty of the general population of Ukraine is the unfair and illegal distribution of property. It is impossible to deny his statement that: "Public wealth must belong to all, while private individuals should be able to keep what was obtained as a result of their own work. This is the great principle of social justice, which excludes poverty as a mass and systematic social phenomenon" [7, p.120].

Poverty and lack of economic growth are complemented by huge external debt of Ukraine. As of the beginning of January 2018, Ukraine's foreign economic debt amounted to 83% of the country's GDP. This means that every Ukrainian owes international financial organizations about 1800–1900 dollars [8]. The low wages of Ukrainians and the shortage of jobs for skilled workers provoke large-scale migration. This critical situation is further substantiated by the fact that in 2017 eight million Ukrainian families, that is, half of the households in Ukraine, applied for subsidies for housing and communal services.

Currently, the number of people who have lost their social status and failed to acquire a new one is increasing. Systems of existing values have already been destroyed, while new ones have not been created yet. This leads to psychological discomfort of the population, its disorientation, confusion, mal-

adaptation, and massive deviant behavior. As a result, legal nihilism increases, reducing the threshold for crime intolerance and erasing the boundary between immoral behavior and crime. Law as a value, a regulator of behavior, is increasingly replaced by arbitrariness and group expediency.

We should also address some situations where legal nihilism is provoked by the very law itself. An example of such a situation is the adoption of illegal acts, imperfect and ineffective laws that fail to protect the interests of citizens. Legal insolvency provides for a total criminalization of social relations. Criminalization of social relations, as a result of the evolution of crime, the lack of effective prevention, marginalization of society and the creation of conditions under which criminality services are more acceptable to a part of society than the ones provided by a state, in turn, contributes to the further threatening evolution of crime. Criminal sphere, while being shaped as a reflection of society, in turn, deepens the problems of this society.

Considering criminality as a systematic construct, one cannot ignore the existence of the relationship between the criminogenic factors that belong to social circumstances and the individual biopsychic sphere. Individual personality traits certainly affect its behavior. So, those who are incapable of self-control usually enjoy dangerous enterprise, are impatient and impulsive, can act hesitantly. Typically, perpetrators are egocentric, indifferent and insensitive to the suffering and needs of other people. In addition, the result of many crimes is not the satisfaction of needs, but the release of instant anger. Individ-

uals who are incapable of self-control encounter difficulties when tolerating frustration, they are not inclined to react verbally to conflict and prefer to solve problems using physical strength. These are the people who are the most exposed to unlawful behavior [9, p.114].

Also, the moral degradation of an individual can lead to unlawful acts. Disadvantages of moral education are manifested in the fact that a person does not have any ideas about duty, honor, and dignity, is accustomed to performing actions only profitable and safe for that person. Compliance with your word, fulfillment of obligations before another individual is not obligatory for such person. A person gets used to the fact that there are no limits, identifying all the other human beings as only means to ensure the reach of the goal. The obstacles before that goal can be overcome by any effective means necessary. The situation becomes especially concerning if such degradation occurs to a person with authority that can influence the fate of others.

It can be argued that a special type of person with a crisis or catastrophic consciousness has already formed. Apathy, cynicism, and indifference of an average person is our current reality. A person blocks itself out from the "inconvenient" social reality with a tough psychological barrier, becoming completely immersed in private life. Protection from the outside world, as proven by psychologists, requires constant support and self-confirmation. In order to maintain this, the carrier of catastrophic consciousness is actively searching for any negative information about the stranger outside world. Positive information is simply blocked out, denied or

perceived as false. At the same time, a modern person, as well as society as a whole, is characterized by increased suggestibility and openness for manipulation from the outside, aggressiveness towards the outside world and itself.

Corruption is an obstacle to the political, economic and spiritual development of the country. It creates unacceptable disproportions not only in the system of governance and functioning of state institutions but also influences the formation of public consciousness. V. Kramer expressed an interesting opinion about the nature of corruption. According to him, corruption is a natural form of adaptation of an underdeveloped person to the conditions of a developed civilization. Everyone seeks to live with dignity but is forced to live according to his abundance. Focusing on western patterns of the economy in a different reality, a person is only looking for ways to stealthily steal through the budget, social funds, market, taxes, or other financial manipulations. Having acquired the tendency to refrain from crime, grudges, and rudeness, a sane person thus gets devoid of means of survival in the conditions of a shortage of resources [10]. Unfortunately, it is difficult to argue here. Of course, not all people are looking for ways of unlawful gain, but there are just so many. Therefore, the priority of the fight against corruption should be the strategy of adopting measures that are not focused on the perpetrator but aimed at eliminating incentives for corruption.

The spread of crime is facilitated by bureaucratization of administrative apparatus and social conflicts. We are obliged to agree with the Doctor of Sociology, Prof. M. I. Piren, who argues

that the interweaving of authoritarianism with bureaucracy generates a special spiritual environment, filled with a desire for profit, money, obedience, dogmatism of thought, conservatism, social apathy, the absence of trust to political elites in society. "The political elite is so irresponsible before ordinary people that it cannot even care to apply legal measures to those who violate the rules of law since the elite itself is the cause of such violations. The atmosphere of uncontrollability and irresponsibility led to a whole series of contradictions that grounded the system of conflicts between the authorities and people at the political, economic and legal levels" [11].

Thus, the social basis of criminality can be identified as a set of social factors contributing to criminality. Unstable and ill-conceived transformations of the economic, political, social and cultural spheres of life, violation of the principle of equality, unfair privatization, strict social segregation, unemployment, inflation, corruption, poverty, conflicts in society – all these factors form the foundation of criminality.

Along with the general social, economic, and political factors contributing to the spread of crime, we should take into account both the psychological and biological factors that determine different types of behavior in each particular case.

Inactivity of the state is the main determinant of criminality. The lack of legal regulation of social relations is always supplied with criminal regulation. The state is obliged to properly perform all its functions. Only a comprehensive impact on all spheres of public life can significantly reduce the probability of crime.

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