

Criminal Delinquency as an Object of Scientific Researches: Problems and Prospects

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ABSTRACT

The article considers the category of delinquency as a unified concept of a criminal offense, delict, misconduct. The definition of this category is proposed according to the theoretical approaches in the social and legal sciences, as well as the practice of applied legal norms. The practical problems of crime are revealed through philosophical, sociological, psychological and individual provisions in the social sciences. This research indicates the sources and methods of combating crime on the basis of legal sciences. The prospects of the possible eradication of crime and its constituent elements are considered in the article. A theoretical attempt to define the term of delinquency based on philosophy, sociology, psychology is made. Theoretical proposals that the study of a crime must not begin with the identity of the offender, but with the possible causes and conditions for its perpetration are proposed to be put into practice.

Keywords: *Delinquency, State, Society, Crime, Delict, Criminal, Personality.*

1. INTRODUCTION

The relevance of the article includes consideration of the theoretical and practical problems of crime, which are acute in the state and society, undermine its foundations, and interfere with the normal way of life and human activity. The current criminal and procedural legislation are aimed at combating criminal offenses and misconduct that are committed against state and public foundations, as well as individual citizens. The state has taken care of protecting the rights, freedoms and interests of human in the society. Therefore, it is impossible to get around such an important aspect of the criminal legal phenomenon as delinquency.

The theory of law, its individual branches, in general, study the concept, classification [1], types of crimes and criminal offenses. Scientific points of view determine the concept of crime as an unlawful, social and legal phenomenon. One of the main social tasks of modern society is the possible limitation of criminal delinquency and its reduction in society.

The limits of crime are determined on the basis of political, economic, social processes that occur in society. Some of its aspects, namely genesis, level of manifestation, as well as methods of restrictive effects are studied by various social sciences. It must be noted that criminal delinquency is an object of study for a number of social sciences. Each of its sides is considered by

specific humanitarian and legal sciences and acts as a subject of research.

1.1. The aim of Article

The article is aimed at scientific defining of delinquency. According to a comprehensive theoretical and practical approaches and the study of certain provisions in psychology, sociology, criminology, criminal law and the process, forensics, an analysis of the causes and conditions of the crime is given. The problems of this social phenomenon are revealed. Some perspective improvements to eliminate illegal social and social phenomena in certain areas of science and practice are proposed.

1.2. The novelty of the article

The novelty of the article includes the establishment of theoretical provisions of science on fundamental and individual cycles, which are used to reveal the legal complexity of delinquency. We consider the general direction of philosophical thought, sociology and the precise aspects of criminal law provisions to reduce the growth of crime in society. They point out the prospects for the development of public opinion and legal directions of the state's activities to prevent the number of criminal manifestations. The sociological, psychological, economic aspects of the possible prevention of an individual criminal activity, as a result

of the influence of the society or the state on individual qualities and properties of a person are determined.

2. THEORETICAL CONDITIONS

Theoretical conditions are based on the points of view of the scholars, who noted the complexity and versatility of delinquency problems related to the economic, social, criminal, criminological policy of the state and the development of society.

The main points of view can be concentrated in the statements of legal theorists.

B. Kedrov suggested that the problem of crime was purely legal. Meanwhile, its research requires the involvement of not only legal science, but also a number of social sciences. Its research should begin with economic provisions and may be completed by philosophy and the theory of law. It is necessary to pay attention to the basics of morality, the ethical aspects of this practical problem, to eliminate the causes and conditions of crime prevention. Today, as never before, it is important to study family relationships, the raising of issues of upbringing of the younger generation, the further improvement of school and professional education. There is an acute question about the use of leisure, rest, lack of possible realization of knowledge, skills in society. [2, p. 25].

Opponents believe that criminal delinquency, although not fully covering the entire scope of the humanities, is a significant part of it.

The analysis of the points of view leads to the conclusion that delinquency can be determined on the basis of its object. The first structural position must be considered in terms of the humanities. These are the social foundations of society. In this regard, practical problems of criminal delinquency are directly or indirectly present in humanitarian studies. However, social life is manifested in different attitudes, states and processes. Each side of social life is the subject of a separate humanitarian science. The second approach to the problem of criminal delinquency should be built on the basis of a comprehensive interconnection of scientific levels and the degree of abstractness. Consistently moving from abstract phenomenon to concrete fact, on the basis of theoretical generalization it is possible to determine the scientific hierarchy, the subject of which is the crime.

The first level includes the philosophical sciences. It is necessary to include philosophy and philosophy of law. In addition, at this stage it is necessary to connect sociology, ethics, social psychology.

The second level is the law. The first grade involves the theory of state and law. The second can be defined on the basis of legal sociology, anthropology and psychology. The third grade includes criminal law, criminal procedure, criminology, forensics [3].

At the first level, criminal delinquency and its manifestations are studied from the perspective of one of the qualities of a person as a subject of social development of a society. Therefore, the problem of crime for philosophy is, first of all, the problem of attitude to a person, that is, a social problem. Philosophy does not deny and disapprove the elements of crime and a specific type of crime, but studies this phenomenon as an objective fact.

In recent years, philosophy of law has received a new impetus for development. On the one hand, this science is trying to raise certain legal problems to the level of philosophical understanding, on the other, it is obvious that there is an attempt for legal philosophizing in order to obtain legal knowledge of a high degree of abstractness. However, if the subject of philosophy is an objective reality, which includes a person, then the philosophy of law is engaged in the study of the meaning of law, its essence, concept, foundation and place in the world of values and significance, as well as the role of law in the life of a individual, society and the state.

Meanwhile, the organic unity of the subject of philosophy of law does not exclude differences in approaches to philosophical problems. Philosophers of law include in the system those scientific approaches, which differ significantly in content and meaning from the sections of law.

V. Nersesyants considered the essence of law and defined its scientific concept, legal ontology, axiology, epistemology and other elements precisely as philosophical problems of law [4, p. 27].

Yu. Tikhonravov focused on the historical, logical development of law, its positive and natural construction [5, p. 46-50].

S. Alekseev combined the basic principles of philosophy and law. In accordance to the legal categories and from the point of view of philosophical aspects he considered the development and state of crime, which is a part of criminal delinquency [6, p. 132 - 138].

E. Pozdnyakov considers crime as the result of creative imagination. At the individual level, it represents a source of diverse and most bizarre motives that serve as the basis for human to committing crimes. He recognized crime as a negative quality of human nature [7, p. 239].

V.A. Bachynin was one of the first scholars in the modern philosophy of law who started researching the problem of understanding crime. He noted that the mnemonic (on behalf of the Greek goddess of memory – Mnemosyne) space of destructive and criminal experience really exists. Moreover, historically, it has continuously expanded and continues to increase. Just as when acquiring skills in the preparation of poisons, it becomes necessary to manufacture medicines containing antidotes, so the human spirit, after acquiring criminal

experience, begins to develop a way to overcome, neutralize, and defuse its destructive potential. Crime, though it may sound strange, is a fertile material for the study of human existence. Science and practice make efforts to study human nature, psychological, sociological, philosophical, ethical concepts. Crime, committing a crime always went beyond the framework of public legal consciousness on the formation of the state development, based on its civilized structure. Being an exceptional, extreme, "threshold" situation, a crime has the ability to test a person, makes him/her appear and reveal him/herself completely, to reveal those qualities that, under other circumstances, would remain hidden, not revealed [8, p. 444-445].

Opponents expressed more detailed views.

N. Smelser believed that neither the empirical personality of the offender, nor the social and natural causes of crimes are the subject of the philosophy of crime (philosophy of criminal delinquency), but the root causes or causes of the causes [9, p. 198].

Thus, the essence of the means of limiting criminal delinquency in the philosophical aspect are the socio-cultural opportunities to oppose it in order to preserve the civilized spiritual and moral existence of mankind as a whole. The philosophy of law does not investigate specific methods of influencing crime and is not obliged to do so.

A theoretical analysis [10] of scientific publications in the field of philosophy and philosophy of law indicates that some authors do not mention delinquency issues in scientific studies, or these issues are limited to certain provisions related to the identification of social problems of crime.

If for philosophy criminal delinquency is one of the forms of social existence, for sociology it is, first of all, socially harmful behaviour. For sociology, criminal delinquency acts as a consequence [11] of the inability of social actors to find civilized forms of resolving life's contradictions. Sociologists study how the behaviour of individual social actors deviates from the behaviour of most people in society. Deviation (deviance) is determined by the conformity or inconsistency of actions with social expectations. The most significant deviation from social expectations (norms) is crime and criminal misconduct (delict). In each case, social expectations are relatively stable although they change over time under the influence of a number of political, economic, social and other factors.

3. STATEMENT OF FACTUAL MATERIAL

Sociologists subdivide criminal delict into those that exist regardless of the historical time or the level of development of society and those that are socially dangerous wrongful acts.

It is scientifically established that the first group includes social delicts. It consists of actions that were recognized as delicts only in a certain historical period or in a certain social area.

For example, in the USSR, private enterprise was considered a crime. However, regardless of what exactly is recognized as a crime in a particular society, from the perspective of sociology, the most effective way to limit criminal delict is social control. The sociological understanding of criminal delinquency corresponds to the social means of its limitation.

The second group of criminal delicts can be defined as socially dangerous acts. Criminal law puts crimes against the person in the first place as they are associated with committing murder, causing bodily harm and taking some other types of socially dangerous unlawful acts.

Formal and informal social control is recognized as a means of limiting criminal delinquency. Informal social control is carried out in close contact with the offender. He expresses explicit disapproval of unlawful behaviour. Formal control is carried out by special state authorities, which are aimed at observing the legal order. According to the current legislation, they are obliged to bring to justice the person who violates them, in some cases to apply measures related to the restriction of rights, freedoms and personal interests. Through its authorities, the state monitors the published laws and their compliance with the social formation. These functions are performed by criminal jurisdictions, namely the police, prosecutors, and criminal executive authorities. Only a judge or collegial court as public authority have the right to establish the action or inaction of a person held criminally liable at the trial stage and decide on a sentence to convict the accused by assigning him a criminal sentence or declaring him not guilty by passing an acquittal.

It is important to note that the sociological approach to the means of influencing criminal delict pay more attention not to preventive measures, but to controlling the behaviour of a person who has already committed a delict, and the leading role in this is given to the impact of society on the behaviour of the offender. The purpose of social control is to develop the habit of the offender to behave in accordance with the requirements of the community, society and state. The vulnerable side of the sociological approach, both informal or formal, as well as social control, is the inability to fully evaluate and measure the real negative impact of public opinion on the deviant behaviour of the subject. The transition from one socio-economic system to another, the priority of private ownership over its other forms entailed the initial accumulation of capital in ways either bordering on a violation of the criminal law or directly prohibited by it.

The weakening of law enforcement agencies [12], on the one hand, and the success and impunity of the

activities of criminal communities, on the other hand, led to the creation of a largely criminalized subculture that instilled the views according to which a number of criminal delicts in the eyes of certain social strata are not perceived as delicts. Moreover, some types of delinquent behaviour are favored by them.

Ethics studies crime as evil emanating from human and directed against human. Studying the problem of the relation between good and evil, ethics states a real combination of these two qualities in each person. Moreover, good and evil do not find direct and immediate explanation and justification in the life of the subject. The latter commits good or evil deeds, proceeding not only from the momentary situation that has arisen, but also from a personal attitude and understanding of good and evil. The behaviour of a person, according to his assessment of good or bad, largely depends on himself. Ethics does not deal with the causes of good or bad deeds, but with the evaluation of already committed ones. The scientific substantiation of ethics makes it possible to determine interests in committing delicts or absence of even a possibility of any delict happen because of the personal attitude. Ethical norms and rules regulate the actions of subjects in the public relations. However, their influence is not unlimited. The ethical norm, being an unwritten rule of conduct, is valid only when the subject recognizes its necessity and justice. Ethical standards have a limited effect on delinquency behaviour. As a rule, they have a preventive effect on the behaviour of the subject whose intent is to commit a delict.

D. Myers believed that, unlike sociology, which studies social groups from the smallest to the largest, social psychology explores the behaviour of individuals in a social environment. The subject of a science of social psychology is what a person thinks of others, how they affect him, what is the impact of the group on the behaviour of the individual and the individual on the group [13, p. 31].

Psychologists engaged in the study of personality focus on individual internal mechanisms and on the differences between individuals.

Social psychology is different from psychology, although the focus of these sciences is on the individual personality, but social psychology uses a social approach, and personality psychology uses individual approach. The attention of social psychologists is attracted by the masses of people, in general, how they evaluate or influence each other. Social psychology considers crime in terms of the interaction between people and society.

Theoretical and practical studies of social psychologists in the field of the formation and implementation of psychological attitudes, fundamental attribution errors, and cognitive dissonance make it possible to understand the mechanisms of delinquent behaviour.

Social psychology can eliminate and prevent the factors affecting the formation of delinquent attitudes, including criminal ones. It helps to successfully disclose, investigate and prosecute criminal cases. A judge makes procedural decisions on the basis of which, a person brought to criminal liability can be convicted only if there is a confirmed charge and all circumstances are proved in court. If the evidence of the prosecution has not been confirmed during the judicial review of the criminal case, then the judge, the collegial court must announce the acquittal.

For example, a fundamental attribution error is most often manifested in determining the guilt of a person in committing a crime, as well as in the course of investigative (search) actions against a suspect (accused). The essence of the fundamental attribution error is that the criminal offense committed by the criminal justice authorities is wholly attributed to the completely negative personality traits of the suspect (accused). In turn, the suspect sometimes refers to unfavourable external factors that prompted him to commit a criminal offense, imploring his own role in its commission and the creation of criminal intent. The investigator, prosecutor, judge must establish the reasons and conditions for committing the crime and take further measures to prevent it.

An unfavourable environment often forms the corresponding negative, socially condemned attitudes in the individual. His further activity is the implementation of such attitudes, or the correction of his behaviour in accordance with these attitudes. We can conclude that the long-term presence of an individual in a criminal environment forms his criminal attitudes, skills, and abilities to commit a crime.

On the one hand, social psychology studies some psychological features of delinquent behaviour of the offense and determines the features and patterns of psychology of representatives of the law enforcement system on the other hand.

Based on the general provisions for the development of criminal delinquency, scholars are taking measures related to the development of scientific methods of influencing it. The main goal is determined through a social framework. The interconnection of social and legal sciences can lead to the fulfilment of the objectives of the fight against crime.

The methods developed and proposed by social psychology are aimed at improving public awareness, preventing criminal delict, improving methods for identifying, disclosing, investigating, prosecuting, and increasing the effectiveness of the execution of criminal sentences.

The practice of combating crime is based on the legal sciences. The basis of theoretical principles [14] and legal classification includes two groups, namely fundamental and applied sciences.

B. Kedrov proposed a scientific construction and classification of the system of legal sciences based on answers to three questions, namely, what is known, how is it known, why is it known. Scientific provisions that answer the first two questions “what is known and how is known” relate to fundamental sciences. Theoretical constructions that answer the third question “why is it known” relate, as a rule, to applied sciences [15, p. 50-52].

Scholars recognize the theory of state and law as the fundamental basis for legal sciences [16].

N. Matuzov, A. Malko believe that the subject of the theory of state and law is the legal basis for building the state and legal norms. The latter regulate the development of public life, establish patterns of occurrence and functioning of the political, economic, social life of society. Legal relations and connections, especially legal consciousness and culture are established on the basis of the legal form [17].

V.S. Nersesyants pointed not only to the unity and interconnection of the state and law, but also to the order requiring clarification of the subject of fundamental legal science. He believes that the very concept and definition of the corresponding circle of empirical phenomena (objects) as a valid law are the results of cognitive, system-forming and structure-forming functions of the legal method, due to which concretization and refraction of the general definition of law are carried out, in relation to the knowledge of the features of these objects [18, p. 73].

Scientific points of view have a general concept of determining the subject of the theory of law and the state. They put the main emphasis on the construction, development and specification of a single general concept of the law, its subject and the method of jurisprudence as a system of legal sciences.

However, for all its merits, the theory of state and law does not pay enough attention to the problem of criminal delinquency. The theoretical constructions of this science affect only its individual elements, such as the description of forbidden norms, sanctions, and legal liability. The study of individual criminal offenses cannot satisfy the needs of applied legal sciences, the purpose of which is to develop means and methods in order to reduce the number of certain types of criminal delicts.

Along with the division of all legal sciences into fundamental and applied, it is advisable to single out the sciences of separate, relatively autonomous, cycles. These include scientific provisions, the subject of which are social relations that arise, change and cease in a certain area of human life. This approach allows us to highlight the science of civil, criminal, procedural cycle.

Theoretical constructions of the science of the criminal cycle that directly affect criminal delinquency

include criminal law, criminal procedure, criminology, forensic science, and criminal executive law.

Of a certain significance for delinquency are the scientific principles of criminology. In this case, it appears as a complex science of the laws of criminal offenses, specific manifestations, factors, causes and conditions that give rise to them. Particular attention is paid to the study of personality in the commitment of a criminal offense. On the basis of scientific constructions of forms, methods of social and regulatory impact, elements of control over these negative phenomena are developed.

I. Danshin included criminal delinquency among the main aspects that form the core of the subject of criminology; individual delicts as specific manifestations of criminal delinquency; factors of criminal delinquency; the identity of the offender; prevention of criminal offenses and their individual types [19, p. 10].

We note that criminology is one of the basic sciences for criminal law, process, forensic science, criminal executive law [20].

Considering the relation of criminology with other sciences of the criminal law cycle, it can be concluded that criminal law provides the practice of a specific level of criminal delinquency, which allows us to judge the cumulative degree of public danger of certain criminal offenses. Framing a general concept of the causes and conditions that contributed to the commission of a criminal offense, criminology develops a program of criminal procedural evidence, allows to be more accurate in determining its subject and limits, as well as the legal provisions of the prosecution and defence.

A significant place in criminological research is given to the study of the identity of the offender, behaviour of the victim. The generalized data obtained in the course of such studies are used in the development of forensic tactics, are used in the investigation and trial, as well as in the work of the penitentiary system in the execution of sentences.

Over the years, it was accepted that criminal substantive law is the basis and legal foundation of criminal procedural law. Proponents of this concept proceeded from the fact that it is the criminal law that establishes the acts recognized by the state and society as a criminal offense. The criminal process was designed to ensure an objective, comprehensive and complete establishment of the circumstances of the crime, to establish and prove the guilt of the person who committed it, as well as to guarantee the issuance of a lawful, justified and fair sentence. However, as was noted by experts in criminal law and the process, in the field of research methodology, a task is formulated only when the means to solve it are already available. The criminal process is not directly and straight dependent on criminal

law. Criminology has a significant impact on the formation of these two branches of law.

From the foregoing, we can conclude that criminology is a basic, fundamental science of the criminal law cycle.

The definition of the subject of each legal science of the criminal cycle allows us to form a fairly complete understanding of criminal delinquency, as a specific human activity, an objective attribute of society. At the same time, the legal sciences are able to develop a system of means to influence it, in order to bring the number of criminal delicts in an acceptable condition for society. The main postulate in the development of such tools should be the requirement of the adequacy of methods, means, instruments of influence on criminal offenses and connections with social consequences. The nature and quality of such tools is significantly influenced by consolidating scientific theories, that is, theories that are formed in the zones of intersection of objects of two or more sciences, but are not sciences themselves. Such theories include legal psychology, conflict resolution, the general theory of human rights, theory of evidence and some others [21, p. 118]. These theories, during their formation, represent the “territory” of the competition of several sciences.

V. Bielov believed that integrative (consolidating) theories in the humanities should be distinguished from integral theorems, which are understood as the regulatory principle of ordering reality objects, according to which cognitive objects are arranged in accordance to the degree of individuality, existence independence [22, p. 13].

For example, the theory of evidence was determined not only for the criminal process. Forensics is constantly developing and improving the system, methods of proving the circumstances of the crime. Between these scientific definitions there is a constant debate about the affiliation of the proof of precisely “one’s” science.

With a more in-depth scientific understanding of the subject of the mentioned theories, there comes an understanding of the need for their joint creation by representatives of competing sciences. In the course of interdisciplinary scientific research, these theories acquire an integrative essence and combine the sciences of the autonomous cycle into a general complex.

4. CONCLUSION

Criminal delinquency can be defined as a single object of science of the criminal legal cycle, the subject of each of which is a separate side of this phenomenon. The most promising are interdisciplinary studies, with the aim of formulating integrative (consolidating) theories that allow not only to understand and explain criminal delinquency as an attribute of a social phenomenon, but also to identify ways to most effectively influence it in

order to limit and reduce it to the socially established boundaries.

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