

THE CRIMINAL, MADE TO BREAK THE LAW OR JUST A SIMPLE SOCIAL CIRCUMSTANCE?

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Abstract

The criminal behaviour was a topic of analysis for criminal researches, the approaches of this deviant manifestation, in terms of identifying its causality, implying a complex many-sided perspective. The prerequisites to explain criminality and deviance cannot neglect the existence of a somatic basis or the fingerprint of a psychic life of the individual, and cannot disregard the social system where the individual is born, exists and develops.

Keywords: *criminal behaviour, causes, factors, free will, social order.*

Introduction

The criminal behaviour raised many discussions in terms of unilateral visions on it. We propose to emphasize the most eloquent ways to explain and construe deviance and criminality. When explaining criminal behaviour, one cannot disregard the existence of a somatic basis, recognising the fingerprint of the psychic life in the general manifestation of the individual, especially regarding the abnormal expression of his/her behaviour within the social life. Practically, the individual, being closely linked to society, comes to be subjected or not to its rules, thus displaying a positive or a negative answer to the characteristics and operation of social systems.

The expression of deviant behaviours is considered as abnormal, weird, primitive and violent, all these reactions coming from the biological structure of the individual, by inheritance or degeneracy, but without excluding the psychological characteristics or the environment particularities [1].

1. Criminality – expression of the "need" of the individual

What raises questions is the fact to understand why more or less individuals, in different ways which lead to common causes or to many connected or interlinked causes,

leave the main road and become stray and, in another way, an illegitimate, inconsistent and illegal one, trying to reach a destination, sometimes pre-set, which many times represent the satisfaction of a need. Actually, the term criminality expresses a variety of behaviours, some similar, some very different one from another, manifested at all levels and structures of social life.

For example, economic criminality refers to those offences committed within the legitimate professional activity, such as corruption, and differs a lot from what violent criminality represents, which takes the shape of some crimes, such as homicides or sexual violence. The amplex of the phenomenon is recognised at both internal and global level, the highest percentage being registered by consumers, respectively those persons outside organisations, such as agents, service providers, sellers or company clients. Of course, frauds are based on different reasons and circumstances, their knowledge being essential in order to efficiently prevent, detect and fight fraud risks. The continually changing current economic and geopolitical context and the changes in the field of technology, obviously lead to such type of crimes.

A relevant percentage within economic crimes is registered by unprofessional conduct. The presence of weak points within organisations and the importance of the human factor that, in some situations, appears as impossible to be replaced by technology, make fraud possible even by persons inside the company or organisation. Last, but not least, cybernetic crime appears as the type of economic crime having the highest impact in the future.

Organised crime or the serious types of criminality – include other forms of criminality, such as informatics criminality, production, traffic and distribution of drugs, human trafficking, or illegal introduction of traffickers. Organised crime is an essential factor in favour of terrorism, enabling terrorists to purchase weapons and to get financial means. Other forms of crimes recognised at the level of the European Union are represented by forgery of document, money laundry, online illegal commerce with goods and services. Also, organised crime against patrimony refers to different crime-related activities, such as burglaries, thefts and organised robbery, including crimes related to vehicles. Regardless of the type of organised crime carried out, in most cases, offenders use and adapt, with increasing skills, technologies whose impact is more and more

important. Therefore, we ascertain a much more use of internet for all types of illegal commerce with goods and services. [2]

Human trafficking – represents one of the most serious forms of organised crime by flagrantly violating the human rights and it is considered one of the most profitable crime-related markets. Forgery of documents is the main way used by these traffickers in carrying out human trafficking activities. The phenomenon of human trafficking increased more and more, and that is why Directive 2011/36/EU extends such crime-related activity to others forms of exploitation, too, such as forced beggary, referring to an exploitation of crime-related activities, respectively exploitation of a person so that such person commit thefts, traffic of drugs and other similar activities involving a financial gain [3].

Human trafficking for organ trafficking falls under this category, too, including those extremely serious forms where vulnerable persons are involved, especially children or disabled persons, or where the victim's life is jeopardized, or in case the crime involves committing some serious acts of violence, such as torture, forced use of some medicine or drugs, rape or other serious forms of psychological, physical or sexual violence.

Informatics criminality – a newly appeared concept in the current society, remains connected to classical traditional crime, as offenders use more and more the internet both as a way to increase their activities and as a source of acquiring the means and of finding some new ways of committing the crimes. We are talking here about cybernetic attacks, online sexual exploitation of children, payment card frauds.

Terrorism, organised crime and informatics criminality are therefore interconnected fields. It is clear that they are criminal manifestations involving different regions in the world and they refer to the evolution of criminality, its prevention and the need to repress it [4]. It is obvious that the forms of criminality, although very different, determine the interest for understanding the offence itself. The problem of criminality and criminal-related activities is very complex and is not limited to simple solutions, all the more as it refers to more and more diversified and numerous criminal behaviours. What is of interest is the dynamic of such criminal behaviours, their frequency in time and place, age, sex and many other characteristics related to offenders.

1.2. Personality of the offender

The variations in contents and the social conditions tend to favour the execution of crime-related activities or the moment of initializing them, the personality of the individual having to be understood in terms of algorithms of biological, psychological, psychiatric and also social level [5].

The question to be made and to which we wish to answer is To what extent is the individual endowed with absolute free will and reasoning or is he/she totally determined to act or manifest in a criminal way? In other words, if we consider the criminal a voluntarily rational actor, this meaning to accept that he/she is opposed to the determined perpetrator, made to commit the crime.

Examination and interpretation of crime automatically imply an analysis of the social-legal dynamics. Inevitably, there is the conflict between society, as social structure, on one hand, and its subjects on the other hand. The individual manifests himself/herself and acts within such social structures, being the creator and their product at the same time. Against his/her will, he/she can become a victim, too. The social processes and the social change to which, inevitably and incontestably, all social actors are exposed to, imply new forms of problematic situations, of criminality, of victimization, and it is undisputable the fact that the technology has effects on speeding criminality within the most diverse social structures.

In considering all these aspects, the crime-related manifestation always represents the action of a man and it is the catastrophic expression of the personality of the individual.

1.3. Criminal behaviour

In figuring out the criminal behaviour, the interest should not prevail on perceptive aspects, which are common to many similar events seen, but on the report occurring between the checking, or the modality to develop of a single event, and the presence of some concrete conditions in the environment where such event develops. This type of approach belongs to the pathological psychology; respectively each act made by a person is partly linked to his/her condition and partly to the characteristics of the psychological environment at a certain moment. Therefore, we cannot leave out the so-called tendencies of the criminal, respectively his/her predisposition for, his/her attraction for

delinquency [6]. Such tendencies are natural, meaning that they depend inevitably on their organisation, analogous, because of the inferiority of the structure and of the physical and psychical functions. The types of criminals should be observed by relation to the way in which they committed the deed and to the stimuli that made them do that. Thus, we can speak about those wrongdoers who are born with bad instincts and who cannot be changed, those occasional wrongdoers who commit the deeds only within the context of a circumstance that can only appear once in a life time, wrongdoers out of habit who commit illegal deeds as a constant and usual activity, as a common profession, insane wrongdoers characterised by moral insanity, or the passional ones, etc.

Therefore, we have to identify the types of wrongdoers and the forces determining their behaviours. The totality of the social, psychological and biological factors existing at a certain moment in their lifetime, determines the behaviour of the individual. In other words, we are talking about a manifestation based on concrete causes and not about a free and responsible choice of the individual.

Criminality appears as a product of the existence of the individual in the society, being a phenomenon of social life, an abnormal pathological manifestation, contrary to the conditions of existence and development. So, the individual can only have a criminal behaviour if he/she lives in society and comes into contact with the other individuals. The frequent question is: to what extent do the lack of education and the poverty give birth to criminality? However, taking as reference a group of private individuals deprived of the most elementary form of education, not all of them turn to criminal manifestations, although they face poverty, so not all of them become wrongdoers. Some of them come to depression and commit suicide, and others continue to fight honestly for a normal and decent life.

Conclusions

Fighting the forms of criminality supposes getting to know the concrete causes, in order to succeed in constantly and successively diminishing them. As human freedom does not exist, there is not at least one moral responsibility, even if the physical imputation of the crime remains and is sufficient by sanctioning the wrongdoer.

The individual should circumscribe to a certain social order that should be characteristic for any society where rules operate, complemented by sanctioning criteria, so that the free will appears as being negated by imputation of guilt and by punishment of the respective guilty person.

We live in a world of unequal opportunities where we face social inequalities and direct or indirect discriminations which determine a positive or a negative reaction to the social environment to which we relate and in which we can find some individual and physical conditions. Since our birth, we all place ourselves in a certain pre-set situation and in a pre-set status, and the possibilities that we see are always linked to the horizon set up by such status. The possibility to really enjoy the freedom to think or to act is itself reduced, meaning that the need felt by each of us, as an incipient form of existence, appears as being conditioned, and not guaranteed in any way as form of freedom.

Besides those benchmarks, it is true that the biological factor, manifested by degeneracy, atavism, insanity, is the one having a predominant influence, but in some circumstances there can be the physical factor, rendered by climate or temperature, or the social factor, represented by public opinion, habits, religion, family, education, alcoholism, economic and political order and progress.

REFERENCES :

- [1] Ouimet, Marc. Les causes du crime: Examen des théories explicatives de la délinquance, du passage a l'acte et de la criminalité, Presses de l'Université Laval, Quebec, 2015, pp. 20-24.
- [2] COMMISSION. Brussels, 12.4.2017. COM (2017) 213 final. Report from the Commission to the European Parliament and the Council (<https://ec.europa.eu>)
- [3] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims (<https://eur-lex.europa.eu>)
- [4] Ministry of Administration and Interior. Study on relationship between organised criminality and corruption, (http://www.mai-dga.ro/wp-content/uploads/2017/01/Raport-de-cercetare_CRIMA-ORGANIZATA-CORUPTIE.pdf)
- [5] Balloni, Augusto, Bisi, Roberta, Sette Raffaella. ,Principi din criminologia. Le teorie. Wolters Kluwer Publishing House,2015, pp. 113-137.
- [6] Ouimet, Marc. Les causes du crime: Examen des théories explicatives de la délinquance, du passage a l'acte et de la criminalité, Presses de l'Université Laval, Quebec, 2015, pp.35-37