

CRIMINOLOGICAL LANDMARKS FOR EXPLAINING CAUSES OF CRIME*

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Abstract: *The issue of crime stands out to a level ever more debated in the area of current social context. Studying crime involves studying criminals, these two being inextricably linked. We are committed to study the criminal as an individual, so it is impossible to completely cleave the image of the individual from the social picture which is attached to and which marks his existence and evolution. The attention to this scourge which spreads to all levels of society, both at the individual and group of individuals, should be delimited by reference to crime aetiology by highlighting the causes and criminological factors, both individual and social.*

Key words: *Public law, Criminal law, criminality, criminological factors, organized crime, European Union politics.*

Introduction

The endeavours to get to know the causes of crime and criminality have amplified, in all their forms of antisocial manifestation, related to the evolution of the society as a whole. Thus, new trends have diversified in examining closely the most complex visions on criminal behaviour. The critics on social reality also created other premises in approaching the casuistry of deviances in order to explain and construe criminality. Obviously, we cannot analyse the criminal's behaviour outside the social environment he/she lives in. In other words, considering that the presence of the individual is closely related to the social environment he/she lives in, also his/her deviant behaviour cannot be envisaged outside the society he/she belongs to. Why do individuals commit unlawful deeds? What made the individual adopt such behaviour? Why did he/she offer bribe? Why did he/she commit fraud? Are there any reasons for which he/she acts in a way or another? Is adopting a certain correct or antisocial behaviour, a

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repression as a social impact or does it follow the area of hereditary psychological determinants? Indubitably, the existence of a somatic basis at the bottom of the criminal behaviour cannot be neglected, the influence of the depths of psychical life shall reflect on the human behaviour in general, and on the criminal behaviour, also on the abnormal expression. And eventually such behaviour depends both on the features and on the functioning of social systems.

1. A general vision on criminality

1.1. Psycho-social determinants in distinguishing causes of crime

Understanding and interpreting the causality of crime have to leave from the biological structure, the psychological features or the particularity of the environment, because when we speak about deviant behaviour, individuals deviate, more or less through different attitudes, from the agreed or imposed behaviour, as a result of some needs regarding the satisfaction of the needs they feel or face. The question is why they reach such inconsistent or illegal behaviour, question which is many times rhetorical, although the causes of this behaviour prove to be common or related to it¹.

The criminal behaviour should be regarded in close connection to the individual and to the environment he/she lives and grows in. That is why, although the tendency is to show interest to perceptive aspects, common to several apparently similar events, however, it is crucial to regard each event separately in its particular typicality, in terms of the actual conditions in which such event takes place and which consequently makes him/her vibrate and evolve. Therefore, motivation comes first in identifying it in order to start a successful investigation. The environment becomes pathogen only on the analogy with the degree of tolerance of the body to frustration, the individual acquiring an abnormal behaviour within the context of the environment of existence and in relation to the degree of disharmony of personality and to the deterioration of the ethical life of the individual². Most of the times, individuals divert from the main road on illegal and inconsistent paths, trying to reach a pre-established destination, which identifies with satisfying a need. Some of these behaviours are similar, others are extremely different one from another, motivation being subjective in all of them.

The individual's personality accentuated in time in terms of the social conditions which favoured the criminal-related behaviour, respectively the moment of passing to the execution of such act. The causes of criminality should be researched and found in the criminal behaviour and in the life environment.

¹ M. Ouimet, *Les causes du crime: Examen des théories explicatives de la délinquance, du passage à l'acte et de la criminalité*, Quebec: Presses de l'Université Laval, 2015, p. 7-9.

² T. B Butoi, *Serial killers. Psychanalisis of crime*, Bucharest: Pro Universitaria, 2019, p. 258.

The criminal as a human being is created by the society and becomes a product of the society itself and of its structures. The dynamics of the society targets a compliance of the individuals with its social and legal rules, leading to contradictory behaviours as a result of the confrontation between the society and its members. Social change involves new problematic situations and new types of criminality and victimisation. The individual seeks to confirm his/her ability to adapt and resist to such variations, the possibility to adapt coming to be surpassed by some behavioural imbalances which can be based on frustration, fear, anxiety, stress. The individual reacts very strongly, pushed to committing the crime as a result of the supremacy of the conscience, as Freud himself tries to prove in his theses.

The act committed by the individual should be related to the particular conditions which belong to his/her subjective condition in that moment, and to the features of the psychological environment in he/she finds in.

1.2. Psychological motivation in criminal behaviour

Criminal-related motivation covers the subjective element which makes an individual with criminal potential to adopt an illegal or inconsistent behaviour related to rules of functioning of the society in which he/she lives. His/her perception on what a deviation represents is a subjective reality which manifests at the level of three instances: the instinctual, the functional and the emotional one. At mental level, the brain is decisive. The impulses of the brain play a determinant role, as here there is emotion, desire, excitation with crucial role in the execution of the act. At functional level, there is no purely vegetative function which does not involve psychical activity. The psychic factors are found everywhere in the reality of the human body and are felt in each body cell. But for each individual, emotion has a particular meaning, sometimes reaching exacerbation, which leads to deviation. Therefore, individuals with excessive energy and tendency to transform tensions, frustrations, aggressive feelings, thirst for adventure, impulses of greed and others similar in action, all the more so the environment in which they live is a disorganised and disadvantaged one from a cultural point of view.

Thus, we speak about the existence of direct criminal impulses, manifested under the form of an excessive instinctual energy which gives birth to accentuated aggressiveness, as a manifestation of an energetic and extrovert behaviour, but also of indirect criminal impulses, as a manifestation of an underdeveloped and non-conventional conscience, due to some distorted family relationships since childhood.

A set of processes at psychological level converge towards the moment of passing to the act, not being able to separate the psychoanalytical explanations from the social-cultural ones. The criminal potential falls under an internal disharmony based on feelings of inadequacy, emotional instability, emotional

conflict, destructivity and sadist-destructive tendencies, with a visible effect on delinquency. At behavioural level, the deviance of the individual occurs as a result of a combination between the biological, psychological and sociological factors. The temper, intelligence, level of energy and other aspects of personality are linked to social-environmental situations. The behaviour of an individual is guided not only by temporary external stimuli, but also by stable attributes or predispositions, which represent the personality and contribute to the construction of typology.

Therefore, each manifestation of deviance should be reported both to the psycho-moral profile of the individual, and to the social environment, the two not being able to be regarded separately, but under the form of a complex. Adopting an illegal behaviour is at the concurrence of all the actions falling under the foundation of personality and the wrongdoer's humour, the stage of development and the events in his/her life, also the external influences. We should consider at what extent the individual shows opening to the training process, being directly exposed to a certain *habitus* of the group he/she belongs to and whose influence he/she feels as different forms of manifestation. Therefore, the family environment, the educational structures, the cultural transformations and changes contribute to the whole process of formation of the individual.

We live in a society with a rapid and continuous change which tries to impose patterns of thinking and action. The individual should learn to immunize himself/herself against the society, all the more so technologisation and globalisation generate a facilitation of the phenomenon of criminality.

2. Approach on organised criminality as a serious form of criminality in the current society. identification of weak points in the system, as causal determinants.

2.1. Organised criminality - a controversial present reality

In Romania, criminality evolved in time due to reasons related especially to the social, economic and political changes. *Why does the level of criminality change from a period to another?* is a meaningful question if we think that the crime-related phenomenon has always existed, but its forms of manifestation evolved along with the evolution of society. As a rule, the occurrence of criminality produced against the background of poverty and social inequality. Along with the increase of poverty and of social inequality, the criminal potential also increased, covering different forms of manifestation in relation to the social-cultural conditions having impact on the criminal-related field.

Organised criminality represents a present topic both at national and European level, being regarded as a complex social and legal phenomenon, huge by this variety of forms of manifestation. Anyway we would regard this phenomenon of organised crime, it cannot be experienced in another way that as a

real threat to human rights and cultural, economic, social and political development of any society³. That is how, in such a social context, we find ourselves in a permanent fight with criminality, which can only become more effective through a tight and unitary collaboration between the organisational structures at domestic and European level. The problem here is the adaptation of the legislation in Romania with the regulations at the level of the European Union, all the more so there is no specific terminology from which to reach a unitary legal framework, where one could identify concretely the types of offences falling under the organised criminality. What is certain is that this real phenomenon is a visible threat to the national security. The legal instruments prove to be ineffective as long as the concept of organised criminality is not defined in any way, although it exists at interstate level. At what extent then could we discuss making more efficient the activity of prevention and of real control. At the level of the year 2009, it seems that we still face system deficiencies in terms of lack of training of personnel or lack of technique in settling urgent cases within organised criminality.⁴ Romania is not yet adapted at the level of moral conscience or human resource, or at the level of legal procedures that should be correctly enforced and not re-interpreted in a negative way when the firm intervention of the system is necessary in criminal-related situations.

The phenomenon of globalisation proves to be closely related to organised criminality which breaks frontiers and seems harder and harder to stop and impossible to achieve outside some thorough cooperation among states. Against the background of the economic crisis, the occurrence of economic-financial and corruption-related offences had impact, and the need for cooperation among states became vital.

2.2. Corruption and organised criminality - related global social phenomena

In the researches made on the organised criminality phenomenon, they noticed that there cannot be organised criminality without corruption, bringing into discussion the existence of some institutional weak points both in corruption and in organised criminality cases. The observation of the organised criminality phenomenon at world level determined the shaping of some essential elements in conceiving and spreading this form of criminality manifested at international level, targeting an illegal activity carried out at a level of big organisations, by generally using corruption and violence⁵. The ampleness and gravity of such phenomenon,

³ A.M. Lefter, *Organised criminality. Doctrinaire approaches and international legal instruments*, Revista de criminologie, criminalistică și penologie no. 3/2019, p. 65-72.

⁴ I. C. Șatalan, D. Șatalan, *Adopting the Romanian legislation with the provisions and legal rules of the European Union on organised crime*, Revista de criminologie, criminalistică și penologie no. 3/2019, p. 3-10.

⁵ M.D. Maltz, *Measuring the effectiveness of organized crime control efforts*, Huntsville: OICJ Publications, 1990, p. 24.

especially in terms of the methods used, is all the more visible so the organised criminality appears as the main form of manifestation of cross-border criminality, which makes more difficult the collaboration among states, within the context in which their most important structures are full of corruption. The structures at the level of the Ministry of Interior, competent in the field, are subjected to the risk of corruption on the part of the organised crime structures. This appears as a result of the reorganisation of the institution and of the incorporation of the structures of fighting economic criminality within the structures fighting organised criminality.

Vulnerability in front of corruption on the part of the structures involved, at competence level, in fighting this phenomenon, is found in the existence itself of the deficiencies to come under the system, as a result of having the monopoly of power of those possessing key positions in the relationships with the criminal world, all leaving from the psycho-moral profile of the individual.

A survey made by the Anti-Corruption General Directorate showed that the corruption phenomenon exceeded the area of public sector, also targeting the public sector area⁶. Thus, corruption should be regarded from a double perspective: the one in which the main actor (enterprise, company) becomes a target for organised crime, and the one in which the same actor used corruption practices to obtain some facilities. The social identity of the individual is at stake.

What is the psychological profile of the corrupted one? Why does an individual choose an action and rejects an alternative? Why does he/she persist in the actions acquired for a long time, even disregarding the sanctions they are liable to? Not only the development, but also the change of the personal needs and objectives lead to the validation of a self-representation of their selves in front of the others. The individual manifest himself/herself as corrupt not only at personal level, but also at the level of the institution he/she works for. He/she is significantly influenced by social factors and reacts according to his/her social position. This image is built by him/her in relation to the key position owned within a structure.

In identifying the determinants of corruption, they noticed concretely that, as emphasized by the Anti-Corruption General Directorate, they are of personal (psychological), group (psycho-social) and collectivity (social) order. Thus, they identified two classes of vulnerabilities: vulnerabilities generated by subject and vulnerabilities generated by institution. The vulnerabilities coming from the subject are personal determinants and belong to the subjective plan. It is about the shortage of professional satisfaction, interaction or association with persons belonging to crime-related environment, a psycho-moral profile vulnerable to corruption. The second class of vulnerabilities is the one coming from institutions toward the individual, which can be on one hand psycho-social determinants, at

⁶ *Study on relationship between organised criminality and corruption*, available on http://www.mai-dga.ro/wp-content/uploads/2017/01/Raport-de-cercetare_CRIMA-ORGANIZAT_A-CORUPTIE.pdf.

the level of group, collectivity or professional body, and on the other hand social determinants, at the level of organisation or institution.

As for the psycho-social determinants, they can refer to the nature of profession, lack of positive models within the institution, lack of positive stimulation of the personnel or lack of encouraging professional values, scarce professional training or the different pressures on the part of the entourage, without limitation. As for the social vulnerabilities, they can be generated by the *system* in particular, as a result of one of its malfunctions – lack or scarce of resources, of technology, the existence of some inadequate criteria of selection or promotion of the personnel, lack of efficiency of the applicable management, but also of the environment and society management, altogether the quality of the macro-environment, lack of models in the society, influence of the political environment, low level of quality of life, respectively inadequate remuneration which do not cover the minimum needs of a family.

Within the context of identification and analyse of the relationship between organised criminality and corruption, they showed that, against the background of global economy and of instauration of crisis, there is a loosening of the financial system which consequently determines an increase of organised criminality, too. As a measure that should be imposed as prevention and fight against criminality, the European Union considers concretely the need to adopt concrete measures, i.e. to grant adequate resources to manage such illegal demarches.

2.3. Levers of action in fighting serious forms of criminality

At the level of European Union, special attention is given to fighting serious and organised criminality within a new cycle of policies that the Commission considers as future priorities for the 2018-2021⁷. The enhanced attention that the European Union shows to organised criminality appears as a necessity in the context in which organised criminality is a crucial factor in favour of terrorism, through activities such as trafficking of firearms and production of forged documents or through the funds coming from drug smuggling. Also, the border between informatics criminality and the “traditional” one disappears more and more, as the offenders use internet as a means of enhancing their activities and as a source of obtaining their means and findings some new methods of committing the offences. Therefore, terrorism, organised criminality and informatics criminality are interconnected fields, and supporting the fight against organised criminality represents a key-priority of action at the level of the European Union. The European Union visibly experiences the crime-related impact and proposes as strategy to initiate coherent and solid operational actions

⁷ The European Commission, *The sixth report on the progress made to achieve a union of effective and real security*, Bruxelles, 2017, available on https://ec.europa.eu/info/sites/info/files/annual-report-subsidiarity-proportionality-and-relations-with-national-parliaments_ro.pdf.

with which to prevent the most urgent threats. In this regards, it aims at ensuring an efficient cooperation between the law enforcement agencies from the Member States, the European Union institutions and agencies, based on the information provided by Europol.

The assessment of the threat represented by the serious forms of criminality and the organised criminality, determines that the European Union policy for 2018-2021 take into consideration as main strategic priorities the following eight types of offences: informatics criminality, drug-related criminality, migrant smuggling, organised criminality against patrimony, human trafficking, trafficking of firearms, VAT fraud and offences against environment.

A reality that should be taken into account in establishing the courses of action at the level of European Union is the fact that the offenders use new technologies. It is unquestionable the fact that regardless of the type of organised criminality we refer to, the offenders show great skills and adapt technologies with significant impact. Internet is more and more used for all types of illegal commerce with goods and services. And this makes the law enforcement authorities to have adequate instruments to fight this type of online offences and to continuously improve.

The threat experience at the level of the European Union proves to be more virulent and it is a reality the fact that the main routes of trafficking of organised criminality come from outside the Union. Thus, it is a maximum emergency necessity to carry out extensive actions to fight the threats of organised criminality outside the Union and to continue to assure the relationships between the internal security of the European Union and the external action when they fight the threats represented by serious and organised criminality, including by Europol cooperation with third countries.

Conclusions

Understanding criminality under all its forms of manifestation, starting from mere antisocial manifestations to serious forms of criminality requires a psycho-dynamic approach as a result of the rapid evolution of the society. Noticing the dynamics of criminality targets the quantity and quality observation of such phenomenon. Such a demarche imposes the concrete identification of the causes generating the criminality in order to ensure the conception of a system of conclusive preventive measures.

Criminality manifests like a blight which rapidly transgresses the national borders and generates criminality in its turn. As members of a society, no matter what society, we all find ourselves in a process of social formation. The behaviour of each one of us is in connection with the one of the other members of the society, thus resulting in a group manifestation. Each individual belongs to a certain group

which has certain social values, certain practices, and the individual, no matter who he/she would be, is subjected to the pressure of the conflicts from the place he/she feels dominated by. The process of social formation cannot take place outside education and training. The society develops along with the individual, and this influences the behaviour, even the deviant one. Indubitably, family, school and then society are determinant in interpreting deviance and delinquency.

As shown in this study, with concrete references to the area of serious criminality, under different forms of manifestation, also recognised through the levers of action at the level of the European Union, the behaviour of an individual is and will be a function of environment at a certain point, where different psycho-social aspects come to influence decisively his/her behaviour at the level of an individual, of a group of individuals, at the level of organisation in particular or of society in general.