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PROTECTION OF SOCIAL VALUES AND RELATIONS PROTECTED BY CRIMINAL LAW

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Abstract

This article deals with the particular aspects regarding the protection that criminal law norms grant to social values and relations, which is precisely the object of criminal law.

As the main instrument of the criminal policy, the criminal law aims to defend the state and all the people who are at a given moment in the national territory, against the criminal phenomenon.

A condition of the existence of human society was and is the need to defend social values through a system of relationships formed between members of society in such a way as to succeed in their achievement and normal evolution.

The system for the defense of social values has a binding force against people who carry out dangerous actions for society and defines the crime, the forms of criminal liability and the sanctions that are applied when crimes are committed by violating the criminal rules.

How is the protection provided by the criminal law with regard to social values achieved?

By means of the two essential requirements that the criminal rules claim: firstly, the requirement required of all persons who are at a given time in the territory to which the law has its applicability and who are its recipients. All of them are obliged to conform their conduct to the requirements that the criminal law provides.

And last but not least, the state bodies that must ensure criminal liability when the criminal law has been violated and crimes have been committed.

Through the rules of the criminal law, the values and social relations that are formed around these values are promoted and protected. In this way, the protection of society in general is achieved.

Criminal law criminalizes crimes, which are the most serious social acts because they affect the most important social values.

Key words: *criminal law, values and social relations, crime.*

INTRODUCTION

"Men were created equal, being endowed by the Creator with certain inalienable rights, among these rights are life, liberty and the pursuit of happiness" (*US Declaration of Independence*).

These represent social values whose guarantee and respect is ensured by the state.

As expressed over time and in criminal doctrine, (*Streteanu, Nitu, 2014, p. 14*) values and social relations protected by the rules of criminal law and criminal regulations are also of public interest, as they can equally be of private interest.

By committing the criminal offense, the crime, social values that belong to individual subjects, natural or legal persons, can be damaged, but the legal order in general is also damaged, which must be restored only through the intervention of the competent state bodies.

Regardless of whether we refer only to the damage to social values that belong to a particular person or if we approach the damage to general social values protected by law as a set of general values, it is worth noting a special importance that criminal law gives to values, captured either in the sense of social values, either as relationships that are born around and in relation to these values.

The existence of human society, regardless of its form of organization, is based on the respect by its members of the most important values, such as: life, integrity and health and other attributes related to the person, the legal order, property, etc.

Respect for these values takes place within cooperative relationships that impose the obligation for each person to mutually respect these important values through their conduct.

"With the emergence of society, individuals can no longer be absolutely independent, the human person by its very nature, being involved in collaborative relationships, exchanges and mutual trust" (*Streteanu, Nitu, 2014, p. 9*).

As Montesquieu mentioned in the work "On the Spirit of the Laws", any man can express his individual freedom by emphasizing that this entails "the right to do everything that the laws permit; and if a citizen could do what they forbid, he would no longer have freedom because others could do the same."

That is precisely why laws exist, because they must serve the interests of the people, defending their values and establishing those values that must be protected. This is all the more significant in the field of criminal law where when values are violated they must be protected by sanctions.

The sanctions provided for each individual crime must reflect the concrete social danger that each one presents (*Dongoroz and collective, 2003, p. 100*).

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The behavior of the individual in society is related to his freedom of thought and action and to the way in which individual freedom is reflected in the act committed, whether permitted or not.

Beyond these individual manifestations, it is the state that must ensure the defense of the behavioral order.

How will he accomplish this? By repressing any form of individual resistance that goes against the law.

Of course the role of the law is to draw rules of conduct. The force of the law, which has supremacy over everything that manifests itself in society, imposes rules of conduct, so that certain social relations are defended, and other relations are sanctioned. So that values and social relationships that arise and are formed around these values are defended through it, and those relationships that harm the values are sanctioned.

1. DEFENSE OF SOCIAL VALUES, OBJECT OF CRIMINAL LAW

When legal theorists approach the general aspects of criminal law, one of the main and essential notions of criminal law theory is that of showing the object of this branch of law.

Law is grouped into different branches according to exact criteria.

The main criterion by which law is grouped into its various branches is that of the object to which the legal norms refer, and the secondary criterion is the method of regulation (*Oancea, 1965, p. 10*).

Each of the branches of law regulates a certain type of social relations that represent the very object of that branch of law.

Constitutional law, for example, has as its object the social relations that concern the organization and activity of the state.

Civil law deals with social relations with patrimonial content.

Family law deals with social relations regarding the family.

Criminal law is based on the same idea, which in turn has an object. The social relations that form the object of criminal law are those that defend the state and society against the most serious anti-social acts, namely against crimes.

There are authors who claimed that these social relations are born between the state and the criminal or perpetrator. The moment of their birth is marked by the commission of a crime, a moment that coincides with the birth of the state's right to prosecute the criminal.

There are also authors who supported the birth of social relations even before the crime is committed, that is, at the moment the criminal law enters into force.

The basic consideration that argues this statement is that it must be taken into account that the criminal law has first of all an educational preventive function, which mentions it takes precedence over the other function of the criminal law, namely the sanctioning one (*Dobrinou and collective, 1997, p. 8*).

It is certain that there are social relations associated with criminal law that form its object.

By the rules of criminal law, the conduct that people must have in their relations with each other, in their relations with the state and even in relation to goods or animals is prescribed under an imperative aspect.

Legea penală recunoaște și consacră relații sociale care iau naștere în societate, dar care prin manifestarea lor corespund asigurării stabilității ordinii publice.

The specific feature of prescribing a conduct and sanctioning the individual, in case of non-compliance, falls under the rule of criminal law.

Compliance with this compliance behavior is achieved under the coercive force of the state.

If the members of society harm social values through their conduct, endangering or harming them, the necessity of creating conflict relations between individuals and the state inevitably arises, which must be resolved in order to restore the relations of conformity between them (*Ivan, 2003, p. 5*).

In other words, the state has the obligation to fight against crimes, both by preventing them, by criminalizing acts that violate social values as crimes, and by bringing to criminal responsibility carried out by specialized bodies, those who commit crimes.

Ensuring the stability of social relations, through strict compliance with the law or through the sanctioning power of the law, defines the concept of legal order.

Based on its own regulatory object, criminal law occupies a well-defined place in the Romanian legal system.

In any advanced human society a system of defense of social values is promoted.

It imposes itself with a binding legal force on the persons who carry out dangerous actions for the society.

It also defines these dangerous acts under the name of crime and establishes what happens when the crime is committed by violating the criminal law.

At this moment, the state's obligation to prosecute those who have committed crimes arises, this being the legal instrument for preventing and punishing crimes.

Of course, it should not be understood from here that only the criminal law would represent the only tool of social control, it being only a part of a global system (*Streteanu, Nitu, 2014, p. 9*).

”The moral, social and political ideas that act in a synthesis, for a certain period of time, are defense by law, in order to protect the interests of society, to prevent destructive actions or inactions, and in the case of sanctioning them

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through the coercion of the law rights are established for the victim and the aggressor” (*Tanasescu and collective, 2002, p. 60*).

The evolution of man, of social life, of state institutions, of the activities in which people are involved, the diversification of the way of interaction between people, no matter how they are taken, individually, or organized in forms of legal organization, determined over time, the promotion and defending the values around which all these relationships of social coexistence are formed to ensure their development in a fair manner for all involved.

Any social activity is based on rules (*Bobos, 1994, p. 177*).

The need for these rules is imposed in interpersonal relationships that cannot be imagined without rules.

2. THE NEED FOR CRIMINAL RULES THAT PROTECT SOCIAL VALUES

Just as one cannot deny the necessity of the existence and provision of law and order in society, in the same way one cannot deny the necessity of criminal law which, through its rules, regulates social relations in the fight against crimes and defends the legal order.

Crimes are studied not only as a legal phenomenon, that is, what they represent as a manifestation from a legal point of view and what are their legal consequences, but also as a social phenomenon, as a mass phenomenon, in relation to society, with the proper functioning of society, with society's requirements to manifest themselves correctly, justly, legally.

When crimes are committed, we enter the field of criminal law, and the violated legal order must be restored.

The sad reality of any human society was and is criminality.

It existed ”regardless of period, type of government, social system, geographical location, cultural pattern or any other type of factors” (*Marculescu-Michinici, Dunea, 2017, p. 13*).

The state must fight against this phenomenon, and the mechanism of the fight against the criminal phenomenon is the criminal regulation.

Thus, criminal law was established as a distinct branch of law that includes distinct legal norms defining a crime, criminal liability and sanctions that are applied when a crime is committed and that through their content prevent, fight and fight against the criminal phenomenon.

The need for criminal law as a branch of the system of positive law can be approached from several points of view, none of them less important and content than the others.

As mentioned above, one of the primary desires of human society is its manifestation in a climate of peace and social order.

Because this has not been possible in any of the known human societies, crimes being committed over time, criminal law appears as a constant necessity in that it protects above all the fundamental social values of life in society.

”The protection of the fundamental values on which life in society is built constitutes the basic mission of criminal law” (*Streteanu, Nitu, 2014, p. 12*).

With the emergence of the state came the need to defend these important values.

Practically, the defense of fundamental values in society is the important function of the state and it is carried out with the help of those legal norms that form the criminal law (*Mitrache, Mitrache, 2006, p. 19*).

This important role of criminal law is deduced from its very definition, as given by legal theorists.

Traian Pop, professor of criminal law claims that”criminal law deals with those antisocial acts that are declared crimes and with the means of social defense against those people who commit them”.

Matei Basarab, gives a broader definition, inserting in his course that”criminal law, as a branch of the Romanian legal system, is made up of all the legal norms that stipulate the conditions under which an act is a crime, the type of these crimes, the sanctions applies in the case of their commission as well as criminal liability in order to defend the legal order in Romania against such acts”.

The defense of social values through criminal law is achieved through prevention and repression.

Thus, by sanctioning those who commit crimes, not only the repression exercised by the state against them as a result of the manifestation of their non-conformist behavior in relation to legal norms is achieved, but also prevention, because by sanctioning criminals, the state raises an alarm signal regarding the suffering on which involves bringing criminal responsibility, for those who, in the future, would be tempted to commit crimes, achieving in this way also the prevention of committing new crimes.

Special emphasis is therefore placed on preventive means to combat criminality.

However, preventive means are not sufficient at the criminal level.

In relation to those who commit crimes, it is necessary to take more severe measures, such as those of a repressive nature.

Thus, as a result of the danger presented by those who commit crimes, a complex activity must be carried out against them.

But, also with regard to criminals, the need for criminal law is manifested, appearing as a ”necessary, useful and timely normative construction because in the absence of a strictly determined formal legal regulation of the socio-state reaction to people who commit crimes, this reaction would could end up being excessive, arbitrary, disproportionate” (*Mărculescu-Michinici, Dunea, 2017, p. 13*).

The activity of the state, of the state bodies of bringing to criminal responsibility those who have committed crimes and the application of criminal

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sanctions against them must be done only within the legal limits, with respect for the rights they have and with respect for human dignity.

”By protecting the fundamental social values and offering the possibility of sanctioning the people who attack those values, the criminal law also establishes the limits of this repression, in order to prevent any abusive or disproportionate sanctioning of the person who committed the crime” (*Streteanu, Nitu, 2014, p. 12*).

Criminal law establishes rights and obligations for people involved in the commission of a crime, both as a victim and for those involved as a perpetrator.

Criminal law establishes that the application of criminal sanctions and criminal liability should take place in order to protect social values. The defense of social values is pursued.

By the rules of the criminal law, the facts that constitute crimes are established first of all, that is, that violation of the law that can be criminalized as a crime, given the fact that the criminal rules do not intervene to protect any social value, nor in the case of any violation and damage thereof.

Criminal law intervenes when the social value through a certain specific conduct can be affected by a damage considered more serious.

3. THE TASKS AND PURPOSE OF CRIMINAL RULES IN THE DEFENSE OF SOCIAL VALUES

The main task of the criminal law is to define the crime and to show which acts are criminal, which acts are crimes, so that they can be known by the citizens.

Through these incriminations, criminal law warns the addressees of the rules regarding the seriousness of certain acts and what are the legal consequences to which they are exposed when they are committed by not complying with them.

Criminal law shows what the system of criminal sanctions is in general and what sanction is applied for each individual crime.

Criminal sanctions must correspond to the needs of defense against crime.

Criminal sanctions are repressive measures because they restrict the exercise of the fundamental rights of the person for a certain period of time corresponding to the period of the criminal sanction.

In addition to restricting individuals' participation in social and economic life, some sanctions restrict one of the most important human rights, namely freedom of movement. Participation in family life or the interruption of professional activity can also be restricted.

When it is found that a person has violated the imperative provisions of the criminal law and ended up committing a crime, the criminal sanction is applied, which is a measure of coercion and a measure of repression by which the criminal is subjected to certain deprivations (*Mitrache, 1994, p. 187*).

The most serious of these privations is the deprivation of freedom of the offender provided for in the case of custodial sanctions, when he is removed from the social and family environment, losing his freedom for a certain period of time.

But suffering exists even when the punishment is not custodial, but pecuniary (fine, confiscation), because even in this case the criminal is subject to certain deprivations that affect his material interests and thus cause him suffering.

Also, criminal law warns about the intervention of criminal liability, as the most serious form of legal liability by applying the most serious criminal sanctions, such as life imprisonment or imprisonment, the only branch of law that provides sanctions of deprivation of liberty the person.

At the same time, criminal law also provides for the categories of persons who are exempt from criminal liability and the application of criminal sanctions.

CONCLUSIONS

The defense of fundamental social values and the social relations that arise and manifest around these values is the essence of criminal law and criminal rules.

By defending social values, criminal rules guarantee a legal framework for preventing and combating criminality (Marculescu-Michinici, Dunea, 2017, p. 13).

The realization of a healthy and solid society from a socio-human and legal point of view can only be achieved through a rigorous protection provided by the state through the legal norms it enacts.

Under this aspect, the criminal rules, which promote and defend the most important social values and the legal relations that arise, develop and manifest themselves in relation to these values, are all the more necessary and important in such a society.

By defending social values, criminal norms ensure the very defense of social order and discipline.

A social protection of all is achieved, precisely by the fact that possibly criminal behaviors are kept under control through the fear of exposure to criminal sanctions or the legal order violated by the serious damage to social values is restored when criminal behaviors have actually manifested themselves.

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