

Features of the Philosophical and Ethical Interpretation of the Concepts of Crime and Punishment

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Abstract. *The relationship between the concepts of crime and punishment was considered in philosophical teachings as socio-ethical categories even in ancient times. Since without a philosophical understanding of the crime and its causes it is difficult to understand the meaning and essence of punishment. In turn, the philosophical and ethical interpretation of these concepts became the basis for their introduction into legal science. This article examines the conceptual and theoretical aspects of the philosophical understanding of the concepts of crime and punishment.*

Key words: *crime, punishment, philosophy, philosophical and legal concepts, law, social norms, offense, philosophical views, theory of utilitarianism, deontological theories of I. Kant, retributive concept, moral responsibility, theory of psychoanalysis.*

Throughout human evolution, all societies have developed distinct approaches to criminal offenses, namely, forms of punishment. These approaches have been influenced by various factors across different periods, including the historical lifestyles of peoples, as well as political-ideological, socio-economic, and spiritual-cultural factors. However, regardless of the era, it is inevitable that any crime will receive a just punishment.

The historical significance of philosophical and legal concepts in this field lies in the fact that within their framework, the causes of crime, the system of punishment applied to crime, and public attitudes towards these phenomena are analyzed.

The scientific and theoretical analysis of the philosophy of crime and punishment encourages us to examine the moral, legal, and social content of these concepts. Although these concepts often dominate in the legal-normative sphere, philosophical-theoretical analysis contributes to a broader understanding of the nature, content, and human actions involved in criminal activity.

Legally, any crime is punishable. From a philosophical and social perspective, crime implies the condemnation of violations of rules that ensure society's well-being. Consequently, the legal approach alone is insufficient for a full understanding of the concepts of crime and punishment and their nature as social phenomena. Therefore, a comprehensive analysis of these phenomena remains relevant both today and in the future.

In philosophical views, crime is primarily understood as human actions that lead to the violation of society's moral rules. For example, according to the ancient Greek philosopher Aristotle, when moral

virtues are absent in human activity and actions, a crime is committed, and the principles of justice and honesty are violated.

In the deontological approach of Immanuel Kant, a major representative of German classical philosophy, crime was considered a violation of the high moral law established in society as a code. In social life, a person should live in such a way that their behavior serves as a universal example for everyone and a model for those around them.

In his work "Metaphysics of Morals," Kant defined human behavior from the perspective of law and morality. According to the philosopher's teachings, right and wrong (*rectum aut minus rectum*) actions are the appropriate and inappropriate actions of a person in relation to their duty. Non-compliance with duty and obligation is immoral (*reatus*). A negligent violation is simply a culpable act (*culpa*). An intentional offense is a crime (*dolus*). Thus, compliance with the law is justice (*iustum*), non-compliance with the law is injustice (*iniustum*) [1].

According to the teachings of Jeremy Bentham and John Stuart Mill, founders of the famous theory of utilitarianism in English philosophy, crime is an act that leads to the violation of the principles of goodness. And if a person's intentions and actions are more harmful than beneficial to society, such thoughts are also considered criminal.

As for the legal interpretation of punishment, it is clear that punishment is closely related to the concept of crime, naturally implying the response applied to the violation of the law. Punishment as a social concept is studied in philosophical teachings and is connected with issues of justice, morality, faith, and enlightenment.

According to Aristotle's teachings, the degree of punishment must be proportional to the crime. His views on justice state that punishment should restore the balance in the social space disturbed by crime. This, in turn, gives rise to the concept of retribution, since punishment is a form of moral and legal compensation.

In I. Kant's aforementioned deontological views, punishment can be considered a genuine measure only when the verdict is legally and morally just. This means that punishment should not only be fair but also appropriately severe or lenient, and should be applied correctly.

From the perspective of utilitarianism, punishment should have a preventive significance. The application of punishment for a crime should serve to prevent the commission of similar crimes in society in the future and to maximize social good. Criminal punishments such as intimidation, correctional labor, imprisonment, and the death penalty can be justified only when they benefit society and serve to reduce or eliminate the commission of offenses.

According to political-legal theory, punishment is a measure applied by the state to protect public order and ensure compliance with laws.

The proportionality of crime and punishment has given rise to two approaches in historical processes:

- a) the theory of absolute punishment (retribution theory);
- b) the theory of relative punishment (the theory of achieving a positive goal).

Theories of absolute punishment, based on the concept of retribution, hold that the punishment for the criminal should be such that the harm caused to the innocent person should be inflicted on the offender. For example, Hammurabi's laws state that punishment should be equal to the severity of the crime committed. That is, if the victim's eye was injured, then the criminal's eye must also be injured[2].

Another example can be seen in the collective views formed over a long period in traditional societies and preserved to this day, based on the principle of "blood for blood, life for life," where taking revenge on each other is seen as the only way to establish justice. According to the theory of vengeance, it is recognized that a crime can be punished by committing the same crime, and only in this way can justice be restored.

In his research, the Russian legal scholar G. Maltsev reflected on the significance of the retributive concept in understanding the essence of crime and punishment. According to him, punishment and encouragement have greatly contributed to shaping societal views on social justice and equality. That is, any crime should be punished and any heroic or virtuous act should be rewarded.[2]

In the 20th century, as democratic states formed as the main institutions of power and politics, the concept of social justice was understood from the perspective of fair and equal distribution of material and spiritual resources. During this period, several distributive theories, that is, theories of fair distribution, were reflected in modern economic, legal, philosophical-moral, political, and social doctrines. This approach implies that punishment should be assigned according to the degree to which the fair distribution system has been violated (the crime committed).

The theory of preventive punishment emphasizes that imposing punishment is necessary not only to compensate for damage but also to prevent future crimes.

Regarding the social nature of crime and punishment categories, three main interpretations of punishment have emerged in English philosophical and legal theory. These are:

- Punishment as retribution for an evil deed;
- Punishment as a means of deterrence;
- Punishment as a means of rehabilitating the offender.

The combination of these three approaches forms the basis of criminal law in Great Britain. That is, the sole purpose of punishment is retribution, deterrence, and rehabilitation. The main ideas of the deterrence theory are associated with the English moralist, philosopher, and jurist Jeremy Bentham (1748-1832). Proponents of this theory described the criminal as a victim. The punishment applied should be utilitarian, that is, serve a useful purpose. Consequently, punishing one person for criminal activity should serve as a basis for another person to refrain from committing a crime[3].

The same I. Bentham opposed the death penalty, arguing that life imprisonment as a punishment leads to a more effective outcome.

During the Enlightenment period in Western Europe in the 18th century, French philosophers such as Charles Louis Montesquieu, Voltaire, Paul Holbach, and Denis Diderot attributed the causes of crime to the natural and social processes occurring in society[4].

In his philosophical and legal work "The Spirit of Laws," Montesquieu noted that factors such as the form of government, legislation, geographical features of the country, climate, lifestyle of the people (farmers, hunters, shepherds), degree of freedom, religion, population size, wealth, trade, customs, and traditions have a decisive influence on human behavior. These views of Montesquieu were later incorporated into criminology to explain the nature of crime.

The famous Italian scholar Cesare Beccaria opposed the death penalty and advocated for the use of punishments as a preventive measure to deter crimes. In his work "On Crimes and Punishments," he stated that punishment for a criminal can only be imposed by law, while the authority that created the law is the legislator and is a direct representative of society. Every person, as a member of society, is bound to society on the basis of a social contract. In this social agreement, both parties have certain rights and obligations towards each other. Compliance with these obligations is beneficial and advantageous for both parties. He argued that the violation of any of these duties leads to crime and anarchy, that is, instability[5].

When discussing the utilitarian nature of punishment, it can be added that Elizabeth Fry, one of the English social activists who initiated prison reform in England in the 19th century, said that punishment is not a means of retribution, but a means of reducing the number of crimes and reforming the criminal. Punishment contributes to the reduction of crime in two ways: by restricting the rights of the offender and by deterring them. [6]

Moral concepts are of particular importance in the analysis of these concepts within the framework of philosophical discussions about crime and punishment. The main category of such approaches is the issue of moral responsibility and accountability.

According to this, moral responsibility means that a person must understand the consequences of their crime and feel responsible for it. If actions that bring benefits to the life of society are considered good, and severe and negative consequences are deemed evil, then a person should act based on these principles.

The famous Austrian scientist and founder of the Vienna school of psychotherapy, Sigmund Freud, emphasized through his theory of psychoanalysis that a criminal can only be held morally responsible if they understand their actions and the consequences caused by them. If they do not comprehend the harm of their actions, then they cannot be considered a criminal.

Freud's student, the Swiss scholar Carl Jung, also attempted to examine human behavior leading to crime in his works. Jung put forward the idea of "collective unconscious," common to many. In Jung's "analytical psychology," great importance is attached to the identification of personality types. According to his views, unresolved problems and conflicts existing in the inner world of an individual lead to aggression, resulting in violence and violation of the law[7].

In conclusion, it should be noted that the philosophical and theoretical analysis of crime and punishment reveals the multifaceted nature of these concepts. From the perspective of various theoretical doctrines, crime can be viewed as a violation of both legal and moral rules, as well as a dangerous factor disrupting the balance of the social environment.

These philosophical and ethical interpretations remain relevant in modern society and contribute to a deeper understanding of the essence of the concepts of crime and punishment.

It is also necessary to study the problem of crime and punishment not only within the framework of jurisprudence but also within the fields of philosophy, sociology, ethics, political science, psychology, and pedagogy. These disciplines serve to reveal and prevent the causes and nature of criminal behavior in people.

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