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CRIMINAL LAW AND DEVELOPMENT

As the Secretary-General of the UN, Ban Ki-moon, says: «Justice and the rule of law are also fundamental for development. The rule of law promotes inclusive economic growth and builds accountable institutions that underpin sustainable development. The rule of law helps make basic services -- such as education, health and sanitation -- available for all. The rule of law empowers citizens to address underlying causes of inequality and exclusion» [Ban Ki-moon/ - Secretary-General's keynote address on The Rule of Law, Peace and Security, Human Rights and Development [Electronic resource]. – Mode of access: <http://www.un.org/sg/dsg/statements/index.asp?nid=496>].

These words became a slogan of the XIII-th UN Crime Congress which adopts Doha Declaration 2015 on integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation reiterating the importance of promoting peaceful, corruption-free and inclusive societies for sustainable development, with a focus on a people-centred approach that provides access to justice for all and builds effective, accountable and inclusive institutions at all levels [UN DOC.V.15-02120 3 A/CONF.222/L.6 [Electronic resource]. – Mode of access: http://www.unodc.org/documents/congress//Documentation/ACONF222_L6_e_V1502120.pdf].

Participants said that the tenor of the discussion at the Congress revealed some uncertainty with regard to the status of the goals and targets related to criminal justice and the rule of law. This uncertainty derives from four intrinsic challenges associated with the rule of law: 1) the ambivalent definition and interpretation of this

broad concept; 2) the political sensitivity among Member States when it comes to justice and rule of law issues; 3) the increasing number of UN and non-UN agencies with a rule of law mandate and the associated coordination challenge; and 4) the lack of an implementation strategy for the rule of law within the overall development framework [Louise Bosetti The Post-2015 Development Agenda and its Rule of Law Dilemma: A Report from the 13th UN Crime Congress[Electronic resource]. – Mode of access: <http://cpr.unu.edu/the-post-2015-development-agenda-and-its-rule-of-law-dilemma-a-report-from-the-13th-un-crime-congress.html>].

The same should be said on Criminal law and Development issues at all levels of social interaction. Modern Criminal law has traditionally implemented in such areas as: fundamental theory of Criminal law, which describes the crime and punishment phenomenon doctrinally; Criminal law in practice and dynamics (sources related standards at the international, supranational and national legal regulation).

Additive nature of Criminal law in practice, the formation of a Criminal prohibition involves not only constitutional rules and processes connectivity, but also categorical and regulatory dependence on a lot of different kinds of processes. Being partially closed homeostatic system; Criminal law seeks to regulate entropic nature and types of mass crimes and abuses of law manifestations committed in certain spatial-economic and political circumstances that depend on sustainable development process.

Global and regional, political, social and cultural imbalances and conflicts, communication stuffing affecting the Rule of Law, disorganize it and create a situation where essentially stable Criminal legal form has to be in a dissonance with developing public and social relations and processes. For this reason, in modern social democratic societies Criminal justice system reflects organizing and stimulating role of deviations control. In totalitarian and fundamentalist systems it performs a role of citizens' resistance suppression, neutralizing opponents' political activity. [Туляков В.О. Кримінальне право сьогодення: ренесанс моделі сталого розвитку / В.О.Туляков // Вісник Асоціації кримінального права України - 2015

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The concept is quite simple: criminal justice shows the transition from absolute forms of public-law relationships to post modern approach of nowadays with holistic system that essentially based on the landscape ideology of the concept of human rights primacy and diversified protection of basic human values. Some centuries ago the concept of personal vengeance in the Criminal law was changed to fare state coercion; today the concept of unfair state coercion is changing to a fair, appropriate to the needs and aspirations of the population, reflecting the natural and legal form of the distribution of species and forms of personal needs fair treatment. By the way in this situation «justice» is identified with the understanding of truth and justice, and this extends to the interpretation of the term erosion. Moreover it gives theoretical background to mass misuses and abuses of Criminal law reflecting political interests, peoples' attitudes, communicative and religion values.

“Color revolutions” misuses and ISIS terrorist abuse through Criminal law formation approach are of the same approach: Criminal Law and Development ensured crime trends prevention determined more by political interests and processes than by the true needs of society.

In this regard, modern Criminal law is a tool to enforce policy shift from obsolete forms of social relationships to the new legal framework of public government and society. It is more dynamic and flexible, on the one hand, it is in constant change and contributes to breaking the legal forms and outdated stereotypes and at the same time, less democratic, because based on settled ideologeme of «harm and danger». The doctrine of crime and punishment is complemented by a separate misconduct simulacrum, developing the idea of municipal Criminal law that blurs the field deviations, from one side. And transitional and Integrative Criminal law from other side.

Unity and sovereignty mode is changed to the legality of International Criminal law virtual relationships, where the production of certain types of Criminal offenses is given to international society's universal jurisdiction scheme. However

the last creates the possibility of non governmental transnational authorities and other supra-national actors influence on local legislative level by protection of their own interests.

Criminal law is a fundamental tool to protect human rights, the Constitution and democratic values in the country as a whole, ensuring fair and equal treatment of the distribution of state coercion. Otherwise, the diversification of Criminal law enforcement understanding in the schemes of civil society, unifying sustainable or global Development has a chance to be resulted in a situation when political union or party assumes the right to abuse opponents, forming armed groups, with a tolerance of local restrictions on the freedom of movement that, as a basis for the right to revolt during the revolution, undermining the idea of the legitimacy of power in the transitive development period. The Criminal Legislation world is far of Scandinavian model of the Criminal law sustainable development under which violation of rights, harm to the individual and society are equally valued in terms of social significance.

Criminal lawyers of nowadays while trying to conceptualize the essence of criminal justice in contemporary world argued whether the modern system of criminal justice is suitable to administer justice, i.e. not only appropriate to improve the protection of human rights, but also to promote justice and peace in general [Anne Kindt. International criminal justice: an unattainable goal or current reality? / Kindt Anne – The University of British Columbia, 2005. – [Electronic resource]. – Mode of access: https://circle.ubc.ca/bitstream/handle/2429/16539/ubc_2005-0235.pdf?sequence=1].

Merchandising criminal practices, hate crimes, corruption and organized criminal activity actually have no borders and limits. Marginalization of immigrants does not contradict the widespread misuse of law on international and national level but lead to criminal behaviors worldwide.

Deviance and misuse of law became the features of modern way of life, of society's existence. The same we could say to crime phenomena.

Development of public law worldwide is substantially stipulated be lingering state of global economic crisis. Legal system of Ukraine is not an excluding from this

general rule, taking in account existing risks for budgetary sphere created by shadow economy, corruption etc. All of manifestations, created by global economic crisis, to certain extents, produce reflections at the scopes of legal systems. It engraves existing global challenges, stipulated by transnational organized crime, ethno-national and religious terrorism and others.

The problems of global development influencing Criminal law doctrine are connected with instability factors in the rapidly growing multipolarity world.

This concerns not only the global economic imbalances, the criminal impact of which hasn't been studied enough.

It is known that the changes in social, political and cultural ties and processes lead not only to positive results but also to the rise of poverty and social oppression, marginalization, i.e. processes of a high criminal menace.

Along with that, the diversification of ties and economic possibilities opens a way for the growth of criminal practices, the formation of new potentials for the development of organized criminal activity.

Though a year ago we used to pay attention to the problems of illicit traffic in narcotic drugs, weapons, trade in human beings, nowadays attention is attracted to the world market of adulterate medicines created by organized crime, pirate trade of manufactured goods and foods, stocks issue, brokerage, dealer and management market abuses .

The criminal practices that have been shaped in the mentioned spheres have obvious signs of the organized ones.

At the same time, regionalization of crime is an important tendency, as the changing social and demographic conditions in the world and the growth of national middle class, regional authorities and interests lead to minimization of the system of multinational global government and its influence on the regional economies. It may lead to the weakening of legal regulators on international, supranational and supernational levels, and, as a result, to replacement of these positions by criminally oriented structures in the spheres of public health (trade in adulterate medicines), financial services (fake financial brokerage, fraudulent financial practices), energy sector (cartel deals).

Such a changeable business landscape will naturally cause successive growth of corruption in state structures.

Globalization has provided the environment for a growing internationalization of criminal activities.

Multinational criminal syndicates have significantly broadened the range of their operations from drug and arms trafficking to money laundering. Typically, strengthening the capacity of governments to reform legislation and criminal justice systems; establishing institutions and mechanisms for the detection, investigation, prosecution and adjudication of various types of crimes; upgrading the skills of criminal justice personnel are the basic elements in modern criminal policy worldwide.

As a result, the expansion of the limits of formalization of criminal prohibitions in the practice of the ECHR requires the gradual development in the sphere of subsequent formalization of characteristics of privacy protection level, strengthening legal guarantees of rights and freedoms of citizens.

The resolution of the issue: harmonization of national legislation, the development of universal mechanisms of control over new kinds of criminal practices, unification of sanctions and the system of criminal legal response in the system of interstate formations on ordinary crimes and crimes with higher expectancy of being organized will have to be done due to sustainable development model.

For this reason, future Criminal laws should be deprived of politicking opportunities. It is obvious that the effectiveness of the law is not only connected with the consistency of its fundamental human rights and freedoms aim to protect, but also with legist formal definition of norms and principles reeducated and approximated on international supranational, national, group and individual levels of Criminal law understanding. Today, however, the need to create and design a new model of Criminal legal relations in the holistic triad of «offender-victim-state» based on the basis of public-law changes and the primacy of human rights, is necessary to recognize.