

The Hegel's Philosophy and Criminality as phenomenon of essence

Annotation: The modern Criminology summates crimes, committed within a territory over a certain period of time as a result of which it gets a new phenomenon. The study of such a phenomenon, within a territory and over a certain period of time, possesses an operational value for certain authorities, but at the same is far from scientific study of criminality.

In this essay it is discussed the Hegel's conception of noumenon (thing) in the context of criminality.

Key words: Hegel, philosophy, thing, criminality, criminology, problem.

1. Hegel's conception of noumenon (thing) that ostensibly is also criminality.

The great German scientist and philosopher G.W.F Hegel writes: “the essence has to manifest (itself) (Das Wesen muß erscheinen). The existence is an absolute abstraction; this negativity is not something external to existence, but just the act of existence and nothing else, than existing as this absolute abstraction. Because of such negativity, the existence is just the existence, which abnegates itself and the essence. But, inversely, the essence, which is just a simple equality with itself, is also an existence. The first provision of the doctrine of existence is as follows: the existence is essence and its second provision - “essence is existence” - forms the basis of the first part of the doctrine of existence. But this existence, which forms essence, is essential existence, that is to say, it is being, departing (Herausgegangensein) from the negativity and inner self”¹

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¹ Hegel. The Science of Logics. - St. Petersburg, 2002. – page 435.

According to Hegel, at the level of existence everything is concrete (certain), while at the level of essence – relative or probabilistic. This is an important aspect! Contrary to Hegel, in this essay we study not the phenomenon of essence in general, but a certain phenomenon – criminality, where crime is the absolute abstraction. Consequently, crime, as one of the fundamental notions of legal science, in fact is a completely abstract phenomenon².

Hegel says further: “This” (das Diese) (we are of the opinion that criminality, as a collection of different crimes, which are the external certainty of criminality – A.L.), therefore, constitutes the certainty of the thing, in the sense that this certainty is at the same time external certainty. The thing (criminality – A.L.) consists of self-contained matters (i.e. crimes – A.L.), which are independent of their correlations within the thing. This is why this correlation is just an inessential combination of these matters, and just an impotent “this”. This is why being within the thing in some correlation between themselves (different crimes), they don’t abnegate themselves; as independent matters, they are impenetrable each for other, correlate only with themselves and form mutually indifferent variety of stability; they only are able to form some quantitative limit. A thing as *this* thing (i.e. criminality – A.L) is just a pure quantitative correlation(of different crimes – A.L.) and also is a simple muster of these. The thing, which *consists of* this or another certain quantity of a matter (i.e. of different crimes or certain kinds of crimes – A.L.), also consists of certain quantity of an another matter, of “others”; the thing is equal only to this relation, which in itself is the absence of any relation.”³

Understanding the criminality as a thing is a subtle concept. For Hegel, everything is a “thing”, likely, human beings too.⁴ The criminality as a thing, consists of different crimes or groups of crimes, which have only some quantitative relation between themselves, and which is just a muster of these crimes or groups of crimes.

In an equivalent manner, we also may say that in the criminality, which is an assembly of different crimes, there isn’t any relation within different crimes.

At this level of knowledge, we may define only external or abstract conception of criminality. Unfortunately, the today’s legal science didn’t succeed up to now to educe internal or informal certainty of criminality.

² Leps. A. The crisis of Legal Science, particularly, of Criminology. // Criminology: yesterday, today, tomorrow. – The Journal of the International Criminological Club of St. Petersburg, № 1 (20), 2011. St. Petersburg, 2011. – page 34.

³ Hegel. The Science o Logics. – page 448

⁴ Leps A. “Cc.,” Article – page 30

“*This* thing (criminality – A.L.), considered” – notices Hegel – “as it was defined in the form of purely quantitative relation between independent matters (crimes – A.L.), is absolutely changeable. Its change lie in the fact that one or several matters (crimes – A.L) segregates from this assembly of matters or attach themselves to this “same” or in the fact that the quantitative correlation between these matters change. The formation and transition of *this* thing is external dissipation (as a reflection of certain relation between different crimes. – A.L) of such external link or relatedness of the one, for which it doesn’t matter to be or not to be related. Matters (i.e. crimes – A.L.), being not withheld by anything, leave *this* thing or enter into it; the thing itself is an absolute porosity in this context (according to our reckoning, it is necessary to bear in mind, that the notion of porosity or the porosity of materia means the illegality of different kinds of crimes) – without proper measure or form”⁵

That the criminality doesn’t have its own proper measure and form , is a very important fact.

2. The clarification of the previous external notion of the criminality by Hegel.

In the Nota Bene [The porosity of matter] Hegel writes that “one of the most usual definitions (of the matter), given by notion, is that the *thing consists of many independent matters* (i.e. the criminality consists of many independent (self-contained) crimes. – A.L). On one hand, the thing is considered as having its own properties (i.e. crimes. – A.L), the stable existence of which is the *thing* itself. But on the other hand, these different definitions are understood as matters (i.e. crimes. – A.L.), the stability of which is not a thing, but inversely, the *thing* consists of (besteht) these matters; the thing in itself is just the external combination of these properties and their quantitative limits. Both properties and matters are one and the same definitions of the content, and the only difference between them is that they are moments, reflected into abnegative unity as into a basis which differ from them – into thingishness, but here they are independent and different (matters) each of which is reflected in the unity with itself. Further, these matters (crimes – A.L.) determine themselves as independent stability; but they also are contained together in a single thing (in criminality. – A.L.). This thing has two definitions: firstly, it is “this” and secondly, it is the “same” (Auch). The “same” is what acts as a *spatial extension*, while “this” – abnegative unity – is the pointlikeness of the matter. Matters are contained in this pointlike form and their “same” or extension is this pointlikeness

⁵ Ibidem, see p.448-449

everywhere, since the “same” as thingishness in its essence is in an equivalent manner defined as abnegative unity. Therefore, where there is one such matter, there, *at that same point* is also another matter; it is incorrect to state that a matter has its color on one of its parts, the odor in another part, while it has its temperature in an entirely different part of its own and etc. (this statement of Hegel means, that it is incorrect to say, for example, that the criminality consists of only thievery in one place, homicide in other and fraud in another place and etc. – A.L.); the thing is that the matter has heat, color, sourness, electricity and etc. at one and the same part of its own. On the other hand, since these matters aren’t located not outside of each other but within the one and the “same”, then they are taken for *porous* in such a way that one matter exists within the interstices of the other. But the matter, which lies within the interstices, is itself porous; therefore, inversely, in its interstices there is another matter, yet not this matter only, but third, tenth and etc. Every matter is porous and there are other matters in its void spaces, as well as that matter itself, together with other matters, is located within the void spaces of other matters. Therefore, they form some kind of set, penetrating into each other in such a way that the matter which is penetrating, is being penetrated by others. Every matter in itself has its abnegation and this abnegation guarantees the stability of other matter, but at the same time, this stability itself constitutes the abnegation of another matter and guarantees the stability of the first matter.”⁶

This rather lengthy and difficult philosophical text of Hegel reflexes the complexity of the considered problem, which scientists – criminologists usually don’t consider or don’t want to consider. We have placed this text into our article for making the reader to reveal for himself how it would be possible to study this very important and complex problem, which is connected with the problematics of criminality as of a phenomenon of essence.

However, further Hegel gives himself a more convenient explanation of above-mentioned text. As it is well known, it was a common practice to repeat one and the same text with minor changes. But, as the phrase goes, repetition is the mother of skill!

“On closer examination it becomes clear” – as points out Hegel – “that the whole (i.e. criminality. – A.L.) is the reflected unity, which in and of itself exists independently and stable; but this stable existence is at the same time is in the same way being pushed off from that unity; as an abnegating unity, the whole is in the

⁶Ibidem, pages 450-451

negative relation with itself; and as such, it becomes external to itself; it has its own *stable existence* in its antithesis, diversified immediacy and in its parts (i.e. different crimes. – A.L.) Therefore, *the whole consists of (besteht) of parts*, so without its parts it is nothing. Consequently, the whole is an interrelation and self-sustained totality; but exactly for this reason it is something relative, as what forms its totality, is some *other* thing - its parts and the stable existence of the whole occurs through its *other* – its parts. The parts (different crimes – A.L) also form relationship. They are immediate independence as contrasted to reflected one and don't reside in the whole, but in and of themselves. Further, they have in themselves this whole as their own moment; the whole forms their correlation; there aren't parts without the whole. But, as the parts in their essence are independent, this correlation is an external moment, to which they are indifferent in themselves and for themselves. However, at the same time, the parts, reflecting the diversified existence, coincide with each other, as this diversified existence is the existence without reflection; they are independent only within the reflected unity, which is both unity and diversified existence; this means that they are independent, only if they are within the *whole*, which in its turn is an "other" for the independent parts. Therefore, the whole (criminality. – A.L.) and its parts (different crimes. – A.L.) *conditionate* each other As every aspect of relations between the parts don't have independence by themselves, but through other aspects, there is present only the identity of the both, when the whole and its parts are just moments; and as each of them is independent in itself, they are two indifferent existences. From the first point of view – from the point of view of essential identity of these aspects – *the whole is equal to its parts and the parts are equal to the whole*. There is nothing in the whole, which is not present in the parts and there is nothing in parts, which is not present in the whole. The whole is not an abstract unity, but the unity of differently expressed diversification; but the way (the moments) are interrelated in a diversified manner between each other, this unity is the certainty of this diversification, thanks to which it is a part. Therefore, a relation has one impartible identity and just one independence aspect. But, besides, the whole is equal to parts; however, the whole is reflected unity, while the parts form a certain moment or *otherness* of the whole and are in their essence different forms of diversification. The whole (criminality. – A.L.) is equal to parts not as it is equal to a certain form of this independent difference, but to all forms of different diversifications . This "all" however, is nothing else but the whole, unity in itself. Therefore, the whole (criminality. – A.L), through its parts (different crimes – A.L.), may be equal only to itself and the equality of the whole and the parts is just a tautology: the whole as a whole, is equal not to its parts, but to itself. And conversely, the parts are equal to the

whole; but as they are the moments of otherness in themselves, they are equal to the whole as not to the unity, but so that *one* of the diversified definitions of the whole accounts for one of the parts, in other words, they are equal to the whole as to the diversified whole, which means that they are equal to the whole as to the *whole, which is divided, i.e. as to parts*. It follows, that this statement also is a tautology: parts are not equal to the whole as such, but to themselves within that whole, to *parts*. The whole and the parts, therefore, are segregated from each other (fallen auseinander); each of these aspects is associated only with itself. But being retained this way outside of each other, they absolve themselves. The whole (criminality. – A.L.), which is indifferent to the parts (to different crimes. – A.L.), is an *abstract*, not distinguished within itself *identity*; such an identity is the whole only by way of *being distinguished within itself* and moreover, distinguished in such a way that these diversified definitions are reflected into themselves and are immediately independent and the identity of the reflection expresses itself through its own movement in the quality of such an identity, which possesses the truth of such *reflection into its other*. In a similar manner, the parts, which are indifferent to the unity of the whole, are just not associated diversification, the *other within itself*, which as such is the other of itself and which abnegates itself. This association with itself of both the whole and parts is their independence; but this independence, which both the whole and parts possess separately, is rather the negation of self. Therefore, the whole and parts are independent not in themselves, but through each other; this other side, which forms the stability, is the presumed immediacy that has to be first and form the beginning of every side; but this first of every side itself in is something, which is not the first, but has its origin in some other”⁷

The only conclusion that may be drawn from the abovementioned is that while in the criminological literature the definition of the criminality may appear a rather simple task, in fact this is a rather complex problem, which in its own turn shows, that there aren't simple problems in the science, including the science of criminology.

It is imperative to say in this context, that “the crime (and criminality) exists objectively before, out of and independently from whatsoever assessment was made by the legislator...” writes L. I. Spiridonov “ and the legislator just has to discover and to formulate it in the form of a juridical law.”⁸

⁷ Ibidem, pages 468 – 470

⁸ Spiridonov L.I. The Sociology of Penal Law. – Moscow, 1986. – page 103

3. Brief summary

“The relation between the whole (criminality. - A.L) and parts (different crimes. – A.L.) is not true as long as its notion and reality don't conform with each other.”⁹ And he continues: “... this relation is a dead, mechanical aggregate, which though has a definition of the form (i.e. of the criminality – A.L.), thanks to which the diversification of its independent matter (i.e. different crimes. – A.L.) is associated (with itself) in a unity, but this unity remains external to the diversification.”¹⁰ The great researcher of the philosophy of Hegel, the German scholar Kuno Fisher writes following in this respect: “The whole (criminality. – A.L.) is independent, while the parts (different crimes – A.L.) are just the moments of this unity; however, they also have independence quite as much, and their reflective unity is just a moment.”¹¹

The modern Criminology summates crimes, committed within a territory over a certain period of time as a result of which it gets an entirely new phenomenon – criminality as a phenomenon of essence, which is considered dynamically, its structure is being studied, the criminality data is compared with the population size and etc. Of course, such inquiry and information possesses an operational value for certain authorities. But there are frequent attempts to give to such inquiry and information some scientific value, though they are far out from the science. On such “scientific” basis there is being written infinite number of “special” reports and books.¹²

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⁹ Hegel. The Encyclopedia of Philosophic Sciences. First Part. Logic. – Moscow – Leningrad, 1930. page 227

¹⁰ Hegel. The Science of Logic. page 472.

¹¹ Fisher K. Hegel, his life, writings and teaching. – Moscow – Leningrad, 1933. – page 390

¹² Leps. A. The crisis of Legal Science, particularly, of Criminology (a scientific view of the possibility of investigating the criminality) // The Journal of Russian Criminological Opinion, № 3, 2010, Krasnodar – page 234

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