

REAL CRIME AND SOCIAL ONTOLOGY

Assoc. Prof. George-Mircea BOTESCU, PhD

University of Bucharest, Romania

george.botescu@gmail.com

ABSTRACT: Real Crime and Social Ontology.

Comprehensive Criminology, developed by George C. Basiliade (*Comprehensive Criminology*, Expert Publishing, 2006, 903 pages, awarded the Romanian Academy Prize in 2006), is not only an encyclopedic treatise, unique in Romanian specialized literature, but also an original concept in the epistemology and ontology of crime, setting itself apart in both European and global criminological research. Unfortunately, this work remains insufficiently known and inadequately integrated into the academic value circuit. This analytical endeavor reveals the Romanian researcher's ontological vision of real crime. Basiliade's analysis of real crime (Chapter 2, "Real Crime, Investigated or Pending Trial Crime and Sanctioned Crime", pp. 462-476) through the multifocal lens of comprehensive criminology, presents a complex vision with social ontological virtues, anticipating significant transformations in researching crime in postmodernity dealing with the axiology and ethics of human rights¹, devoted to human dignity.²

1 Ioan-Gheorghe Rotaru, "A look at how the concept of human rights has evolved over time", in *Journal For Freedom of Conscience (Jurnalul Libertății de Conștiință)*, vol 11, nr.2 (2023), pp. 825-874; See also: Ioan-Gheorghe Rotaru, "The Transylvanian Diet: A Precedent to Human Rights and Religious Freedom - 400 Years Prior to the Universal Declaration of Human Rights", in *Shaping a World of Freedoms: 75 Years of Legacy and Impact of the Universal Declaration of Human Rights*, Nelu Burcea and Liberato C. Bautista (eds.), New York, United Nations Plaza, UNEQUAL World Research Center, 2023, pp. 205-221.

2 Ioan-Gheorghe Rotaru, "Plea for Human Dignity", *Scientia Moralitas. Human Dignity - A Contemporary Perspectives*, The Scientia Moralitas Research Institute, Beltsville, MD, United States of America, 2016, 1, pp. 29-43; See also: Ioan-Gheorghe Rotaru, *Om-Demnitățe-Libertate (Man-Dignity-Freedom)*, Cluj-Napoca, Editura Risoprint, 2019, pp. 201-215; Ioan-Gheorghe Rotaru, "Libertatea religioasă – temelie a demnității umane" ("Religious freedom - foundation of human dignity"), in Daniela Ioana Bordeianu, Erika Androne, Nelu Burcea, *Manual pentru liderul Departamentului de Libertate religioasă*, Casa de editură "Viața și Sănătate", București, 2013, pp. 210-215.

Keywords: *social ontology, crime, real crime, unreported and undiscovered crime, recorded crime (under investigation or trial), sanctioned crime (convicted), crime volume, dark figure of crime, white figure of crime, social cohesion, moral and legal values, human rights, human dignity.*

Introduction

George C. Basiliade begins his comprehensive and ontological analysis of “real criminality” by emphasizing “Sanctioned criminality, as well as criminal prosecution or trial, are necessary but not sufficient benchmarks for evaluating the existing state of legality in society, i.e. order public derived from the observance of legal rules by the vast majority of the population”. This axiomatic assertion creates the opportunity for an original interpretation of the concept of anomie, elaborated by the French sociologist Emile Durkheim, and in general on the theories regarding the etiology of crime that is claimed, from the paradigm of anomie.

Anomy - an ontological interpretation

Basiliade believes that “there is no form of social organization without a minimum of moral or legal rules. They form the basis of the common consciousness, present in any society. “The term used by E. Durkheim to denote the dissolution and renewal of norms has no counterpart in real life, because any form of social organization presupposes a set of rules”. absoluteness of any rule is a construction stuck to meaning” and can represent “in an extensive interpretation of the concept” only the interval of uncertainty “created by the conflict of contradictory norms and not a normative vacuum. “When the French sociologist analyzes anomic suicide, with the meaning of an individual act of self-suppression, “he always finds a societal determination, which involves sets of rules of collective behavior internalized by each individual as guidelines for conduct.” Anomic suicide has as an explanation “the changes radical social conditions, material and spiritual, which “dissolve the normative support of the common consciousness and replace it with another normative system of relating the individual to the value system in which he lives”. Basiliade operates, in the context, a clarifying semantic dissociation, emphasizing that in the more recent sociological

literature “anomie is a reflex of negative social perception and selective attitudes, of rejection, underestimation or indifference towards legal norms, as rules that ensure public order”. On the other hand, “the state of anomie “(as described by R.K. Merton) constitutes an “objective social situation, encountered episodically or permanently, in any type of society marked by the discrepancy between the goals established as general values and the legitimate, existing means to achieve them”.

According to Basiliade’s point of view “Anomia is not only the expression of collective, negative representations about the normative system as a tool for regulating social relations, but also of the way the different categories of the population relate to the goal-values and means-values, which make up the axiological background of a society.” As a result, “anomy reflects the way in which people perceive the authority that legitimizes the exercise of power and establishes the norms and values of a society.” In this sequence of argumentation, Basiliade introduces an original finding that can scandalize the representatives of criminology and sociology classics “anomie seems to us an irrelevant concept for the analysis of crime as a social phenomenon”. The lack of relevance would result, in the opinion of the Romanian criminologist, “from the fact that it is the expression of a subjective perception of the normative framework in which the adaptation and integration of the individual in society takes place”. In other words “the absence of rules is induced by personal experiences and individual experiences in relation to the lack of chances of social success in the conditions offered by society. This feeling of anomie can be reflected in different forms of deviance “becoming an element in the comprehensive interpretation of criminal behavior individual but not of crime as an objective social phenomenon”. Basiliade believes that it can be analyzed “as a pathognomonic symptom of social reality and not as a determining factor of such a complex phenomenon as crime”. Next, the Romanian criminologist, notes with the same accents of innovative originality “State of anomie”, considered a structural and functional characteristic of a society, “concentrates in an inappropriate phrase two distinct states, namely a state of paranoia, resulting from coexistence, at the level of global society of contradictory values and norms that lead to confusion and conflicts and a state of dysnomy, determined either by the aberrant proliferation of norms that do not correspond to social reality, or by the arbitrary and incoherent application of existing rules”. These states taken separately or associated, influence and distort the

functions of socialization factors and social control courts as subsystems of the societal system. Their existence creates the impression of the absence of norms, i.e. certain benchmarks in the organization and functioning of social structures and activities.

According to Basiliade's opinion, the totality of the mentioned circumstances diminishes the ability of the police to record real crime, that is, "the totality of crimes and criminals of a certain period and of a certain place".

The Romanian researcher indicates that there was a suggestion that from the crimes that make up the hidden crime, the facts least likely to be reported to the police should be deduced. Adopting such a solution would require sociological or criminological surveys on representative samples, stratified according to several analysis criteria (age, profession, residential environment, religious beliefs, cultural cohesion, etc.), in order to establish how the population perceives seriousness crimes, which must be reported to law enforcement bodies. These suggestions are labeled by Basiliade as interesting but unsatisfying because they cannot eliminate the black figure from actual crime. The accuracy of such estimates is questionable, and this fact may lead to the conclusion that police statistics are largely useless or misleading. At best, they show that for some crimes, hidden criminality is easier to assess than for other crimes. All these assumptions were considered to be a truth value of circumstantial hypotheses and not of known and accurately interpreted realities. They can only constitute a starting point for studies regarding the black figure. Another objection to the black figure concerns the accuracy of the methods and techniques used for this purpose.

Having reached this level of analysis, George Basiliade formulates a dramatic conclusion: "An exhaustive approach to real crime was also an approach doomed to failure. Moreover, such an attempt is not necessary. Why do we need to know real crime in its entirety? What is the use of such knowledge which will always remain approximate and therefore uncertain."

To substantiate this epistemological questioning, Basiliade undertakes an extensive analysis in the history of scientific knowledge: "In the 19th century, the need for knowledge of social phenomena was motivated by the requirements of organizing a type of society based on the quantitative evaluation of human activities, according to the utilitarian criteria of a differentiated distribution of results. "This type of knowledge, the au-

thor suggestively calls it “a positivism *avant la lettre*”. He believes that the multidimensional description of social phenomena and facts was pursued: “Dimension was not only conceived as a size that reflected certain quantitative characteristics, but also as an indicator of some intrinsic qualities of the field or object studied and of its component parts.” Basiliade concludes that “it is the epistemological basis of inductive logic”, which established empirical research in the knowledge of the world. According to this vision, transposed into the social sciences, it was sought, among other things, “to include the global criminal phenomenon, i.e. real crime, as a state consisting of the crime ascertained, prosecuted, investigated or under trial, the crime punished (sanctioned) and existing but unknown and approximated crime”. For this reason, the entire criminal phenomenon or real crime includes a margin of uncertainty, which makes any statement regarding the dimensions of legality, as the reverse of criminality and the violation of laws, in general, “respectively as a criterion of the population’s compliance with the legal norms of -a given society” to have a fictitious character. At this point of the argumentative approach, Basiliade formulates a paradox: “Any attempt to accurately measure real crime leads to the construction of a reality made up of certain figures and assumed or fictitious figures, with which one operates, as if their summation had an exact character. In this context, research related to the black figure has limited utility, except for those that propose new methodologies to highlight the phenomenon.”

Returning to the central problems of real crime, Basiliade reveals the role of the selective mechanisms with which law enforcement agencies operate in recording the facts found and in holding the perpetrators accountable. In this sense, Basiliade designs an integrative matrix in which it captures the factors that condition the mentioned selection: 1) the type and seriousness of the deed complained of and ascertained; some small crimes, which do not present a certain degree of social danger and whose author is unknown, are not registered as crimes, remaining for a certain period only in an official record of law enforcement agencies; 2) the social position of the person: the situations are different, depending on the relationships between the person in question and the bodies exercising power, or the criteria for the perception of social prestige, according to the following typology: a) in the case of the victim of the crime, the more the social status of the is more important to the person, the more operative is the intervention of the judicial bodies to solve the

case and bring the perpetrator of the criminal act to criminal responsibility (this is mainly the case of crimes that do not present a particular gravity); b) in the case of the author or participant in the commission of a criminal act, the existence of a system of relationships and interests and the circumstantial apprehension or prudence of judicial bodies can influence not only the qualification of the act, but also the establishment of the guilt of the person in question; c) in the case of persons who, for various extralegal reasons, are charged and convicted for acts not committed, or lacking the constitutive elements of the crime, for which they were subjected to criminal intervention; d) in the case of disadvantaged people, from an economic and social point of view, or who have a criminal history and become, in the absence of a thoroughly proven guilt, the “scapegoats” of a selective and unfair criminal reaction, based on a certain official stereotype about the criminal . 3) The saturation threshold of criminal justice, starting with the overloading of the investigative bodies and ending with that of the courts (such a situation is manifested by the classification of less important cases; 4) the material inability to include, in the phase of ascertaining the facts criminal and identification of the perpetrators of all violations of the criminal law (it is an objective inability of a financial and administrative nature, generated by the lack or unequal distribution of technical or monetary means and specialized personnel).

Basiliade comments on this matrix in the sense that “All these selection mechanisms lead to the distortion of the image of real crime, by diminishing or arbitrarily qualifying some prohibited acts or by selectively applying criminal norms”. The Romanian criminologist emphasizes that “Such conditions do not constitute a rule in the activity of judicial bodies everywhere, but a characteristic of an arbitrary or insufficiently developed criminal justice in states where the interference of executive powers or political factors in the activity of the judiciary and the dependence of justice on the mechanisms of administrative decision represents the main means of exercising power. Basiliade exemplifies “This is the case of totalitarian regimes and periods when the will to power replaces the principle of equality of all citizens before the law.” In our opinion, it is also a case of serious dysfunctions, which mark the mechanisms of some law enforcement agencies in Romania, in the context of structural deficiencies of the rule of law.

Conclusions

If by way of constitution real crime represents an uncertain modality at the level of global society, it can still be circumscribed and evaluated much more precisely in the case of some local communities, concentrated in certain areas and made up of a relatively low number of members, whose relationships it is based on direct communication and intra-community social control, which supplements or complements the activity of specialized institutions. From a sociological point of view, the author captures the characteristic of social ontology, according to which "Some communities are attached to their own normative system, and in situations when this is different, or even opposite to the legal one, then we find ourselves in the presence of some subcultures, which can be characterized, depending on the values of the group and the behavioral dominants of the individuals". It is concluded that, in the case of a criminal subculture, real crime is difficult to assess, because, "The respective communities are hostile to any official interference, which could result in significant and accurate information regarding the number of criminal acts and the people who committed them". It should be noted that real crime is easier to assess in the case of structures organized on the basis of a professional or religious criterion.

The obvious nature of the rules and the intransigence towards deviations constitute conditions that facilitate the disclosure or obtaining by other means of information close to the real situation. At this point, Basiliade introduces a symptomatic amendment for the situation in Romania, during the transition and post-transition period. "The same cannot be said about communities united on the basis of political criteria, where the fundamental goal is the conquest or exercise of power and the achievement of group interests, which do not exclude the use of means sanctioned by criminal law."

Bibliography

- ADLER, Freda; Gerhardt O.V. Mueller; William S. Laufer, *Criminology*, (second edition), McGraw-Hill, 1994.
- BASILIADE, George & colab., "Ancheta socială în sistemul probațiunii judiciare", *Consfătuire Națională de Medicină Legală*, 1964.
- BASILIADE, George & colab., *Corelațiile dintre laturile subiective și obiective ale infracțiunii și nivelul mental la un grup de delincvenți minori*, Uniunea Societăților Științelor Medicale, Secția de Medicină Legală, 26 ianuarie, 1966.

- BASILIADE, George, «De la sanction repressive a la sanction rehabilitante», (Comunicare) *Al IX-lea Congres mondial de Filozofie Socială și de Filozofia Dreptului*, Basel, 1979.
- BASILIADE, George, «Examenul personalității infractorului minor și problema orientării profesionale», *Revista de Pedagogie*, nr.11/1966.
- BASILIADE, George, *Cauze ale fenomenului infracțional în rândul tineretului. Sinteza cercetărilor efectuate în perioada 1969-1971*, Centrul de Cercetări pentru Problemele Tineretului.
- BASILIADE, George, *Criminologie Comprehensive*, Capitolul 2 “Criminalitatea reala, criminalitatea urmărită sau în curs de judecată și criminalitatea sancționată”, pp. 462-476, Editura Expert, 2006.
- BASILIADE, George, *Unele probleme ale cercetării criminologice a delincvenților minori*, Uniunea Societăților de Științe Medicale, Secția de Medicină Legală, 1964.
- BOTESCU, George-Mircea, “Supravegherea - dimensiune a controlului social în postmodernitate. Virtuți și riscuri pentru libertatea și demnitatea umană”, *Jurnalul Libertatii de Conștiință*, Vol.7, nr.1, 2019, Editions IARSIC.
- BOTESCU, George-Mircea, “Comprehensive criminology - a teleological and hermeneutical perspective on criminal behaviours”, *Jurnalul Libertatii de Conștiință*, vol. 9, nr. 2, 2021, Editions IARSIC.
- BOTESCU, George-Mircea, “Comprehensive criminology. A reflective and Christian approach to the rationalist paradigm of free will”, *Jurnalul Libertatii de Conștiință*, vol. 10, nr. 1, 2022, Editions IARSIC.
- BOTESCU, George-Mircea, “Comprehensive Criminology: A Heuristic Perspective on Participation and Plurality in Group and Organized Crime”, *Jurnalul Libertatii de Conștiință*, 2023, vol. 11, nr.1, pp.125-144.
- BOTESCU, George-Mircea, “Criminologia integrativă și dimensiunea noologică (Integrative Criminology and the Noological Dimension)”, *Jurnalul Libertatii de Conștiință*, vol. 8, nr. 1, 2020, Editions IARSIC.
- BUZARNESCU, Ștefan, *Doctrine sociologice comparate*, Timișoara, Editura de Vest, 2008.
- CIOCLEI, Valerian, *Manual de Criminologie*, București, Editura ALL BECK, 1998.
- D.ANZIEU, J.Y.Martin, *La dynamique des groupes restreints*, 3-eme edition, Paris, Presses Universitaires de France, 1976.

- DAIGLE, Leah E., *Victimology. A text reader*, Sage, 2012.
- ELSTER, Jon, *Comportamentul social. Fundamentele explicației în științele sociale*, București, Editura ALL, 2013.
- GIDDENS, Anthony, *Sociology*, 8th Edition, Polity Press, 2017.
- LECLERC, M., *Avant-propos. La criminalite organisee*, La Documentation Francaise, Paris, 1996.
- MARTIN, Innes, *Understanding social control. Deviance, crime and social order*, Open University Press, 2003.
- MONET, J.C., *Introduction. La criminalite organisee*, La Documentation Francaise, Paris, 1996.
- ROBERT, Ph., *Les bandes d'adolescents*, Paris, Les Editions Ouvrieres, 1966.
- ROTARU, Ioan-Gheorghe, "Plea for Human Dignity", *Scientia Moralitas. Human Dignity - A Contemporary Perspectives*, The Scientia Moralitas Research Institute, Beltsville, MD, United States of America, 2016, 1, pp. 29-43.
- ROTARU, Ioan-Gheorghe, "A look at how the concept of human rights has evolved over time", in *Journal For Freedom of Conscience (Jurnalul Libertății de Conștiință)*, vol. 11, nr. 2 (2023), pp. 825-874.
- ROTARU, Ioan-Gheorghe, "The Transylvanian Diet: A Precedent to Human Rights and Religious Freedom - 400 Years Prior to the Universal Declaration of Human Rights", in *Shaping a World of Freedoms: 75 Years of Legacy and Impact of the Universal Declaration of Human Rights*, Nelu Burcea and Liberato C. Bautista (eds.), New York, United Nations Plaza, UNEQUAL World Research Center, 2023, pp. 205-221.
- ROTARU, Ioan-Gheorghe, "Libertatea religioasă – temelie a demnității umane" ("Religious freedom - foundation of human dignity"), in Daniela Ioana Bordeianu, Erika Androne, Nelu Burcea, *Manual pentru liderul Departamentului de Libertate religioasă*, București, Casa de editură "Viață și Sănătate", 2013, pp. 210-215.
- ROTARU, Ioan-Gheorghe, *Om-Demnitare-Libertate (Man-Dignity-Freedom)*, Cluj-Napoca, Editura Risoprint, 2019.
- SHORT, J.F. Jr., STRODTBECK, F.L., *Group Process and Gang Delinquency*, The University of Chicago Press, 1965.
- *The Sage Book of Criminological Theory*, Eugene McLaughlin and Tim Newburn (eds.), Sage Publications, 2010.