

## Basis of Comparative Criminology

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Human's cognitive activity, which is purposeful, has its own basis. Purpose of cognitive activity is justified by the presence of its goal – gathering of scientific facts, their constant updating, critical analysis and synthesis of the new scientific knowledge or its generalization. Criminology as a scientific study is a purposeful cognitive activity – aimed at retrieving knowledge about crime (nature, essence, regularities, and social manifestation) and its counteraction – also has its own basis. It is worth mentioning that during its development criminology, which is called to be an international science, hasn't actually become such. There are many objective and subjective reasons. It only managed to strengthen its positions on the national level of some countries, in which criminologists, realizing the necessity of getting out of “national criminological consciousness” boundaries, lay the stress on carrying out the international criminological comparison (Jan van Dijk) [1], which is a prerogative of comparative criminology.

Cognitive activity, which lies in the basis of the judgements about similarity or distinctiveness of crime and its counteraction in different countries, and by means of which quantitative and qualitative features of this negative phenomenon and the process of its counteraction are revealed, also has its own basis with its constituent elements.

### Methodological Principles of Comparative Criminology

The process of cognitive activity is predetermined by the presence of the following criteria, principles, and rules. Comparative criminological research requires following definite rules and principles. A researcher who carries out a comparative criminological study should know “WHAT” he/she compares, “WHEN” and “HOW”. In our opinion, these are “three basics”, on which the methodological principles of criminology should be formed. Furthermore, the development and implementation of the methods of comparative-criminological research are obligatory. Definition of the methodological issues of comparative criminology and suggestions of the ways of their solution and realization are also obligatory, as it is the only way in which the methodology and methods of comparative criminology can be improved.

In its system, methodological approaches and methods of comparative criminology and the process of their methodological issues revealing with their further solution, form the methodological basis of comparative criminology. Thus, one of the basic elements of comparative criminology is the system of approaches and methods of comparative criminological research, on the base of which the process of obtaining, updating, and distributing of the new knowledge about criminology – methodological basis of comparative criminology. If the evolution of comparative criminology is based on its own methodological principles, we can speak about the autonomy of comparative criminology, as in such a case, comparative criminology defines the tasks independently as well as the ways of their solution. Hereby, methodological principles of comparative criminology can be viewed as “technology” of obtaining, updating, and distributing the updated criminological knowledge.

### Ideals of Comparative Criminology

Comparative criminological cognition has its targets that are achieved via specific means. Comparative criminology possesses a cognitive **paradigm**, which “axiological” [2] conceptions realize its ideals – cognitive ideals – “plurality of the inner scientific values that are organizing, directing and assessing as the process of the research itself, so its results...” [3]. In our case – it's criminological knowledge. The above mentioned values are presented by such categories as “scientific truth”, “scientific evidence”, “scientific efficiency”, “criteria of scientific quality of knowledge”, “criteria of true scientific knowledge”, “scientific interpretation”, “scientific comprehension”, and “scientific theory”.

The absence of ideals causes the death of science, and their wrong determination results in its crisis. Elucidating the crisis of contemporary Ukrainian criminology, O.M. Kostenko in the article "Conception of Criminology Modernization in the Light of Social Naturalism (About Bases of "Naturalistic" Criminology)" asserts that "... the number of new ideas nowadays ... is not sufficient for Ukrainian criminology. That's why it cannot adequately meet the contemporary challenges. This, in particular, results in antiscientific practice of crime counteraction in Ukraine that is doomed to be ineffective". [4] O.M. Kostenko urges criminologists to adopt a new antipositivistic criminological doctrine for modernization of Ukrainian criminology – "naturalistic" criminological doctrine, based on the principle of social naturalism. V.O. Tulyakov in the article "Criminology of Contemporaneity", answering the question about the crisis of contemporary criminology, gives the following assertion: but for the 130 period of the development of the official criminology as a science, then "... we could tell that contemporary criminology is on the stage of its formation. Most of its concepts and principles don't have unique invariable theoretic interpretation and common comprehension as well as there is no single base in defining the subject of criminology as a science and naturally perspectives of its further development and research". The ways out V.O. Tulyakov sees in the formation of analysis model of systems' relations "legal conduct – abuse of right – crime" on the different levels of social interaction that "... will give an opportunity to answer the questions about fate and perspectives of contemporary criminology..." [5]. The position of the above mentioned Ukrainian criminologist meets the minds of the American scientists. Thus, Jeff Ferrell also writes about crisis of criminology, underlining that criminology is today crippled by its own methodology, and «... its potential for analysis and critique lost within a welter of survey forms, data sets, and statistical manipulations». [6] O.M. Kostenko made an attempt to diagnose "the disease" that attacked criminology – "positivism" – which he defines as "... a scientific ideology that consists in accepting semblance for reality". [7] V.V. Luneev is also convinced that most of the private theories of crime motives are based on "... positivism, pragmatism, empiricism, and eclecticism, grounding upon which makes it difficult to reveal the regularities of genesis of crime and build a single research-to-practice theory of crime motives". [8]

In our opinion, we should comply with the position of O.M. Kostenko and V.V. Luneev and admit that comparative criminology is also attacked by "positivism" nowadays. The studies, conducted in the sphere of comparative analysis of crime, in most cases result in comparison of statistics that characterizes national crime. Unfortunately, but criminological theories of crime motives are also confirmed or disproved with the help of numbers. [9] Such things as individuality of crime level in each country, which is tolerated by the population and disposition of the population to inform law enforcing and judicial bodies about crimes, which differently apply acts of law and display different effectiveness of their activity, are not always taken into consideration by researchers of comparative criminological studies. Therefore Thomas Feltes, Frank Hofmann, Helmut Janssen, Hans-Jürgen Kerner and Dieter Kettelhöhn questioned the productiveness of such attempts to conduct international comparative analysis of crime. [10]

We reckon that comparative criminology needs "resetting" with a simultaneous formation of new ideals. Such process is natural and the analysis of the scientific cognition history and its modern culture shows that the content of the ideals is historically unsteady and creates axiological basis of a specific historical type of science. By the way, such "resetting" is useful because the formation of new ideals updates the science qualitatively, becomes the catalyzer of new theories and means of observation and formation of empiric facts. Henry Heine wrote: "Each century, acquiring new ideas, obtains new eyes".

#### **Comparative Criminological Worldview**

Two lawyers are equal of three thoughts. Two and more criminologists - there is not a single thought. We should admit that there is no common position of criminologists concerning the definition of "crime" [11], which comprises one of the objects of the

international criminological comparison. For example, the same admits O.M. Boyko about economic crime, "... there is no common understanding of the essence of economic crime in contemporary criminology". [12] It is conditioned by numerousness of ways of this phenomenon's understanding and interpretation, its different state on the territories of various countries, different vulnerability level, spheres of its activity, and various practices of its counteraction.

Specific "geography" / "cartography" of views concerning the essence of crime and its counteraction are traced here. Just that very "cartographic" approach allowed O.M. Vedernikova to claim about the existence "... of the **criminological world map** simultaneously with the legal world map, which reflects peculiarities of crime condition in a specific country ("crime world map"), as well as basic theoretical and practical approaches to the issue of crime control in definite countries and regions ("criminal and political world map". However, the application of such a "cartographic" approach "... in comparative criminology is not an end in itself, but addresses the needs of regulation and systematization of the basic theoretical and practical approaches to crime counteraction in the world". [13]

In our opinion, proceeding from the aims of comparative criminology, comparison of the views on the essence of crime and its counteraction that exist in different countries, will give us an opportunity to reveal similar views, and then to systematize them according to the "similarity" criterion. There is also a possibility to reveal similarity in the methods of criminological comparisons, which are characterized by multiplicity (John C. Meyer Jr. [14], Janet P. Stamatel [15]).

Such system of common views and methods, as it seems to us, presents a complex system – the comparative-criminological worldview. In such a way, comparative-criminological worldview is an element of the scientific worldview that is a system of similar ways of understanding and interpretation of phenomena, which comprise the object of comparative-criminological research and processes of criminological comparison – conception of comparative criminology. Existence of this system indicates the evolution of the comparative-criminological world system.

### **Sociocultural Principles of Comparative Criminology**

Science is an integral part of society's culture. Comparative criminology should also be considered as an integral part of society's culture. Taking it into consideration, we may assert that the level of comparative criminology in the society depends on the level of its culture – level of its development. Thus, the state of comparative criminology development can characterize the state of society's development and vice versa. Development state of comparative criminology can characterize sociocultural policies in the society.

For example, can we state about the high level of comparative criminology development in a "secluded" society? Certainly, we can't. Because such society is not interested in acquiring the experience of other societies in the sphere of crime counteraction, and if society is interested in acquiring it – this is just a mean to distinguish it as their own achievements. Was it possible to speak about high level of comparative criminology development during Soviet Union? In our opinion, no. Though, the political factor plays here a crucial role.

The level of comparative criminology development also depends on the development level of the other integral parts of society's culture – for example – criminology. Can the influence of powerful and developed national criminology on a high level of comparative-criminological research be admitted? Convinced, yes.

Besides, sociocultural policies of a definite society can define "demand" for science and its achievements. For example, can there be "demand" for comparative-criminological research in a society, which does not consider crime counteraction conception as a priority? Conception, which is based on the growth of comparative-criminological knowledge? Certainly, no. Thus, sociocultural policies effect comparative criminology –

facilitate its development or prevent it. It indicates the character of integrity of comparative criminology as a part of society's culture.

### **Philosophical Principles of Comparative Criminology**

Philosophical principles are viewed as multiplicity of ontological, gnosiological, methodological, logical and axiological concepts and philosophical statements that are implied by scientists in creation or argumentation of some scientific theories, research programs, scientific trends or even science in general. [16]

We outline varieties of philosophical principles of comparative criminology without studying their functions. Every nation has accepted concepts of the worldview, types of material systems, laws of functioning and development and so on. Such typical concepts exist in comparative criminology and present ontological, epistemic, logical, methodological, value or axiological principles. To outline philosophical principles of comparative criminology it is necessary to reveal the accepted concepts. Studying mechanisms of philosophy influence on comparative criminology, the level of comparative-criminological cognition, stage of comparative criminology development, degree of its maturity should be taken into consideration.

The above mentioned allows us to state that the basis of comparative criminology is the system of principles of human's cognition, aimed at obtaining, updating and distributing new knowledge about similarity or distinctiveness of crime and its counteraction that comprises the following structural elements: 1) methodological principles of comparative criminology; 2) ideals of comparative criminology; 3) comparative-criminological worldview; 4) sociocultural principles of comparative criminology; 5) philosophical principles of comparative criminology.