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NEW PERSPECTIVE ON THE TYPES OF ONE OF THE ELEMENTS OF A CRIMINAL OFFENSE

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Summary. At the current stage of development, Ukraine is in an extremely difficult political, social, and economic situation. In addition to a number of systemic problems inherent in the transitional period, a full-scale military conflict has been ongoing for more than three years, accompanied by deep tragedies and losses. This situation highlights the need for constant analysis and improvement of the functioning of the state's legal system, including the legal system as a whole and its individual branches.

Particular attention in this context should be paid to criminal law as a fundamental and, at the same time, independent branch of national law, which has its own subject of legal regulation, method, functions, tasks, and goals. Within the structure of criminal law, the theory of a criminal offense occupies an important place, primarily from doctrinal positions, as it studies the content, structure, and features of criminally unlawful acts. This theory plays a key role in forming the scientific basis for law enforcement activities.

According to Part 1 of Article 2 of the Criminal Code of Ukraine, the basis of criminal liability is the commission of a socially dangerous act that contains the elements of a criminal offense provided for by this Code. In the theory of criminal law, the elements of a criminal offense consist of four interrelated components and represent a systemic set of necessary and sufficient legal features that define a specific socially dangerous act as criminally punishable.

One of these elements is the object of a criminal offense, which reflects a certain measure of social values protected by criminal law. Causing harm to these values serves as an important criterion for the criminalization of acts. The issue of classifying the objects of a criminal offense requires special attention, as their clear definition ensures a deeper understanding of the nature of the offense and allows for more accurate legal qualification of acts.

The article conducts a theoretical study of the individual as an object of criminal-legal protection. The individual is considered a social phenomenon that combines two key characteristics: the highest social value in the system of constitutional priorities and a set of social benefits that serve as conditions for individual self-realization and full participation in social life.

This approach allows for interpreting the individual as a complex object of criminal-legal protection, which implies a rethinking of their legal status. It is proposed to distinguish between direct, indirect, and mediated objects of criminal-legal protection, which creates a basis for increasing the effectiveness of criminal-legal regulation and adequately protecting new social values and benefits that are becoming relevant in the current conditions of Ukrainian society's development and ensuring their proper criminal-legal protection in the near future.

Keywords: Criminal Code of Ukraine; Criminal Code of Poland; criminal law; criminal offense; criminally unlawful encroachment; object of criminal-legal protection; individual as a combination of values and benefits; criminal-legal protection of the individual; categories of objects of criminal-legal protection; complex, direct, indirect, mediated objects of criminal-legal protection.

1. Introduction

Recently, the global community and individual states have been experiencing complex processes of development, which, in addition to objective difficulties, are further exacerbated by a number of significant negative circumstances, including widespread infectious diseases, armed conflicts, significant disruptions in energy systems, and all the understandable consequences of such upheavals. Therefore, to improve this situation, attention must be paid to two important aspects.

Firstly, it is necessary to identify the areas and directions in the functioning of the state that require priority attention. Secondly, special attention should be given to law in its general understanding, or more precisely, to the legal system, which should become, so to speak, a "compass", a foundation, and a "tool" for implementing planned measures.

In this regard, the individual as a social phenomenon, as an entity that serves (or should serve) as an object of observation, research, etc., is identified as the primary sphere where the aforementioned aspects should be realized. The necessity and, to some extent, the complexity of such realization are associated with the fact that an individual possesses not only purely individual, so to speak, "internal"

characteristics that enable their existence. Their “external” socialization is connected to the fact that their existence, development, and functioning are impossible without “interaction” with social processes, structures, objects, and subjects that “surround” them, considering also that the individual themselves is a participant and “creator” of social processes and events.

This emphasizes that the individual is not a “passive participant”; they play and should play a key role in the post-war recovery of Ukraine. The individual, their activity, readiness for change, and ability to move toward set goals are, to a large extent, the key to Ukraine's successful overcoming of existing challenges.

Undoubtedly, the study of general issues concerning the individual in the legal field is a significant and complex problem that requires special attention. Certain aspects of this will be analyzed concisely in this publication.

2. The Legal System and the Individual as the Central Element of Criminal-Legal Protection

The legal system, in its general understanding, is the entirety of legal means (phenomena) through which the state exerts regulatory, organizational, and stabilizing influence on social relations and processes. It is a complex, integrative category that reflects the entire legal reality, considered in both static and dynamic aspects.

The static aspect of the legal system consists of:

- a) legal norms, legal institutions, and legal principles (the normative side of the legal system);
- b) law-making, law-enforcement, and law-protection bodies and organizations (the organizational side of the legal system);
- c) legal views, ideas, and concepts (the ideological side of the legal system).

The dynamic aspect of the legal system is formed by law-making, law-enforcement, and law-protection activities of competent entities (Pravova systema, n.d.). Complex issues of the functioning of the legal system are reflected in the research of V.V. Dudchenko, O.V. Zaychuk, M.I. Kozyubra, O.M. Onishchenko, O.V. Petryshyn, P.S. Rabinovych, V.M. Selivanov, and others.

The modern functioning of the legal system requires it to acquire, alongside traditional features, additional “capabilities” in ensuring legal support for social “integration”, economic recovery, European integration progress, and more. This should manifest in the qualitative legal support for rebuilding such processes (a legal framework for post-war development), ensuring their legal certainty (stability and predictability of legal development), institutional renewal of the justice system (primarily to enhance its efficiency and public trust), and more.

The central element of the legal system of any developed state, including Ukraine, is the individual, as the state and the legal system function precisely to ensure the realization of the individual's opportunities, the protection of their rights, freedoms, and legitimate interests. Therefore, despite the certain “independence” of the individual and the legal system, they are “connected” (or should be “connected”) by a number of significant features. Traditionally, this connection is associated with the definition and protection of the individual's rights and freedoms (Rabinovych, 2008, pp. 16–41).

This connection should (and must) be realized through legal mechanisms, such as legal self-affirmation (e.g., participation in elections), the formation of legal consciousness, social integration (e.g., reintegration of veterans, resocialization of convicts), and more. It is also necessary to highlight the individual's responsibility before the law, where they not only enjoy rights but also bear legal, including criminal, responsibility for committing unlawful acts.

Understanding such a “relationship” is always important, and in the context of post-war development, it is critically important for the further development of the individual, the building of a legal state, and a democratic society.

Special attention, particularly in the post-war development of Ukraine, should be given to criminal law, including its “relationship” with the individual, especially in the direction of their criminal-legal protection. This naturally arises from the need for post-war criminal law to ensure, in the legal sphere, the triune task of protecting the individual (human community), restoring public order, and ensuring the safety of society and the state.

Given the necessity of a comprehensive study of the problems of criminal-legal protection of the individual and understanding the importance of such an analysis, it should be emphasized that this concerns the systemic activity of the state aimed at legally ensuring the physical, political, moral, social, economic, and other aspects of the “inviolability” of the individual. Therefore, the initiation of such activities and ensuring their proper level should begin with a clear definition of the individual as an object of criminal-legal protection.

In general terms, the object of a criminal offense is the most important social relations protected by criminal law, which are or may be harmed by a criminal offense (formerly referred to as a crime) (Tatsii, 2016, pp. 48–50). As noted by V.Ya. Tatsii, the category of “social relations”, which encompasses the interconnections between people within the social environment, is precisely the object of criminal-legal protection (Tatsii, 2013, pp. 126–143). Despite the preservation of this position as dominant in the theory of criminal law, recent years have seen proposals in legal literature for its development and improvement, particularly at the level of fundamental reform. Without delving into the details of this discussion, several main approaches to defining the object of criminal-legal protection can be identified. According to these approaches, the object may include: social relations, social values, human rights and freedoms, universally recognized goods, principles of legal order, etc.

In particular, in the draft of the new Criminal Code of Ukraine, developed by the Working Group of the Legal Reform Commission under the President of Ukraine, the object of a criminal offense is defined as a social value that is harmed by the corresponding act (Baulin & Khavroniuk, Eds., pp. 87–88).

Overall, scientific approaches to the modern definition of the object of criminal-legal protection are reflected in the works of researchers such as P.P. Andrushko, Yu.V. Baulin, V.I. Borisov, S.B. Havrysh, N.O. Hutorova, A.A. Muzyka, M.I. Panov, Yu.A. Ponomarenko, Ye.L. Streltsov, V.Ya. Tatsii, Ye.V. Fesenko, I.I. Chuhunikov, and others.

In any case, the postulate that the object is precisely what is subject to protection constitutes the essential foundation of criminal-legal protection. The object determines the content of the social danger of a criminally unlawful encroachment. It also plays a key role in the qualification of criminally unlawful acts, as after establishing the features of other elements of the offense, summarizing them, we determine the object, which forms the final “formula” of the legal assessment of the act.

Moreover, the object plays an important role in differentiating criminally unlawful encroachments, which once again underscores its key significance in the theory of criminal law (Streltsov, 2024, pp. 99–109).

Based on the understanding of the object as a fundamental category that forms the basis for establishing and maintaining criminal liability, and considering the significant transformations currently taking place in social life, addressing the analysis of this category remains scientifically justified and necessary. The relevance of this research is emphasized by several important factors.

Firstly, the emergence of new significant threats requires appropriate legal responses and effective social and legal protection. Secondly, changes in the content and priorities of social values and goods now demand criminal-legal protection. Thirdly, the integration of international standards into national criminal legislation is being implemented through the adoption of international treaties, conventions, and recommendations from human rights institutions.

Thus, the combination of objective factors necessitates a rethinking and in-depth analysis of the substantive content of the object of criminal-legal protection. Based on the previous argumentation, within the framework of this publication, the object of criminal-legal protection will be considered as the individual – a central social value that must be provided with proper legal protection from criminally unlawful encroachments.

We will begin with a more detailed analysis of the individual as an object of criminal-legal protection, applying an integral approach that allows synthesizing various aspects that comprehensively characterize this category. This approach involves considering not only legal but also philosophical, sociological, and ethical factors that reveal the essence of the individual as a bearer of rights, freedoms, interests, and responsibilities.

In this context, it is appropriate to refer to the principles of anthropocentrism, which are based on the recognition of the individual as the highest value. In criminal law, the provisions of such a worldview are embodied through the normative establishment of the priority of protecting the individual, their life, health, honor, dignity, inviolability, and so on. The value of the individual serves as the conceptual foundation of many institutions of criminal law.

In this regard, criminal law, which aspires to be humane and just, must primarily be based on the fundamental and unconditional recognition of the goods and interests of the individual as those requiring the most enhanced legal protection.

In modern conditions, understanding the individual as an object of criminal-legal protection requires clarifying a number of traditional provisions of criminal law. These clarifications should begin with the individual as a holistic, distinct, and one of the fundamental objects of criminal-legal protection.

At the same time, it is important to emphasize that in the context of the object of criminal-legal protection, the individual should not be viewed solely through the prism of their individual characteristics, as is often implemented at the level of criminal-legal norms, their articles, or clusters. Such a fragmented perception cannot reflect the essential role of the individual in the system of values of criminal law.

The individual should be considered as a complex, system-forming object that encompasses not only individual traits or characteristics but also their social integrity.

The complexity of the individual as an object of criminal-legal protection is revealed through two key characteristics in the social dimension: the individual as the highest social value within the structure of the state and society; the individual as a bearer/holder of important social goods that ensure their self-realization on an individual level and facilitate participation in social life.

This dual characteristic allows for a new understanding of the place and significance of the individual in legal reality. The individual is not only an object of protection from specific encroachments (on life, health, dignity, freedom, etc.) but also embodies a generalized social value that requires systematic, comprehensive legal protection, particularly at the level of criminal legislation.

This approach enables the clarification of the legal understanding of the individual in criminal law, including in the aspect of their normative establishment as an object of criminal-legal protection. Considering the multidimensional significance of the individual, they should be regarded as a national asset, which determines their priority position in the system of criminal-legal values.

Thus, in the context of criminal-legal protection, the individual should act as an object that demands special attention from the state in cases of encroachments on their life, health, rights, freedoms, interests, and other fundamental social goods.

This approach highlights the need to refine the traditional understanding of the individual as an object of criminal-legal protection and to formulate an alternative concept that better corresponds to modern challenges and the value orientations of a legal state. Specifically, this involves reorienting criminal-legal regulation – from the protection of abstract or partial social interests (which are often mediated through legal formulas) to the direct, priority protection of the specific individual as a central social value.

At the same time, such a transformation does not imply the destruction of the fundamental principles of criminal law. On the contrary, it aims to enrich and clarify its content in the context of the modern stage of the development of law, society, and statehood.

Thus, expanding the understanding of the individual as a fundamental, irreplaceable, and multidimensional social value in criminal law has not only theoretical but also significant practical importance. It can substantially influence the improvement of criminal legislation, the practice of its application, and the effectiveness of criminal-legal protection of the individual as a whole.

Therefore, the individual should be recognized as a complex object of criminal-legal protection, emphasizing their structural complexity and multifaceted nature as a social value and simultaneously as a bearer of a set of social goods, the presence of which is of fundamental importance for the processes of social development.

The multi-level perception of the individual as a complex object of criminal-legal protection is confirmed by several circumstances. In particular, this includes the significant number of social goods that have their own “compositions” and are protected by criminal law, including: physical goods (life, health,

bodily integrity); psychological goods (mental integrity, freedom of will); social goods (honor, dignity, reputation); economic goods (property rights, the ability to engage in entrepreneurial activity); political goods (freedom of speech, participation in elections), and others.

3. Comprehensive Approach to Understanding the Individual as an Object of Criminal-Legal Protection

This approach, although partially reflected in the current Criminal Code – particularly in sections such as: Section II – Criminal offenses against the life and health of the individual; Section III – Criminal offenses against the freedom, honor, and dignity of the individual; Section IV – Criminal offenses against sexual freedom and sexual inviolability of the individual; Section V – Criminal offenses against electoral, labor, and other personal rights and freedoms of individuals and citizens – remains partial and fragmented, as it lacks a unified system for constructing the protection of the individual as a holistic object. As a result, the quality of criminal-legal protection suffers.

Thus, the existing fragmentation must be overcome, and a complete, balanced, and comprehensive approach to the criminal-legal protection of the individual must be ensured. This will not only enhance the effectiveness of protection but also better integrate criminal-legal norms with norms from other branches of law, including constitutional, civil, administrative, and international law, significantly strengthening the comprehensiveness of legal protection.

Considering the social value of the individual and the set of social goods as fundamental system-forming features will allow: a new assessment of the significance and appropriateness of criminal-legal protection of these goods; a substantive analysis of the concept and types of social goods, using them as criteria for the systematization of norms in law in general and in criminal law in particular. Thus, the intermediate conclusion is the necessity of recognizing the individual as a complex, system-forming object of criminal-legal protection.

The complexity of the individual as an object of criminal-legal protection necessitates its further classification – “dissection” into internally structured groups. This is driven by the desire to achieve maximum completeness in criminal-legal protection, which requires identifying specific features and characteristics inherent to the individual that are subject to criminal-legal protection. Such dissection is also important from the practical perspective of law enforcement, as it contributes to: a more precise definition of the content of criminal-legal encroachment; an adequate assessment of the degree and nature of the social danger of a specific act; improved accuracy in the qualification of crimes and the application of appropriate measures of criminal liability.

From a methodological perspective, classification ensures systematization, logical orderliness, and depth in the study of the object of criminal-legal regulation.

Since the individual as an object of criminal-legal protection has a complex nature, there arises a need to identify less “voluminous” internal objects based on relevant substantive features. It is important to note that the application of new features and criteria will differ from traditional approaches and, accordingly, will generate new categories of objects of criminal-legal protection.

A new approach, based on the modern understanding of social values and goods inherent to the individual, as well as on the peculiarities of the nature and direction of the harm caused, provides grounds for distinguishing within the comprehensive object the following categories:

- direct object, the violation of which is the immediate goal of the criminal encroachment;
- indirect (functional) object, the encroachment on which is used as a means to achieve harm inflicted on the direct object;
- mediated object, the harm to which is a consequence of a criminally unlawful act directed at other social values and goods.

Thus, the intermediate conclusion is the appropriateness and necessity of distinguishing within the general comprehensive object of the individual three categories of objects of criminal-legal protection – direct, indirect, and mediated.

4. Classification of Objects of Criminal-Legal Protection of the Individual

A more detailed analysis of the essence of the complex object of criminal-legal protection – the individual – allows for the identification of three interrelated categories of objects:

Direct object of criminal-legal protection – this includes life, health, dignity, freedom, psycho-emotional state, and other basic social values of the individual. When committing a corresponding group of criminal offenses, the individual in their immediate sense is the primary target of the encroachment, and harm is inflicted "openly" and "directly." In such cases, the object of the criminal offense essentially coincides with personal harm – for example, in cases of intentional murder, torture, or rape.

Indirect object of criminal-legal protection – the individual in the role of a "means" or "instrument" for causing harm to other values. For instance, in the case of robbery, the primary goal is to seize property, while the attack on the victim serves as a means to achieve this goal. In such cases, the harm to the individual has a dual nature: first, as an encroachment on their personal qualities, and second, as a method of causing harm to another object – property. In this context, it is inappropriate to consider the life and health of the individual as an additional, optional object – rather, it is an "indirect" object with consciously inflicted direct harm. This approach allows for considering responsibility not only for violence against the individual but also for the functional impact that facilitates encroachment on other social values.

Mediated object of criminal-legal protection – the individual who suffers harm that was not the direct target of the encroachment. For example, in cases of environmental crimes, pollution of the environment may lead to death, illness, or psychological trauma in individuals. Although causing harm to the individual was not the primary goal of the act, the real consequences for them are significant. In such cases, the individual suffers indirectly, through altered environmental conditions or social circumstances, but this does not diminish the significance of the harm inflicted. This provides grounds to consider the individual as an object of mediated impact, which necessitates a criminal-legal assessment of such acts (Streltsov, 2025).

This classification provides a deeper understanding of the complex nature of the protection of the individual in criminal law, contributes to more precise qualification of criminal offenses, and forms the basis for improving legal mechanisms for the protection of social values.

5. Conclusion

The generalization of the presented provisions allows us to conclude the appropriateness and necessity of conceptually updating approaches to understanding the object of criminal-legal protection. In particular, it is proposed to recognize the individual as a complex, system-forming object consisting of separate structural categories: direct, indirect, and mediated objects of criminal-legal protection. This approach is not only scientifically justified but also functionally appropriate for legal theory, legislative activity, and law enforcement practice.

For legislation, this approach will contribute to clarifying and improving criminal-legal norms, enhancing their systematization and logical coherence, possibly formulating new compositions of criminal offenses or revising existing ones. For practice, it will improve the accuracy of the qualification of criminally unlawful acts, help avoid errors in law enforcement through a clear definition of the purpose, object, and method of encroachment, and enable more effective differentiation of related compositions of criminal offenses. For theory, it will deepen the scientific understanding of the nature of the object of a criminal offense, develop the classification of offenses based on substantive features, and integrate the concepts of "social value" and "social good" as the foundations of the object of protection.

At a general level, this should contribute to both improving the effectiveness of law enforcement and advancing the science of criminal law.

It is particularly important to emphasize that the identification of new types of objects of criminal offenses will enhance comparative legal research, especially with European Union countries such as Poland, which have similar approaches to the classification of objects. Specifically, this will promote the harmonization of terminology and the conceptual framework in the field of criminal law, increase the compatibility of legal systems, and enable more effective interaction within the European legal space, particularly in matters of extradition, joint investigative actions, international legal assistance, and more.

It will also strengthen scientific and practical cooperation between jurisdictions that share common values of the rule of law and the protection of human rights.

Thus, recognizing the individual as a complex object of criminal-legal protection, structurally divided into *direct*, *indirect*, and *mediated* categories, is of significant importance both for a deeper theoretical understanding of the nature of criminal offenses and for improving the effectiveness of criminal law enforcement. This, in turn, opens new perspectives for the development of national criminal legislation in line with modern challenges and international standards.

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