

**UDC 141.5:343.9.01**I. O. KOVNIEROVA<sup>1\*</sup><sup>1\*</sup>Donbas State Pedagogical University (Sloviansk, Ukraine), e-mail zhuravleva\_1605@ukr.net, ORCID 0000-0002-8054-9647**ANTHROPOLOGICAL FOUNDATIONS OF THE CONCEPT OF "CRIME" IN HISTORICO-PHILOSOPHICAL DISCOURSE**

**Purpose.** The paper considers the establishment of the paradigmatic determinants of the understanding of crime on the basis of fundamental changes in understanding of the essence of a man in ancient, medieval, Renaissance, modern and postmodern philosophy. **Theoretical basis.** The author determines that the understanding of the concept of crime is possible only in the combination of historical, philosophical, legal and sociological approaches. The interpretation of the essence of this concept dynamics and relevant legal practices is based on structuralist, post-structuralist and hermeneutical methodological principles. **Originality.** The author has proved that the concept of "crime" is not a constant but a historically variable category whose dynamics of meanings is linked to a change in philosophical anthropological paradigms. Its understanding is primarily related to the interpretation of the essence of a man and the imperatives of his behavior. This allows a new understanding of the philosophical foundations of modern criminology. **Conclusions.** The article establishes that in the history of Western philosophy, there are five anthropological paradigms that differ in a thorough rethinking of the essence of a man. The first cosmocentric regards man as a microcosm, his soul and actions must be in harmony with the harmony of the Cosmos. The second Theocentric considers a man the image and likeness of God, though he is at the same time burdened with original sin. In the era of early Modernism, the third paradigm, which we called cognitive-centric, becomes dominant, since the essence of a man is reduced primarily to his mind. It gradually changes to the fourth – sociocentric, which focuses on the social essence of a man. However, despite its continued existence in our time, at the end of the XX century, there is a transition to the fifth paradigm – postmodernist, which deconstructs the essence of a man, reducing it to the role of an element of power systems. These paradigms, with a certain synchronicity, create the corresponding concepts of "crime": from violation of polis-space laws to identification with sin, from non-observance of mental and moral standards to social deviance. Contemporary understandings of crime are, for the most part, relativistic and constructivist, which is consistent with the postmodern anthropological paradigm. However, the diversity of interpretations of the concept of "crime" that exists in the current scientific literature needs further comprehension.

**Keywords:** anthropological paradigm; crime; tort; sin; deviance; cosmocentrism; theocentrism; cognitocentrism; sociocentrism; postmodernism

**Introduction**

The relevance of the topic of the study is due to the fact that the phenomenon of crime, which was the result of objective (due to its rapid growth in the early XXI century in most countries) and subjective (due to popularization in the media, online resources, and film, television and television production) factors one of the urgent problems that excite humanity and requires constant scientific understanding of basic concepts, in particular the key concept, the concept of "crime". The criminal situation in Ukraine, strengthened by the armed conflict in the Donbass, adds particular relevance to the selected issues, since there are quite a few social phenomena that are criminal in nature but cannot be qualified as a crime (Bilous et al., 2017). This is that prompts us to resort to a deep philosophical analysis of the genesis of the very concept of "crime", and its interpretation in various philosophical paradigms.

The historical-philosophical accentuation of the work makes it possible to view crime not only as a criminal phenomenon, but also as a multidimensional social phenomenon in the broad context of the historical-civilization process. At various stages in its history, humanity has been ambiguous about what is considered a crime, depending on the social and cultural conditionality

of its legal consciousness and understanding of the nature of the person himself. Therefore, without understanding the historical and philosophical thought it is impossible to understand adequately the contemporary understanding of the concept of "crime", which is defined in various ways in different criminological concepts.

The problem of comprehending the philosophical foundations of criminology is one of the leading topics in contemporary Western and national scientific literature. After the release in 2008, a somewhat provocative article of Jane Schneider and Peter Schneider (2008) "The Anthropology of Crime and Criminalization" in Western humanities there was a wide debate about the cultural and historical conditionality of criminalization of certain forms of human behavior. The most significant works in this area are as follows: an article by a Belgian researcher G. Bruinsma (2016), two fundamental collections of works "Philosophical Foundations of International Criminal Law: Correlating Thinkers", published in Brussels in 2018 and 2019, and materials from the 2017 "Philosophical Perspectives on Crime" Conference in the Romanian city of Timisoara, especially Joan Antoine Mallet's (2017) article "Crime and Retribution in Plato's Theology". Ukrainian philosophical and legal literature also lacks original intelligence on the problem of philosophical understanding of crime and criminality. In particular, in 2016, an interesting Conference "Modern Criminology: Achievements, Challenges, Prospects" was held in Kharkiv. Among the numerous reports and articles that were collected in the conference materials, we should mention those concerning our issues: articles of V. I. Poklad (2016) and T. V. Melnychuk (2016). Certain problems of the historical and philosophical basis for understanding crime have been reflected in other domestic and Russian studies. However, none of these works traces the general logic of the dynamics of interpretation of crime, depending on changes in philosophical and anthropological paradigms in Western history of philosophy.

### **Purpose**

The purpose of the paper is to establish the paradigmatic determinants of understanding of crime on the basis of fundamental changes in understanding of the essence of a man in ancient, medieval, Renaissance, modern and postmodern philosophy.

### **Statement of basic materials**

A crime is usually regarded as an unlawful act that is not only for the individual but also for the community, society or the state and is punishable by the state or other authority. However, understanding the essence of crime, its causes and consequences depends largely on the philosophical interpretation of the essence of man, his behavior and place in society and the world.

The ancient philosophical paradigm is defined as cosmocentric. It views the Cosmos (κόσμος) as a holistic universe, based on natural harmony. Famous specialist in ancient Greek culture J.-P. Vernant (1984) believed that in the VII-VI centuries BC "... the idea of a cosmic order is stood out, based now not on the relics of God, ... but on the notion of a law-governed cosmos, a rule (nomos). Nomos establishes the nature of elements ... order for all constituents" (p. 107). According to the idea of this French explorer, the cosmic order correlates with the legal: "It is ... the model of the social cosmos, regulated by law that is equal for all, was transferred by early Greek thinkers to the physical universe at the dawn of philosophy" (Vernant, 1984, p. 112).

## ANTHROPOLOGICAL PROBLEMS IN THE HISTORY OF PHILOSOPHY

This is the secret of the similarities between the thoughts of Miletus natural philosopher Thales and the Athenian legislator Solon. The cosmic law (nomos) expresses the profound outlook of the ancient Greek – the harmony, proportion, proportionality that was reflected in Pythagoras' saying, "All is a Number".

Man was regarded as a certain "microcosm" (μικροκοσμος), that is, the universe in miniature, which should reflect the harmony of the surrounding world. The analogies of man and the universe are reflected in the treatises of the Hippocratic school, in the writings of Democritus and in the dialogue "Timaeus" by his opponent Plato. According to the latter, the harmonious Cosmos is the ideal for the human soul and the state, which must be similar to each other and based on the eternal and unchanging principles of the Law – νομός and Δίκη-Justice.

The ancient Greeks had no universally accepted notion of "crime". They used the words "έγκλημα" and "άίτία" to denote the stigmatization of a person's guilty of violating the rules and regulations of the policy. The word "έγκλημα", which in modern Greek is translated as "crime", in ancient Greeks meant accusation, complaint, reproach. But the term "άίτία" (guilt) was primarily associated with violations of the foundations of the world order, and these violations related, as the external order of the cosmos – murder, encroachment on other's people property, and inconsistency of human behavior with the laws of this cosmos. The traditional anthropological ancient paradigm is characterized by a belief in the inviolability of the Cosmos and the consideration of crime as a certain deviation from the fate, will of the gods and the inviolable laws of the polis. The punishment was seen to curb human transgressiveness and re-target it in a positive and creative way.

However, a deviation departure from this all-ancient anthropology of crime is relativistic sophistry, which essentially justifies the crime. Gorgias, for example, according to Plato, believed that the nature of morality and law lies in the desire of the weak to subordinate the strong to their will. Moreover, arguing any thesis, the Sophists argued for the absence of any absolute truth and, as a consequence, objective justice and good. And if there is no justice as a criterion of lawfulness, then there are no "true" laws, and crime becomes a concept so relative and inconstant that to speak of its ontological status makes no sense. A certain echo of this position is the Roman proverb: "Ex senatusconsultis et plebiscitis crimina exercentur" (crimes arise from Senate and people's decisions).

Socrates opposed the relativism of the Sophists. He tried to give a new meaning to ancient anthropological cosmocentrism. The harmony of the cosmos indicates that it has a reasonable beginning. Accordingly, a person can achieve harmony only on the basis of reason, which must determine its behavior. That is, the crime is, despite its short-term appeal, a deviation from the requirements of the Mind, mental "illness". By treating crime as a violation of reasonable law, the philosopher recognizes the existence of not only life sentences, but also other punishments. Punishments of "curable" criminals are regarded as having cathartic significance, and punishments of "incurable" are treated as a precaution to others.

Socrates himself is known to become a victim of an unjust decision of the Athenian court. But he believed that it was better to enforce an unlawful sentence than to neglect the law of the state. In this sense, his disciple Plato attempts, on the basis of Socratic teaching, to rethink Greek cosmocentrism in the spirit of ethical and legal rationalization. The Platonic ideal Polis is a total rationalization of human behavior under the control of philosopher sages. Crime is the least deviation from such regulation. In trying to find out the causes of the criminal behavior, Plato pointed to drawbacks in education that failed to control the destructive trains of the criminal's

soul. He believed that measures that could deter people from criminal behavior should be their public condemnation, unwavering belief in the inevitability of punishment, the habit of decent behavior, and the encouragement of law-abiding citizens.

Aristotle deviates somewhat from the moral rigor of his teacher. Following the principle of moderation (the "golden mean"), which is a reflection of the numerical proportions of the cosmos, he considers the cause of crime ("injustice") or the lack or excess of certain passions.

However, Stagirite believed that

... not every act and every passion allows the middle, because in some [passions] the very name expresses poor quality (φασυλότης), for example: gloating (επιχαιρεκακία), shamelessness (αναισχυντία), envy (ή φθόνος), and from acts – adultery (ή μοιχεία), theft (ή κλοπή), human killing (ή ανδροφονία). All these things and the things like these are considered bad in themselves, not for surplus or lack, and therefore they can never be done right... (Aristotle, 2002, p. 75)

However, the cosmocentric anthropological paradigm acquires its apotheosis in Stoicism, a philosophical trend that had a decisive influence on the formation of Roman law. This current that occurs in Athens in the III century B.C. (Zenon, Kleanf, Chrysipp) subsequently spread its influence to the entire Hellenistic world (Panetius, Posidonius) and flourished in ancient Rome (Seneca, Epictetus and Mark Aurelius). According to their views, nature is a majestic cosmos, a reasonable world order. Man is an integral part of nature, he must reasonably obey his laws, which are for him the fate, fatum. So Seneca argued: "Ducunt Volentem Fata, Nolentem Trahunt (Fate leads the willing and drags along the reluctant)".

The Stoics created a philosophical anthropology based on the recognition of the existence of the eternal highest natural law that governs the entire cosmos, one for all ages and peoples, which is a collection of laws of the mind consistent with the nature of the world. According to Cicero, who was strongly influenced by Stoicism, the basis of natural law is a lifelong, unwritten law that people inhale with the air. This natural law, based on cosmic Reason, forms the basis of law and justice, which must be based on justice (justitia). Written law (private and public) has its source as a natural right.

In ancient Roman law the concept of crime did not exist. Any deviation from the norms was reflected in the concept of "delictum" (offense), regardless of what rights were violated, whose interests it affected and how it was punished. The first attempt to unify torts was the lex Aquilia, proposed by the tribune Aquilius in 286 BC. But later in the Roman state institutions were created that dealt with criminal law practice. There is also a system of principles and norms that define certain offenses and means of punishment. Punishment is assumed by the state, determining the range of the most dangerous (in its view) offenses. There is a clear distinction between public torts (delictum publicum) and private offenses (delictum privatum). There is also the concept of crimen (crime) which means public torts that had a special public danger. Classical Roman law,

## ANTHROPOLOGICAL PROBLEMS IN THE HISTORY OF PHILOSOPHY

in particular by the mouth of the famous Roman ruler of the II – early III centuries. Ulpian defines crimes (*crimen*) as an act of violence or deception. It is in the writings of Roman lawyers of the classical period (II-III centuries). Gaius, Papinian, Paul and already mentioned Ulpian formulate classic classifications of crimes, provide definitions of theft (*crimen furti*) and insults (*crimen falsum*), rape (*crimen raptus*) and other types crimes. A special place in Roman law is occupied by *crimen laesae majestatis* (treason) and *sacrilegium* (sacrilege or religious crime). By the way, the latter became the basis for persecution of the first Christians.

But later Christianity became the state religion of the Roman Empire, and in Justinian's Code, returning to a pagan religion from Christianity or spreading heresy was already considered a criminal offense. In the late Roman Empire and Byzantium, under the influence of Christianity, there is a radical rethinking of the concept of "crime", which leads to the convergence in the legal texts of the late Empire the concepts of "offense" (*delictum*), "crime" (*crimen*) and "sin" (*peccatum*).

The concept of sin is a key concept in the second European anthropological paradigm, the theocentric one, which prevailed in the Middle Ages and defined the principles of criminology of the time. The understanding of the Law as God's command (Torah) and sin as its transgression or deviation from fulfillment is laid down in ancient Judaism (Old Testament). Sin was seen as breaking the covenant with God, as deliberate disobedience to the categorical strict commandments received by the prophet Moses. The religious, legal and ethical requirements that can be followed in the Decalogue (the Ten Commandments) and the numerous decrees and prohibitions (the righteous Jews number 613 such decrees) were syncretically combined. The Torah, and especially the books of *Schmot* (Exodus) and *Dvarim* (Deuteronomy) can be considered as a kind of Criminal Code of ancient Judaism.

In Christianity, there is a radical rethinking of the Old Testament commandments, and sin is judged first and foremost from the standpoint of intention, personal choice, as evidenced by the preaching of Christ: Because from inside, from the heart of men, come evil thoughts and unclean pleasures, The taking of goods and of life, broken faith between husband and wife, the desire of wealth, wrongdoing, deceit, sins of the flesh, an evil eye, angry words, pride, foolish acts: All these evil things come from inside, and make the man unclean (Mk 7:21-23).

Under the influence of Christian preaching, a new understanding of the dual essence of man is formed: as created after the image and likeness of God and simultaneously burdened with original sin. If the Old Testament emphasizes the absolute transcendence of God, which renders impossible any resemblance between God and man, then the New Testament emphasizes that with the advent of Jesus Christ this gap can be overcome. At the same time, in the theocentric paradigm, God is seen as the center of the universe, the guarantor of the cosmic and social order. His decrees are seen as the primary basis of the Law, from which all religious, moral and legal norms flow. Divine intervention alone does not allow society to turn into chaos, the struggle of all against all, but inspires man to fight the "devilish temptations" that lead him to sinful transgressions and crimes.

In the teachings of the Church Fathers, the cosmocentric paradigm is finally overcome: a person from the "microcosm" becomes an "image and likeness of God", and since God is a Personality in Christianity, a person who is endowed with intellect and free will begin to be regarded as a person. Basil the Great, Gregory the Theologian, Augustine Aurelius, and especially Gregory of Nyssa made a major contribution to the creation of a new anthropological doctrine, which became the basis of the medieval paradigm for understanding the essence of man and the corresponding forensic doctrine.

At the same time, the European Middle Ages are considered to be a period in history characterized by the most brutal treatment of human beings, the criminalization of society and the widespread use of corporal punishment and the death penalty as the main types of criminal punishment. Barbarian raids and constant military and social conflicts, famines and epidemics make violence a common occurrence, the more it gets legitimized. In the conditions of weakening of other social institutions, especially in Western Europe, the church assumes certain state-legal powers until the XIII century and it concentrates almost all criminal court under its direction. The identification of the concepts of "sin" and "crime" could not but be reflected in the criminal practices of the Middle Ages, and therefore the purpose of punishment was the atonement of sin. The latter is often accompanied by sophisticated cruel torture and usually ends in public execution.

The first among the medieval philosophers who tried to distinguish between "sin" and "crime" was the French thinker Peter Abelard. He drew the line between sin and crime, attributing only the violations required by law (no law – no crime). Separating sin from crime, according to the philosopher, also entailed various consequences of atonement. If punishment for sin can be redeemed by confession, repentance, sacrifice, the atonement for the crime involved the grave consequences of punishment for the person who committed it, up to the death penalty.

This distinction of sin and crime was continued by the scholastic Thomas Aquinas in his writings distinguishing the Eternal Law (*lex aeterna*), Divine (*lex divina*), natural law (*lex naturale*) and human law (*lex human*). Sin violates eternal law, crime violates human law, and brings them closer to one another – a violation of the law, deviation from its prescriptions. The Eternal Law determines the Divine world order, its violation must be eliminated, the order must be restored. The crime is only a fragmentary, partial violation of the existing order, which is regulated by law: it is primarily a violation of the regulations, not a state: "law gives rise to crime". Civil, ecclesiastical, or God's punishments, including all temporary punishments, are considered by Thomas to be curative because they are used to correct certain defects. That is, while civil punishments should be commensurate with the answers to the crimes committed (otherwise they would not be punishments), they are not aimed at either perfect revenge or perfect punishment. To know with all certainty what a person deserves is beyond the competence of human judgment. In matters of human action, Thomas Aquinas believed, we should be satisfied with the relative certainty and approximation of the punishments.

According to the Christian doctrine that prevailed in medieval Europe, earthly life is the short time given to humans to prepare them for the future of eternal life; it is a time of purification and restoration of its sinful nature. Death exists only for the body, for the soul it constitutes the transition from the life of the earth to the life of the true – otherworldly. That is why the medieval understanding of crime and punishment always meant that the final determination of the correctness of a person's behavior belongs to the Divine judgment of the soul after death, and in the future, after the second coming of Jesus Christ, to the World Court, which will ultimately decide the further destiny of each person.

Thus, medieval anthropology was an appeal for the preparation for a future posthumous existence, and in some ways neglected the troubles of daily life. Renaissance philosophy affirms the central place of man in the world, opposes religious asceticism, for the right of man to enjoy and satisfy all his needs. This in a way alters the medieval anthropological paradigm, creates a new image of a person in harmony with the then social reality, and alters approaches to understanding crime.

ANTHROPOLOGICAL PROBLEMS IN THE HISTORY OF PHILOSOPHY

---

Crime, on the basis of a new rethinking of ancient classics, acts, above all, as a violation of justice. Thus, the Italian humanist Leonardo Bruni (1985) interpreted the crime as a violation of justice, which, in his opinion, is ambivalent, that is, he acts in an individual and a social way (p. 63). The clearest thinker of this era, Niccolò Machiavelli, believed that the basis of crime is that man is inherently evil and always inclined to show his own perversity, only when the time will come. Therefore, for the common good, it is necessary to curb the evil deeds of the people, using the full force of the state institutions of prosecution and justice.

Thus, in the Renaissance, despite the emergence of the humanistic doctrine of man, there was no radical rethinking of the nature of the crime, which continued to be identified with sin, the only thing that was largely the prerogative of secular power. Moreover, crime and violence increased in this era of denominational conflicts, religious wars and increased royal power. Only in the middle of the XVII century, tired of religious and political conflicts, European philosophy turned to a secularized anthropological paradigm, in which man became not a bearer of sinfulness or righteousness, but above all a rational being, who was mostly capable to satisfy his own irrational desires.

This anthropological paradigm can be called cognitive-centric, since the essence of man is reduced primarily to his mind, he is defined primarily as a thinking being – Homo sapiens. Modern philosophy since the XVII century attached special importance to the mind as a specific feature of man. The defining features of a person are consciousness, the ability to think and have free will, which gives everyone responsibility for their own actions. For example, the founder of this paradigm, Rene Descartes, defined man as a thinking thing (*res cogitans*). Benedict Spinoza, Thomas Hobbs, and later Jean-Jacques Rousseau also substantiated the understanding of man as a natural body, endowed with passions, which must be curbed, and a mind that is the source of responsible, moral behavior.

This understanding of the person led to the relevant doctrines of the state, law, deeds and crime. First, the modern anthropological paradigm by the mouth of T. Hobbs completely differentiates between the concepts of "sin" and "crime". In his famous *Leviathan*, he proclaims: "Any crime is a sin, but not every sin is a crime. The intention to commit a crime is a sin, because God, who knows the thoughts of man, can put it to blame. However, until this intention is manifested in any act or word, it is not called a crime" (Hobbes, 1994, p. 278). That is, he defends a secularized view of crime, depriving the concept of "crime" of its religious component.

Secondly, crime is seen as a manifestation of unreasonable affect, a deviation from reasonable behavior. In his "*Tractatus politicus*", published after his death in 1677, B. Spinoza wrote:

Usually, we call crime what is being done contrary to the command of common sense. This statement can be considered correct when we take into account that the mind teaches piety and teaches to maintain peace of mind and virtue, which is possible only in the state. Moreover, a nation cannot be guided by a single spirit unless it has a right established by the precepts of reason. (Spinoza, 1891)

Thus, crime is irrational and generates unconscious and uncontrollable mental effects, said Spinoza. Hobbes (1994) is in solidarity with this: "The source of crime is a flaw in (lack of) understanding – ignorance, any error in thought – a mistake of thought, an unexpected power of passion" (p. 225).

Thirdly, in the modern anthropological paradigm, two models of primordial human essence were formed. According to T. Hobbes, from the beginning of its existence, man is an envious individualist and self-centered, and the system of state punishment is called upon to curb this potentially "criminal" nature of man. J.-J. Rousseau puts forward the opposite model of "good savage", which is ruined by private property and the state. Subsequently, these competing models, their hybrids and variations will become the basis of classical criminology.

Actually, the latter is in the bosom of this paradigm. Its founder, Cesare Beccaria, an Italian, in his work "On Crimes and Punishment" (1764) provided a classic material definition of crime: "The true measure of crime is the harm done to society". Representatives of this school, to which besides C. Beccaria also include the British J. Bentham and J. Howard, laid the foundations of criminology as a science. The main principles of their concept are the recognition that everyone should consciously control their own actions and the principle of appropriateness of punishment to the crime, but this punishment should be inevitable and able to deter a person from crime and even to overcome crime in general. This requires the will of the state, which must make the crime "unprofitable", education of all segments of the population and perfect education.

But the educational illusions of the XVIII century in the next XIX became a dream. The initial accumulation of capital, urbanization and the increase in population have led to an unprecedented increase in crime in Western Europe. In European philosophy, radical transformations are also taking place: the rejection of the classical philosophy of Liberty, Reason and Progress lead to the emergence of Marxism, positivism and the "philosophy of life", which create a new socio-centric paradigm of philosophical anthropology. It is based on K. Marx's postulate about man as "the totality of all social relations" and E. Durkheim's thesis about man as a "social being of complex type". In a peculiar way, this anthropological model is supplemented by F. Nietzsche's view of the future superhuman, which must overcome the narrow boundaries of mass society.

In particular, one of the founders of Marxism, F. Engels, believed that capitalist society necessarily produced crime. Analyzing the condition of the working class in England, he wrote: "Poverty gives the working class a choice: to die slowly from starvation, to commit suicide at once, or to take what he needs, where he can, that is, simply put, to steal. And here we should not be surprised if the majority favors theft rather than starvation or suicide" (Engels, 1955a, p. 348).

K. Marx and F. Engels emphasized that the elimination of capitalist relations would automatically lead to the eradication of crime:

We destroy antagonism between the individual and others; we counteract the social war with the social world; activities of administrative and judicial institutions. Property crimes will disappear where everyone gets everything, they need to meet their physical and spiritual needs, where social partitions and differences disappear. (Engels, 1955b, p. 537)



## ANTHROPOLOGICAL PROBLEMS IN THE HISTORY OF PHILOSOPHY

However, as you know, their hopes were in vain. Despite the efforts of the socialist states (USSR, PRC, etc.) that adopted the Marxist criminological doctrine, they have not been able to overcome crime by eradicating social inequality and private property.

Perhaps E. Durkheim was closer to the truth, who considered the criminal component a necessary element of any developed society. Based on observations of the rapid increase in crime in Western Europe, he concluded that social growth itself gives rise to circumstances in which deviation from social norms is an adequate response to the situation. That is, crime is one of the prerequisites for existing of a healthy society which is developing. Thus, crime is a necessary, normal and useful phenomenon, which certainly accompanies the natural evolution of society. At the same time, too high or, conversely, a low crime rate is abnormal, because in the first case it threatens the collapse of society, and in the second, it impedes social development. Lawful or unlawful behavior arises from the ratio of aspirations and ways of achieving them. From such positions E. Durkheim proposed to set the necessary rate of crime and to overcome only its actual excess. A reasonable system of criminal penalties should help to overcome the actual excess of the normal crime rate. E. Durkheim's concept found its original continuation in the postulates of the American sociologist R. Merton, the essence of which is that the main cause of crime is the contradiction between the values, which are aimed at society, and the possibility of achieving them under the rules that society establishes.

The sociocentric paradigm of philosophical anthropology (with certain deviations in the form of psychoanalysis and biological anthropology by C. Lombroso and his followers) became the basis for understanding the essence of crime in the criminological concepts of G. Tarde, F. von Liszt, E. Ferri and R. Garofalo. It continues to exist in modern socio-philosophical, sociological and criminological studios. Thus, the American sociologist John Hagan (1985) defines crime as "a form of deviance that consists in such deviations from social norms that are prohibited by criminal law" (p. 49).

However, at the end of the XX century, there is a certain epistemological shift, based on certain contradictions of sociocentric approaches, which can turn into the birth of a new anthropological paradigm – postmodern. Jean-François Lyotard and Michel Foucault are usually considered the founders of postmodernism, though the latter did not consider himself a postmodern. Foucault's thesis of "death of man" and Lyotard's skepticism about metanarratives can be considered the main principles of this paradigm. Foucault states the "death" of the Cartesian subject as an anthropological model of subjectivity, transforming it into a point of intersection of imperative imperatives. The distrust of meta-narratives leads to total relativism in understanding the essence of man, transforming him into an object of manipulation by means of simulators producing modern media and social networks.

Postmodern criticism also extends to the concept of crime. Foucault's book "Discipline and Punish: The Birth of the Prison" (1975) has become a kind of "bible" of modern postmodern criminology. Based on a radical critique of the Western classical concept of punishment as a means of correcting the criminal, the French philosopher argued that the government itself uses the punishment system as a tool for social control. This idea of the conventionalist definition of crime is reflected in other criminological concepts that emerge under the influence of postmodern anthropology.

Thus, according to the founders of constructivist criminology, S. Henry and D. D. Milivanovic (1996), "law is a gambling house of power, crime is its mousetrap" (p. 117). The Ukrainian researcher V. I. Poklad (2016) agrees with them. Crime is nothing more than a social and legal con-

struct – a relatively definite dogma of conventional character as to what is considered a crime. There is a manipulation of the created "image" of crime – using the media a "convenient" pseudo enemy is created, and the struggle against him can divert from other social problems or elitist crimes, give the authorities the necessary legitimacy (Melnychuk, 2016). According to the well-known German criminologists N. Hess and S. Scheerer, crime is not an objective social phenomenon, but a mental construction that has a historical and changing character. Crime is almost entirely constructed by controlling institutions that set norms and attribute certain meanings to actions. Hence, the main conclusion of the postmodern doctrine: "crime is a social and linguistic construct" (Hess, & Scheerer, 1997, p. 154).

On the basis of the postmodern paradigm, other areas of modern criminology are emerging – "radical" criminology, the theory of stigmatization, abolitionism, criminological feminism, peacemaking criminology, cultural criminology, etc., which will become the subject of our further scientific explorations.

### Originality

The author has proved that the concept of "crime" is not a constant but a historically variable category whose dynamics of meaningful sense are linked to a change in philosophical anthropological paradigms. First of all its understanding is related to the interpretation of the essence of man and the imperatives of his behavior. This allows a new understanding of the philosophical foundations of modern criminology.

### Conclusions

Thus, five anthropological paradigms are distinguished by us in the history of philosophy which are characterized by a radical rethinking of the essence of man. The first cosmocentric paradigm regards man as a microcosm, his soul and actions must be in harmony with the harmony of the Cosmos. The second Theocentric one considers man as the image and likeness of God, though he is at the same time burdened with original sin. In the era of early Modernism, the third paradigm, which we called cognitive-centric, becomes dominant, since the essence of man is reduced primarily to his mind. It gradually changes to the fourth – sociocentric, which focuses on the social essence of man. However, despite its continued existence in our time, at the end of the XX century, there is a transition to the fifth paradigm – postmodernist, which deconstructs the essence of man, reducing it to the role of an element of power systems.

The above-mentioned paradigms, with a certain synchronicity, create the corresponding concepts of "crime": from violation of polis-space laws to identification with sin, from non-observance of morality and moral standards to social deviance. Contemporary understandings of crime are, for the most part, relativistic and constructivist, which is consistent with the postmodern anthropological paradigm. However, the diversity of interpretations of the concept of "crime" that exists in the current scientific literature needs further comprehension.

### REFERENCES

- Aristotle. (2002). *Nikomakhova etyka*. V. Stavniuk, Trans. Kyiv: Akvilon-Plius. (in Ukrainian)
- Bilous, A., Děd, M., Ďurfina, A., Chervyakova, O., Jankelová, N., Romanenko, Y., & Tökölyová, T. (2017). *Democratic transition in Slovakia: Model situation for the challenges of Ukraine: A democratic transition*. Bratislava: Central European Education Institute.

## ANTHROPOLOGICAL PROBLEMS IN THE HISTORY OF PHILOSOPHY

- Bruinsma, G. (2016). Proliferation of crime causation theories in an era of fragmentation: Reflections on the current state of criminological theory. *European Journal of Criminology*, 13(6), 659-676. DOI: <https://doi.org/10.1177/1477370816667884> (in English)
- Bruni, L. (1985). Vvedenie v nauku o morali. In L. M. Bragina (Ed.), *Sochineniya italyanskikh gumanistov epokhi Vozrozhdeniya (XV vek)* (pp. 49-67). Moscow: Izdatelstvo Moskovskogo universiteta. (in Russian)
- Engels, F. (1955a). Polozhenie rabocheho klassa v Anglii. In *K. Marx i F. Engels: Sochineniya* (Vol. 2, pp. 231-517). Moscow: Gosudarstvennoe izdatelstvo politicheskoy literatury. (in Russian)
- Engels, F. (1955b). Elberfeldskie rechi. In *K. Marx i F. Engels: Sochineniya* (Vol. 2, pp. 532-554). Moscow: Gosudarstvennoe izdatelstvo politicheskoy literatury. (in Russian)
- Hagan, J. (1985). *Modern criminology: Crime, criminal behavior and its control*. New York: McGraw-Hill. (in English)
- Henry, S., & Milivanovic, D. (1996). *Constitutive Criminology. Beyond Postmodernism*. London: SAGE Publications. (in English)
- Hess, H., & Scheerer, S. (1997). Was ist Kriminalität? *Kriminologische Journal*, 83-155. (in German)
- Hobbes, T. (1994). *Leviathan: With selected variants from the Latin edition of 1668*. Hackett Publishing Company. (in English)
- Mallet, J. (2017). Crime and retribution in Plato's theology. *Philosophical Perspectives on Crime*, April 21-22, 2017, Timisoara, 18-24. (in English)
- Melnichuk, T. (2016). Postmodernistska paradyhma kryminolohii. *Suchasna kryminolohiia: Dosiahnennia, problemy, perspektyvy: Materialy Mizhnarodnoi naukovoï konferentsii, prysviachenoï 50-richchiiu kafedry kryminolohii ta kryminalno-vykonavchoho prava, December 9, 2016, Kharkiv*, 172-174. (in Ukrainian)
- Poklad, V. (2016). Pro istorychni typy zlochynnosti. *Suchasna kryminolohiia: Dosiahnennia, problemy, perspektyvy: Materialy Mizhnarodnoi naukovoï konferentsii, prysviachenoï 50-richchiiu kafedry kryminolohii ta kryminalno-vykonavchoho prava, December 9, 2016, Kharkiv*, 176-178. (in Ukrainian)
- Schneider, J., & Schneider, P. (2008). The Anthropology of Crime and Criminalization. *Annual Review of Anthropology*, 37(1), 351-373. DOI: <https://doi.org/10.1146/annurev.anthro.36.081406.094316> (in English)
- Spinoza, B. de. (1891). Introduction, Tractatus-Theologico-Politicus, Tractatus Politicus. In *The Chief Works of Benedict de Spinoza* (Vol. 1). R. H. M. Elwes, Trans. from Latin. London: George Bell and Sons. (in English)
- Vernant, J. P. (1984). *The Origins of Greek*. New York: Cornell University Press. (in English)

## LIST OF REFERENCE LINKS

- Арістотель. *Нікомахова етика* / пер. В. Ставнюка. Київ : Аквілон-Плюс, 2002. 480 с.
- Bilous A., Děd M., Ďurfina A., Chervyakova O., Jankelová N., Romanenko Y., Tökölyová T. *Democratic transition in Slovakia: Model situation for the challenges of Ukraine: A democratic transition*. Bratislava: Central European Education Institute, 2017. 204 p.
- Bruinsma G. Proliferation of crime causation theories in an era of fragmentation: Reflections on the current state of criminological theory. *Journal of Criminology*. 2016. Vol. 13. Iss. 5. P. 659–676. DOI: <https://doi.org/10.1177/1477370816667884>
- Бруни Л. Введение в науку о морали. *Сочинения итальянских гуманистов эпохи Возрождения (XV век)* / под ред. Л. М. Брагиной. Москва : Изд-во Моск. ун-та, 1985. С. 49–67.
- Энгельс Ф. Положение рабочего класса в Англии. *К. Маркс и Ф. Энгельс. Сочинения*. Москва : Государственное издательство политической литературы, 1955. Т. 2. С. 231–517.
- Энгельс Ф. Эльберфельдские речи. *К. Маркс и Ф. Энгельс. Сочинения*. Москва : Государственное издательство политической литературы, 1955. Т. 2. С. 532–554.
- Hagan J. *Modern criminology: Crime, criminal behavior and its control*. New York : McGraw-Hill, 1985. 372 p.
- Henry S., Milivanovic D. *Constitutive Criminology. Beyond Postmodernism*. London : SAGE Publications, 1996. 302 p.
- Hess H., Scheerer S. Was ist Kriminalität? *Kriminologische Journal*. 1997. S. 83–155.
- Hobbes T. *Leviathan: with selected variants from the Latin edition of 1668*. Hackett Publishing Company, 1994. 672 p.
- Mallet J. Crime and retribution in Plato's theology. *Philosophical Perspectives on Crime* (Timisoara, 21–22 April 2017). Timisoara, 2017. P. 18–24.

## ANTHROPOLOGICAL PROBLEMS IN THE HISTORY OF PHILOSOPHY

- Мельничук Т. В. Постмодерністська парадигма кримінології. *Сучасна кримінологія: досягнення, проблеми, перспективи*. Матеріали міжнар. наук. конф., присвяч. 50-річчю каф. кримінології та кримінально-виконавчого права (Харків, 9 груд. 2016 р.). Харків : Право, 2016. С. 172–174.
- Поклад В. І. Про історичні типи злочинності. *Сучасна кримінологія: досягнення, проблеми, перспективи*. Матеріали міжнар. наук. конф., присвяч. 50-річчю каф. кримінології та кримінально-виконавчого права (Харків, 9 груд. 2016 р.). Харків : Право, 2016. С. 176–178.
- Schneider J., Schneider P. The Anthropology of Crime and Criminalization. *Annual Review of Anthropology*. 2008. Vol. 37. Iss. 1. P. 351–373. DOI: <https://doi.org/10.1146/annurev.anthro.36.081406.094316>
- De Spinoza B. *The Chief Works of Benedict de Spinoza*. Vol. 1: Introduction, Tractatus-Theologico-Politicus, Tractatus Politicus. London : George Bell and Sons, 1891.
- Vernant J. P. *The Origins of Greek*. New York : Cornell University Press, 1984. 144 p.

І. О. КОВНЄРОВА<sup>1\*</sup>

<sup>1\*</sup>Донбаський державний педагогічний університет (Слов'янськ, Україна), ел. пошта zhuravleva\_1605@ukr.net, ORCID 0000-0002-8054-9647

## АНТРОПОЛОГІЧНІ ЗАСАДИ КОНЦЕПТУ "ЗЛОЧИН" У ІСТОРИКО-ФІЛОСОФСЬКОМУ ДИСКУРСІ

**Мета.** Головною метою статті є встановлення парадигмальних детермінант розуміння злочинності на підставі докорінних змін розуміння сутності людини в античній, середньовічній, ренесансній, новочасній та постмодерній філософії. **Теоретичний базис.** Автор визначає, що розуміння концепту злочину можливо лише при поєднанні історико-філософських, правознавчих та соціологічних підходів. Тлумачення сутності динаміки цього концепту та відповідних правових практик базується на структуралістських, постструктуралістських та герменевтичних методологічних засадах. **Наукова новизна.** Автором доведено, що концепт "злочину" є не константою, а історично змінною категорією, динаміка змістовних сенсів якої пов'язана зі зміною філософських антропологічних парадигм. Його розуміння пов'язано насамперед з тлумаченням сутності людини та імперативів її поведінки. Це дозволяє по-новому осмислити філософські засади сучасної кримінології. **Висновки.** В історії західної філософії нами виокремлюються п'ять антропологічних парадигм, які розрізняються докорінним переосмисленням сутності людини. Перша – космоцентрична розглядає людину як мікрокосм, її душа і вчинки повинні бути суголосні гармонії Космосу. Друга – теоцентрична вважає людину образом і подобою Божою, хоча вона одночасно обтяжена перворідним гріхом. В епоху раннього Модерну пануючою стає третя парадигма, яку ми назвали когнітоцентричною, оскільки сутність людини зводиться насамперед до її розуму. Вона поступово змінюється на четверту – соціоцентричну, яка акцентує увагу на соціальній сутності людини. Втім, незважаючи на продовження її існування і в наш час, наприкінці ХХ сторіччя відбувається перехід до п'ятої парадигми – постмодерністської, яка деконструє сутність людини, зводячи її до ролі елемента владних систем. Перелічені парадигми з певною синхронністю створюють і відповідні концепти "злочину": від порушення полісно-космічних законів до ототожнення з гріхом, від недодержання розумно-моральних норм до соціальної девіації. Сучасні розуміння злочину здебільшого мають релятивістський та конструктивістський характер, що є відповідним постмодерністській антропологічній парадигмі. Втім, розмаїття інтерпретацій концепту "злочин", яке існує в сучасній науковій літературі, потребує подальшого осмислення.

*Ключові слова:* антропологічна парадигма; злочин; делікт; гріх; девіація; космоцентризм; теоцентризм; когнітоцентризм; соціоцентризм; постмодернізм

І. А. КОВНЄРОВА<sup>1\*</sup>

<sup>1\*</sup>Донбасский государственный педагогический университет (Славянск, Украина), эл. почта zhuravleva\_1605@ukr.net, ORCID 0000-0002-8054-9647

## АНТРОПОЛОГИЧЕСКИЕ ОСНОВЫ КОНЦЕПТА "ПРЕСТУПЛЕНИЕ" В ИСТОРИКО-ФИЛОСОФСКОМ ДИСКУРСЕ

**Цель.** Главной целью статьи является установление парадигмальных детерминант понимания преступности на основе существенных изменений понимание сущности человека в античной, средневековой, ренессансной, современной и постмодернистской философии. **Теоретический базис.** Автором указывается, что понимание концепта преступления возможно лишь при синтезе историко-философских, правоведческих и социологических подходов. Интерпретация сущности динамики этого концепта и соответствующих правовых практик базируется на структуралистских, постструктуралистских и герменевтических методологических принципах. **Научная новизна.** Автором доказано, что концепт "преступления" является не константой, а исторически изменчивой категорией, динамика смыслов которой связана с изменением философских антропологических парадигм. Его понимание связано прежде всего с истолкованием сущности человека и императивов его поведения. Это позволяет по-новому осмыслить философские основания современной криминологии. **Выводы.** В истории западной философии нами выделяются пять антропологических парадигм, которые различаются коренным переосмыслением сущности человека. Первая – космоцентрическая рассматривает человека как микрокосм, его душа и поступки должны быть созвучны гармонии Космоса. Вторая – теоцентрическая провозглашает человека образом и подобием Божиим, хотя он одновременно отягощен первородным грехом. В эпоху раннего Модерна господствующей становится третья парадигма, которую мы назвали когнитивноцентричной, поскольку сущность человека сводится прежде всего к его разуму. Она постепенно переходит в четвертую – социоцентрическую, которая акцентирует внимание на социальной сущности человека. Впрочем, несмотря на продолжение ее существования и в наше время, в конце XX века происходит переход к пятой парадигме – постмодернистской, которая деконструирует сущность человека, сводя ее к роли элемента структур власти. Перечисленные парадигмы с определенной синхронностью создают и соответствующие концепты "преступления": от нарушения полисно-космических законов к отождествлению с грехом, от несоблюдения разумно-нравственных норм к социальной девиации. Современное понимание преступления в основном имеют релятивистский и конструктивистский характер, что соответствует постмодернистской антропологической парадигме. Впрочем, разнообразие интерпретаций концепта "преступление", которое существует в современной научной литературе, требует дальнейшего осмысления.

*Ключевые слова:* антропологическая парадигма; преступление; деликт; грех; девиация; космоцентризм; теоцентризм; когнитивноцентризм; социоцентризм; постмодернизм

Received: 19.09.2019

Accepted: 05.05.2020