

Culture and Traditions: Contemporary Criminological Factors

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Abstract

Culture is the most valuable asset of human society and an advanced and civilized society has a vast and varied culture. Culture includes various and different values and abstract and/or material entities, preserved with great care and transmitted from generation to generation. Nevertheless, whatever the historical period and the geographical area, culture should be in complete harmony and consistency with human rights and freedoms. It is outrageous to promote culture-based manifestations, inconsistent with human rights. It is inhumane to allow the practice under the so-called protection of traditions and rituals of barbaric, cruel, ruthless practices, devoid of any human foundation. Religion, as a part of culture, should not allow the practice of infamous habits, which humiliate and degrade the human being, causing intentional pain and physical suffering, extremely difficult to bear by the human being. From this perspective, culture, tradition or custom are undoubtedly a real criminogenic factor.

Key words: culture, traditions, human rights, criminological factors, religion

J.E.L. classification: K3

1. Introduction

Trying to define the concept of culture is extremely bold. In the literature, anthropology respectively, there were given many definitions thereof, each complementing the other. Thus, in time, this definition became extremely complex and comprehensive, satisfying the most exacting demands in the matter. However, the most pertinent and eloquent among all seemed the one given by the Explanatory Dictionary of the Romanian Language, in 2009, according to which, culture means “all the material and spiritual values created by the humankind and the institutions necessary to communicate these values” (DEX, 2009).

From an etymological perspective, the word culture comes from the Latin word *colere*, which means to cultivate, to honor, referring, in general, to human activities. Unquestionably, this is a valuable asset of every human society, regardless of the geographical location or historical era. Culture is a very complex and abstract entity, being formed by a group values, symbols, concepts, ideas, traditions, events, experiences etc., preserved and transmitted from generation to generation, through various ways, either subjective or objective, verbally, orally or in writing (Cioclei, 2011, p. 144). A society's degree of culture positions it on a certain stage of human civilization. Culture is a heterogeneous entity, consisting of elements of different nature, from art to traditions, from ideas to values.

As far as criminological research is concerned, we analyze the word “culture” in terms of what it contains and, not least, how it manifests in the outer world or within the human society. When it comes to culture and traditions, we automatically think at what is good, useful and beautiful for the whole society. Therefore, culture would be, at the first glance, totally antithetical to the crime.

Crime represents all the offenses committed within a certain time and in a particular territory, including those discovered and undiscovered (Amza, 2008, p. 24). Crime, in a criminological sense, means an act committed by the human being that violates the rule of law and brings damage, injury to the social values protected by the state. The most important values that a society defends are the state, the human being and the property. A society cannot exist without these social values or cannot develop without their effective legal protection.

In order to avoid conflicts, personal interests should be subordinated to the interests of the community; thus, the acts of disorder that would affect or disturb the society do not occur (Amza, 2008, p. 11). Within the society, the individual should harmonize with the social. On the one hand, people have rights and freedoms and, on the other hand, they have obligations. In order to achieve the rule of law, all these should be known, accepted and understood in their true human and social significance.

Therefore, which would be the connection between culture and crime? Why do we support, in certain situations, the idea that culture and traditions can be criminological factors? Why are they part of the social factors of crime?

2. Several considerations on the criminological theories of sociological nature

Criminology, as an autonomous science that studies the quality and quantity of crime, includes numerous criminological theories relating to sociological criminal elements.

Studies have shown that the human being was, is and will be a social being (Amza, 2008, p. 11), i.e. by his/her genetic footprint and internal structure, the human being is not made to live isolated and alone, but in coexistence with his/her other peers. As a social animal, the human being has a social behavior, i.e. a way to manifest in the outer world, in relation to the other members of the society. For a good and peaceful coexistence, people have created rules and principles and, by their observance, they do not harm those around them. Thus, legal rules were born. These were based on the first form of religious and moral rules. Created by the ruling class, which was holding the power, these rules were, of course, sometimes arbitrary and discretionary, placing people in positions of inequality within their society, as they belonged to different social classes.

Among the criminological theories of sociological nature, which analyze certain social criminogenic practices, we mention the following: essentially culturalist theories that relate the individual personality to the culture where he/she develops (Stănoiu, 2003, p. 189). Thus, researchers analyzed the behavior of individuals belonging to different cultures and social mechanisms, respectively the individual's inability to adapt to the new rules imposed by a new culture, traditions and customs, the so-called reverse adaptation and negative socializing.

The theory of differential associations, developed by Edwin Sutherland, is a multi-factorial approach to crime, as part of the socio-cultural phenomenon. According to the above-mentioned author, the delinquent behavior is learned and mastered by communicating with others, in social groups (Stănoiu, 2003, p. 190). Delinquency occurs against the background of individuals' "inverse adaptation", i.e. they acquire norms and values opposed to those generally accepted (Doltu, 2000, p. 69). Thus, E. Sutherland discovers and identifies certain contemporary forms of crime, which are beyond the scope of criminal law. The French scholar Gabriel Tardre has a similar perspective; he developed the criminological theory of imitation, i.e. the human being becomes a delinquent by imitating, copying the behavior of other members of the community, driven by the desire to be accepted within the group (imitation driven by the desire of membership).

The theory conflicts of cultures, developed by the American criminologist Thorsten Sellin, supports the idea that a person's conduct, socially approved or even required in a given situation, is not accepted or appreciated in the same way by other social groups. This theory is based on ethnic, social, age, professional, religious differences, involving great discrepancies in rules and moral and/or social values. Thus, there are situations when the individual wishing to follow the rules of a group, based on cultural elements, inevitably violates the rules accepted by another social group. A cultural conflict occurs in these cases, as a criminogenic factor, sprang, most times, from traditions and from the education that individuals receive within their family or group. The cultural conflict is manifested by the fight between different moral values or norms of conduct, which are opposed or which strongly disagree.

The theory of social membership, developed by the American criminologist Travis Hirschi, in his work *Causes of Delinquency*, published in 1969, states that there is a social connection between the commission of illegal acts and the social environment to which the individual belongs. According to the author, the social connection includes commitment, respect and acceptance of goals, commitments and faith (Rădulescu, 2010, pp. 253-254 and Nistoreanu et al., 2000, p. 118). Thus, the individual is a person attached to another group of people, because the human being is a

social animal. The attachment to our parents is by far the most important and, based on it, we tend to imitate our parents' behavior, as we think that the education, respect and faith transmitted by our parents represent the absolute good.

The theory of the criminogenic society, developed by Jean Pinatel, borrows the idea of Etienne de Gref and Edwin Sutherland's theory and emphasizes the role of social learning of the criminal act, outlining solutions for individual treatment and recovery (Rădulescu, 2010, p. 254).

3. Culture and traditions as criminological factors. Case studies.

Currently, there are cultures based on centuries-old traditions, ignoring and violating the human rights and freedoms, with extreme social consequences. Thus, under social pressure, by the so-called compliance of rules, regulations or traditions, people have committed inhumane acts against their fellows, since ancient times and until today.

The circumcision of girls in some African countries and beyond, the Sati ritual at Hindu widows and the honor crimes as a result of the failure to respect the traditions imposed by men are just some of the practices based on culture, which result in killing, mutilation or maiming innocent people, simply in the name of culture and traditions.

Regarding circumcision, etymologically, the word comes from the Latin term *circumcido*, which means to circumcise. Some encyclopedias consider this practice as a form of genital mutilation (Levinson and Gaccione, 1997), a surgery with risks such as infections, malfunctioning of sexual organs, bleeding, sexual dysfunction, infertility or even death. *Lato sensu*, circumcision may refer to the removal, on religious grounds, of a part of the sexual organ; thus, we may speak of male and female circumcision. In Western countries, female circumcision is either illegal or severely criticized, being a form of barbaric mutilation, motivated more by racism (Silverman, 2004, pp. 419-455).

Currently, the circumcision in women is seen more as a genital mutilation of sexual organs, and is defined by the World Health Organization as "the partial or complete removal of the external female genitalia or creating other damage to the female genital organs for non-medical reasons". According to a UNICEF report in 2013, about 125 million women and girls in Africa and the Middle East were faced with this practice, most times totally against their will (UNICEF, 2013). According to the Inter-African Committee's position, the circumcision of girls and women is seen as a "harmful traditional practice".

The circumcision in women and girls, regardless of how it is practiced (through partial or total removal of the female genitalia or even by sewing them), is recognized internationally as a serious barbaric and inhuman violation of rights of girls and women. This practice reflects gender inequality, being an extreme form of discrimination against women.

Unfortunately, female genital mutilation is still part of local cultural customs and rituals in different communities or countries in Africa and the Middle East. This practice continues to exist, including in places where it is prohibited by the national law. Due to globalization and immigration, this practice was widespread in countries such as Australia, Belgium, Canada, France, New Zealand, the USA and the UK.

According to a recent report by UNICEF, countries where women are most often exposed to genital mutilation include Somalia (98%), Guinea (96%), Djibouti (93%), Egypt (91%), Eritrea (89%), Mali (89%), Sierra Leone (88%), Sudan (88%), Gambia (76%), Burkina Faso (76%), Ethiopia (74%), Mauritania (69%), Liberia (66%) and Guinea-Bissau (50%).

The Sati ritual, practiced in parts of India, Egypt and Greece, is the name given to the widow who had to be burnt alive on the funeral pyre of her deceased spouse. Upon his death, she also had to die, because without her husband she no longer had any kind of support or help. This tradition was abandoned in time and it was officially banned in the early twentieth century. In its essence, this ritual was considered a voluntary act of the woman who, from her birth, was taught to believe that if she complied with the Sati tradition, she would directly get to heaven, together with her husband.

If the woman refused to sacrifice herself in the name of love for her husband, she was forced to do it. There were also (much more rare) cases when the mother performed the Sati ritual when her son died. If the husband had several wives, the one who had to comply with this tradition was the

last wife. There were also extremely rare cases when the husband performed this ritual upon the death of his wife.

The Dutch Professor Ane Nauta was the first person who coined the concept of honor crime. The Human Rights Watch NGO defines honor crimes as “acts of revenge, generally resulting in death, committed by the male family members against the women from the same family, alleged to have brought dishonor upon the entire family” (Human Rights Watch, 2001). This type of crime is called honor crime, being based on the chastity and purity of female sexuality (and not that of the man).

The reasons for resorting to this extreme gesture can be varied, from refusing to enter into a marriage arranged by the family, to the mere suspicion that the woman had made a gesture that would dishonor her family, such as being the victim of sexual assault, her desire to divorce, adultery or, worse, loss of virginity before marriage, birth of a child out of the wedlock, the woman’s flee with the man she loves etc. Unfortunately, in all these cases, forgiveness is not possible under any circumstances, the only solution accepted by the society being the application of the tradition, which consist in killing the woman by a male family member (father, brother, husband). The United Nations Organization has approximated recently in its studies that, every year, about 5,000 girls and women die because of this type of crime, based on culture and respect for traditions, and in the Middle East and Asia the real number is assumed to be four times higher.

The countries that apply and respect these practices at present are generally Muslim countries, or those countries where the population of this religion predominates (Turkey, Bangladesh, Morocco, Pakistan, and the Palestinian Authority). However, there are also other states, which are not foreign to these practices: Brazil, Ecuador, Egypt, India, Israel, Italy, Jordan, Sweden, Uganda, United Kingdom, i.e. countries where the practitioners of these rituals have migrated. However, it is noteworthy that many Muslim leaders and people of Muslim culture condemn this practice and deny its source in the religious doctrine; nevertheless, it is true that Islam is categorical regarding the prohibition of sexual activities outside marriage. Arabs use to say that honor is sacred and precious and it can be washed only with blood and that sinners should be killed; moreover, Palestinians say that reputation is everything. Only in 2000, two thirds of all the crimes committed in Palestine were honor killings, which the state does not punish (UNICEF, 2000). Ways of performing these traditions are extremely different. However, no matter how performed, it must result in killing the guilty woman.

In recent years, there have been launched several aggressive campaigns against such inhuman practices, through the media, movies, reports, books, education etc., in order to stop these crimes committed in the name of traditions. It has also been established an international day of solidarity with the victims of honor killings, on 29 October, bearing the suggestive slogan: “There is no honor in killing!” (Kvinforum, 2005).

The country where such practices are most widespread is Pakistan, where honor killings are called “*koro kari*”. In these countries and in Turkey, these women appear as having taken their own lives, not as have been killed. The old Turkish Criminal Code favored traditional crimes. If one had not acted according to the customs of a community, this act would have been considered as challenging. Honor killings went into a category different from the ordinary crimes. Turkey’s current Criminal Code, promulgated on 26 September 2004, included many positive amendments in this respect, under the pressure to comply with human rights and freedoms and with the equality between women and men.

Unfortunately, history confirms that such practices, performed in the name of culture and tradition, invoking religious beliefs, have existed since Antiquity, enduring for centuries, especially in rural areas. Moreover, later, due to the migration of the population, it has spread to urban areas, but not with the same intensity. Thus, under pressure from the social environment and traditions, their preservation and conservation are encouraged.

4. Conclusions

The above-mentioned issues trigger several important conclusions. Culture is an indispensable factor of any human society. It has existed since ancient times until today, so it is a ubiquitous and contemporary phenomenon. Culture consists of a set of material and/or spiritual abstract or tangible

values, different in nature and as a way of expression.

Culture is the society's treasure, which has endured through the ages, imposed by traditions, dogmas, and rituals, beliefs, meant to preserve in people's memory and manifestation everything that is better and more beautiful for the humankind.

Therefore, it should not contradict the moral, the public good and the human rights and freedoms. Unfortunately, as we have seen in this study analysis, there are religions, rituals, traditions and events performed in the name of culture that are in total conflict with those stated above.

Barbaric rituals practiced on women and girls in particular, in the name of religion and traditions, provoke a strong sense of revulsion, being blamed and condemned at the same time. The practice of circumcision of girls, killing women who do not obey the traditions of the south-east of Turkey, burning of Hindu women together with their deceased spouse (the Sati ritual) should be banned forever! It is unacceptable to maim, to torment and to kill in the name of faith, as an integral part of the culture!

5. References

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